

Gender Revision of 1986

Volume 3

Revising
Minnesota Statutes
Chapters 115 – 158

115*#01S

1 115.01 DEFINITIONS.

2 No change for subd 1 to 4

3 Subd. 5. "Pollution of water", "water pollution", or
 4 "pollute the water" means: (a) the discharge of any pollutant
 5 into any waters of the state or the contamination of any waters
 6 of the state so as to create a nuisance or render such waters
 7 unclean, or noxious, or impure so as to be actually or
 8 potentially harmful or detrimental or injurious to public
 9 health, safety or welfare, to domestic, agricultural,
 10 commercial, industrial, recreational or other legitimate uses,
 11 or to livestock, animals, birds, fish or other aquatic life; or
 12 (b) the ~~man-made-or-man-induced~~ alteration made or induced by
 13 human activity of the chemical, physical, biological, or
 14 radiological integrity of waters of the state.

15 No change for subd 6 to 17

115*#03S

16 115.03 POWERS AND DUTIES.

17 No change for subd 1 to 2

18 Subd. 3. In case of contumacy or refusal to obey a
 19 subpoena issued under this section, the district court of the
 20 county where the proceeding is pending or in which the person
 21 guilty of such contumacy or refusal to obey is found or resides,
 22 shall have jurisdiction upon application of the agency or its
 23 authorized member, employee or agent to issue to such person an
 24 order requiring ~~him~~ the person to appear and testify or produce
 25 evidence, as the case may require, and any failure to obey such
 26 order of the court may be punished by said court as a contempt
 27 thereof.

28 No change for subd 4 to 7

115*#04S

29 115.04 DISPOSAL SYSTEMS AND POINT SOURCES.

30 Subdivision 1. INFORMATION. Any person operating or
 31 installing a disposal system or other point source, or portion
 32 thereof, when requested by the agency, or any member, employee
 33 or agent thereof, when authorized by it, shall furnish to it any
 34 information which ~~he~~ that person may have or which is relevant
 35 to the subject of this chapter and, with respect to the
 36 pollution of waters of the state, of chapter 116.

37 No change for subd 2 to 3

115*#071S

38 115.071 ENFORCEMENT.

39 No change for subd 1 to 4

40 Subd. 5. ACTIONS TO COMPEL PERFORMANCE. In any
 41 action to compel performance of an order of the agency for any
 42 purposes relating to the prevention, control or abatement of
 43 pollution under chapters 115 and 116, the court may require any
 44 defendant adjudged responsible to do and perform any and all
 45 acts and things within ~~his~~ the defendant's power which are
 46 reasonably necessary to accomplish the purposes of the order.
 47 In case a municipality or its governing or managing body or any
 48 of its officers is a defendant, the court may require ~~him~~ it to
 49 exercise ~~his~~ its powers, without regard to any limitation of any
 50 requirement for an election or referendum imposed thereon by law
 51 and without restricting the powers of the agency to do any or
 52 all of the following, without limiting the generality hereof:
 53 to levy taxes, levy special assessments, prescribe service or
 54 use charges, borrow money, issue bonds, employ assistance,
 55 acquire real or personal property, let contracts or otherwise
 56 provide for the doing of work or the construction, installation,
 57 maintenance, or operation of facilities, and do all other acts
 58 and things reasonably necessary to accomplish the purposes of
 59 the order, but the court shall grant the municipality the
 60 opportunity to determine the appropriate financial alternatives
 61 to be utilized in complying with the court imposed requirements.

115*#20S

62 115.20 PROCEEDING TO CREATE DISTRICT.

63 Subdivision 1. A proceeding for the creation of a district
 64 may be initiated by a petition to the agency, filed with its
 65 secretary, containing the following:

66 (1) A request for creation of the proposed district;

67 (2) The name proposed for the district, to include the
 68 words "sanitary district";

69 (3) A description of the territory of the proposed district;

70 (4) A statement showing the existence in such territory of

1 the conditions requisite for creation of a district as
2 prescribed in section 115.19;

3 (5) A statement of the territorial units represented by and
4 the qualifications of the respective signers;

5 (6) The post office address of each signer, given under ~~his~~
6 the signer's signature. A petition may consist of separate
7 writings of like effect, each signed by one or more qualified
8 persons, and all such writings, when filed, shall be considered
9 together as a single petition.

10 Subd. 2. Every such petition shall be signed as follows:

11 (1) For each municipality wherein there is a territorial
12 unit of the proposed district, by an authorized officer or
13 officers pursuant to a resolution of the municipal governing
14 body;

15 (2) For each organized town wherein there is a territorial
16 unit of the proposed district, by an authorized officer or
17 officers pursuant to a resolution of the town board;

18 (3) For each county wherein there is a territorial unit of
19 the proposed district consisting of an unorganized area, by an
20 authorized officer or officers pursuant to a resolution of the
21 county board, or by at least 20 percent of the voters residing
22 and owning land within such unit.

23 Each such resolution shall be published in the official
24 newspaper of the governing body adopting it and shall become
25 effective 40 days after such publication, unless within said
26 period there shall be filed with the governing body a petition
27 signed by qualified electors of a territorial unit of the
28 proposed district, equal in number to five percent of the number
29 of such electors voting at the last preceding election of such
30 governing body, requesting a referendum on the resolution, in
31 which case the same shall not become effective until approved by
32 a majority of such qualified electors voting thereon at a
33 regular election or special election which the governing body
34 may call for such purpose. The notice of any such election and
35 the ballot to be used thereat shall contain the text of the
36 resolution followed by the question: "Shall the above
37 resolution be approved?"

38 If any signer is alleged to be a landowner in a territorial
39 unit, a statement as to ~~his~~ the signer's status as such as shown
40 by the county auditor's tax assessment records, certified by the
41 auditor, shall be attached to or endorsed upon the petition.

42 No change for subd 3

43 Subd. 4. Upon receipt of a petition the agency shall cause
44 a hearing to be held thereon, subject to the provisions of
45 sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57
46 to 14.62 and other laws not inconsistent therewith now or
47 hereafter in force relating to hearings held under authority of
48 the agency, so far as applicable, except as otherwise provided.
49 Notice of the hearing, stating that a petition for creation of
50 the proposed district has been filed and describing the
51 territory thereof, shall be given by the secretary of the agency
52 by publication for two successive weeks in a qualified newspaper
53 published within such territory, or, if there is no such
54 newspaper, by publication in a qualified newspaper of general
55 circulation in such territory, also by posting for two weeks in
56 each territorial unit of the proposed district, and by mailing a
57 copy of the notice to each signer of the petition at ~~his~~ the
58 signer's address as given therein. Registration of mailed
59 copies of the notice shall not be required. Proof of the giving
60 of the notice shall be filed in the office of the secretary.

61 No change for subd 5 to 9

115*#23S

62 115.23 BOARD OF MANAGERS OF DISTRICT.

63 No change for subd 1

64 Subd. 2. The terms of the first board members elected
65 after creation of a district shall be so arranged and determined
66 by the electing body as to expire on the first business day in
67 January as follows:

68 (1) The terms of two members in the second calendar year
69 after the year in which they were elected;

70 (2) The terms of two other members in the third calendar
71 year after the year in which they were elected;

72 (3) The term of the remaining member in the fourth calendar
73 year after the year in which ~~he~~ the member was elected. In case
74 a board has more than five members the additional members shall
75 be assigned to the groups hereinbefore provided for so as to

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1 equalize such groups as far as practicable. Thereafter board
 2 members shall be elected successively for regular terms
 3 beginning on expiration of the preceding terms and expiring on
 4 the first business day in January of the third calendar year
 5 thereafter. Each board member shall serve until ~~his~~ a successor
 6 is elected and has qualified. *

7 No change for subd 3

8 Subd. 4. Upon the creation of a district having more than
 9 one territorial unit the agency, on the basis of convenience for
 10 joint meeting purposes, shall designate one of the related
 11 governing bodies as the central related governing body in the
 12 order creating the district or in a subsequent special order, of
 13 which the secretary of the agency shall notify the clerks or
 14 recorders of all the related governing bodies. Upon receipt of
 15 such notification, the clerk or recorder of the central related
 16 governing body shall immediately transmit the same to the
 17 presiding officer of such body. Such officer shall thereupon
 18 call a joint meeting of the members of all the related governing
 19 bodies to elect board members, to be held at such time as ~~he~~ the
 20 officer shall fix at the regular meeting place of ~~his~~ the
 21 officer's governing body or at such other place in the district
 22 as ~~he~~ the officer shall determine. At least ten days' notice of
 23 the meeting shall be given by mail by the clerk or recorder of
 24 such body to the clerks or recorders of all the other related
 25 governing bodies, who shall immediately transmit such notice to
 26 all the members of such bodies, respectively. Subsequent joint
 27 meetings to elect board members for regular terms shall be
 28 called and held in like manner. The presiding officer and the
 29 clerk or recorder of the central related governing body shall
 30 act respectively as chairman chair and secretary of the joint
 31 electing body at any meeting thereof, but in case of the absence
 32 or disability of either of them such body may elect a temporary
 33 substitute. A majority of the members of each related governing
 34 body shall be required for a quorum at any meeting of the joint
 35 electing body. *

36 No change for subd 5 to 8

37 Subd. 9. The presiding and recording officers of the
 38 electing body shall certify the results of each election to the
 39 secretary of the agency, to the county auditor of each county
 40 wherein any part of the district is situated, and to the clerk
 41 or recorder of each related governing body, and shall make and
 42 transmit to each board member elected a certificate of ~~his~~ the
 43 board member's election. Upon electing the first board members
 44 of a district, the presiding officer of the electing body shall
 45 designate one of them to serve as temporary chairman chair for
 46 the purposes of initial organization of the board, and the
 47 recording officer of the body shall include written notice
 48 thereof to all the board members with their certificates of
 49 election. *

115*#24S

50 115.24 ORGANIZATION AND PROCEDURE OF BOARD.

51 Subdivision 1. As soon as practicable after the election
 52 of the first board members of a district they shall meet at the
 53 call of the temporary chairman chair to elect officers and take
 54 other appropriate action for organization and administration of
 55 the district. Each board shall hold a regular annual meeting at
 56 the call of the chairman chair or otherwise as it shall
 57 prescribe on or as soon as practicable after the first business
 58 day in January of each year, and such other regular and special
 59 meetings as it shall prescribe. *

60 Subd. 2. The officers of each district shall be a chairman
 61 chair and a vice-chairman vice-chair, who shall be members of
 62 the board, and a secretary and a treasurer, who may but need not
 63 be members of the board. The board of a new district at its
 64 initial meeting or as soon thereafter as practicable shall elect
 65 the officers to serve until the first business day in January
 66 next following. Thereafter the board shall elect the officers
 67 at each regular annual meeting for terms expiring on the first
 68 business day in January next following. Each officer shall
 69 serve until ~~his~~ a successor is elected and has qualified. *

70 No change for subd '3 to 4

115*#32S

71 115.32 POWERS OF BOARD.

72 Subdivision 1. The board of managers of every district
 73 shall have charge and control of all the funds, property, and
 74 affairs of the district. With respect thereto, the board shall

1 have like powers and duties as are provided by law for a
 2 statutory city council with respect to similar statutory city
 3 matters, except as otherwise provided. Except as otherwise
 4 provided, the ~~chairman chair~~, ~~vice-chairman vice-chair~~,
 5 secretary, and treasurer of the district shall have like powers
 6 and duties, respectively, as the mayor, acting mayor, clerk, and
 7 treasurer of a statutory city. Except as otherwise provided the
 8 exercise of the powers and the performance of the duties of the
 9 board and officers of the district and all other activities,
 10 transactions, and procedures of the district or any of its
 11 officers, agents, or employees, respectively, shall be governed
 12 by the provisions of law relating to similar matters in a
 13 statutory city, so far as applicable, with like force and effect.

14 No change for subd 2 to 3

115*#45S

15 115.45 VIOLATIONS.

16 Subdivision 1. It is the duty of every person affected to
 17 comply with the provisions of Laws 1963, Chapter 874, and of
 18 Minnesota Statutes, Sections 115.01 to 115.09, comprising the
 19 state water pollution control act, as now in force or hereafter
 20 amended, and all regulations, orders, and permits adopted or
 21 issued by the agency thereunder, and to do and perform all acts
 22 and things within ~~his-or-its~~ that person's power required to
 23 effectuate, carry out, and accomplish the purposes of such
 24 provisions, regulations, orders, and permits.

25 Subd. 2. Repealed, 1973 c 374 s 22

115*#49S

26 115.49 COOPERATION BETWEEN MUNICIPALITIES; CONTRACTS.

27 No change for subd 1 to 3

28 Subd. 4. Any municipality which is a party to a contract
 29 for any of the purposes specified in subdivision 3 and which
 30 operates a plant for the disposal of sewage, industrial wastes,
 31 or other wastes, or which is a city of the first class
 32 comprising a part of a sanitary district under Minnesota
 33 Statutes, Chapter 445 upon written notice to the other party or
 34 parties, fix new rates and charges for the service performed
 35 under the contract, notwithstanding any provision of law,
 36 charter, or the contract to the contrary. Any other party or
 37 parties to such a contract with a municipality which operates
 38 such a plant, or with a city of the first class comprising a
 39 part of a sanitary district under Minnesota Statutes, Chapter
 40 445 upon written notice to such municipality, demand that new
 41 rates and charges be fixed for service performed under the
 42 contract, notwithstanding any provision of law, charter, or the
 43 contract to the contrary. Whenever notice is given as provided
 44 herein, it shall be the duty of the municipality operating the
 45 plant for the disposal of sewage, industrial wastes, or other
 46 wastes, or a city of the first class comprising a part of a
 47 sanitary district under Minnesota Statutes, Chapter 445, to hold
 48 a hearing for the determination of proper rates and charges. A
 49 valid notice given under this subdivision of a demand to fix new
 50 rates and charges as to any contract precludes another such
 51 notice by any party as to that contract for a period of five
 52 years from the time of the notice, or the time of dismissal of
 53 proceedings under a notice, or the time of determination of
 54 rates and charges by the affected agencies or by judgment, as
 55 the case may be, whichever of these events is last, but there
 56 may always be a contract change under subdivision 3; provided
 57 there can be no such demand as of right within the first five
 58 years of a contract. A municipality which may be affected by
 59 determination of new rates and charges in such a proceeding may
 60 participate in the proceeding as an interested third party by
 61 filing a notice of its intention to so participate with the
 62 clerk of the municipality to which the original notice was
 63 directed. If any party to the contract involved in the
 64 proceeding initiated by notice of demand for new rates and
 65 charges is dissatisfied with the rates and charges as set in the
 66 proceeding it may within 30 days after such determination by
 67 written notice given to the other party or parties elect to
 68 submit the matters in dispute to a board of arbitration which
 69 shall be created as follows: The municipality making such
 70 written election shall in such written election appoint a
 71 referee; the other municipality shall within ten days after such
 72 election and appointment also appoint a referee; the two
 73 referees shall appoint a third referee, or if they fail for ten
 74 days to do so, unless the municipalities mutually extend the

1 time for them to do so the district court of a judicial district
 2 which is mutually agreeable to the municipalities shall make the
 3 appointment of the third referee. A decision of the majority of
 4 the board shall be a decision of the board. Each municipality
 5 shall pay the compensation of the referee appointed by it, and
 6 one-half of the compensation of the third referee, such
 7 compensation to be at the rate usually charged by such person
 8 for services in ~~his~~ the person's profession or occupation. The
 9 hearing initiated by the notice of demand to fix new rates and
 10 charges and all proceedings in connection therewith shall be in
 11 conformity with sections 14.57 to 14.62 and the municipality
 12 conducting the hearing is an agency as such term is used in such
 13 sections. Any party to the contract aggrieved by the decision or
 14 order made in conformity with such provisions shall be entitled
 15 to judicial review in the district court in the county in which
 16 such decision or order was made and in the manner provided in
 17 subdivision 5. The new rates and charges established by the
 18 agency upon the initial demand will continue until the proper
 19 rates and charges are finally determined, notwithstanding
 20 submission to arbitration or judicial review, but the order or
 21 judgment which finally determines legality will provide for
 22 adjustment of overpayment or underpayment, if any, during the
 23 period after the new rates and charges were initially fixed.

24 All records of any municipality relating to such rates and
 25 charges shall be available at all reasonable times for
 26 examination by any municipality.

27 No change for subd 5 to 9

115*#62S

28 115.62 BOARD; MEMBERSHIP; TERM; QUORUM; OFFICERS;
 29 COMPENSATION.

30 All powers of the district shall be exercised by or under
 31 authority of resolutions of its board of directors, consisting
 32 of one member appointed by the governing body of each
 33 municipality situated wholly or partly within its corporate
 34 limits, who may but need not be a member of that governing
 35 body. The term of each member shall extend to January 1 in the
 36 year following ~~his~~ appointment, or until ~~his~~ a successor is
 37 appointed and qualified, or until ~~his~~ the member's earlier
 38 death, disability, or absence of more than 90 days from ~~his~~ the
 39 member's municipality. Any resolution may be passed by a
 40 majority of the votes cast thereon at a meeting attended by a
 41 majority of the members of the board, unless a larger majority
 42 or further notice is required by its bylaws, which shall be
 43 adopted or amended only by the vote of a majority of all members
 44 of the board. The board shall elect a president and
 45 vice-president at its first meeting in each year, to serve until
 46 the following January 1 or until their respective successors are
 47 selected and qualify. Each member of the board shall be
 48 reimbursed for ~~his~~ actual and necessary expense in the
 49 performance of ~~his~~ the member's duty and may receive
 50 compensation in an amount determined by the board to be
 51 reasonable, not exceeding \$25 per day or part thereof for each
 52 meeting and not exceeding \$1,000 in any one year.

115*#74S

53 115.74 WATER SUPPLY AND WASTEWATER TREATMENT OPERATORS
 54 CERTIFICATION COUNCIL.

55 Subdivision 1. The water and wastewater treatment
 56 operators certification council shall be composed of six
 57 members. The commissioner of health shall appoint two members
 58 as follows: A currently employed water supply system operator
 59 holding a valid certificate issued by the commissioner; and a
 60 representative of the league of Minnesota cities. The director
 61 of the pollution control agency shall appoint two members as
 62 follows: a currently employed wastewater treatment facility
 63 operator holding a valid certificate issued by the director; and
 64 a university or college faculty member whose major field is
 65 related to water supply or wastewater collection and treatment.
 66 The remainder of the council shall be composed of the following
 67 persons: A representative of the state department of health who
 68 is either the director of the division of environmental health
 69 or a qualified member of ~~his~~ the division staff; the director of
 70 the Minnesota pollution control agency or a qualified member
 71 of ~~his~~ the agency staff. In the case of the first council, the
 72 appointments of a water supply system operator and a wastewater
 73 treatment facility operator shall be made from currently
 74 employed operators holding valid certificates under the

1 voluntary certification program administered by the state
2 department of health and the Minnesota pollution control agency.

3 No change for subd 2

4 Subd. 3. When new members are appointed to the council a
5 ~~chairman~~ chair shall be elected at the next council meeting. The *
6 state department of health representative or other
7 representative designated by the council shall serve as
8 secretary of the council, except that the secretary shall be
9 responsible for maintaining records relating to certification of
10 water supply system operators and the Minnesota pollution
11 control agency shall be responsible for maintaining records
12 relating to certification of wastewater treatment facility
13 operators.

14 Subd. 4. The council shall cause at least one examination
15 to be held each year for the purpose of examining candidates for
16 certification at a time and place designated by the council.
17 Those applicants whose competency is acceptable to the council
18 shall be recommended to the commissioner or the director for
19 certification. Additional meetings may be called by the ~~chairman~~ *
20 chair as may be necessary to carry out the provisions of *
21 sections 115.71 to 115.82. Four members shall constitute a
22 quorum.

115*#75S

23 115.75 OPERATOR CERTIFICATES.

24 No change for subd 1 to 3

25 Subd. 4. The commissioner and the director may revoke the
26 certificate of any operator under their respective jurisdictions
27 following a hearing before the commissioner or director or ~~his~~ *
28 designated a representative designated by the commissioner or *
29 director, when it is found that the operator has practiced *
30 fraud, or deception; that the operator was guilty of gross
31 negligence or misconduct in the performance of ~~his~~ the *
32 operator's duties; or that the operator is incompetent or unable *
33 properly to perform ~~his~~ those duties. *

34 No change for subd 5

115A#05S

35 115A.05 BOARD MEMBERSHIP.

36 No change for subd 1

37 Subd. 2. PERMANENT MEMBERS. Eight of the permanent
38 members of the board shall be appointed by the governor, with
39 the advice and consent of the senate, to represent diverse areas
40 and interests within the state. One member shall be appointed
41 from each congressional district in accordance with boundaries
42 existing on January 1, 1980. The term of office and
43 compensation of the eight members thus appointed, and the manner
44 of removal and filling of vacancies, shall be as provided in
45 section 15.0575, except that the initial term of all members
46 shall extend until 90 days after the board makes the decisions
47 required by section 115A.28 and the rate of compensation shall
48 be \$50 per day spent on board activities. The ninth permanent
49 member of the board shall be the ~~chairperson~~ chair who shall be *
50 appointed by the governor with the advice and consent of the
51 senate. Senate confirmation of the permanent members of the
52 board shall be as provided by section 15.066. The ~~chairperson~~ *
53 chair shall serve at the pleasure of the governor for a term *
54 coterminous with that of the governor, except that the initial
55 term of the ~~chairperson~~ chair shall extend until 90 days after *
56 the board makes the decisions required by section 115A.28. The
57 ~~chairperson~~ chair shall be the executive and operating officer *
58 of the board and shall determine the time and place of meetings,
59 preside at meetings, appoint all board officers and hire and
60 supervise all employees subject to the approval of the board,
61 carry out the policy decisions of the board, and perform all
62 other duties and functions assigned ~~to him~~ by the board or by *
63 law. No permanent member of the board shall hold other elected
64 or appointed public office.

65 No change for subd 3

115A#06S

66 115A.06 POWERS OF THE BOARD.

67 No change for subd 1 to 4

68 Subd. 5. RIGHT OF ACCESS. Whenever the board or the
69 ~~chairperson~~ chair acting on behalf of the board deems it *
70 necessary to the accomplishment of its purposes, the board or
71 any member, employee, or agent thereof, when authorized by it or
72 the ~~chairperson.~~ chair, may enter upon any property, public or *
73 private, for the purpose of obtaining information or conducting

1 surveys or investigations, provided that the entrance and
 2 activity is undertaken after reasonable notice and during normal
 3 business hours and provided that compensation is made for any
 4 damages to the property caused by the entrance and activity.
 5 The board may pay a reasonable estimate of the damages it
 6 believes will be caused by the entrance and activity before
 7 entering any property.

8 No change for subd 5a

9 Subd. 6. GIFTS AND GRANTS. The board, or the
 10 chairperson chair or commissioner of administration on behalf of *
 11 the board, may apply for and accept gifts, loans, or other
 12 property from the United States, the state, or any person for
 13 any of the purposes of the board, may enter into any agreement
 14 required in connection therewith, and may hold, use, and dispose
 15 of the money or property in accordance with the terms of the
 16 gift, grant, loan or agreement.

17 No change for subd 7

18 Subd. 8. CONTRACTS. The board or the chairperson *
 19 chair acting on behalf of the board may enter into any contract *
 20 necessary or proper for the exercise of its powers or the
 21 accomplishment of its purposes.

22 Subd. 9. JOINT POWERS. The board or the chairperson *
 23 chair acting on behalf of the board may act under the provisions *
 24 of section 471.59, or any other law providing for joint or
 25 cooperative action.

26 Subd. 10. RESEARCH. The board or the chairperson *
 27 chair acting on behalf of the board may conduct research studies *
 28 and programs, collect and analyze data, prepare reports, maps,
 29 charts, and tables, and order all necessary hearings and
 30 investigations in connection with its work and may advise and
 31 assist other government units on planning matters within the
 32 scope of its powers, duties, and objectives.

33 Subd. 11. EMPLOYEES; CONTRACTS FOR SERVICES. The *
 34 board through its chairperson chair may employ persons and *
 35 contract for services to perform research, engineering, legal,
 36 or other services necessary to carry out its functions.

37 Subd. 12. INSURANCE. The board through its *
 38 chairperson chair may require any employee to obtain and file *
 39 with it an individual bond or fidelity insurance policy. It may
 40 procure insurance in amounts it deems necessary to insure
 41 against liability of the board and employees or both, for
 42 personal injury or death and property damage or destruction,
 43 with the force and effect stated in chapter 466, and against
 44 risks of damage to or destruction of any of its property as it
 45 deems necessary.

46 No change for subd 13

115A#07S

47 115A.07 DUTIES OF THE BOARD; GENERAL.

48 Subdivision 1. INTERAGENCY COORDINATION. The *
 49 chairperson chair of the board shall inform the commissioner of *
 50 energy, planning and development of the board's activities in
 51 accordance with section 116J.47. The chairperson chair shall *
 52 keep the agency informed of the board's activities, solicit the
 53 advice and recommendations of the agency, and coordinate its
 54 work with the regulatory and enforcement activities of the
 55 agency.

56 Subd. 2. BIENNIAL REPORT. Before November 15 of each *
 57 even-numbered year the board through its chairperson chair shall *
 58 prepare and submit to the legislative commission a report of the
 59 board's operations and activities pursuant to sections 115A.01
 60 to 115A.72 and any recommendations for legislative action. The
 61 report shall include a proposed work plan for the following
 62 biennium.

115A#08S

63 115A.08 DUTIES OF THE BOARD; HAZARDOUS WASTE MANAGEMENT
 64 REPORTS.

65 Subdivision 1. REPORT ON LIABILITY AND LONG-TERM CARE.

66 By January 1, 1981, the board through its chairperson chair *
 67 shall report and make recommendations to the legislative
 68 commission on the management and financing of liability and
 69 post-closure monitoring and care for hazardous waste facilities
 70 in the state. The commissioner of energy and economic
 71 development, in consultation with the chairperson chair of the *
 72 board, shall conduct background research and shall report to the
 73 board by July 1, 1980, on the subject of the report required by
 74 this subdivision and on additional research needed to complete

1 the report and recommendations.

2 Subd. 2. REPORT ON PRIVATE INVESTMENT IN HAZARDOUS
3 WASTE MANAGEMENT. By January 1, 1981, the board through its
4 chairperson chair shall report and make recommendations to the *
5 legislative commission on alternative state strategies to
6 promote and secure private investment in hazardous waste
7 management services, technologies, and facilities. The report
8 at least shall evaluate: (a) strategies to promote and secure
9 investments by generators in waste reduction, separation,
10 pretreatment, and recovery; (b) strategies to secure generator
11 assistance in the establishment and financing of hazardous waste
12 facilities either directly through joint investment or
13 indirectly through taxation; (c) strategies to protect the
14 public against business failure by owners and operators of
15 hazardous waste facilities; (d) strategies to promote and secure
16 investment by the private waste management industry in hazardous
17 waste facilities in the state. The report shall recommend
18 priorities, objectives, and appropriate legislation for
19 promoting and securing private investment in hazardous waste
20 management. The commissioner of energy and economic
21 development, in consultation with the chairperson chair of the *
22 board, shall conduct background research and shall report to the
23 board by July 1, 1980, on the subject of the report required by
24 this subdivision and on additional research needed to complete
25 the report and recommendations.

26 Subd. 3. REPORT ON INTERSTATE COOPERATION. By
27 January 1, 1981, the board through its chairperson chair shall *
28 report and make recommendations to the legislative commission on
29 actions to develop interstate cooperation in hazardous waste
30 planning and management. The report shall make recommendations
31 on uniformity of state laws, regulations, and enforcement and on
32 coordination of decisions on facility development and use. The
33 commissioner of energy and economic development, in consultation
34 with the chairperson chair of the board, shall conduct *
35 background research and shall report to the board by July 1,
36 1980, on the report required by this subdivision and on
37 additional research needed to complete the report and
38 recommendations.

39 Subd. 4. REPORT ON HAZARDOUS WASTE MANAGEMENT. By
40 November 1, 1983, the board through its chairperson chair shall *
41 issue a report on hazardous waste management. The report shall
42 include at least:

43 (a) an evaluation of alternative disposal facilities,
44 disposal facility technologies, and disposal facility design and
45 operating specifications;

46 (b) an evaluation of prospects, strategies, and methods for
47 developing commercial hazardous waste disposal facilities of
48 various types, sizes, and functions;

49 (c) an evaluation of all feasible and prudent alternatives
50 to disposal, including waste reduction, separation,
51 pretreatment, processing, and resource recovery, and the
52 potential of the alternatives to reduce the need for and
53 practice of disposal;

54 (d) an evaluation of feasible and prudent disposal
55 abatement objectives, along with a description of hazardous
56 waste management methods and technologies, private and
57 government actions, facilities and services, development
58 schedules, revenue-raising measures, and levels of public and
59 private expenditure and effort necessary to the achievement of
60 those objectives;

61 (e) an evaluation of implementation strategies, including
62 at least:

63 (1) waste reduction, on-site processing, and off-site
64 management by generators;

65 (2) changes and improvements in regulation, licensing,
66 permitting, and enforcement;

67 (3) government tax and financing programs to encourage
68 proper waste management;

69 (4) institutional alternatives, such as generator
70 associations, cooperatives, franchises, public ownership, and
71 flow control districts;

72 (5) promotion of private investment;

73 (6) interstate cooperation;

74 (f) an evaluation of the possibilities for negotiating
75 long-term contracts with other states or with facilities in
76 other states for disposal or processing of hazardous waste from

1 Minnesota.

2 The report shall analyze the environmental, social, and
3 economic effects of the alternatives and methods by which
4 unavoidable adverse effects could be mitigated.

5 Subd. 5. REPORT ON MITIGATION OF LOCAL EFFECTS OF
6 HAZARDOUS WASTE FACILITIES. The board through its chairperson *
7 chair shall report and make recommendations on methods of *
8 mitigating and compensating for the local risks, costs, and
9 other adverse effects of various types of hazardous waste
10 facilities and on methods of financing mitigation and
11 compensation measures. The methods of mitigating and
12 compensating to be considered must include but not be limited to
13 the following: payment outside of levy limitations in lieu of
14 taxes for all property taken off the tax rolls; preference in
15 reviews of applications for federal funds conducted by the
16 metropolitan council and regional development commissions;
17 payment of all costs to service the facilities including the
18 cost of roads, monitoring, inspection, enforcement, police and
19 fire, and litter clean up costs; payment for buffer zone
20 amenities and improvement; local control over buffer zone
21 design; a guarantee against any and all liability that may
22 occur. The recommendations on processing facilities must be
23 made with the report required by subdivision 4. The
24 recommendations on disposal facilities must be made with the
25 report required by section 115A.08, subdivision 5b.

26 Subd. 5a. REPORT ON ASSURANCE OF SECURITY OF HAZARDOUS
27 WASTE FACILITIES. With the report required by subdivision 5,
28 the board through its chairperson chair shall issue a report and *
29 make recommendations on methods of assuring the security of *
30 commercial hazardous waste facilities. The report and
31 recommendations shall be based on the need to assure: effective
32 monitoring and enforcement during operation; effective
33 containment, control, and corrective action in any emergency
34 situation; financial responsibility of the owner and operator
35 throughout the operating life of the facility, using performance
36 bonds, insurance, escrow accounts, or other means; proper
37 closure; financial responsibility after closure; and perpetual
38 post-closure monitoring and maintenance. The report shall
39 include recommendations on the source of funds, including
40 operator contributions, fee surcharges, taxes, and other
41 sources; the amount of funds; effective protection and guarantee
42 of funds; administration; regulatory and permit requirements;
43 the role of local authorities; and other similar matters.

44 Subd. 5b. REPORT ON NEED AND FEASIBILITY OF HAZARDOUS
45 WASTE DISPOSAL FACILITIES. The board through its chairperson *
46 chair shall issue a report on the estimate of need and the *
47 economic feasibility analysis required by section 115A.24. The
48 report must be issued before the hearing required by section
49 115A.27. The board through its chairperson chair shall issue an *
50 interim report by February 1, 1985, on the research on need and
51 economic feasibility.

52 Subd. 6. PREPARATION OF HAZARDOUS WASTE REPORTS;
53 PROCEDURES; PUBLIC INVOLVEMENT. By January 1, 1981, the board
54 through its chairperson chair shall submit a proposed scope of *
55 work and work program for the hazardous waste reports required
56 by subdivisions 4 and 5 to the legislative commission for review.
57 During the preparation of the proposed scope of work and work
58 plan and the reports, the board and the chairperson chair on *
59 behalf of the board shall encourage public debate and discussion
60 of the issues relating to the reports. Representatives of the
61 board, including at least one permanent member, shall meet with
62 local officials and sponsor at least one public meeting in areas
63 of the state affected by the inventory of preferred processing
64 facility areas prepared pursuant to section 115A.09. The board
65 and the chairperson chair on behalf of the board shall follow *
66 the procedures set out in section 115A.22, for consulting with
67 citizens in areas affected by the selection of candidate sites
68 for disposal facilities. To assist it in preparing the reports,
69 the plan, and the certification of need required by subdivisions
70 4 to 5a and sections 115A.11 and 115A.24, the board through its
71 chairperson chair shall make grants to each local project review *
72 committee established for a candidate site for disposal
73 identified under sections 115A.18 to 115A.30. The grants may be
74 used by the committee to employ staff, pay administrative
75 expenses, or contract with affected units of government or
76 qualified consultants. The board and the chairperson chair on *

1 behalf of the board shall request recommendations from the
 2 private waste management industry, the board's advisory
 3 councils, affected regional development commissions, and the
 4 metropolitan council and shall consult with them on the board's
 5 intended disposition of the recommendations. The reports of the
 6 board shall summarize the comments received and the board's
 7 response to the comments. Copies of the reports must be
 8 submitted to the legislative commission on waste management.

115A#09S

9 115A.09 DUTIES OF THE BOARD; INVENTORY OF PREFERRED
 10 AREAS FOR HAZARDOUS WASTE PROCESSING FACILITIES.

11 No change for subd 1

12 Subd. 2. EVALUATION OF AREAS. The board shall not be
 13 required to promulgate rules pursuant to chapter 14 to govern
 14 its evaluation and selection of areas under this section. The
 15 board and the chairperson chair on behalf of the board shall *
 16 evaluate the areas in consultation with the board's advisory
 17 councils, the affected counties and regions, generators of
 18 hazardous waste, and prospective facility developers. The
 19 evaluation shall consider at least the consistency of areas with
 20 state and federal regulations, local land use and land use
 21 controls, the protection of agriculture and natural resources,
 22 existing and future development patterns, transportation and
 23 other services appropriate to the hazardous waste facilities,
 24 the quality of other potential areas, and the location of
 25 hazardous waste generators. The agency shall prepare a report
 26 on the suitability of each proposed area for the use intended.

27 No change for subd 3

28 Subd. 4. GRANTS; TECHNICAL ASSISTANCE. To assist
 29 counties participating in the inventory required by this
 30 section, the board through its chairperson chair may make grants *
 31 to the counties to be used to employ staff, pay administrative
 32 expenses, or contract with qualified consultants. The board
 33 through its chairperson chair shall ensure the delivery to the *
 34 counties of technical information and assistance by appropriate
 35 state agencies.

36 No change for subd 5

115A#10S

37 115A.10 DUTIES OF THE BOARD; HAZARDOUS WASTE FACILITIES;
 38 ENCOURAGEMENT OF PRIVATE ENTERPRISE.

39 The board and the chairperson chair on behalf of the board *
 40 shall encourage the development and operation of hazardous waste
 41 facilities by private enterprise to the extent practicable and
 42 consistent with the purposes of sections 115A.01 to 115A.72 and
 43 the board's hazardous waste management plan adopted pursuant to
 44 section 115A.11. In preparing the reports under section 115A.08
 45 and the inventory of processing facility sites under section
 46 115A.09, in adopting the management plan, and in its actions and
 47 decisions under sections 115A.18 to 115A.30 and 115A.32 to
 48 115A.39, the board and the chairperson chair on behalf of the *
 49 board shall solicit the active participation of private waste
 50 management firms and shall so conduct its activities as to
 51 encourage private permit applications for facilities needed in
 52 the state. The board shall promulgate rules for accepting and
 53 evaluating applications for permits for the construction and
 54 operation of facilities at sites preferred by the board pursuant
 55 to section 115A.09. The rules shall include standards and
 56 procedures for making determinations on the minimum
 57 qualifications, including technical competence and financial
 58 capability, of permit applicants.

115A#11S

59 115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

60 No change for subd 1 to 2

61 Subd. 3. PREPARATION OF DRAFT PLAN. By July 1, 1983,
 62 the chairperson chair of the board shall report to the *
 63 legislative commission on waste management about the hearing to
 64 be held pursuant to this subdivision. The chairperson chair *
 65 shall describe the board's plans and procedures for the hearing,
 66 the provisions for encouraging public participation in the
 67 hearing, and the board's plans for preparing the required report
 68 to the legislature fully and accurately summarizing the results
 69 of the hearing, the objections raised to the board's draft plan,
 70 and the board's response to the testimony received. The
 71 legislative commission shall hold a hearing to receive public
 72 comment on the board's proposed hearing procedures and
 73 thereafter shall make any recommendations it deems appropriate

1 for changes in the board's procedures. By November 1, 1983, the
2 board through its chairperson chair shall issue a draft *
3 hazardous waste management plan proposed for adoption pursuant
4 to this section. The draft plan must include an explanation of
5 the basis of the findings, conclusions, and recommendations
6 contained therein. The board shall hold a public hearing on the
7 draft plan within 30 days of its issuance. Notices of the draft
8 plan and notice of the hearing must be published in the State
9 Register and newspapers of general circulation in the state.
10 The notices must indicate how copies of the draft plan may be
11 obtained. The board shall make the draft plan available for
12 public review and comment at least 21 days before the hearing.
13 The hearing must be ordered by the chairperson chair of the *
14 board and must be conducted by the state office of
15 administrative hearings in a manner consistent with the
16 completion of the proceedings in the time allowed by this
17 section. The hearing officer may not issue a report but shall
18 preside at the hearing to ensure that the hearing is conducted
19 in a fair, orderly, and expeditious manner and in accordance
20 with the hearing procedures of the board. A majority of the
21 permanent members of the board shall attend the hearing. In
22 connection with the hearing, the chairperson chair of the board *
23 shall provide copies of the studies and reports on which the
24 draft plan is based and shall present an explanation of the
25 basis of the findings, conclusions, and recommendations in the
26 draft plan.

27 Within 15 days following the hearing the director of the
28 agency shall issue a hazardous waste pollution control report.
29 The report must be submitted to the legislative commission. The
30 report must be based on existing and proposed federal and state
31 pollution control rules and available information and expertise
32 on the character, nature, and degree of hazard of the types and
33 categories of hazardous waste identified in the plan. The
34 report must:

35 (a) assess the pollution control problems and risks
36 associated with each type and category of hazardous waste
37 identified by the plan as eligible for disposal, before or after
38 pretreatment, at a facility or facilities of the type and design
39 selected by the board, and identify design and pretreatment
40 alternatives or other methods for dealing with those problems
41 and risks;

42 (b) identify at least one specific alternative technology
43 for dealing with each waste that the report recommends should
44 not be accepted for disposal, and assess the pollution control
45 problems and risks associated with the alternatives;

46 (c) assess the pollution control problems and risks
47 associated with each standard and criteria contained in the plan
48 for determining the eligibility or ineligibility of waste for
49 disposal;

50 (d) assess the pollution control programs and risks
51 associated with the processing and other alternatives to
52 disposal that are recommended in the plan for specific types or
53 categories of hazardous waste, and identify methods for dealing
54 with those problems and risks.

55 Within 30 days following the hearing, the board shall
56 revise the draft plan as it deems appropriate, shall make a
57 written response to the testimony received at the hearing and to
58 the agency's report explaining its disposition of any
59 recommendations made with respect to the plan, and shall submit
60 to the legislative commission the revised draft plan, together
61 with a report on the testimony received, the board's response,
62 and the results of the hearing process.

115A#12S

63 115A.12 ADVISORY COUNCILS.

64 Subdivision 1. SOLID AND HAZARDOUS WASTE MANAGEMENT.

65 The chairperson chair of the board shall establish a solid waste *
66 management advisory council and a hazardous waste management
67 planning council broadly representative of the geographic areas
68 and interests of the state. The councils shall have not less
69 than nine nor more than 18 members each. The membership of the
70 solid waste council shall consist of one-third citizen
71 representatives, one-third representatives from local government
72 units, and one-third representatives from private solid waste
73 management firms. The solid waste council shall contain at
74 least one member experienced in each of the following areas:
75 state and municipal finance; solid waste collection,

1 processing, and disposal; and solid waste reduction and resource
 2 recovery. The membership of the hazardous waste advisory
 3 council shall consist of one-third citizen representatives,
 4 one-third representatives from local government units, and
 5 one-third representatives of hazardous waste generators and
 6 private hazardous waste management firms. The chairpersons *
 7 chairs of the advisory councils shall be appointed by *
 8 the chairperson chair of the board. The chairperson chair of *
 9 the board shall provide administrative and staff services for
 10 the advisory councils. The advisory councils shall have such
 11 duties as are assigned by law or the chairperson chair of the *
 12 board. The solid waste advisory council shall make
 13 recommendations to the board on its solid waste management
 14 activities. The hazardous waste advisory council shall make
 15 recommendations to the board on its activities under sections
 16 115A.08, 115A.09, 115A.10, and 115A.11, and sections 115A.20,
 17 115A.21 115A.23, and 115A.24. Members of the advisory councils
 18 shall serve without compensation but shall be reimbursed for
 19 their reasonable expenses as determined by the chairperson chair *
 20 of the board.

21 Subd. 2. TECHNICAL ADVISORY COUNCIL. The chairperson *
 22 chair of the board shall establish an interagency technical *
 23 advisory council to advise the board and the chairperson chair *
 24 on matters the board, through its chairperson chair, deems *
 25 necessary. The members of the council shall be the commissioner
 26 of health; the commissioner of agriculture; the commissioner of
 27 natural resources; the director of the pollution control agency;
 28 the commissioner of energy, planning and development; other
 29 heads of agency the chairperson chair of the board deems *
 30 necessary; or their designees. The council shall meet at the
 31 call of the chairperson chair of the board who shall serve as *
 32 chairperson chair of the council. The members, collectively and *
 33 individually shall advise the board and the chairperson chair on *
 34 matters within their various areas of expertise and shall
 35 provide technical assistance and information as requested by the
 36 board through its chairperson chair. *

115A#14S

37 115A.14 LEGISLATIVE COMMISSION ON WASTE MANAGEMENT.
 38 No change for subd 1 to 3
 39 Subd. 4. POWERS AND DUTIES. The commission shall
 40 review the biennial report of the board. The commission shall
 41 oversee the activities of the board under sections 115A.01 to
 42 115A.72 and the activities of the agency under sections 115A.42
 43 to 115A.46 and 115A.49 to 115A.54, and direct such changes or
 44 additions in the work plan of the board and agency as it deems
 45 fit. The commission may conduct public hearings and otherwise
 46 secure data and expressions of opinion. The commission shall
 47 make such recommendations as it deems proper to assist the
 48 legislature in formulating legislation. Any data or information
 49 compiled by the commission shall be made available to any
 50 standing or interim committee of the legislature upon request of
 51 the chairperson chair of the respective committee. *
 52 No change for subd 5 to 6

115A#15S

53 115A.15 STATE GOVERNMENT RESOURCE RECOVERY.
 54 No change for subd 1 to 5
 55 Subd. 6. RESOURCE RECOVERY REVOLVING ACCOUNT. Upon
 56 the certification of the commissioner of administration, the
 57 commissioner of finance shall establish an account in the
 58 general services revolving fund, effective June 30, 1980, for
 59 the operation of the state government resource recovery
 60 program. The revolving account shall consist of all funds
 61 appropriated by the state for the program, all revenues
 62 resulting from the sale of recyclable and reusable commodities
 63 made available for sale as a result of the resource recovery
 64 program and all reimbursements to the commissioner of his *
 65 expenses incurred by the commissioner in developing and *
 66 administering resource recovery systems for state agencies,
 67 local governments, and regional agencies. The account may be
 68 used for all activities associated with the program including
 69 payment of administrative and operating costs.

115A#158S

70 115A.158 DEVELOPMENT OF PROCESSING AND COLLECTION
 71 FACILITIES AND SERVICES; REQUESTS FOR PROPOSALS.
 72 Subdivision 1. REQUEST BY BOARD; CONTENTS OF PROPOSAL.
 73 The board through its chairperson chair shall request *

1 proposals for the development and operation of specific types of
2 commercial hazardous waste processing and collection facilities
3 and services that offer the greatest possibility of achieving
4 the policies and objectives of the waste management plan
5 including the goal of reducing to the greatest extent feasible
6 and prudent the need for and practice of disposal. The
7 proposals must contain at least the following information:
8 (1) the technical, managerial, and financial qualifications
9 and experience of the proposer in developing and operating
10 facilities and services of the type proposed;
11 (2) the technical specifications of the proposed facility
12 or service including the process that will be used, the amount
13 and types of hazardous waste that can be handled, the types,
14 volume, and proposed disposition of any residuals, and a
15 description of anticipated adverse environmental effects;
16 (3) the requirements of the site or sites needed to develop
17 and operate the facility or service and the likelihood that a
18 suitable site or sites will be available for the facility or
19 service;
20 (4) projections of the costs and revenues of the facility
21 or service, the types and numbers of generators who will use it,
22 and the fee structure and estimated user charges necessary to
23 make the facility or services economically viable;
24 (5) the schedule for developing and commencing operation of
25 the facility or service; and
26 (6) the financial, technical, institutional, legal,
27 regulatory, and other constraints that may hinder or prevent the
28 development or operation of the facility or service and the
29 actions that could be taken by state and local governments or by
30 the private sector to overcome those constraints.
31 The information provided in the proposal must be based on
32 current and projected market conditions, hazardous waste
33 streams, legal and institutional arrangements, and other
34 circumstances specific to the state.

35 No change for subd 2 to 3

115A#159S

36 115A.159 DEVELOPMENT OF HAZARDOUS WASTE COLLECTION AND
37 TRANSPORTATION SERVICES.

38 The board through its chairperson chair shall request, *
39 pursuant to the first round of requests under section 115A.158,
40 proposals for the development and operation of a system of
41 commercial collection and transportation services for hazardous
42 waste especially designed to serve smaller businesses and
43 generators of small quantities of hazardous waste that have
44 difficulty securing effective and reliable collection and
45 shipment services and acceptance of wastes at appropriate waste
46 facilities. The board's request under this section should
47 require proposals containing at least the following elements:
48 (1) a collection service;
49 (2) assistance to clients about on-site waste management;
50 (3) a shipping coordination service, which may include
51 transfer and temporary storage and bulking facilities and
52 computerized inventory tracking capabilities, as the proposer
53 deems appropriate and necessary to provide efficient and
54 reliable combined shipment of wastes from generators to
55 processing and disposal facilities;
56 (4) a brokerage service to ensure acceptance of wastes at
57 appropriate processing and disposal facilities;
58 (5) recommendations on the utility of local or regional
59 associations of generators to increase the efficiency and
60 reliability of the services; and
61 (6) recommendations on processing facilities, including
62 mobile modular processing units, that would complement the
63 collection and transportation system.
64 The board's request must require proposals that offer the
65 delivery of services in stages commencing no later than July 1,
66 1985. The board should specify or require specification of
67 immediate and staged performance standards for the services
68 proposed, which may include standards relating to the volume and
69 types of waste, the number and geographic distribution of
70 generators served, accessibility, the percent of total waste and
71 generators served, and other appropriate matters. After
72 evaluating proposals received in response to its request, the
73 board may select a proposer as the recipient of a development
74 grant under section 115A.156. Notwithstanding the provisions of
75 section 115A.156, subdivisions 4 and 5, on the amount of the

1 grant and the required match, the grant made under this section
2 may be up to \$350,000 and may not require a match greater than
3 ten percent of the grant award.

115A#21S

4 115A.21 CANDIDATE SITES.

5 No change for subd 1 to 1a

6 Subd. 2. SEARCH PROCEDURE. The board shall consult
7 with the agency and the private waste management industry in
8 selecting candidate sites. Any sites proposed in applications
9 for permits for disposal facilities being reviewed by the agency
10 may be included by the board as candidate sites, provided the
11 agency certifies the intrinsic suitability of the sites. The
12 agency shall suspend its review of any permit application being
13 reviewed by the board for inclusion as a candidate site until
14 the site is eliminated from consideration as a candidate site.

15 As soon as practicable, the board through its chairperson
16 chair shall publish a request soliciting proposals and permit
17 applications for hazardous waste disposal facilities from
18 potential developers and operators of such facilities. Notice
19 of the request shall be published in the State Register and
20 newspapers of general circulation in the state and shall be
21 transmitted to all regional development commissions, the
22 metropolitan council, and all counties in the state. The board
23 may select conceptual design and operating specifications for a
24 variety of hazardous waste disposal facilities in sufficient
25 detail and extent in the judgment of the board to assist the
26 evaluation of sites and the selection of candidate sites. By
27 November 1, 1980, the board through its chairperson chair
28 notify each regional development commission, or the metropolitan
29 council, and each local government unit within whose
30 jurisdiction the board intends to search for candidate sites.
31 The notification shall explain the selection of the jurisdiction
32 as a search area; shall summarize any conceptual specifications
33 and the evaluation factors, criteria, standards, and procedures
34 the board intends to use in selecting candidate sites; and shall
35 describe the relationship of the candidate site selection
36 process to the other review procedures under sections 115A.18 to
37 115A.30 and the hazardous waste reports and plans required under
38 sections 115A.04 to 115A.15. The notification shall request
39 recommendations and suggestions from each such commission, the
40 metropolitan council, and local government unit on the criteria,
41 standards, and procedures the board should use in selecting
42 candidate sites within the time allowed. The board through its
43 chairperson chair shall make a written response to any
44 recommendations, explaining its disposition of the
45 recommendations. No action of the board may be held invalid by
46 reason of the board's failure to notify any of the entities
47 listed in this subdivision.

48 Subd. 2a. INTRINSIC SUITABILITY CERTIFICATION. The
49 board shall provide to the agency data relating to the intrinsic
50 suitability of a site to be proposed as a candidate site as soon
51 as available. The director of the agency shall issue notice
52 indicating whether the director recommends that the proposed
53 sites should be certified as intrinsically suitable. The board
54 through its chairperson chair and the director shall publish
55 notice of hearings on the board's proposal and the director's
56 recommendations. Notice shall be published in the state
57 register and newspapers of general circulation in the state and
58 shall be sent by mail to all regional development commissions,
59 or the metropolitan council, and to local government units
60 containing a proposed candidate site. The hearings shall be
61 conducted by the state office of administrative hearings in a
62 manner consistent with the completion of the proceedings and the
63 administrative law judge's report to the agency and board in the
64 time allowed by this section. The hearing shall afford all
65 interested persons an opportunity to testify and present
66 evidence on the subject of the hearing. The subject of the
67 hearing shall be limited to information submitted by the board
68 and additional information on the proposed sites which is
69 relevant to the board's decision on candidate sites and the
70 agency's decision on intrinsic suitability. The rulemaking and
71 contested case procedures of chapter 14 shall not apply to this
72 hearing. The administrative law judge may consolidate
73 hearings. The report of the administrative law judge shall
74 contain findings of fact, conclusions, and recommendations on
75 the subject of the hearing. The agency shall make a final

1 determination as to the intrinsic suitability of each proposed
 2 site and shall certify sites accordingly. No action of the
 3 board or agency may be held invalid by reason of the board's or
 4 agency's failure to notify any of the entities listed in this
 5 subdivision.

6 No change for subd 3

115A#22S

7 115A.22 PARTICIPATION BY AFFECTED LOCALITIES.

8 No change for subd 1 to 2

9 Subd. 3. MEMBERSHIP ON LOCAL COMMITTEES. Within 60
 10 days following the selection of a candidate site under section
 11 115A.21, the governor shall appoint the chairperson chair and *
 12 members of the local project review committee, ensuring a
 13 balanced representation of all parties with a legitimate and
 14 direct interest in the outcome of the project review. The
 15 governor shall consult particularly with affected local units of
 16 government before selecting members. Members may be added to
 17 the local committee from time to time by the governor.

18 No change for subd 4 to 5

19 Subd. 6. TECHNICAL ASSISTANCE; GRANTS. To assist
 20 local project review committees to participate in the
 21 preparation of environmental impact statements and permit
 22 applications, the board through its chairperson chair shall make *
 23 grants to the committees to be used to employ staff, pay
 24 administrative expenses, or contract with affected units of
 25 government or qualified consultants. The board through its
 26 chairperson chair shall ensure the delivery to the committees of *
 27 technical information and assistance by appropriate state
 28 agencies.

29 Subd. 7. HAZARDOUS WASTE MANAGEMENT REPORTS. The
 30 chairperson chair and the board shall prepare and submit the *
 31 hazardous waste management reports required by section 115A.08,
 32 subdivisions 4 to 5a, in consultation with the local project
 33 review committees. The chairperson chair and the board shall *
 34 request recommendations from the local committees and shall
 35 consult with the committees on the board's intended disposition
 36 of the recommendations. The reports of the board shall
 37 summarize the recommendations of the committees and the board's
 38 response to the recommendations. Before submitting the reports,
 39 the board shall hold at least one public meeting in each county
 40 in which a candidate site is located. A majority of the
 41 permanent members shall be present at each meeting. Notice of
 42 the meeting shall be published in a newspaper or newspapers of
 43 general circulation in the area for two successive weeks ending
 44 at least 15 days before the date of the meeting. The notice
 45 shall describe the proposed facilities, the proposed location,
 46 the purpose of the board's report to the legislature, and the
 47 subsequent and related activities of the board.

115A#25S

48 115A.25 ENVIRONMENTAL REVIEW PROCEDURES.

49 No change for subd 1

50 Subd. 1a. PHASE I. Phase I of the statement must be
 51 completed by the board on the environmental effects of the
 52 decisions that the board is required to make under section
 53 115A.28. Phase I of the statement must not address or
 54 reconsider alternatives that have been eliminated from
 55 consideration by the board's decisions under sections 115A.201
 56 and 115A.21. The determination of the adequacy of phase I of
 57 the statement is exclusively the authority of the board. The
 58 governor shall establish an interagency advisory group to
 59 comment on the scope of phase I of the statement, to review
 60 drafts, and to provide technical assistance in the preparation
 61 and review of phase I of the statement. The advisory group must
 62 include representatives of the agency, the departments of
 63 natural resources, health, agriculture, energy and economic
 64 development, and transportation, and the Minnesota geological
 65 survey. In order to obtain the staff assistance necessary to
 66 prepare the statement, the chairperson chair of the board may *
 67 request reassignment of personnel pursuant to section 16.21 and
 68 may arrange to have other agencies prepare parts of the
 69 statement pursuant to section 16.135.

70 No change for subd 1b to 3

115A#27S

71 115A.27 HEARINGS.

72 Subd. 2. BOARD HEARINGS. Within 120 days following
 73 the board's determination of the adequacy of phase I of the

1 environmental impact statement under section 115A.25, the board
2 shall conduct a hearing in each county containing a candidate
3 site, for the purpose of receiving testimony on the decisions
4 required under section 115A.28. The hearings must be ordered by
5 the chairperson chair of the board. The subject of the board *
6 hearing may not extend to matters previously decided in the
7 board's decision on sites under sections 115A.201 and 115A.21.
8 The record of the hearings must include the estimate of need for
9 disposal facilities and the economic feasibility analysis
10 prepared under section 115A.24, the phase I environmental impact
11 statement, and the reports on permit conditions issued under
12 section 115A.26. The hearing must be conducted for the board by
13 the state office of administrative hearings in a manner
14 consistent with the completion of the proceedings in the time
15 allowed. The proceedings and the hearing procedures are not
16 subject to the rulemaking or contested case provisions of
17 chapter 14. The hearing officer may not issue a report but
18 shall preside at the hearings to ensure that the hearings are
19 conducted in a fair, orderly, and expeditious manner and in
20 accordance with the hearing procedures of the board. A majority
21 of the permanent members of the board shall be present at the
22 hearing.

115A#28S

23 115A.28 FINAL DECISION.

24 Subdivision 1. DECISION OF BOARD. Within 60 days
25 following the conclusion of the hearings under section 115A.27,
26 subdivision 2, and after consulting with private facility
27 developers, the permitting agencies, affected local government
28 units, and the local project review committees, the board shall
29 make the decisions as required by this subdivision. If the
30 board decides that a disposal facility should not be developed
31 in the state, it shall dismiss the candidate sites from further
32 consideration. If the board determines and certifies that a
33 disposal facility is needed and should be developed in the
34 state, the board shall select a site or sites and specify the
35 number, type, capacity, function, and use of any facilities to
36 be established under sections 115A.18 to 115A.30. Sites that
37 are not selected by the board cease to be candidate sites. If
38 the chairperson chair of the board determines that an agency *
39 report on permit conditions and application requirements has
40 been substantially revised following hearings held pursuant to
41 section 115A.27, subdivision 2, the chairperson chair may delay *
42 the decision for 30 days and may order a public hearing to
43 receive further testimony on the sites and facilities to be
44 established. The proceeding must be conducted as provided in
45 section 115A.27, subdivision 2, except that hearings shall not
46 be separately held in the affected counties and the issues
47 relating to all agency reports must be considered at one hearing.

48 The board may not make any final decision under this
49 subdivision until the board:

50 (1) determines the current status of and future prospects
51 for the final development of commercial hazardous waste
52 processing facilities in the state based on the responses to the
53 board's requests for proposals, the results of the board's
54 processing facility development grant and loan programs, and any
55 applications which have been filed for processing facility
56 operation permits; and

57 (2) adjusts the estimate of need prepared under section
58 115A.24 to reflect the types and quantities of hazardous waste
59 likely to be generated as residuals of processing facilities
60 based on the board's determination under clause (1).

61 No change for subd 2 to 3

115A#29S

62 115A.29 RECONCILIATION AND INTERVENTION PROCEDURES.

63 Subdivision 1. REPORTS TO LEGISLATIVE COMMISSION. At
64 least 30 days before making final decisions on final site
65 selection and permit application under section 115A.28, the
66 board through its chairperson chair may report to the *
67 legislative commission describing permit conditions or
68 requirements being considered which are not within the existing
69 authority of the agency or the board or which would require
70 legislation or public financial assistance. The report shall
71 not raise issues previously decided by the board's certification
72 of need. In any such report the chairperson chair of the board *
73 may request intervention in the review pursuant to subdivisions
74 2 and 3.

1 No change for subd 2
2 Subd. 3. SUSPENSION OF REVIEW PROCESS; INTERVENTION
3 PROCEEDING. Following the report of the intervenor, the
4 legislative commission may suspend the review process for an
5 additional period not to exceed 90 days for an intervention
6 proceeding. The intervention proceeding shall not consider
7 issues previously decided by the board's certification of need.
8 The intervenor shall be in charge of the intervention proceeding
9 and may call for such participation and establish such
10 procedures as ~~he~~ the intervenor deems necessary and appropriate *
11 to facilitate agreement. The intervenor shall keep *
12 the ~~chairperson~~ chair of the legislative commission informed on
13 the progress of the intervention proceeding, particularly with
14 respect to agreements or proposed agreements which may require
15 action or decisions not within the authority of the agency or
16 board, legislative action, or public financial assistance. The
17 intervenor shall make recommendations to the commission
18 respecting any such agreements or proposed agreements. The
19 commission may make recommendations to the intervenor respecting
20 any such agreement or proposed agreement. If the commission
21 approves of an agreement, or a decision based upon an agreement,
22 which requires action or decisions not within the authority of
23 the agency or board, legislative action, or public financial
24 assistance, the commission shall cause the matter and
25 recommendations to be submitted to the legislature for
26 consideration.

115A#34S

27 115A.34 APPOINTMENT OF TEMPORARY BOARD MEMBERS.
28 Within 45 days of the submission of a request determined by
29 the board to satisfy the requirements for review under sections
30 115A.32 to 115A.39, temporary board members shall be added to
31 the board for the purpose of the supplementary review. Three
32 members shall be selected by the governing body of the city or
33 town in which the ~~chairperson~~ chair of the waste management *
34 board determines the facility would be principally located, and
35 three members shall be selected by the governing body of the *
36 county in which the ~~chairperson~~ chair of the waste management
37 board determines the proposed facility would be principally
38 located. If the proposed facility is located in unorganized
39 territory, all six members shall be selected by the governing
40 board of the county. Temporary members shall be residents of
41 the county in which the proposed facility would be located and
42 shall be selected to represent broadly the local interests that
43 would be directly affected by the proposed facility. At least
44 one member appointed by the city or town shall live within one
45 mile of the proposed facility, and at least one member appointed
46 by the county shall be a resident of a city or town in which the
47 proposed facility would be located. If the appointing authority
48 fails to appoint temporary board members in the period allowed,
49 the governor shall appoint the temporary members to represent
50 the local interests in accordance with this section. Temporary
51 board members shall serve for terms lasting until the board has
52 taken final action on the facility.

115A#35S

53 115A.35 REVIEW PROCEDURE.
54 The board shall meet to commence the supplementary review
55 within 90 days of the submission of a request determined by the
56 board to satisfy the requirements for review under this
57 section. At the meeting commencing the review the ~~chairperson~~ *
58 chair shall recommend and the board establish a scope and *
59 procedure, in accordance with the rules of the board, for review
60 and final decision on the proposed facility. The procedure
61 shall require the board to make a final decision on the proposed
62 facility within 90 days following the commencement of review.
63 The procedure shall require the board to hold, at the call of
64 the ~~chairperson~~ chair, at least one public hearing in the county *
65 within which the proposed facility would be located. A majority
66 of permanent members of the board shall be present at the
67 hearing. The hearing shall be conducted for the board by the
68 state office of administrative hearings in a manner determined
69 by the administrative law judge to be consistent with the
70 expeditious completion of the proceedings as required by
71 sections 115A.32 to 115A.39. The hearing shall not be deemed a
72 contested case under chapter 14. Notice of the hearing shall be
73 published in a newspaper or newspapers of general circulation in
74 the area for two successive weeks ending at least 15 days before

1 the date of the meeting. The notice shall describe the proposed
 2 facility, its location, the permits, and the board's scope and
 3 procedure for review. The notice shall identify a location or
 4 locations within the city or town and county where the permit
 5 applications, the agency permits, and the board's scope and
 6 procedure for review are available for review and where copies
 7 may be obtained.

115A#38S

8 115A.38 RECONCILIATION PROCEDURES.

9 Subdivision 1. REPORTS TO LEGISLATIVE COMMISSION. At
 10 least 30 days before making a final decision under section
 11 115A.37 in a review brought pursuant to section 115A.33, clause
 12 (d), the board through its chairperson chair may report to the *
 13 legislative commission describing permit conditions or
 14 requirements being considered which are not within the existing
 15 authority of the agency or the board or which would require
 16 legislation or public financial assistance. In any such report
 17 the chairperson chair of the board may request intervention in *
 18 the review pursuant to subdivisions 2 and 3.

19 No change for subd 2

20 Subd. 3. SUSPENSION OF REVIEW PROCESS; INTERVENTION
 21 PROCEEDING. Following the report of the intervenor, the
 22 legislative commission may suspend the review process for an
 23 additional period not to exceed 90 days for an intervention
 24 proceeding. The intervenor shall be in charge of the
 25 intervention proceeding and may call for such participation and
 26 establish such procedures as he the intervenor deems necessary *
 27 and appropriate to facilitate agreement. The intervenor shall
 28 keep the chairman chair of the legislative commission informed *
 29 on the progress of the intervention proceeding, particularly
 30 with respect to agreements or proposed agreements which may
 31 require action or decisions not within the authority of the
 32 agency or board, legislative action, or public financial
 33 assistance. The intervenor shall make recommendations to the
 34 commission respecting any such agreements or proposed
 35 agreements. The commission may make recommendations to the
 36 intervenor respecting any such agreement or proposed agreement.
 37 If the commission approves of an agreement, or a decision based
 38 upon an agreement, which requires action or decisions not within
 39 the authority of the agency or board, legislative action, or
 40 public financial assistance, the commission shall cause the
 41 matter and recommendations to be submitted to the legislature
 42 for consideration.

115A#64S

43 115A.64 PROCEDURE FOR ESTABLISHMENT AND ALTERATION.

44 No change for subd 1 to 3

45 Subd. 4. REVIEW PROCEDURES. Upon receipt of the
 46 petition, the chairperson chair of the board shall determine *
 47 whether the petition conforms in form and substance to the
 48 requirements of law and rule. If the petition does not conform
 49 to the requirements, the chairperson chair shall return it *
 50 immediately to the petitioners with a statement describing the
 51 deficiencies and the amendments necessary to rectify them. If
 52 the petition does conform to the requirements, and if comments
 53 have been received objecting to the establishment or alteration
 54 of the district as proposed, the chairperson chair shall request *
 55 the office of administrative hearings to conduct a hearing on
 56 the petition. The hearing shall be conducted in the proposed
 57 district in the manner provided in chapter 14 for contested
 58 cases. If no comments have been received objecting to the
 59 establishment of the district as proposed, the board may proceed
 60 to grant or deny the petition without the necessity of
 61 conducting a contested case hearing. If the petition conforms
 62 to the requirements of law and rule, the chairperson chair shall *
 63 also immediately submit the petition to the solid waste and the
 64 technical advisory councils of the board for review and
 65 recommendation and shall forward the petition to the director of
 66 the agency, who shall prepare and submit to the board a report
 67 containing recommendations on the disposition of the petition.
 68 The director's report shall contain at least the director's
 69 findings and conclusions on whether the proposed boundaries,
 70 purposes, powers, and management plans of the district or
 71 alteration thereto serve the purposes of waste resource
 72 districts, are appropriately related to the waste generation,
 73 collection, processing, and disposal patterns in the area, and
 74 are generally consistent with the purposes of the agency's

1 regulatory program.

2 No change for subd 5 to 6

115A#67S

3 115A.67 ORGANIZATION OF DISTRICT.

4 The governing body of each county wholly or partly within
5 the district shall appoint two persons to serve on the first
6 board of directors of the district, except that in the case of a
7 district having territory within only two counties each county
8 may appoint three persons. At least one person appointed by
9 each county shall be an elected official of a local government
10 unit having territory within the district. The first
11 chairperson chair of the board of directors shall be appointed *
12 from outside the first board of directors by the chairperson *
13 chair of the waste management board. The first chairperson *
14 chair shall serve for a term of two years. Thereafter *
15 the chairperson chair shall be elected from outside the board of *
16 directors by majority vote of the board of directors. Members *
17 of the board of directors shall be residents of the district.
18 The first meeting of the board of directors shall be held at the *
19 call of the chairperson chair, after notice, for the purpose of
20 proposing the bylaws, electing officers and for any other
21 business that comes before the meeting. The bylaws of the
22 district, and amendments thereto, shall be adopted by a majority
23 vote of the board of directors unless the certificate of
24 incorporation requires a greater vote. The bylaws shall state:

25 (a) the manner and time of calling regular meetings of the
26 representatives and the board of directors, not less than once
27 annually;

28 (b) the title, manner of selection, and term of office of
29 officers of the district;

30 (c) the term of office of members of the board of
31 directors, the manner of their removal, and the manner of
32 filling vacancies on the board of directors;

33 (d) the powers and duties of the board of directors
34 consistent with the order and articles of incorporation
35 establishing the district;

36 (e) the definition of a quorum for meetings of the board of
37 directors, which shall be not less than a majority of the
38 members;

39 (f) the compensation and reimbursement for expenses for
40 members of the board of directors, which shall not exceed that
41 provided for in section 15.0575, subdivision 3; and

42 (g) such other provisions for regulating the affairs of the
43 district as the board of directors shall determine to be
44 necessary.

115B#03S

45 115B.03 RESPONSIBLE PERSON.

46 Subdivision 1. GENERAL RULE. For the purposes of
47 sections 115B.01 to 115B.20, and except as provided in
48 subdivisions 2 and 3, a person is responsible for a release or
49 threatened release of a hazardous substance, or a pollutant or
50 contaminant, from a facility if the person:

51 (a) Owned or operated the facility:

52 (1) when the hazardous substance, or pollutant or
53 contaminant, was placed or came to be located in or on the
54 facility;

55 (2) when the hazardous substance, or pollutant or
56 contaminant, was located in or on the facility but before the
57 release; or

58 (3) during the time of the release or threatened release;

59 (b) Owned or possessed the hazardous substance, or
60 pollutant or contaminant, and arranged, by contract, agreement
61 or otherwise, for the disposal, treatment or transport for
62 disposal or treatment of the hazardous substance, or pollutant
63 or contaminant; or

64 (c) Knew or reasonably should have known that waste ~~he~~ the *
65 person accepted for transport to a disposal or treatment *
66 facility contained a hazardous substance, or pollutant or
67 contaminant, and either selected the facility to which it was
68 transported or disposed of it in a manner contrary to law.

69 Subd. 2. EMPLOYEES AND EMPLOYERS. When a person who
70 is responsible for a release or threatened release as provided
71 in subdivision 1 is an employee who is acting in the scope of
72 ~~his~~ employment: *

73 (a) The employee is subject to liability under section
74 115B.04 or 115B.05 only if ~~his~~ the employee's conduct with *

1 respect to the hazardous substance was negligent under
 2 circumstances in which ~~he~~ the employee knew that the substance
 3 was hazardous and that ~~his~~ the conduct, if negligent, could
 4 result in serious harm. *

5 (b) ~~His~~ The person's employer shall be considered a person
 6 responsible for the release or threatened release and is subject
 7 to liability under section 115B.04 or 115B.05 regardless of the
 8 degree of care exercised by the employee. *

9 Subd. 3. OWNER OF REAL PROPERTY. An owner of real
 10 property is not a person responsible for the release or
 11 threatened release of a hazardous substance from a facility in
 12 or on the property unless that person:

13 (a) was engaged in the business of generating,
 14 transporting, storing, treating, or disposing of a hazardous
 15 substance at the facility or disposing of waste at the facility,
 16 or knowingly permitted others to engage in such a business at
 17 the facility;

18 (b) knowingly permitted any person to make regular use of
 19 the facility for disposal of waste;

20 (c) knowingly permitted any person to use the facility for
 21 disposal of a hazardous substance;

22 (d) knew or reasonably should have known that a hazardous
 23 substance was located in or on the facility at the time right,
 24 title, or interest in the property was first acquired by the
 25 person and engaged in conduct ~~by which he associated himself~~
 26 associating that person with the release; or *

27 (e) took action which significantly contributed to the
 28 release after ~~he~~ that person knew or reasonably should have
 29 known that a hazardous substance was located in or on the
 30 facility. *

31 For the purpose of clause (d), a written warranty,
 32 representation, or undertaking, which is set forth in an
 33 instrument conveying any right, title or interest in the real
 34 property and which is executed by the person conveying the
 35 right, title or interest, or which is set forth in any
 36 memorandum of any such instrument executed for the purpose of
 37 recording, is admissible as evidence of whether the person
 38 acquiring any right, title, or interest in the real property
 39 knew or reasonably should have known that a hazardous substance
 40 was located in or on the facility.

41 Any liability which accrues to an owner of real property
 42 under sections 115B.01 to 115B.15 does not accrue to any other
 43 person who is not an owner of the real property merely because
 44 the other person holds some right, title, or interest in the
 45 real property.

46 An owner of real property on which a public utility
 47 easement is located is not a responsible person with respect to
 48 any release caused by any act or omission of the public utility
 49 which holds the easement in carrying out the specific use for
 50 which the easement was granted.

115B#04S

51 115B.04 LIABILITY FOR RESPONSE COSTS AND NATURAL
 52 RESOURCES; LIMITATIONS AND DEFENSES.

53 No change for subd 1 to 4

54 Subd. 5. TRANSPORTATION OF HOUSEHOLD REFUSE. A
 55 person who accepts only household refuse for transport to a
 56 treatment or disposal facility is not liable under this section
 57 for the release or threatened release of any hazardous substance
 58 unless ~~he~~ that person knew or reasonably should have known that
 59 the hazardous substance was present in the refuse. For the
 60 purpose of this subdivision, household refuse means garbage,
 61 trash, or septic tank sanitary wastes generated by single or
 62 multiple residences, hotels, motels, restaurants and other
 63 similar facilities. *

64 No change for subd 6

65 Subd. 7. DEFENSE FOR INTERVENING ACTS. It is a
 66 defense to liability under this section that the release or
 67 threatened release was caused solely by:

68 (a) An act of God;

69 (b) An act of war;

70 (c) An act of vandalism or sabotage; or

71 (d) An act or omission of a third party or the plaintiff.

72 "Third party" for the purposes of clause (d) does not
 73 include an employee or agent of the defendant, or a person in
 74 the chain of responsibility for the generation, transportation,
 75 storage, treatment, or disposal of the hazardous substance.

1 The defenses provided in clauses (c) and (d) apply only if
 2 the defendant establishes that ~~he~~ the defendant exercised due
 3 care with respect to the hazardous substance concerned, taking
 4 into consideration the characteristics of the hazardous
 5 substance in light of all relevant facts and circumstances which
 6 ~~he~~ the defendant knew or should have known, and that ~~he~~ the
 7 defendant took precautions against foreseeable acts or omissions
 8 and the consequences that could foreseeably result from those
 9 acts or omissions.

10 No change for subd 8 to 12

115B#05S

11 115B.05 LIABILITY FOR ECONOMIC LOSS, DEATH, PERSONAL
 12 INJURY AND DISEASE; LIMITATIONS AND DEFENSES.

13 No change for subd 1 to 4

14 Subd. 5. TRANSPORTATION OF HOUSEHOLD REFUSE. A
 15 person who accepts only household refuse for transport to a
 16 treatment or disposal facility is not liable under this section
 17 for the release or threatened release of any hazardous substance
 18 unless ~~he~~ that person knew or reasonably should have known that
 19 the hazardous substance was present in the refuse. For the
 20 purpose of this subdivision, household refuse means garbage,
 21 trash, or septic tank sanitary wastes generated by single or
 22 multiple residences, hotels, motels, restaurants and other
 23 similar facilities.

24 Subd. 6. DEFENSE FOR INTERVENING ACTS. It is a
 25 defense to liability under this section that the release or
 26 threatened release was caused solely by:

27 (a) An act of God;

28 (b) An act of war;

29 (c) An act of vandalism or sabotage; or

30 (d) An act or omission of a third party or the plaintiff.

31 "Third party" for the purposes of clause (d) does not
 32 include an employee or agent of the defendant, or a person in
 33 the chain of responsibility for the generation, transportation,
 34 storage, treatment, or disposal of the hazardous substance.

35 The defenses provided in clauses (c) and (d) apply only if
 36 the defendant establishes that ~~he~~ the defendant exercised due
 37 care with respect to the hazardous substance concerned, taking
 38 into consideration the characteristics of the hazardous
 39 substance in light of all relevant facts and circumstances which
 40 ~~he~~ the defendant knew or should have known, and that ~~he~~ the
 41 defendant took precautions against foreseeable acts or omissions
 42 and the consequences that could foreseeably result from those
 43 acts or omissions.

44 No change for subd 7 to 10

115B#08S

45 115B.08 LIABILITY UNDER SECTION 115B.04; APPORTIONMENT
 46 AND CONTRIBUTION.

47 Subdivision 1. RIGHT OF APPORTIONMENT; FACTORS. Any
 48 person held jointly and severally liable under section 115B.04
 49 has the right at trial to have the trier of fact apportion
 50 liability among the parties as provided in this section. The
 51 burden is on each defendant to show how ~~his~~ that defendant's
 52 liability should be apportioned. The court shall reduce the
 53 amount of damages in proportion to any amount of liability
 54 apportioned to the party recovering.

55 In apportioning the liability of any party under this
 56 section, the trier of fact shall consider the following:

57 (a) The extent to which that party's contribution to the
 58 release of a hazardous substance can be distinguished;

59 (b) The amount of hazardous substance involved;

60 (c) The degree of toxicity of the hazardous substance
 61 involved;

62 (d) The degree of involvement of and care exercised by the
 63 party in manufacturing, treating, transporting, and disposing of
 64 the hazardous substance;

65 (e) The degree of cooperation by the party with federal,
 66 state, or local officials to prevent any harm to the public
 67 health or the environment; and

68 (f) Knowledge by the party of the hazardous nature of the
 69 substance.

70 Subd. 2. CONTRIBUTION. If a person is held jointly
 71 and severally liable under section 115B.04 and establishes ~~his~~ a
 72 proportionate share of the aggregate liability, the provisions
 73 of section 604.02, subdivisions 1 and 2, shall apply with
 74 respect to contribution and reallocation of any uncollectible

1 amounts.

115B#16S

2 115B.16 DISPOSITION OF FACILITIES.

3 No change for subd 1 to 2

4 Subd. 3. DUTY OF COUNTY RECORDER. The county

5 recorder shall record all affidavits presented ~~to him~~ in
6 accordance with subdivision 2. The affidavits shall be recorded
7 in a manner which will assure their disclosure in the ordinary
8 course of a title search of the subject property.

9 No change for subd 4

115B#17S

10 115B.17 STATE RESPONSE TO RELEASES.

11 Subdivision 1. REMOVAL AND REMEDIAL ACTION. Whenever
12 there is a release or substantial threat of release from a
13 facility of any pollutant or contaminant which presents an
14 imminent and substantial danger to the public health or welfare
15 or the environment or whenever a hazardous substance is released
16 or there is a threatened release of a hazardous substance from a
17 facility:

18 (a) The agency may take any removal or remedial action
19 relating to the hazardous substance, or pollutant or
20 contaminant, which the agency deems necessary to protect the
21 public health or welfare or the environment. Before taking any
22 action the agency shall:

23 (1) Request any responsible party known to the agency to
24 take actions which the agency deems reasonable and necessary to
25 protect the public health or welfare or the environment, stating
26 the reasons for the actions, a reasonable time for beginning and
27 completing the actions taking into account the urgency of the
28 actions for protecting the public health or welfare or the
29 environment, and the intention of the agency to take action if
30 the requested actions are not taken as requested;

31 (2) Notify the owner of real property where the facility is
32 located or where response actions are proposed to be taken, if
33 the owner is not a responsible party, that responsible parties
34 have been requested to take response actions and that the
35 owner's cooperation will be required in order for responsible
36 parties or the agency to take those actions; and

37 (3) Determine that the actions requested by the agency will
38 not be taken by any known responsible party in the manner and
39 within the time requested.

40 (b) The director may take removal action which ~~he~~ the
41 director deems necessary to protect the public health or welfare
42 or the environment if the director determines that the release
43 or threatened release constitutes an emergency requiring
44 immediate action to prevent, minimize or mitigate damage to the
45 public health or welfare or the environment. Before taking any
46 action the director shall make reasonable efforts in light of
47 the urgency of the action to follow the procedure provided in
48 clause (a).

49 No removal action taken by any person shall be construed as
50 an admission of liability for a release or threatened release.

51 No change for subd 2

52 Subd. 3. DUTY TO PROVIDE INFORMATION. Any person who
53 the agency has reason to believe is responsible for a release or
54 threatened release as provided in section 115B.03, or who is the
55 owner of real property where the release or threatened release
56 is located or where response actions are proposed to be taken,
57 when requested by the agency, or any member, employee or agent
58 thereof who is authorized by the agency, shall furnish to the
59 agency any information which ~~he~~ that person may have or may
60 reasonably obtain which is relevant to the release or threatened
61 release.

62 No change for subd 4 to 13

115B#27S

63 115B.27 HAZARDOUS SUBSTANCE INJURY COMPENSATION BOARD.

64 Subdivision 1. ESTABLISHMENT OF BOARD. The hazardous
65 substance injury compensation board is established. The board
66 consists of five members who will serve part time and who will
67 be appointed by the governor with the advice and consent of the
68 senate. One member must be a physician knowledgeable in
69 toxicology; one member must be a member of the bar of this
70 state; one member must be a health professional knowledgeable in
71 the area of hazardous substance injuries; and two members must
72 be members of the general public. The board shall annually
73 elect a member to serve as chairman chair for a term of one year.

1 Filling of vacancies on the board and removal of members are
2 governed by section 15.0575.

3 No change for subd 2 to 3

115B#31S

4 115B.31 OTHER ACTIONS.

5 Subdivision 1. SUBSEQUENT ACTION OR CLAIM PROHIBITED IN
6 CERTAIN CASES. (a) A person who has settled a claim for an
7 eligible injury or eligible property damage with a responsible
8 person, either before or after bringing an action in court for
9 that injury or damage, may not file a claim with the fund for
10 the same injury or damage. A person who has received
11 a favorable judgment ~~in-his-favor~~ in a court action for an *
12 eligible injury or eligible property damage may not file a claim
13 with the fund for the same injury or damage, unless the judgment
14 cannot be satisfied in whole or in part against the persons
15 responsible for the release of the hazardous substance. A
16 person who has filed a claim with the board may not file another
17 claim with the board for the same eligible injury or damage,
18 unless the claim was inactivated by the board as provided in
19 section 115B.32, subdivision 1.

20 (b) A person who has filed a claim with the board for an
21 eligible injury or damage, and who has received and accepted an
22 award from the board, is precluded from bringing an action in
23 court for the same eligible injury or damage.

24 (c) A person who files a claim with the board for personal
25 injury or property damage must include all known claims eligible
26 for compensation in one proceeding before the board.

27 No change for subd 2 to 4

115B#35S

28 115B.35 DETERMINATION OF CLAIMS.

29 Subdivision 1. ASSIGNMENT OF CLAIMS. The ~~chairman~~ *
30 chair of the board shall assign each claim that has been *
31 accepted for filing to one member of the board, except that no
32 claims shall be assigned to either of the two members appointed
33 to the board as members of the general public.

34 No change for subd 2 to 9

116*#02S

35 116.02 POLLUTION CONTROL AGENCY, CREATION.

36 No change for subd 1 to 3

37 Subd. 4. The agency shall elect a ~~chairman~~ chair and such *
38 other officers as it deems necessary.

39 No change for subd 5

116*#03S

40 116.03 DIRECTOR.

41 No change for subd 1

42 Subd. 2. The director shall organize the agency and employ *
43 such assistants and other officers, employees and agents as he *
44 the director may deem necessary to discharge the functions *
45 of ~~his~~ the director's office, define the duties of such *
46 officers, employees and agents, and delegate to them any of ~~his~~ *
47 the director's powers, duties, and responsibilities, subject *
48 to ~~his~~ the director's control and under such conditions as he *
49 the director may prescribe. The director may also contract with *
50 persons, firms, corporations, the federal government and any
51 agency or instrumentality thereof, the water research center of
52 the university of Minnesota or any other instrumentality of such
53 university, for doing any of the work of ~~his~~ the director's *
54 office, and none of the provisions of chapter 16, relating to *
55 bids, shall apply to such contracts. All personnel employed and *
56 all contracts entered into pursuant to this subdivision shall be
57 subject to the approval of the pollution control agency.
58 Agreements to exercise delegated powers shall be by written
59 order filed with the secretary of state. An employee of the
60 state commissioner of health engaged in environmental sanitation
61 work may transfer to the pollution control agency with the
62 approval of the director. Under such a transfer the employee
63 shall be assigned to a position of similar responsibility and
64 pay without loss of seniority, vacation, sick leave, or other
65 benefits under the state civil service act.

66 Subd. 3. The director of the pollution control agency is
67 the state agent to apply for, receive, and disburse federal
68 funds made available to the state by federal law or rules and
69 regulations promulgated thereunder for any purpose related to
70 the powers and duties of the pollution control agency or the
71 director. ~~He~~ The director shall comply with any and all *
72 requirements of such federal law or such rules and regulations

1 promulgated thereunder to ~~enable-him-to-apply~~ facilitate *
 2 application for, ~~receive receipt,~~ and ~~disburse~~ disbursement of *
 3 such funds. All such moneys received by the director shall be
 4 deposited in the state treasury and are hereby annually
 5 appropriated to ~~him~~ the director for the purposes for which they *
 6 are received. None of such moneys in the state treasury shall
 7 cancel and they shall be available for expenditure in accordance
 8 with the requirements of federal law.

9 The provisions of section 3.3005 shall not apply to moneys
 10 available under the federal Comprehensive Environmental
 11 Response, Compensation, and Liability Act of 1980, 42 U.S.C.
 12 Sections 9601 to 9657, for which a state match is not required
 13 or for which a state match is available under the Environmental
 14 Response and Liability Act or from a political subdivision. The
 15 receipt of the moneys shall be reported to the legislative
 16 advisory commission.

17 Subd. 4. Before entering upon the duties of ~~his~~ the office *
 18 the director of the pollution control agency shall take and *
 19 subscribe an oath and give ~~his~~ a bond to the state of Minnesota, *
 20 to be approved by the governor and filed with the secretary of
 21 state, in the sum of \$25,000, conditioned for the faithful
 22 performance of ~~his~~ the director's duties. *

23 No change for subd 5 to 6

116*#05S

24 116.05 COOPERATION.

25 No change for subd 1

26 Subd. 2. Upon the request of the pollution control agency
 27 the governor may, by order, require any department or agency of
 28 the state to furnish such assistance to the agency or its
 29 director in the performance of its duties or in the exercise of
 30 ~~his~~ the director's powers imposed by law, as the governor may, *
 31 in ~~his~~ the order, designate or specify; and with the consent of *
 32 the department or agency concerned, the governor may direct all
 33 or part of the cost or expense for the amount of such assistance
 34 to be paid from the pollution control agency fund or
 35 appropriation in such amount as ~~he~~ the governor may deem just *
 36 and proper.

37 No change for subd 3

116*#091S

38 116.091 SYSTEMS AND FACILITIES.

39 Subdivision 1. INFORMATION. Any person operating
 40 any emission system or facility specified in section 116.081,
 41 subdivision 1, when requested by the pollution control agency,
 42 shall furnish to it any information which ~~he~~ that person may *
 43 have which is relevant to pollution or the regulations or
 44 provisions of this chapter.

45 No change for subd 2 to 3

116*#12S

46 116.12 HAZARDOUS WASTE ADMINISTRATION FEES.

47 No change for subd 1

48 Subd. 2. HAZARDOUS WASTE GENERATOR FEE. Each
 49 generator of hazardous waste shall pay a fee on the hazardous
 50 waste ~~which-he-generates~~ generated by that generator. The *
 51 agency shall compute the amount of the fee due based on the
 52 hazardous waste disclosures submitted by the generators and
 53 other information available to the agency. The agency shall
 54 annually prepare a statement of the amount of the fee due from
 55 each generator. The fee shall be paid annually commencing with
 56 the first day of the calendar quarter after the date of the
 57 statement.

58 The agency may exempt generators of small quantities of
 59 hazardous wastes otherwise subject to the fee if it finds that
 60 the cost of administering a fee on those generators is excessive
 61 relative to the proceeds of the fee. The fee shall consist of a
 62 minimum fee for each generator not exempted by the agency and an
 63 additional fee based on the quantity of wastes generated by the
 64 generator.

65 If any metropolitan counties recover the costs of
 66 administering county hazardous waste regulations by charging
 67 fees, the fees charged by the agency outside of those counties
 68 shall not exceed the fees charged by those counties. The agency
 69 shall not charge a fee in any metropolitan county which charges
 70 such a fee. The agency shall impose a fee calculated as a
 71 surcharge on the fees charged by the metropolitan counties and
 72 by the agency to reflect the agency's expenses in carrying out
 73 its statewide hazardous waste regulatory responsibilities. The

1 surcharge imposed on the fees charged by the metropolitan
 2 counties shall be collected by the metropolitan counties in the
 3 manner in which the counties collect their generator fees.
 4 Metropolitan counties shall remit the proceeds of the surcharge
 5 to the agency by the last day of the month following the month
 6 in which they were collected.

7 No change for subd 3

116*#22S

8 116.22 DEFINITIONS.

9 No change for subd 1 to 2

10 Subd. 3. "Nutrient" means a substance or combination of
 11 substances which, if added to waters in sufficient quantities,
 12 provides nourishment that promotes growth of aquatic vegetation
 13 in densities which:

14 (a) interfere with use of the waters by ~~man~~ humans or by *
 15 any animal, fish or plant useful to ~~man~~ humans, or *

16 (b) contribute to degradation or alteration of the quality
 17 of the waters to an extent detrimental to their use by ~~man~~ *
 18 humans or by any animal, fish or plant that is useful to ~~man~~ *
 19 humans. *

20 No change for subd 4

116*#26S

21 116.26 RESTORATION.

22 No change for subd 1

23 Subd. 2. Notice under subdivision 1 shall be mailed at
 24 least 15 days prior to the day on which the application is to be
 25 made to the district court and shall specify:

26 (a) the district court to which the application is to be
 27 made;

28 (b) the place where and the time when the application is to
 29 be heard;

30 (c) the cleaning agent or chemical water conditioner in
 31 regard to which the application is to be made; and

32 (d) the evidence upon which the applicant relies to
 33 establish ~~that he is entitled~~ entitlement to possession of the *
 34 cleaning agent or chemical water conditioner.

35 Subd. 3. Subject to section 116.27 when upon hearing, the
 36 district court is satisfied (a) that the applicant is otherwise
 37 entitled to possession of the items seized, and (b) that the
 38 items seized are not and will not be required as evidence in
 39 proceedings under sections 116.21 to 116.35, ~~he~~ the court shall *
 40 order that the items seized be restored forthwith to the
 41 applicant. Where the court is satisfied that the applicant is
 42 otherwise entitled to possession but is not satisfied as to the
 43 necessity for retention as evidence, ~~he~~ the court shall *
 44 restoration to the applicant (a) four months after the date of
 45 seizure if no proceedings under section 116.23 have been
 46 commenced before that time, or (b) upon the final conclusion of
 47 any such proceedings.

48 No change for subd 4

116*#32S

49 116.32 ORDER TO REFRAIN.

50 If a person is convicted of an offense under sections
 51 116.21 to 116.35, the court may, in addition to any punishment
 52 it may impose, order that person to refrain from further
 53 violations of the provision of sections 116.21 to 116.35, or
 54 regulations for the violation of which ~~he~~ the offender has been *
 55 convicted, or to cease to carry on any activity specified in the
 56 order the carrying on of which, in the opinion of the court,
 57 will or is likely to result in any further violation thereof.

116*#33S

58 116.33 PROOF OF OFFENSE.

59 In a prosecution for an offense under sections 116.21 to
 60 116.35, it is sufficient proof of the offense to establish that
 61 it was committed by an employee or agent of the accused whether
 62 or not the employee agent is identified or has been prosecuted
 63 for the offense, unless the accused establishes that the offense
 64 was committed without ~~his~~ the accused's knowledge or consent and *
 65 that ~~he~~ the accused exercised all due diligence to prevent its *
 66 commission.

116A#02S

67 116A.02 PETITION.

68 No change for subd 1 to 2

69 Subd. 2a. USE OF PETITIONER'S LAND. Each owner who
 70 joins in the petition or who prior to June 3, 1977 has signed a
 71 petition for such a district, grants to the county or counties

1 or commission, if the system is thereafter established, an
 2 easement to use ~~his~~ the owner's land within the system area for *
 3 the purposes of the system in any manner that will not
 4 permanently and substantially disturb ~~his-own~~ the owner's use, *
 5 including the right to enter upon ~~his~~ that land temporarily for *
 6 construction or maintenance of the system, if notice that the
 7 petition has the effect of granting the easement is set forth in
 8 the petition or is otherwise given in writing to the owner prior
 9 to ~~his~~ the owner's execution of the petition, or the petition *
 10 was signed prior to June 3, 1977. Unless an emergency exists,
 11 the owner may require one week's notice before entry upon the
 12 property is permitted pursuant to this subdivision.

13 No change for subd 3 to 4

116A#06S

14 116A.06 ENGINEER.

15 No change for subd 1

16 Subd. 2. QUALIFICATION. The engineer shall within
 17 ten days after ~~his~~ appointment take and subscribe an oath to *
 18 faithfully perform the assigned duties ~~assigned-to-him~~ according *
 19 to the best of ~~his~~ the engineer's ability, and give a bond in an *
 20 amount fixed by the board or court, but not less than \$5,000,
 21 with good and sufficient surety, payable to the county or
 22 counties affected by the proposed improvement for their benefit
 23 and for the use of all parties aggrieved or injured by any
 24 negligence or malfeasance by the engineer while in any manner
 25 employed in the proceedings, conditioned that ~~he~~ the engineer *
 26 will diligently, honestly, and to using the best ~~of-his~~ skill *
 27 and ability, during the full period of ~~his~~ employment, perform *
 28 ~~his~~ the duties as engineer. The bond shall be approved by the *
 29 auditor or clerk, and the aggregate liability of the surety for
 30 all such damages shall not exceed the amount of the bond. In
 31 case of a change of engineers, each succeeding engineer shall
 32 make and file the required oath and bond.

33 Subd. 3. CONSULTING ENGINEER. After appointment of
 34 the engineer, and during the pendency of any proceeding or
 35 during the construction of the system, the board or court may
 36 employ an engineer as a consulting engineer in the proceeding.
 37 The consulting engineer shall advise the engineer and the board
 38 or court as to engineering matters and problems which may arise
 39 in connection with the system. ~~His~~ Compensation shall be fixed *
 40 by the board or court.

116A#07S

41 116A.07 PRELIMINARY SURVEY AND REPORT.

42 The engineer shall promptly examine all matters set forth
 43 in the petition and order, make such preliminary survey of the
 44 territory likely to be affected by the proposed improvement as
 45 will enable ~~him~~ the engineer to determine whether it is *
 46 necessary and feasible, and report accordingly. If some plan
 47 other than that described in the petition is found practical,
 48 the engineer shall so report, giving such detail and information
 49 as is necessary to inform the court or board on all matters
 50 pertaining to the feasibility of the proposed plan, either as
 51 outlined in the petition or according to a different plan
 52 recommended by the engineer. Upon completion of ~~his~~ the survey *
 53 and report, the engineer shall file ~~his~~ the report in duplicate *
 54 with the auditor or clerk.

116A#09S

55 116A.09 ORDER FOR DETAILED SURVEY.

56 Upon the filing of the order as specified in section
 57 116A.08, the board or court shall order the engineer to proceed
 58 to make a detailed survey and furnish all necessary plans and
 59 specifications for the proposed improvement, together with an
 60 estimate of the total cost of construction of the system, and
 61 report the same to the board or court with all reasonable
 62 dispatch. The cost estimate shall include the amounts payable
 63 to contractors at and prior to completion of construction in
 64 accordance with the plans and specifications; all court costs;
 65 estimated damages payable as reported by the viewers in
 66 accordance with section 116A.11; the cost of acquisition of all
 67 lands and easements required; the cost of necessary engineering,
 68 financial, legal, and other professional service; the cost of
 69 printing, publication, and mailing of all required notices of
 70 court proceedings, hearings, and bond sales; interest estimated
 71 to accrue on money to be borrowed for the system from the date
 72 or dates of borrowing to the initial date or dates of collection
 73 of special assessments or revenues of the system sufficient to

1 carry current interest cost; and all other items of expense
2 incurred and estimated to be incurred in the establishment of
3 the system from its inception to its completion. The board or
4 court may direct the engineer to include in ~~his~~ the report an *
5 assessment roll based upon calculation, by the county auditor or
6 auditors with the assistance of the engineer or another
7 qualified person selected by the board or court, of the proper
8 amount to be specially assessed for the system against every
9 assessable lot, piece, or parcel of land, without regard to cash
10 valuation. The assessment roll shall be based upon the
11 engineer's estimate of the total cost, but the board or court
12 may direct the engineer also to calculate the expenses of
13 operation of the system when completed, the times and numbers of
14 connections thereto from buildings on individual lots, pieces,
15 and parcels of land, the rates and amounts of connection charges
16 and periodic use charges which may be made for the use and
17 availability of the service of the system, the net revenues,
18 over and above the current cost of operation and maintenance,
19 which are estimated to be available, after completion, for the
20 payment of principal and interest on money borrowed for the
21 system, and the amounts by which the special assessments to be
22 collected annually may be reduced or their payment deferred if
23 such net revenues are realized.

116A#10S

24 116A.10 ENGINEER'S SURVEY AND EXAMINATION.

25 Upon the filing of the order calling for a detailed survey,
26 the engineer shall prepare the complete set of plans,
27 specifications and estimates of cost, and shall make a complete
28 report in duplicate of ~~his~~ the work and recommendations to the *
29 board or court, including therein all maps and profiles, and
30 shall file the report with the auditor or clerk. If the report
31 is filed with the clerk, a complete copy also shall be filed
32 with the auditor of each county affected. After final
33 acceptance of the system, the engineer shall make revisions
34 of ~~his~~ the plan, profiles and designs of structures to show the *
35 project as actually constructed on the original tracings, and
36 shall file the revisions in duplicate with the auditor or
37 clerk. When more economical construction will result, the
38 engineer may recommend that the work be divided into sections
39 and let separately, and may recommend the time and manner in
40 which the work or any section shall be done.

116A#11S

41 116A.11 VIEWERS; APPOINTMENT; QUALIFICATION.

42 No change for subd 1

43 Subd. 2. QUALIFICATION. Within 30 days after the
44 filing of the final report and survey of the engineer, the
45 auditor or clerk shall make an order designating the time and
46 place of the first meeting of the viewers and ~~he~~ shall issue to *
47 the viewers a certified copy of the order appointing them and
48 the order designating the time and place of their first
49 meeting. At the meeting and before entering upon their duties,
50 the viewers shall take and subscribe an oath to faithfully
51 perform their duties.

52 Subd. 3. FAILURE TO QUALIFY. If any viewer shall
53 fail to qualify at the meeting, the auditor or court shall
54 designate some other qualified person to take ~~his~~ that viewer's *
55 place.

56 Subd. 4. VIEWERS; DUTIES. The viewers, with or
57 without the engineer, shall estimate damages to all lands and
58 properties affected by the proposed system and shall report
59 their findings. The report shall show in tabular form the
60 description of each lot and tract, or fraction thereof, under
61 separate ownership, damaged and the names of the owners as the
62 same appear on the current tax duplicate of the county.
63 Estimated damages shall be reported on all lands owned by the
64 state the same as upon taxable lands. The viewers shall report
65 all estimated damages that will result to all railways and other
66 utilities, including lands and property used for railway or
67 other utility purposes. In case the viewers are unable to
68 agree, each viewer shall state separately ~~his~~ that viewer's *
69 findings on any matter disagreed upon. A majority of the viewers
70 shall be competent to perform the duties required of them by
71 sections 116A.01 to 116A.26.

72 No change for subd 5

116A#13S

73 116A.13 LETTING CONTRACT.

1 No change for subd 1 to 3

2 Subd. 4. The engineer shall attend the letting and no bid
3 shall be accepted without ~~his~~ the engineer's approval as to
4 compliance with plans and specifications. *

5 No change for subd 5 to 6

6 Subd. 7. The auditor, with such ~~chairman~~ chair, or
7 auditors, as the case may be, shall contract, in the name of the
8 county, or in the names of the respective counties, each acting
9 by and through its auditor, with the party to whom such work or
10 any part thereof is let, requiring ~~him~~ that party to construct
11 the same in the time and manner and according to the plans and
12 specifications and the contract provisions as set forth in
13 sections 116A.01 to 116A.26. *

116A#14S

14 116A.14 PROCEDURE WHEN CONTRACT NOT LET.

15 Subsequent to the establishment of any water or sewer
16 system, if no bids are received except for a price more than 30
17 percent in excess of the engineer's estimate proceedings may be
18 had as follows:

19 If it shall appear to the persons interested in said system
20 that the engineer made an error in ~~his~~ the estimate or that the
21 plans and specifications could be changed in a manner materially
22 affecting the cost of the improvements without interfering with
23 the efficiency thereof, then any of said persons may petition
24 the board or court so stating and asking that an order be made
25 reconsidering and rescinding the order theretofore made
26 establishing the system, and that the engineer's and viewers'
27 reports be referred back to the engineer and to the viewers for
28 further consideration. *

29 Upon presentation of such petition, the board or court
30 shall order a hearing, therein designating the time and place
31 for hearing, and cause notice thereof to be given by publication
32 in the same newspapers where the notice of final hearing was
33 theretofore published.

34 At the time and place specified in the order and notice,
35 the board or court shall consider the petition and hear all
36 interested parties.

37 Upon said hearing, if it shall appear that the engineer's
38 original estimate was erroneous and should be corrected, or that
39 the plans and specifications could be changed in a manner
40 materially affecting the cost of the improvement without
41 interfering with the efficiency thereof, and further, that upon
42 said correction or modification, a contract could be let within
43 the 30 percent limitation then the board or court may, by order,
44 authorize the engineer to amend ~~his~~ the report. If the changes
45 recommended by the engineer in any manner affect the amount of
46 damages to any property, the viewers' report shall be referred
47 back to the viewers to re-examine the damages and report the
48 same to the board or court. *

49 The board or court may continue the hearing to give the
50 engineer or the viewers additional time for the making of their
51 amended reports and in such case the jurisdiction of the board
52 or court shall continue in all respects at the adjourned hearing.

53 Upon said hearing the board or court shall have full
54 authority to reopen the original order establishing said system,
55 and to set said order aside, and to consider the amended
56 engineer's report and the amended viewers' report, if any, and
57 to make findings and an order thereon the same as is provided in
58 section 116A.12. All proceedings thereafter taken shall be the
59 same as is provided upon the original findings and order of the
60 board or court.

116A#15S

61 116A.15 CONTRACT AND BOND.

62 Subdivision 1. PROVISIONS. The contract and bond to
63 be executed and furnished by the contractor shall be attached.
64 The contract shall contain the specific description of the work
65 to be done, either expressly or by reference to the plans and
66 specifications, and shall provide that the work shall be done
67 and completed as provided in the plans and specifications and
68 subject to the inspection and approval of the engineer. The
69 county attorney, the engineer, and the attorney for the
70 petitioners shall prepare the contract and bond. The contractor
71 shall make and file with the auditor or clerk a bond, with good
72 and sufficient surety, to be approved by the auditor or clerk,
73 in a sum not less than 100 percent of the contract price of the
74 work. Every such contract and bond shall embrace all the

1 provisions required by sections 116A.01 to 116A.26 and provided
 2 by law for bonds given by contractors for public works, and
 3 shall be conditioned as provided by statute in case of public
 4 contractors for the better security of the contracting county or
 5 counties and of parties performing labor and furnishing material
 6 in and about the performance of the contract. The bond shall
 7 provide that the bondsmen bonding agents shall be liable for all
 8 damages resulting from any such failure, whether the work be
 9 resold or not, and that any person or corporation, public or
 10 private, showing himself itself injured by such failure, may
 11 maintain an action upon such bond in his its own name, and
 12 actions may be successive in favor of all persons so injured;
 13 provided, however, that the aggregate liability of the surety
 14 for all such damages shall in no event exceed the amount of said
 15 bond. Such contractor shall be considered a public officer, and
 16 such bond an official bond within the meaning of the statutory
 17 provisions construing the official bonds of public officers as
 18 security to all persons, and providing for actions on such bonds
 19 by any injured party.

20 Subd. 2. CHANGES DURING CONSTRUCTION. The contract
 21 shall give the engineer the right, with the consent of the board
 22 or court, to modify his the reports, plans and specifications as
 23 the work proceeds and as circumstances may require. It shall
 24 provide that the increased cost resulting from such changes will
 25 be paid by the county to the contractor at not to exceed the
 26 price for like work in the contract. No change shall be made
 27 that will substantially impair the usefulness of any part of the
 28 water or sewer system or substantially alter its original
 29 character, or will increase its total cost by more than ten
 30 percent of the total original contract price, unless determined
 31 by the board or court to be necessary to complete the system
 32 described in the original plans and specifications in such
 33 manner as to make it usable for the purpose contemplated.

116A#17S

34 116A.17 ASSESSMENT PROCEDURE AND FINAL HEARING.

35 Subdivision 1. CALCULATION, NOTICE. At any time
 36 after the expense incurred and to be incurred in the completion
 37 of a water or sewer or combined system, or of any subsequent
 38 improvement or extension thereof, has been calculated under the
 39 direction of the board or court the county auditor or auditors,
 40 with the assistance of the engineer or another qualified person
 41 shall calculate the proper amount to be specially assessed for
 42 the improvement against every assessable lot, piece or parcel of
 43 land, without regard to cash valuation. The proposed assessment
 44 roll shall be filed with the county auditor and open to public
 45 inspection. In a judicial proceeding the assessment roll shall
 46 be filed with the county auditor in each county wherein
 47 assessments are to be levied. The auditor or clerk shall then,
 48 under the board's or court's direction, publish notice of a
 49 hearing in the official papers covering the area of the
 50 improvement to consider the proposed assessment. The notice
 51 shall be published in the newspaper at least once and shall be
 52 mailed to the owner of each parcel described in the assessment
 53 roll. For the purpose of giving mailed notice under this
 54 subdivision, owners shall be those shown to be such on the
 55 records of the county auditor or, in any county where tax
 56 statements are mailed by the county treasurer, on the records of
 57 the county treasurer; but other appropriate records may be used
 58 for this purpose. Publication and mailing shall be no less than
 59 two weeks prior to the hearing. Except as to the owners of tax
 60 exempt property or property taxed on a gross earnings basis,
 61 every property owner whose name does not appear on the records
 62 of the county auditor or the county treasurer shall be deemed to
 63 have waived the mailed notice unless he that owner has requested
 64 in writing that the county auditor or county treasurer, as the
 65 case may be, include his that owner's name on the records for
 66 such purpose. The notice shall state the date, time, and place
 67 of the meeting, the general nature of the improvement, the area
 68 proposed to be assessed, that the proposed assessment roll is on
 69 file with the auditor, and that written or oral objections
 70 thereto by any property owner will be considered.

71 No change for subd 2

72 Subd. 3. ASSESSMENT ROLL AND PREPAYMENT. After the
 73 adoption of the assessment the auditor shall prepare a final
 74 assessment roll with each installment of the assessment, and
 75 interest thereon, set forth separately, and shall extend same on

1 the proper tax lists of the county. All assessments and
2 interest thereon shall be collected and paid over in the same
3 manner as other county taxes. The owner of any property so
4 assessed may, at any time before the assessment has been
5 extended on the tax lists pay the whole of the assessment on
6 such property, with interest accrued to the date of payment,
7 except that no interest shall be charged if the entire
8 assessment is paid within 30 days from the adoption thereof;
9 and, except as hereinafter provided, ~~he~~ that owner may at any
10 time prior to November 15 of any year prepay the whole
11 assessment remaining due with interest accrued to December 31 of
12 the year in which said prepayment is made.

13 No change for subd 4

116A#19S

14 116A.19 APPEALS.

15 Subdivision 1. PROCEDURE. Any party aggrieved may
16 appeal to the district court from an order of the board or court
17 made in any proceeding.

18 (a) To render the appeal effectual, the appellant shall
19 file with the auditor or clerk within 30 days after the filing
20 of such final order a notice of appeal which shall state the
21 particular damages appealed from and the ground upon which the
22 appeal is taken. The notice of appeal shall be accompanied by
23 an appeal bond to the county where the property is located of
24 not less than \$250 with sufficient surety to be approved by the
25 auditor or clerk, conditioned that the appellant will duly
26 prosecute the appeal and pay all costs and disbursements which
27 may be adjudged against ~~him~~ the appellant and abide the order of
28 the court. Within 30 days after such filing, the auditor, in
29 case of a county water or sewer improvement proceeding, shall
30 return and file with the clerk of the district court the
31 original notice and appeal bond.

32 (b) The issues raised by the appeal shall stand for trial
33 by jury and shall be tried and determined at the next term of
34 the district court held within the county in which the
35 proceedings were commenced, or in such other county in which the
36 appeal shall be heard, beginning after the filing of the appeal;
37 and shall take precedence of all other matters of a civil nature
38 in court. If there be more than one appeal triable in one
39 county, the court may, on its own motion or upon the motion of a
40 party in interest, consolidate two or more appeals and try them
41 together, but the rights of the appellants shall be separately
42 determined. If the appellant fails to prevail, the cost of the
43 trial shall be paid by the appellant. In case of appeal as to
44 damages to property situated in the county other than the county
45 where the sewer or water proceedings are pending, and if the
46 appellant so requests, the trial shall be held at the next term
47 of the district court of the county wherein the lands are
48 situated. In such case, the clerk of the district court where
49 the appeal is filed, shall make, certify and file in the office
50 of the clerk of the district court of the county where the trial
51 is to be had, a transcript of the papers and documents on file
52 in ~~his~~ the clerk's office in the proceedings so far as they
53 pertain to the matters on account of which the appeal is taken.
54 After the final determination of such appeal, the clerk of the
55 district court where the action is tried, shall certify and
56 return the verdict to the district court of the county where the
57 proceedings were instituted.

58 (c) The clerk of the district court shall file a certified
59 copy of the final determination of any such appeal with the
60 auditor of the county affected.

61 No change for subd 2 to 5

116A#22S

62 116A.22 SERVICE CHARGES; A SPECIAL ASSESSMENT AGAINST
63 BENEFITED PROPERTY.

64 Charges established for connections to and the use and
65 availability of service from any water or sewer or combined
66 system, if not paid when due, shall, together with any penalties
67 established for nonpayment, become a lien upon the property
68 connected or for which service was made available. On or before
69 July 1 in each year written notice shall be mailed to the owner
70 of any property as to which such charges are then due and
71 unpaid, stating the amount of the charges and any penalty
72 thereon and that unless paid by October 1 thereafter, or unless
73 a hearing is desired on the question whether such amount and
74 penalty is properly due and payable, the same will be certified,

1 extended, and assessed as a tax or special assessment upon the
 2 property for collection with and as a part of other taxes in the
 3 following year. ~~Upon request of~~ Any property owner,
 4 ~~he~~ requesting notice shall be notified of the time and place of
 5 such hearing, and the county board, or the commission appointed
 6 pursuant to section 116A.24 shall then hear all matters
 7 presented by ~~him~~ the owner and determine the amount and penalty,
 8 if any, which is properly due and payable, and shall cause the
 9 same to be certified, extended, and assessed as stated in the
 10 notice. The county board or the commission may also provide by
 11 resolution for discontinuance of water services to any premises
 12 in the event of nonpayment of charges for any water or sewer
 13 service provided to the premises, upon reasonable notice to the
 14 owner and opportunity for hearing upon any claim that the
 15 charges are not properly due and payable.

116A#24S

16 116A.24 APPOINTMENT AND POWERS OF WATER AND SEWER
17 COMMISSION.

18 Subdivision 1. Any time after the establishment of a water
 19 or sewer or combined water or sewer system, or the formation of
 20 a district under section 116A.02, subdivision 4, the board or
 21 boards or, when a multi-county system is established under
 22 section 116A.12, the court may provide for the appointment of a
 23 water or sewer or water and sewer commission. Such a commission
 24 shall be appointed before the final award of a contract for the
 25 construction of any system ordered by the district court. The
 26 commission shall have not less than five members and not more
 27 than 11. Members shall be appointed at large by the county
 28 board or boards from within the areas in their respective
 29 counties which are served by the system or from within a
 30 district formed under section 116A.02, subdivision 4, which
 31 district includes the served areas. Commission members shall
 32 serve for terms of four years and until their successors are
 33 appointed and qualify. The commencement date of the term of
 34 each member and ~~his~~ the member's successors shall be fixed by
 35 order of the board or boards or court so that as nearly as
 36 possible an equal number of members will be replaced or
 37 reappointed each year. When multi-county systems are involved,
 38 commission membership shall be apportioned by the boards or
 39 court among the counties on the basis of their population served
 40 by the system or, if a district has been formed, on the basis of
 41 population located within that portion of each county situated
 42 within the district. When the area served by any system is
 43 enlarged and the commission members are not appointed from
 44 within a district formed under section 116A.02, subdivision 4,
 45 which includes the enlarged system, the board or boards or court
 46 shall reapportion or increase the membership and reestablish the
 47 terms so as to conform to the foregoing provisions, but each
 48 member shall continue to serve for the term ~~for which he was~~
 49 appointed. Vacancies due to death, incapacity to serve,
 50 removal, or resignation shall be filled by the appointing boards
 51 for the unexpired terms.

52 No change for subd 2 to 3

116B#01S

53 116B.01 PURPOSE.

54 The legislature finds and declares that each person is
 55 entitled by right to the protection, preservation, and
 56 enhancement of air, water, land, and other natural resources
 57 located within the state and that each person has the
 58 responsibility to contribute to the protection, preservation,
 59 and enhancement thereof. The legislature further declares its
 60 policy to create and maintain within the state conditions under
 61 which ~~man~~ human beings and nature can exist in productive
 62 harmony in order that present and future generations may enjoy
 63 clean air and water, productive land, and other natural
 64 resources with which this state has been endowed. Accordingly,
 65 it is in the public interest to provide an adequate civil remedy
 66 to protect air, water, land and other natural resources located
 67 within the state from pollution, impairment, or destruction.

116B#02S

68 116B.02 DEFINITIONS.

69 No change for subd 1 to 2

70 Subd. 3. "Nonresident individual" means any natural
 71 person, or ~~his~~ the personal representative of the person, who is
 72 not domiciled or residing in the state when suit is commenced.

73 No change for subd 4 to 8

116B#03S

1 116B.03 CIVIL ACTIONS.
 2 No change for subd 1 to 2
 3 Subd. 3. In any action maintained under this section, the
 4 attorney general may intervene as a matter of right and may
 5 appoint outside counsel where as a result of such intervention
 6 he the attorney general may represent conflicting or adverse *
 7 interests. Other interested parties may be permitted to
 8 intervene on such terms as the court may deem just and equitable
 9 in order to effectuate the purposes and policies set forth in
 10 section 116B.01.
 11 No change for subd 4 to 5

116B#06S

12 116B.06 BOND.
 13 If the court has reasonable grounds to doubt the
 14 plaintiff's ability to pay any judgment for costs and
 15 disbursements which might be rendered against him that plaintiff *
 16 pursuant to chapter 549, in an action brought under section
 17 116B.03, the court may order the plaintiff to post a bond or
 18 cash not to exceed \$500 to serve as security for such judgment.

116B#11S

19 116B.11 JURISDICTION; SERVING PROCESS.
 20 Subdivision 1. As to any cause of action arising under
 21 sections 116B.01 to 116B.13, the district court may exercise
 22 personal jurisdiction over any foreign corporation or any *
 23 nonresident individual, ~~or his personal representative,~~ *
 24 in the same manner as if it were a domestic corporation or he the *
 25 individual were a resident of this state. This section applies *
 26 if, in person or through an agent, the foreign corporation or
 27 nonresident individual:
 28 (a) Commits or threatens to commit any act in the state
 29 which would impair, pollute or destroy the air, water, land, or
 30 other natural resources located within the state, or
 31 (b) Commits or threatens to commit any act outside the
 32 state which would impair, pollute or destroy the air, water,
 33 land, or other natural resources located within the state, or
 34 (c) Engages in any other of the activities specified in
 35 section 543.19.
 36 No change for subd 2
 37 Subd. 3. Only causes of action arising from acts
 38 enumerated or referenced in subdivision 1 may be asserted
 39 against a defendant in an action in which jurisdiction over him *
 40 the defendant is based upon this section. *
 41 No change for subd 4

116C#03S

42 116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD;
 43 MEMBERSHIP; CHAIRMAN CHAIR; STAFF. *
 44 No change for subd 1 to 2a
 45 Subd. 3a. The representative of the governor's office *
 46 shall serve as chairman chair of the board. *
 47 Subd. 4. Staff and consultant support for board activities
 48 shall be provided by the state planning agency. This support
 49 shall be provided based upon an annual budget and work program
 50 developed by the board and certified to the director of the
 51 state planning agency by the chairperson chair of the board. *
 52 The board shall have the authority to request and require staff
 53 support from all other agencies of state government as needed
 54 for the execution of the responsibilities of the board.
 55 No change for subd 5 to 6

116C#06S

56 116C.06 HEARINGS.
 57 No change for subd 1
 58 Subd. 2. The board may delegate its authority to conduct a
 59 hearing to a hearings officer. The hearings officer shall have
 60 the same power as the board to compel the attendance of
 61 witnesses to examine them under oath, to require the production
 62 of books, papers, and other evidence, and to issue subpoenas and
 63 cause the same to be served and executed in any part of the
 64 state. The hearings officer shall be knowledgeable in matters
 65 of law and the environment.
 66 If a hearings officer conducts a hearing, he the officer *
 67 shall make findings of fact and submit them to the board. The
 68 transcript of testimony and exhibits shall constitute the
 69 exclusive record upon which such findings are made. The
 70 findings shall be available for public inspection.
 71 No change for subd 3

116C#28S

1 116C.28 PUBLIC HEARING.
2 No change for subd 1
3 Subd. 2. Each participating state agency shall be
4 represented at the public hearing by its chief administrative
5 officer or ~~his~~ a designee. The representative of any state *
6 agency within whose jurisdiction a specific application lies
7 shall participate in the portion of the hearing pertaining to
8 submission of information, views, and supporting materials which
9 are relevant to its application. The administrative law judge
10 may, when appropriate, continue a hearing from time to time and
11 place to place. The hearing shall be recorded in any manner
12 suitable for transcription pursuant to chapter 14.

13 Subd. 3. Within 60 days of receipt of the administrative
14 law judge's report, each state agency which is a party to the
15 hearing shall forward its final decision on permit applications
16 within its jurisdiction to the coordination unit, provided that
17 this date may be extended by the chairman chair of the board for *
18 reasonable cause. Every final decision shall set forth the
19 basis for the decision together with a final order denying the
20 permit or granting the permit including the specifying of any
21 conditions under which the permit is issued.

22 Subd. 4. If notice has been published pursuant to section
23 116C.27, subdivision 2, and no public hearing is conducted, the
24 coordination unit shall, not less than 30 days after the last
25 notice publication in the newspaper, submit a copy of all views
26 and supporting material received by it to each agency having
27 jurisdiction concerning any permit application described in the
28 notice. Concurrently therewith, the coordination unit shall
29 notify each state agency, in writing, of the date not to exceed
30 60 days by which final decisions on applications shall be
31 forwarded to the coordination unit; provided that this date may
32 be extended by the chairman chair of the board for reasonable *
33 cause. Each final decision shall set forth the information
34 required by subdivision 3.

35 No change for subd 5

116C#34S

36 116C.34 BUREAU OF BUSINESS LICENSES.
37 No change for subd 1 to 2
38 Subd. 3. The auditor of each county shall post in a
39 conspicuous place in ~~his~~ the auditor's office the telephone *
40 numbers of the bureau of business licenses and the permit
41 information center in the office of the applicable regional
42 development commission; copies of any master applications or
43 permit applications forwarded to the auditor pursuant to section
44 116C.27, subdivision 1; and copies of any information published
45 by the bureau or an information center pursuant to subdivision 1.

116C#41S

46 116C.41 DUTIES OF BOARD.
47 No change for subd 1 to 2
48 Subd. 3. GOVERNOR'S REPRESENTATIVE. The board
49 ~~chairperson~~ chair shall represent the governor on interstate *
50 water resources organizations.

116C#57S

51 116C.57 DESIGNATION OF SITES AND ROUTES; PROCEDURES;
52 CONSIDERATIONS; EMERGENCY CERTIFICATION; EXEMPTION.
53 No change for subd 1 to 4
54 Subd. 5. EXEMPTION OF CERTAIN ROUTES. A utility may
55 apply to the board in a form and manner prescribed by the board
56 to exempt the construction of any proposed high voltage
57 transmission line from sections 116C.51 to 116C.69. Within 15
58 days of the board's receipt of the exemption application, the
59 utility shall publish a notice and description of the exemption
60 application in a legal newspaper of general circulation in each
61 county in which the route is proposed and send a copy of the
62 exemption application by certified mail to the chief executive
63 of any regional development commission, county, incorporated
64 municipality and organized town in which the route is proposed
65 and shall send a notice and description of the exemption
66 application to each owner over whose property the line may run,
67 together with an understandable description of the procedures
68 the owner must follow should ~~he~~ that owner desire to object. *
69 For the purpose of giving mailed notice under this subdivision,
70 owners shall be those shown on the records of the county auditor
71 or, in any county where tax statements are mailed by the county
72 treasurer, on the records of the county treasurer; but other

1 appropriate records may be used for this purpose. Except as to
 2 the owners of tax exempt property or property taxes on a gross
 3 earnings basis, every property owner whose name does not appear
 4 on the records of the county auditor or the county treasurer
 5 shall be deemed to have waived such mailed notice unless ~~he~~ that
 6 owner has requested in writing that the county auditor or county
 7 treasurer, as the case may be, include ~~his~~ the owner's name on
 8 the records for such purpose. The failure to give mailed notice
 9 to a property owner, or defects in the notice shall not
 10 invalidate the proceedings, provided a bona fide attempt to
 11 comply with this subdivision has been made. If any person who
 12 owns real property crossed by the proposed route, or any person
 13 owning property adjacent to property crossed by the proposed
 14 route, or any affected political subdivision files an objection
 15 with the board within 60 days after the board's receipt of the
 16 exemption application, the board shall either deny the exemption
 17 application or conduct a public hearing. If the board
 18 determines that the proposed high voltage transmission line will
 19 not create significant human or environmental impact, it may
 20 exempt the proposed transmission line with any appropriate
 21 conditions, but the utility shall comply with any applicable
 22 state rule and any applicable zoning, building and land use
 23 rules, regulations and ordinances of any regional, county, local
 24 and special purpose government in which the route is proposed.
 25 The board may by rule require a fee to pay expenses incurred in
 26 processing exemptions. Any fee charged is subject to the
 27 conditions of section 116C.69, subdivision 2a.

28 No change for subd 6

116C#63S

29 116C.63 EMINENT DOMAIN POWERS; RIGHT OF CONDEMNATION.

30 No change for subd 1 to 3

31 Subd. 4. When private real property defined as class 1a,
 32 1b, 2a, 2c, 4a, 5a, or 6a pursuant to section 273.13 is proposed
 33 to be acquired for the construction of a site or route by
 34 eminent domain proceedings, the fee owner, or when applicable,
 35 the fee owner with the written consent of the contract for deed
 36 vendee, or the contract for deed vendee with the written consent
 37 of the fee owner, shall have the option to require the utility
 38 to condemn a fee interest in any amount of contiguous,
 39 commercially viable land which ~~he~~ the owner or vendee wholly
 40 owns or has contracted to own in undivided fee and elects in
 41 writing to transfer to the utility within 60 days after ~~his~~
 42 receipt of the notice of the objects of the petition filed
 43 pursuant to section 117.055. Commercial viability shall be
 44 determined without regard to the presence of the utility route
 45 or site. The owner or, when applicable, the contract vendee
 46 shall have only one such option and may not expand or otherwise
 47 modify ~~his~~ an election without the consent of the utility. The
 48 required acquisition of land pursuant to this subdivision shall
 49 be considered an acquisition for a public purpose and for use in
 50 the utility's business, for purposes of chapter 117 and section
 51 500.24, respectively; provided that a utility shall divest
 52 itself completely of all such lands used for farming or capable
 53 of being used for farming not later than the time it can receive
 54 the market value paid at the time of acquisition of lands less
 55 any diminution in value by reason of the presence of the utility
 56 route or site. Upon the owner's election made under this
 57 subdivision, the easement interest over and adjacent to the
 58 lands designated by the owner to be acquired in fee, sought in
 59 the condemnation petition for a high voltage transmission line
 60 right-of-way shall automatically be converted into a fee taking.

61 Subd. 5. A utility shall notify by certified mail each
 62 person who has transferred any interest in real property to the
 63 utility after July 1, 1974, but prior to the effective date of
 64 Laws 1977, Chapter 439, for the purpose of a site or route that
 65 ~~he~~ the person may elect in writing within 90 days after receipt
 66 of notice to require the utility to acquire any remaining
 67 contiguous parcel of land pursuant to this section or to return
 68 any payment to the utility and require it to make installment
 69 payments pursuant to this section.

116C#71S

70 116C.71 DEFINITIONS.

71 No change for subd 1 to 12

72 Subd. 13. CHAIRMAN CHAIR. "Chairman Chair"
 73 means chairman the chair of the board.

74 No change for subd 14 to 18

116C#711S

1 116C.711 NUCLEAR WASTE COUNCIL.
 2 No change for subd 1 to 2
 3 Subd. 3. CHAIRPERSON CHAIR. A chairperson chair *
 4 shall be appointed by the governor from the members of the
 5 council.
 6 No change for subd 4 to 5

116C#712S

7 116C.712 POWERS AND DUTIES.
 8 No change for subd 1 to 2
 9 Subd. 3. COUNCIL STAFF. Staff support for council
 10 activities must be provided by the state planning agency. State
 11 departments and agencies must cooperate with the council in the
 12 performance of its duties. Upon the request of the chairperson *
 13 chair of the council, the governor may, by order, require a *
 14 state department or agency to furnish assistance necessary to
 15 carry out the council's functions under this chapter.
 16 Subd. 4. FEDERAL AND OTHER FUNDS. The chairperson *
 17 chair of the council may apply for, receive, and expend money *
 18 made available from federal sources or other sources for the
 19 purpose of carrying out the council's responsibilities under
 20 this chapter.

116C#723S

21 116C.723 CONSULTATION AND COOPERATION AGREEMENT.
 22 Subdivision 1. REQUIREMENT. Upon notice from the
 23 department of energy that Minnesota contains a potentially
 24 impacted area, the chairperson chair of the council shall *
 25 negotiate a consultation and cooperation agreement with the
 26 federal government.
 27 No change for subd 2

116C#724S

28 116C.724 FIELD INVESTIGATIONS, TESTS, AND STUDIES.
 29 No change for subd 2
 30 Subd. 3. OTHER REQUIREMENTS. (a) A person who
 31 conducts geologic, hydrologic, or geophysical testing or studies
 32 shall provide unrestricted access to both raw and interpretive
 33 data to the chairman chair and the director of the Minnesota *
 34 geological survey or their designated representatives. The raw
 35 and interpretive data includes core samples, well logs, water
 36 samples and chemical analyses, survey charts and graphs, and
 37 predecisional reports. Studies and data shall be made available
 38 within 30 days of a formal request by the chairman chair. *
 39 (b) A person proposing to investigate shall hold at least
 40 one public meeting before a required permit is issued, and
 41 during the investigation at least once every three months,
 42 during the investigation within the potentially impacted area.
 43 The meetings shall provide the public with current information
 44 on the progress of the investigation. The person investigating
 45 shall respond in writing to the environmental quality board
 46 about concerns and issues raised at the public meetings.
 47 (c) Before a person engages in negotiations regarding
 48 property interests inland or water, or permitting activities,
 49 the person shall notify the chairman chair in writing. Copies *
 50 of terms and agreements shall also be provided to the chairman *
 51 chair. *

116C#835S

52 116C.835 ENFORCEMENT OF COMPACT AND LAWS.
 53 No change for subd 1 to 3
 54 Subd. 4. ACTION TO COMPEL PERFORMANCE. In any action
 55 to compel performance of an obligation created by the compact
 56 the court may require any person who is adjudged responsible to
 57 do and perform any and all acts and things within his that *
 58 person's power which are reasonably necessary to fulfill the *
 59 obligation.
 60 No change for subd 5 to 6

116C#839S

61 116C.839 ADVISORY COMMITTEE.
 62 An advisory committee is created to consult with and advise
 63 the director, the governor, and the legislature on low-level
 64 radioactive waste issues. The advisory committee shall consist
 65 of three representatives chosen by the speaker of the house;
 66 three senators chosen by the senate committee on committees; the
 67 director; the commissioner of health; the commissioner of
 68 transportation; the commissioner of department of natural
 69 resources; and the chairperson chair of the environmental *
 70 quality board. The committee shall elect a chairperson chair *

1 from among its members.

2 The advisory committee may appoint a technical task force
3 on low-level radioactive waste, including but not limited to any
4 members of the public with special expertise in low-level
5 radioactive waste, state agency personnel, and generators
6 representing the medical, industrial, and commercial
7 organizations in the state which ship wastes to regional
8 facilities.

116D#01S

9 116D.01 PURPOSE.

10 The purposes of Laws 1973, Chapter 412 are: (a) to declare
11 a state policy that will encourage productive and enjoyable
12 harmony between ~~man~~ human beings and ~~his~~ their environment; (b) *
13 to promote efforts that will prevent or eliminate damage to the
14 environment and biosphere and stimulate the health and welfare
15 of ~~man~~ human beings; and (c) to enrich the understanding of the *
16 ecological systems and natural resources important to the state
17 and to the nation.

116D#02S

18 116D.02 DECLARATION OF STATE ENVIRONMENTAL POLICY.

19 Subdivision 1. The legislature, recognizing the profound
20 impact of ~~man's~~ human activity on the interrelations of all *
21 components of the natural environment, particularly the profound
22 influences of population growth, high density urbanization,
23 industrial expansion, resources exploitation, and new and
24 expanding technological advances and recognizing further the
25 critical importance of restoring and maintaining environmental
26 quality to the overall welfare and development of ~~man~~ human *
27 beings, declares that it is the continuing policy of the state *
28 government, in cooperation with federal and local governments,
29 and other concerned public and private organizations, to use all
30 practicable means and measures, including financial and
31 technical assistance, in a manner calculated to foster and
32 promote the general welfare, to create and maintain conditions
33 under which ~~man~~ human beings and nature can exist in productive *
34 harmony, and fulfill the social, economic, and other
35 requirements of present and future generations of the state's
36 people.

37 No change for subd 2

116D#03S

38 116D.03 ACTION BY STATE AGENCIES.

39 No change for subd 1

40 Subd. 2. All departments and agencies of the state
41 government shall:

42 (a) On a continuous basis, seek to strengthen relationships
43 between state, regional, local and federal-state environmental
44 planning, development and management programs;

45 (b) Utilize a systematic, interdisciplinary approach that
46 will insure the integrated use of the natural and social
47 sciences and the environmental arts in planning and in decision
48 making which may have an impact on ~~man's~~ the environment; as an *
49 aid in accomplishing this purpose there shall be established
50 advisory councils or other forums for consultation with persons
51 in appropriate fields of specialization so as to ensure that the
52 latest and most authoritative findings will be considered in
53 administrative and regulatory decision making as quickly and as
54 amply as possible;

55 (c) Identify and develop methods and procedures that will
56 ensure that environmental amenities and values, whether
57 quantified or not, will be given at least equal consideration in
58 decision making along with economic and technical considerations;

59 (d) Study, develop, and describe appropriate alternatives
60 to recommended courses of action in any proposal which involves
61 unresolved conflicts concerning alternative uses of available
62 resources;

63 (e) Recognize the worldwide and long range character of
64 environmental problems and, where consistent with the policy of
65 the state, lend appropriate support to initiatives, resolutions,
66 and programs designed to maximize interstate, national and
67 international cooperation in anticipating and preventing a
68 decline in the quality of ~~mankind's~~ the world environment; *

69 (f) Make available to the federal government, counties,
70 municipalities, institutions and individuals, information useful
71 in restoring, maintaining, and enhancing the quality of the
72 environment, and in meeting the policies of the state as set
73 forth in Laws 1973, Chapter 412;

1 (g) Initiate the gathering and utilization of ecological
2 information in the planning and development of resource oriented
3 projects; and

4 (h) Undertake, contract for or fund such research as is
5 needed in order to determine and clarify effects by known or
6 suspected pollutants which may be detrimental to human health or
7 to the environment, as well as to evaluate the feasibility,
8 safety and environmental effects of various methods of dealing
9 with pollutants.

116D#04S

10 116D.04 ENVIRONMENTAL IMPACT STATEMENTS.

11 No change for subd 1a

12 Subd. 2a. Where there is potential for significant
13 environmental effects resulting from any major governmental
14 action, the action shall be preceded by a detailed environmental
15 impact statement prepared by the responsible governmental unit.
16 The environmental impact statement shall be an analytical rather
17 than an encyclopedic document which describes the proposed
18 action in detail, analyzes its significant environmental
19 impacts, discusses appropriate alternatives to the proposed
20 action and their impacts, and explores methods by which adverse
21 environmental impacts of an action could be mitigated. The
22 environmental impact statement shall also analyze those
23 economic, employment and sociological effects that cannot be
24 avoided should the action be implemented. To ensure its use in
25 the decision making process, the environmental impact statement
26 shall be prepared as early as practical in the formulation of an
27 action.

28 (a) The board shall by rule establish categories of
29 actions for which environmental impact statements and for which
30 environmental assessment worksheets shall be prepared as well as
31 categories of actions for which no environmental review is
32 required under this section.

33 (b) The responsible governmental unit shall promptly
34 publish notice of the completion of an environmental assessment
35 worksheet in a manner to be determined by the board and shall
36 provide copies of the environmental assessment worksheet to the
37 board and its member agencies. Comments on the need for an
38 environmental impact statement may be submitted to the
39 responsible governmental unit during a 30 day period following
40 publication of the notice that an environmental assessment
41 worksheet has been completed. The responsible governmental
42 unit's decision on the need for an environmental impact
43 statement shall be based on the environmental assessment
44 worksheet and the comments received during the comment period,
45 and shall be made within 15 days after the close of the comment
46 period. The board's chairman chair may extend the 15 day period *
47 by not more than 15 additional days upon the request of the
48 responsible governmental unit.

49 (c) An environmental assessment worksheet shall also be
50 prepared for a proposed action whenever material evidence
51 accompanying a petition by not less than 25 individuals,
52 submitted before the proposed project has received final
53 approval by the appropriate governmental units, demonstrates
54 that, because of the nature or location of a proposed action,
55 there may be potential for significant environmental effects.
56 Petitions requesting the preparation of an environmental
57 assessment worksheet shall be submitted to the board. The
58 chairman chair of the board shall determine the appropriate *
59 responsible governmental unit and forward the petition to it. A
60 decision on the need for an environmental assessment worksheet
61 shall be made by the responsible governmental unit within 15
62 days after the petition is received by the responsible
63 governmental unit. The board's chairman chair may extend the 15 *
64 day period by not more than 15 additional days upon request of
65 the responsible governmental unit.

66 (d) The board may, prior to final approval of a proposed
67 project, require preparation of an environmental assessment
68 worksheet by a responsible governmental unit selected by the
69 board for any action where environmental review under this
70 section has not been specifically provided for by rule or
71 otherwise initiated.

72 (e) An early and open process shall be utilized to limit
73 the scope of the environmental impact statement to a discussion
74 of those impacts, which, because of the nature or location of
75 the project, have the potential for significant environmental

1 effects. The same process shall be utilized to determine the
 2 form, content and level of detail of the statement as well as
 3 the alternatives which are appropriate for consideration in the
 4 statement. In addition, the permits which will be required for
 5 the proposed action shall be identified during the scoping
 6 process. Further, the process shall identify those permits for
 7 which information will be developed concurrently with the
 8 environmental impact statement. The board shall provide in its
 9 rules for the expeditious completion of the scoping process.
 10 The determinations reached in the process shall be incorporated
 11 into the order requiring the preparation of an environmental
 12 impact statement.

13 (f) Whenever practical, information needed by a
 14 governmental unit for making final decisions on permits or other
 15 actions required for a proposed project shall be developed in
 16 conjunction with the preparation of an environmental impact
 17 statement.

18 (g) An environmental impact statement shall be prepared
 19 and its adequacy determined within 280 days after notice of its
 20 preparation unless the time is extended by consent of the
 21 parties or by the governor for good cause. The responsible
 22 governmental unit shall determine the adequacy of an
 23 environmental impact statement, unless within 60 days after
 24 notice is published that an environmental impact statement will
 25 be prepared, the board chooses to determine the adequacy of an
 26 environmental impact statement. If an environmental impact
 27 statement is found to be inadequate, the responsible
 28 governmental unit shall have 60 days to prepare an adequate
 29 environmental impact statement.

30 Subd. 3. Repealed, 1980 c 447 s 10

31 No change for subd 3a to 12

116D#07S

32 116D.07 GOVERNOR, REPORT REQUIRED.

33 The governor shall transmit to the legislature and make
 34 public by November 15 of each year an environmental quality
 35 report which shall set forth:

36 (1) The status and condition of the major natural, man-made *
 37 artificial, or altered environmental classes of the state, *
 38 including, but not limited to, the air, the aquatic, and the
 39 terrestrial environment, including, but not limited to, the
 40 forest, dryland, wetland, range, urban, suburban, and rural
 41 environment;

42 (2) Current and foreseeable trends in the quality,
 43 management and utilization of such environments and the effects
 44 of those trends on the social, economic and other requirements
 45 of the state;

46 (3) The adequacy of available natural resources for
 47 fulfilling human and economic requirements of the state in the
 48 light of expected population pressures;

49 (4) A review of the programs and activities, including
 50 regulatory activities, of the federal government in the state,
 51 the state and local governments, and nongovernmental entities or
 52 individuals, with particular reference to their effect on the
 53 environment and on the conservation, development and utilization
 54 of natural resources;

55 (5) A program for remedying the deficiencies of existing
 56 programs and activities, together with recommendations for
 57 legislation;

58 (6) A review of identified, potentially feasible programs
 59 and projects for solving existing and future natural resources
 60 problems;

61 (7) Measures as may be necessary to bring state government
 62 statutory authority, administrative regulations and current
 63 policies into conformity with the intent, purposes, and
 64 procedures set forth in Laws 1973, Chapter 412;

65 (8) The status of statewide natural resources plans; and

66 (9) A statewide inventory of natural resources projects,
 67 consisting of (a) a description of all existing and proposed
 68 public natural resources works or improvements to be undertaken
 69 in the coming biennium by state agencies or with state funds,
 70 (b) a biennial tabulation of initial investment costs and
 71 operation and maintenance costs for both existing and proposed
 72 projects, (c) an analysis of the relationship of existing state
 73 projects to all existing public natural resources works of
 74 improvement undertaken by local, regional, state-federal, and
 75 federal agencies with funds other than state funds, and (d) an

1 analysis of the relationship of proposed state projects to
 2 local, regional, state-federal, and federal plans.
 3 The purpose of this environmental quality report by the
 4 governor is to provide the information necessary for the
 5 legislature to assess the existing and possible future economic
 6 impact on state government of capital investments in and
 7 maintenance costs of natural resources works of improvement.

116E#02S

8 116E.02 ESTABLISHMENT.

9 Subdivision 1. MEMBERSHIP; TERMS. A state
 10 environmental education board, designated as the environmental
 11 education board, is hereby created. Regional environmental
 12 education councils, subordinate to the environmental education
 13 board and designated as regional environmental education
 14 councils are hereby created to represent the regions of the
 15 state designated by the governor pursuant to Minnesota Statutes
 16 1971, section 462.385. The state board shall consist of three
 17 members appointed by the commissioner of natural resources and
 18 three members appointed by the commissioner of education, and
 19 one member from each of the regional councils. Each regional
 20 council shall elect one member to serve on the state board.
 21 Regional councils shall consist of 12 members, appointed by the
 22 ~~chairman~~ chair of the state board with approval of the state *
 23 board, with at least one person representing each of the
 24 following groups: (a) public school systems having grade levels
 25 kindergarten through 12, inclusive; (b) post-secondary
 26 educational institutions; (c) regional economic development
 27 commissions, where established; (d) voluntary organizations; (e)
 28 business, industry and agriculture; (f) labor organizations; and
 29 (g) elected local government officers. The term of a member of
 30 a regional council shall begin on July 1 and shall extend for a
 31 four year term and until ~~his~~ a successor is duly appointed and *
 32 qualifies. A vacancy in the office of a member of any regional
 33 council shall be filled by the appointing authority, for the
 34 unexpired term.

35 The regional environmental education council corresponding
 36 to the metropolitan area regional development commission as
 37 designated by the governor pursuant to section 462.385 shall
 38 consist of one member from each of the five task forces
 39 hereafter created and seven public members. One task force
 40 consisting of seven members shall be appointed by the ~~chairman~~ *
 41 chair of the state board with the approval of the board to *
 42 represent each of the following five geographic areas: the city
 43 of Minneapolis; the remainder of Hennepin county; Carver, Scott
 44 and Dakota counties; Ramsey county; and Anoka and Washington
 45 counties. Each task force shall select one of its members to
 46 serve on the metropolitan regional environmental education
 47 council. Members of the task forces shall be compensated and
 48 shall have terms similar to those of the regional environmental
 49 education councils.

50 Subd. 2. Repealed, 1984 c 531 s 9

51 No change for subd 2a to 3

52 Subd. 4. OFFICERS AND COMPENSATION. The state board
 53 and each regional council shall select a ~~chairman~~ chair and such *
 54 other officers as they deem necessary. Members of the regional
 55 councils shall serve without compensation, but each member of
 56 the the regional councils may be reimbursed for actual and
 57 necessary expenses incurred in the performance of ~~his~~ that *
 58 member's duties. *

116E#03S

59 116E.03 POWERS AND DUTIES.

60 No change for subd 1 to 7a

61 Subd. 8. CONTRACTS. The chief administrative
 62 officer of the state board may contract with persons, firms,
 63 corporations, organizations, units of government or institutions
 64 of higher learning for doing any of the work of ~~his-office~~ the *
 65 chief administrative officer, and none of the provisions of *
 66 chapter 16, relating to bids, shall apply to such contracts.
 67 The regional councils may contract with the regional development
 68 commissions designated by the governor pursuant to Minnesota
 69 Statutes 1971, Section 462.385, to accomplish the purposes of
 70 sections 116E.01 to 116E.04. All personnel employed and all
 71 contracts entered into pursuant to this subdivision shall be
 72 subject to the approval of the state board. Agreements to
 73 exercise delegated powers shall be by written order filed with
 74 the secretary of state.

1 Subd. 9. PRIVATE GRANT AND FEDERAL FUNDS. The chief
 2 administrative officer of the state board is the state agent to
 3 apply for, receive, and disburse private grant and federal funds
 4 made available to the state by private organizations or federal
 5 law or rules and regulations promulgated thereunder for any
 6 purpose related to the powers and duties of the state board or
 7 the regional councils. He The chief administrative officer *
 8 shall comply with any and all requirements of such private
 9 organizations or federal law or such rules and regulations
 10 promulgated thereunder to enable him-to-apply the funds to be *
 11 applied for, receive received, and disburse-such-funds *
 12 disbursed. All such moneys received by the chief administrative *
 13 officer of the state board shall be deposited in the state
 14 treasury and are hereby annually appropriated to him the chief *
 15 administrative officer for the purposes for which they are *
 16 received. None of such moneys in the state treasury shall
 17 cancel and they shall be available for expenditure in accordance
 18 with the requirements of federal law or the terms of such
 19 private grants. No application for federal funds or private
 20 grants under this subdivision shall be submitted to federal
 21 authorities or private organizations for approval unless the
 22 proposed budget for the expenditure of such funds is approved by
 23 the governor and reported to the legislative committees
 24 designated in section 16.165 and, when the legislature is not in
 25 session, reported to the standing committee on finance of the
 26 senate and the standing committee on appropriations of the house
 27 of representatives.

116E#035S

28 116E.035 PUBLIC EDUCATION ON ACID PRECIPITATION.
 29 The Minnesota environmental education board shall conduct a
 30 program of public education on acid precipitation. The board
 31 shall report on the progress of the program to the respective
 32 chairmen chair of the house committee on environment and natural *
 33 resources and the senate committee on agriculture and natural
 34 resources by January 15, 1981.

116E#04S

35 116E.04 COOPERATION.
 36 No change for subd 1
 37 Subd. 2. Upon the request of the state board or a regional
 38 council, the governor may, by order, require any department or
 39 agency of the state to furnish such assistance to the state
 40 board or any regional council as may be necessary to carry out
 41 their functions under sections 116E.01 to 116E.04. The governor
 42 may, in his the order, direct all or part of the cost or expense *
 43 of such assistance to be paid from the state board fund or
 44 appropriation in such amount as he the governor may deem just *
 45 and proper.

116G#13S

46 116G.13 PROTECTION OF LANDOWNERS' RIGHTS.
 47 No change for subd 1
 48 Subd. 2. Neither the designation of an area of critical
 49 concern nor the adoption of any regulations for such an area
 50 shall in any way limit or modify the rights of any person to
 51 complete any development that has been authorized by
 52 registration and recordation of a subdivision pursuant to state
 53 laws, or by a building permit or other authorization to commence
 54 development on which there has been reliance and a change of
 55 position, and which registration or recordation was
 56 accomplished, or which permit or authorization was issued prior
 57 to the date of notice for public hearing as provided by section
 58 116G.06. If a developer has by his-actions action in reliance *
 59 on prior regulations obtained vested or other legal rights that
 60 in law would have prevented a local government from changing
 61 those regulations in a way adverse to his the developer's *
 62 interests, nothing in sections 116G.01 to 116G.14 authorizes any
 63 governmental agency to abridge those rights.

116I#03S

64 116I.03 INFORMATION BOOK.
 65 Within 45 days after receiving the notification and fee
 66 required by section 116I.02 the environmental quality board
 67 shall prepare and make available to the person proposing to
 68 construct the pipeline sufficient copies of an information book
 69 for owners and lessees of property along the pipeline route.
 70 The board may allow the person proposing the pipeline to prepare
 71 the book at his that person's own expense subject to approval of *
 72 the book by the board. The information book shall contain at

1 least the following information:

- 2 (1) A description of the pipeline proposed for
 3 construction, including the proposed route, types of commodities
 4 to be carried, size of the line and construction and operational
 5 characteristics;
 6 (2) Explanation of the steps which must be taken to
 7 acquire right-of-way for the pipeline and of the rights and
 8 alternatives of the owner;
 9 (3) Explanation of the legal requirements that must be met
 10 in constructing the pipeline; and
 11 (4) Explanation of the county inspection procedure and
 12 instructions for contacting the inspector in the event of
 13 noncompliance with legal requirements.

14 Within 45 days after receiving notification of a change in
 15 a proposed route the board shall prepare and make available or
 16 shall approve a revision of the original information book so
 17 that a description of the new route and any other required
 18 information relevant to the new route is incorporated in the
 19 book.

116I#06S

20 116I.06 PROTECTION OF PUBLIC FACILITIES AND CULTIVATED
 21 AGRICULTURAL LAND.

22 No change for subd 1

23 Subd. 2. WAIVER OF DEPTH REQUIREMENT. In any
 24 easement granting right-of-way for a pipeline over cultivated
 25 agricultural land the grantor of the easement may waive the
 26 minimum depth of cover requirement of subdivision 1 with respect
 27 to all or part of the pipeline to be buried under that land. A
 28 waiver of the minimum depth of cover requirement of subdivision
 29 1 shall be effective only if the waiver:

30 (a) Is separately and expressly stated in the easement
 31 agreement and includes an express statement by the grantor
 32 acknowledging that ~~he~~ the grantor has read and understood the
 33 waiver; *

34 (b) Is printed in capital letters and in language
 35 understandable to an average person not learned in law; and

36 (c) Is separately signed or initialed by the grantor.

37 No change for subd 3 to 10

116I#07S

38 116I.07 LIMITATION OF LIABILITY.

39 No change for subd 1

40 Subd. 2. NOTICE REQUIREMENT. An owner or lessee of
 41 any real property, or a person acting with ~~his~~ the authority of *
 42 an owner or lessee, who installs or repairs agricultural *
 43 drainage tile on that property shall be relieved of liability as
 44 provided in subdivision 1 only if that owner, lessee or other *
 45 person acting with ~~his~~ authority notifies the designated agent
 46 of the owner or operator of the pipeline of the intention to
 47 install or repair drainage tile on the property at least seven
 48 days before that work commences. An owner or operator of a
 49 pipeline shall provide to the county auditor of each county in
 50 which that pipeline is located the name, address and phone
 51 number of the individual to whom notice shall be given as
 52 provided in this subdivision. Notice is effective if made in
 53 writing by certified mail to this designated agent of the owner
 54 or operator of the pipeline.

116J#035S

55 116J.035 DUTIES AND POWERS OF COMMISSIONER; RULES.

56 Subdivision 1. POWERS. The commissioner may:

57 (a) apply for, receive, and expend money from municipal,
 58 county, regional, and other government agencies;

59 (b) apply for, accept, and disburse grants and other aids
 60 from other public or private sources;

61 (c) contract for professional services if such work or
 62 services cannot be satisfactorily performed by employees of the
 63 department or by any other state agency;

64 (d) enter into interstate compacts to jointly carry out
 65 such research and planning with other states or the federal
 66 government where appropriate;

67 (e) distribute informational material at no cost to the
 68 public upon reasonable request; and

69 (f) enter into contracts necessary for the performance of
 70 ~~his~~ the commissioner's duties with federal, state, regional, *
 71 metropolitan, local, and other agencies or units of government;
 72 educational institutions, including the University of
 73 Minnesota. Contracts made pursuant to this section shall not be

1 subject to the competitive bidding requirements of chapter 16.
 2 The commissioner may apply for, receive, and expend money
 3 made available from federal or other sources for the purpose of
 4 carrying out the duties and responsibilities of the commissioner
 5 pursuant to this chapter.

6 All moneys received by the commissioner pursuant to this
 7 chapter shall be deposited in the state treasury and are
 8 appropriated to the commissioner for the purpose for which the
 9 moneys have been received. The money shall not cancel and shall
 10 be available until expended.

11 Subd. 2. RULES. The commissioner may adopt rules
 12 pursuant to chapter 14 as necessary to carry out his the
 13 commissioner's duties and responsibilities pursuant to this
 14 chapter.

15 No change for subd 3

116J#07S

16 116J.07 CONFLICT OF INTEREST.

17 No person shall be eligible to continue in office as
 18 commissioner unless he that person has within six months after
 19 being appointed ~~divested himself~~ completed divestiture of any
 20 interest except fully vested pension rights in any utility, coal
 21 or petroleum supplier, or manufacturer of any major component of
 22 a large energy facility doing business within or outside this
 23 state.

24 No person who is an employee of the department shall
 25 participate in any manner in any decision or action of the
 26 commissioner where he that person has a direct or indirect
 27 financial interest.

116J#21S

28 116J.21 ENERGY CONSERVATION IN STATE OWNED BUILDINGS.

29 By June 30, 1982, the commissioner of administration, in
 30 cooperation with the commissioner, shall complete a mini-audit
 31 or maxi-audit of all buildings which are heated and owned by the
 32 state of Minnesota, including buildings and associated
 33 facilities of the state university system, the state fairgrounds
 34 as defined in section 37.01, the Minnesota historical society
 35 building, and all buildings under the administration or
 36 supervision of the commissioners of natural resources,
 37 corrections, welfare, and transportation. The commissioner of
 38 administration shall determine the estimated remaining useful
 39 life of each building, together with the present degree and
 40 estimated cost of compliance with the energy conservation
 41 standards promulgated pursuant to section 116J.20. The
 42 commissioner of administration shall estimate the annual
 43 potential savings in units of fuel and fuel procurement costs
 44 which would be realized for each state owned building if its
 45 operating procedures were modified and it were improved to
 46 comply with each of the energy conservation standards
 47 promulgated pursuant to section 116J.20. If appropriations are
 48 inadequate to complete a mini-audit or maxi-audit of all state
 49 owned buildings, the commissioner of administration shall give
 50 priority to buildings of 25,000 or more square feet. If the
 51 commissioner of administration determines that a modification is
 52 economically feasible, in that savings in fuel procurement costs
 53 will exceed the cost of the modification amortized over the
 54 remaining useful life of the building, he the commissioner shall
 55 recommend implementation of the modification to the
 56 legislature. The commissioner of administration shall submit to
 57 the legislature an annual progress report on January 1 of each
 58 year and a final progress report by December 31, 1982,
 59 indicating the number and percentage of state owned buildings
 60 surveyed, the estimated costs of implementing the economically
 61 feasible modifications, the energy savings and costs resulting
 62 from implementing such modifications, and ~~his~~ findings,
 63 recommendations, and priorities for implementing economically
 64 feasible modifications.

116J#27S

65 116J.27 ENERGY CONSERVATION STANDARDS FOR EXISTING
 66 RESIDENCES.

67 No change for subd 1 to 4a

68 Subd. 4b. FINES FOR NONCOMPLIANCE; EXCEPTION. If the
 69 administrative law judge issues a decision, following a
 70 contested case proceeding commenced pursuant to subdivision 4a,
 71 that a renter-occupied residence is not in compliance with the
 72 standards prescribed pursuant to subdivision 1 and that the
 73 owner of the renter-occupied residence has not proven a good

1 cause, as defined by rule or emergency rule adopted by the
2 commissioner, for ~~his~~ failure to comply with the standards
3 prescribed pursuant to subdivision 1, the administrative law
4 judge shall assess a fine against the owner in accordance with a
5 schedule of fines adopted by the commissioner by rule or
6 emergency rule. This subdivision shall not apply in the case of
7 low-rent housing owned by a public housing authority or a
8 housing and redevelopment authority as defined in section
9 462.421, subdivision 2.

10 Subd. 5. Repealed, 1983 c 301 s 235

11 No change for subd 6 to 8

116J#36S

12 116J.36 DISTRICT HEATING AND QUALIFIED ENERGY
13 IMPROVEMENT LOANS.

14 No change for subd 1 to 8a

15 Subd. 9. PAYMENT; OBLIGATION. The commissioner of
16 finance shall not pay money to a municipality pursuant to an
17 approved loan until ~~he~~ the commissioner has determined that:

18 (a) Financing of the project or improvement as proposed by
19 the municipality is assured by an irrevocable undertaking, by
20 resolution of the governing body of the municipality, to use all
21 money made available by the financing plan exclusively for the
22 eligible costs of the project or improvement, and to pay any
23 additional amount by which the cost of the project or
24 improvement exceeds the estimate by the appropriation to the
25 construction account of additional money of the municipality or
26 the proceeds of additional bonds to be issued by the
27 municipality; and that

28 (b) The governing body of the municipality has adopted a
29 resolution obligating the municipality to repay the loan
30 according to the terms in the loan. The obligation may be
31 payable from user charges, franchise fees, special assessments
32 or other money available to the municipality. The resolution
33 shall obligate the municipality to annually impose and collect
34 user charges, franchise fees, special assessments, or to use any
35 other money available to it from any other specified source, in
36 amounts and at times that if collected in full will annually
37 produce at least five percent in excess of the amount needed for
38 all annual costs of the system, including annual repayment on
39 state loans. A municipality may also pledge to levy an ad
40 valorem tax to guarantee the payments under the loan agreement.
41 For the purpose of repaying the loan, the municipality by
42 resolution of its governing body may fix the rates and charges
43 for district heating system or qualified energy improvement
44 service and products, may enter into contracts for the payment
45 by others of costs of construction, maintenance, and use of the
46 project or improvement in accordance with section 444.075 and
47 may pledge the revenues derived therefrom. The commissioner of
48 finance shall condition a loan upon the establishment of rates
49 and charges or the execution of contracts sufficient to produce
50 annually the revenues pledged for repayment of all annual costs
51 of the system, including annual repayment of the state loan.

52 No change for subd 10 to 11

116J#37S

53 116J.37 ENERGY CONSERVATION INVESTMENT LOANS.

54 No change for subd 1 to 4

55 Subd. 5. PAYMENT; OBLIGATION. The commissioner shall
56 not approve payment to a school district pursuant to an approved
57 loan until ~~he or she~~ the commissioner has determined that
58 financing of the project is assured by an irrevocable
59 undertaking, by resolution of the school board, to annually levy
60 or otherwise collect an amount of money sufficient to pay the
61 principal and interest due on the loan as well as any of the
62 commissioner of finance's administrative expenses according to
63 the terms of the loan.

64 No change for subd 6 to 7

116J#402S

65 116J.402 COOPERATIVE CONTRACTS.

66 The commissioner of energy and economic development may
67 apply for, receive, and spend money for community development
68 from municipal, county, regional, and other planning agencies.
69 The commissioner may also apply for, accept, and disburse grants
70 and other aids for community development and related planning
71 from the federal government and other sources. The commissioner
72 may enter into contracts with agencies of the federal
73 government, local governmental units, regional development

1 commissions, and the metropolitan council, other state agencies,
 2 the University of Minnesota, and other educational institutions,
 3 and private persons as necessary to perform his the *
 4 commissioner's duties. Contracts made according to this section, *
 5 except those with private persons, are not subject to the
 6 provisions of chapter 16 concerning competitive bidding.

7 The commissioner may apply for, receive, and spend money
 8 made available from federal sources or other sources for the
 9 purposes of carrying out the duties and responsibilities of the
 10 commissioner relating to community development.

11 Money received by the commissioner under this section must
 12 be deposited in the state treasury and is appropriated to the
 13 commissioner for the purposes for which the money has been
 14 received. The money does not cancel and is available until
 15 spent.

116J#403S

16 116J.403 RULES.

17 No money made available to the commissioner for the small
 18 cities community development block grant program shall be spent
 19 by him for community development and related planning programs *
 20 until he the commissioner adopts rules prescribing standards and *
 21 procedures to govern the expenditure. The rules must be adopted
 22 under the Administrative Procedure Act in chapter 14 and must
 23 conform with all terms and conditions imposed on the
 24 commissioner when the money is made available to him. The *
 25 commissioner may adopt emergency rules under sections 14.29 to
 26 14.36 so that he the commissioner can carry out promptly his the *
 27 responsibilities for administering federally funded community
 28 development grant programs.

116J#58S

29 116J.58 POWERS AND DUTIES.

30 Subdivision 1. ENUMERATION. The commissioner shall:

31 (1) investigate, study, and undertake ways and means of
 32 promoting and encouraging the prosperous development and
 33 protection of the legitimate interest and welfare of Minnesota
 34 business, industry, and commerce, within and outside the state;

35 (2) locate markets for manufacturers and processors and aid
 36 merchants in locating and contacting markets;

37 (3) investigate and study conditions affecting Minnesota
 38 business, industry, and commerce and collect and disseminate
 39 information, and engage in technical studies, scientific
 40 investigations, and statistical research and educational
 41 activities necessary or useful for the proper execution of the
 42 powers and duties of the commissioner in promoting and
 43 developing Minnesota business, industry, and commerce, both
 44 within and outside the state;

45 (4) plan and develop an effective business information
 46 service both for the direct assistance of business and industry
 47 of the state and for the encouragement of business and industry
 48 outside the state to use economic facilities within the state;

49 (5) compile, collect, and develop periodically, or
 50 otherwise make available, information relating to current
 51 business conditions;

52 (6) conduct or encourage research designed to further new
 53 and more extensive uses of the natural and other resources of
 54 the state and designed to develop new products and industrial
 55 processes;

56 (7) study trends and developments in the industries of the
 57 state and analyze the reasons underlying the trends; study costs
 58 and other factors affecting successful operation of businesses
 59 within the state; and make recommendations regarding
 60 circumstances promoting or hampering business and industrial
 61 development;

62 (8) serve as a clearing house for business and industrial
 63 problems of the state; and advise small business enterprises
 64 regarding improved methods of accounting and bookkeeping;

65 (9) cooperate with interstate commissions engaged in
 66 formulating and promoting the adoption of interstate compacts
 67 and agreements helpful to business, industry, and commerce;

68 (10) cooperate with other state departments, and with
 69 boards, commissions, and other state agencies, in the
 70 preparation and coordination of plans and policies for the
 71 development of the state and for the use and conservation of its
 72 resources insofar as the use, conservation, and development may
 73 be appropriately directed or influenced by a state agency;

74 (11) assemble and coordinate information relative to the

1 status, scope, cost, and employment possibilities and the
 2 availability of materials, equipment, and labor in connection
 3 with public works projects, state, county, and municipal;
 4 recommend limitations on the public works; gather current
 5 progress information with reference to public and private works
 6 projects of the state and its political subdivisions with
 7 reference to conditions of employment; inquire into and report
 8 to the governor, when requested by ~~him~~ the governor, with *
 9 respect to any program of public state improvements and the
 10 financing thereof; and request and obtain information from other
 11 state departments or agencies as may be needed properly to
 12 report thereon;

13 (12) study changes in population and current trends and
 14 prepare plans and suggest policies for the development and
 15 conservation of the resources of the state;

16 (13) confer and cooperate with the executive, legislative,
 17 or planning authorities of the United States and neighboring
 18 states and of the counties and municipalities of such
 19 neighboring states, for the purpose of bringing about a
 20 coordination between the development of such neighboring states,
 21 counties, and municipalities and the development of this state;

22 (14) generally, gather, compile, and make available
 23 statistical information relating to business, trade, commerce,
 24 industry, transportation, communication, natural resources, and
 25 other like subjects in this state, with authority to call upon
 26 other departments of the state for statistical data and results
 27 obtained by them and to arrange and compile that statistical
 28 information in a manner that seems wise.

29 Subd. 2. PROMOTIONAL CONTRACTS. In order to best
 30 carry out ~~his~~ duties and responsibilities and to serve the *
 31 people of the state in the promotion of tourism and economic
 32 development the commissioner may engage in programs and projects
 33 jointly with a private person, firm, corporation or association
 34 and may enter into contracts under terms to be mutually agreed
 35 upon to carry out such programs and projects not including
 36 acquisition of land or buildings. Such contracts may be
 37 negotiated and shall not be subject to the provisions of chapter
 38 16, insofar as such provisions relate to competitive bidding.

39 Subd. 3. COMMISSIONER MAY ENTER INTO PROJECT
 40 AGREEMENTS. The commissioner may enter into project
 41 agreements with organizations or corporations for the purpose of
 42 developing the tourism potential of the state. If in the
 43 judgment of the commissioner a project will make a meaningful
 44 contribution to the tourism development of the state, ~~he~~ the *
 45 commissioner may enter into local or regional agreements. *

46 No change for subd 4

116J#59S

47 116J.59 IMPREST FUNDS, USE.

48 The commissioner of energy and economic development may use
 49 the money in the imprest fund of ~~his~~ the department in order to *
 50 facilitate and expedite its business particularly in the making
 51 of advances of moneys to officers and employees of the
 52 department and members of the advisory committee for the purpose
 53 of defraying the expenses of travel, subsistence, and other
 54 similar expenses, and in meeting emergencies, and in accordance
 55 with such requirements therefor as may be prescribed by the
 56 commissioner of finance. The imprest fund shall be reimbursed
 57 for all moneys advanced in the manner prescribed by the rules of
 58 the commissioner of administration.

116J#61S

59 116J.61 ADDITIONAL POWERS AND DUTIES.

60 The commissioner shall:

61 (1) have control of the work of carrying on a continuous
 62 program of education for businessmen business people; *

63 (2) publish, disseminate, and distribute information and
 64 statistics;

65 (3) promote and encourage the expansion and development of
 66 markets for Minnesota products;

67 (4) promote and encourage the location and development of
 68 new business in the state as well as the maintenance and
 69 expansion of existing business and for that purpose cooperate
 70 with state and local agencies and individuals, both within and
 71 outside the state;

72 (5) advertise and disseminate information as to natural
 73 resources, desirable locations, and other advantages for the
 74 purpose of attracting business to locate in this state;

1 (6) aid the various communities in this state in getting
 2 business to locate therein;

3 (7) advise and cooperate with municipal, county, regional,
 4 and other planning agencies and planning groups within the state
 5 for the purpose of promoting coordination between the state and
 6 localities as to plans and development in order to maintain a
 7 high level of gainful employment in private profitable
 8 production and achieve commensurate advancement in social and
 9 cultural welfare; coordinate the activities of state-wide and
 10 local planning agencies, correlate information secured from them
 11 and from state departments and disseminate information and
 12 suggestions to the planning agencies; and encourage and assist
 13 in the organization and functioning of local planning agencies
 14 where none exist; and may provide at the request of any
 15 governmental subdivision hereinafter mentioned planning
 16 assistance, which includes but is not limited to surveys, land
 17 use studies, urban renewal plans, technical services and other
 18 planning work to any city or other municipality in the state or
 19 perform similar planning work in any county, metropolitan or
 20 regional area in the state. The commissioner shall not perform
 21 the planning work with respect to a metropolitan or regional
 22 area which is under the jurisdiction for planning purposes of a
 23 county, metropolitan, regional or joint planning body, except at
 24 the request or with the consent of the respective county,
 25 metropolitan, regional or joint planning body. The commissioner
 26 is authorized to receive and expend money from municipal,
 27 county, regional and other planning agencies; and may accept and
 28 disburse grants and other aids for planning purposes from the
 29 federal government and from other public or private sources, and
 30 may utilize moneys so received for the employment of consultants
 31 and other temporary personnel to assist in the supervision or
 32 performance of planning work supported by money other than state
 33 appropriated money, and may enter into contracts with agencies
 34 of the federal government, units of local government or
 35 combinations thereof, and with private persons that are
 36 necessary in the performance of the planning assistance function
 37 of the commissioner. The commissioner may assist any local
 38 government unit in filling out application forms for the federal
 39 grants-in-aid. In furtherance of their planning functions, any
 40 city or town, however organized, may expend money and contract
 41 with agencies of the federal government, appropriate departments
 42 of state government, other local units of government and with
 43 private persons; and

44 (8) adopt measures calculated to promote public interest in
 45 and understanding of the problems of planning and, to that end,
 46 may publish and distribute copies of any plan or any report and
 47 may employ other means of publicity and education that will give
 48 full effect to the provisions of sections 116J.58 to 116J.63.

116J#63S

49 116J.63 SALE OF PAMPHLETS AND PUBLICATIONS; FEES;
 50 ADVERTISING.

51 Subdivision 1. The commissioner may sell reports,
 52 publications, or related publicity or promotional material of
 53 the department that ~~in-his-judgment~~ the commissioner determines *
 54 should not be supplied gratis to those who wish to employ them
 55 in the conduct of their business.

56 No change for subd 2 to 3

116J#64S

57 116J.64 LOANS TO INDIANS.

58 No change for subd 1 to 6

59 Subd. 7. An Indian desiring a loan for the purpose of
 60 starting a business enterprise, expanding an existing business,
 61 or for technical and management assistance, shall make
 62 application to the Indian affairs council. The Indian affairs
 63 council shall prescribe the necessary forms and advise the
 64 prospective borrower as to the conditions under which ~~his~~ the *
 65 application may be expected to receive favorable consideration.
 66 The application shall be forwarded to the appropriate tribal
 67 council for approval or disapproval, and shall be in conformity
 68 with the plans submitted by said tribal councils. If the
 69 application is approved, the Indian affairs council shall
 70 forward the application, together with all relevant documents
 71 pertinent thereto, to the commissioner of finance, who shall
 72 draw ~~his~~ a warrant in favor of the applicable tribal council *
 73 with appropriate notations identifying the borrower. The tribal
 74 council shall thereafter reimburse suppliers and vendors for

1 purchases of equipment, real estate and inventory made by the
 2 borrower pursuant to the conditions or guidelines established by
 3 the Indian affairs council. The tribal council shall maintain
 4 records of transactions for each borrower in a manner consistent
 5 with good accounting practice. Simple interest at two percent
 6 of the amount of the debt owed shall be charged. When any
 7 portion of a debt is repaid, the tribal council shall remit the
 8 amount so received plus interest paid thereon to the state
 9 treasurer through the Indian affairs council. The amount so
 10 received shall be credited to the Indian business loan account.
 11 The tribal council shall secure a fidelity bond from a surety
 12 company, in favor of the state treasurer, in an amount equal to
 13 the maximum amount to the credit of its loan account during the
 14 fiscal year. On the placing of a loan, additional money equal
 15 to ten percent of the total amount made available to any tribal
 16 council for loans during the fiscal year shall be paid to the
 17 council prior to December 31 for the purpose of financing
 18 administrative costs.

19 No change for subd 8 to 11

116J#74S

20 116J.74 DEFINITIONS.

21 No change for subd 1 to 2

22 Subd. 3. APPLICANT. "Applicant" means a person
 23 acting ~~on-his-own-behalf~~ personally or authorized to act on *
 24 behalf of any other person for the purpose of securing a license. *

25 No change for subd 4 to 8

116J#75S

26 116J.75 BUREAU OF BUSINESS LICENSES.

27 No change for subd 1

28 Subd. 2. DIRECTOR'S POWERS AND DUTIES. The director
 29 shall direct the work of the bureau. The director may, with the
 30 advice and consent of the commissioner, hire necessary employees *
 31 ~~as-he-may-deem-necessary~~, prescribe their duties, fix their *
 32 compensation, and provide for the reimbursement of their
 33 expenses.

34 Subd. 3. DIRECTOR'S REPORT. The director shall
 35 report to the commissioner or ~~his~~ a designee on the activities *
 36 of the bureau to ensure the consistency of those activities with *
 37 the overall economic development policies of the state.

38 No change for subd 4

116J#76S

39 116J.76 GENERAL FUNCTIONS; POWERS AND DUTIES.

40 The bureau, by and through the director or ~~his~~ the *
 41 director's duly authorized employees, shall have the following *
 42 functions, powers, and duties:

43 (a) providing comprehensive information on licenses
 44 required for business undertakings, projects, and activities in
 45 the state and making the information available to applicants and
 46 other persons;

47 (b) providing interested persons with an opinion as to the
 48 number, kind, and source of required licenses and potential
 49 difficulties in obtaining the licenses, based on a review of a
 50 potential applicant's business concept at an early stage in its
 51 planning;

52 (c) developing with the assistance of other departments a
 53 master application procedure to expedite the identification and
 54 processing of these licenses;

55 (d) facilitating or recommending consolidation of hearings
 56 required pursuant to licensing applications when feasible and
 57 advantageous;

58 (e) encouraging and facilitating the participation of
 59 federal and local government agencies in licensing coordination;

60 (f) making recommendations for eliminating, consolidating,
 61 simplifying, expediting, or otherwise improving licensing
 62 procedures affecting business undertakings;

63 (g) serving as an advocate for small business license
 64 applicants with state, federal, and local agencies in the
 65 process of applying for licenses and complying with licensing
 66 standards and requirements; and

67 (h) adopting rules, procedures, instructions, and forms as
 68 are required to carry out the functions, powers, and duties
 69 imposed upon the bureau by sections 116J.73 to 116J.86.

116J#961S

70 116J.961 GOVERNOR'S RURAL DEVELOPMENT COUNCIL.

71 No change for subd 1 to 2

72 Subd. 3. OFFICERS. The council may elect a

1 chairperson chair, vice-chairperson vice-chair, and other *
 2 officers as is necessary from its members.
 3 No change for subd 4 to 10

116K#02S

4 116K.02 STATE PLANNING AGENCY.
 5 No change for subd 1
 6 Subd. 2. DIRECTOR. The governor shall appoint a
 7 state planning director in the unclassified service. He The *
 8 director shall be professionally competent in the fields of *
 9 public administration and planning and shall possess
 10 demonstrated ability, based upon past performance, to perform
 11 the duties of state planning director.
 12 No change for subd 3 to 4

116K#04S

13 116K.04 POWERS AND DUTIES.
 14 Subdivision 1. The director shall:
 15 (1) Prepare comprehensive, long range recommendations for
 16 the orderly and coordinated growth of the state including
 17 detailed recommendations on major public investment proposals
 18 and programs in the state.
 19 (2) Develop and maintain a statewide long-range policy
 20 planning process involving local units of government, regional
 21 development commissions, the metropolitan council, and state
 22 agencies.
 23 (3) Develop and analyze information and forecasts relating
 24 to the state's population, economy, natural resources and human
 25 services, including but not limited to: (a) collection and
 26 analysis of information necessary to enable ~~him~~ the director to *
 27 report annually to the governor and the legislature on the
 28 status of the state's economy and on forecasts of medium and
 29 long-term economic prospects for the state; (b) analysis and
 30 reporting on the comparability of economic data, assumptions and
 31 analyses used by other planning entities, state agencies, and
 32 levels of government as ~~he~~ the director deems appropriate; (c) *
 33 assessment of the implications of demographic, economic, and
 34 programmatic trends on state and local policies and institutions
 35 for providing health, education, and other human services; and
 36 (d) assessment of the availability and quality of data for
 37 long-range planning and policy development.
 38 (4) Assist the governor in developing and evaluating
 39 alternative long-range policies and strategies.
 40 (5) Act in coordination with the commissioner of finance
 41 and affected state agencies in the planning and financing of
 42 major public programs, including but not limited to capital
 43 improvements.
 44 (6) Initiate studies of major policy issues having
 45 long-range implications.
 46 (7) Provide planning assistance to local, regional, and
 47 state agencies, and coordinate these levels of planning with the
 48 state long-range policy planning process.
 49 Subd. 2. The director shall:
 50 (1) Review plans, studies and proposed studies, of all
 51 state departments and agencies.
 52 (2) Report regularly and on or before November 15 of each
 53 even numbered year to the legislature, reviewing in each report
 54 the state planning program, and the progress and development
 55 thereof. Thereafter, as soon as practicable, ~~he~~ the director *
 56 shall make recommendations for desirable legislation and
 57 necessary appropriations.
 58 (3) Make available to the legislature or any authorized
 59 committee or commission information concerning statewide
 60 development plans and basic research from which the plans have
 61 been developed.
 62 (4) Develop and maintain, in consultation with local
 63 government elected officials, a process and procedures for the
 64 review of federal grant applications, and the coordination of
 65 planning activities including state and local responsibilities
 66 as existed on January 1, 1983, in federal Office of Management
 67 and Budget Circular A-95, Parts I, II, III, and IV; and the
 68 federal Executive Order 12372.
 69 (5) Assist the governor and the commissioner of finance in
 70 the review of biennial budget proposals and in the analysis of
 71 major public investments.
 72 (6) Promote awareness by citizens and public officials of
 73 major long-range trends and policy issues.
 74 No change for subd 3

1 Subd. 4. The director shall:

2 (1) Appoint the state demographer, who shall be compensated
3 in accordance with section 43A.18, subdivision 3. The state
4 demographer shall be professionally competent in the field of
5 demography and shall possess demonstrated ability, based upon
6 past performance;

7 (2) Continuously gather and develop demographic data within
8 the state;

9 (3) Design and test methods of research and data collection;

10 (4) Periodically prepare population projections for
11 designated regions and for the state and may periodically
12 prepare projections for each county, or other political or
13 geographic division as necessary to carry out the purposes of
14 this section;

15 (5) Review, comment, and prepare analysis of population
16 estimates and projections made by state agencies, political
17 subdivisions, other states, federal agencies or nongovernmental
18 persons, institutions or commissions;

19 (6) Serve as the state liaison with the federal bureau of
20 census, and coordinate ~~his~~ the activities of the state planning
21 agency with federal demographic activities to the fullest extent
22 possible, and shall aid the legislature in preparing a census
23 data plan and form for each decennial census;

24 (7) Compile an annual study of population estimates on the
25 basis of county, regional or other political or geographic
26 divisions as necessary to carry out the purposes of this
27 subdivision and section 116K.05;

28 (8) On or before January 1 of each year, issue a report to
29 the legislature containing an analysis of the demographic
30 implications of the annual population study and population
31 projections;

32 (9) Cause to be prepared maps of all counties in the state,
33 all municipalities with a population of 10,000 or more, and any
34 other municipalities as deemed necessary for census purposes,
35 according to scale and detail recommended by the federal bureau
36 of the census, with the maps of cities showing boundaries of
37 precincts; and

38 (10) Prepare an estimate of population and of the number of
39 households for each governmental subdivision for which the
40 metropolitan council does not prepare an annual estimate, and
41 shall communicate the estimates to the governing body of each
42 governmental subdivision by May 1 of each year.

43 No change for subd 5

116K#05S

44 116K.05 POPULATION ESTIMATES AND PROJECTIONS, SUBMISSION
45 BY STATE AGENCIES.

46 Each state agency shall submit to the commissioner for ~~his~~
47 comment all population estimates and projections prepared by it
48 prior to:

49 (a) Submitting those estimates and projections to the state
50 legislature or federal government to obtain appropriations or
51 grants,

52 (b) The issuance of bonds based upon those estimates and
53 projections, and

54 (c) Releasing any plan based upon those estimates and
55 projections.

116K#06S

56 116K.06 COOPERATIVE CONTRACTS.

57 The commissioner may apply for, receive and expend money
58 from municipal, county, regional and other planning agencies;
59 apply for, accept, and disburse grants and other aids for
60 planning purposes from the federal government and from other
61 public or private sources, and may enter into contracts with
62 agencies of the federal government, local governmental units,
63 the university of Minnesota, and other educational institutions,
64 and private persons as may be necessary in the performance of
65 ~~his~~ the commissioner's duties. Contracts made pursuant to this
66 section shall not be subject to the provisions of chapter 16, as
67 they relate to competitive bidding.

68 The commissioner may apply for, receive, and expend money
69 made available from federal sources or other sources for the
70 purposes of carrying out the duties and responsibilities of the
71 commissioner relating to local and urban affairs.

72 All moneys received by the commissioner pursuant to this
73 section shall be deposited in the state treasury and are
74 appropriated to the commissioner for the purposes for which the

*
*

*

*

1 moneys have been received. The money shall not cancel and shall
2 be available until expended.

116K#07S

3 116K.07 RULES.

4 No moneys, regardless of the source thereof, made available
5 to the commissioner pursuant to sections 116K.01 to 116K.07 or
6 any other law shall be expended ~~by-him~~ for planning programs *
7 until ~~he~~ the commissioner promulgates and adopts rules *
8 prescribing the criteria, standards, and procedures to govern
9 the expenditure thereof. The rules shall be adopted under the
10 administrative procedure act as contained in chapter 14, and
11 shall conform with all terms and conditions imposed on the
12 commissioner when the moneys are made available ~~to-him~~. *

116L#03S

13 116L.03 BOARD.

14 No change for subd 1 to 3

15 Subd. 4. CHAIR. The ~~chairperson~~ chair shall be *
16 appointed by the governor.

17 No change for subd 5 to 7

116M#06S

18 116M.06 MINNESOTA ENERGY AND ECONOMIC DEVELOPMENT
19 AUTHORITY.

20 No change for subd 1 to 10

21 Subd. 11. MEMBERSHIP. The members and governing body
22 of the authority shall be the commissioner and ten other members
23 appointed by the governor. The governor shall designate the
24 ~~chairman~~ chair from among the members. The board shall elect a *
25 secretary and other officers as it deems fit from among its
26 members. On July 1, 1983, the governor shall have authority to
27 appoint new members. The terms of the current members shall
28 expire, respectively, when they are replaced and new members are
29 appointed by the governor and qualified. Section 15.0575
30 governs the terms, compensation, removal and filling of
31 vacancies in the offices of members other than the commissioner.

32 No change for subd 12 to 13

117*#035S

33 117.035 PROCEEDINGS, BY WHOM INSTITUTED.

34 If such property be required for any authorized purpose of
35 the state, the proceeding shall be taken in the name of the
36 state by the attorney general upon request of the officer,
37 board, or other body charged by law with the execution of such
38 purpose; if by a corporation or other body, public or private,
39 authorized by law to exercise the right of eminent domain, in
40 its corporate or official name and by the governing body
41 thereof; and if by an individual so authorized, in ~~his~~ the *
42 individual's own name. *

117*#045S

43 117.045 COMPELLING ACQUISITION IN CERTAIN CASES.

44 ~~If-a-person~~ Upon successfully ~~bringing~~ bringing an action *
45 compelling an acquiring authority to initiate eminent domain
46 proceedings relating to ~~his~~ a person's real property which was *
47 omitted from any current or completed eminent domain proceeding,
48 such person shall be entitled to petition the court for
49 reimbursement for ~~his~~ reasonable costs and expenses, including *
50 reasonable attorney, appraisal and engineering fees, actually
51 incurred in bringing such action. Such costs and expenses shall
52 be allowed only in accordance with the applicable provisions of
53 the Uniform Relocation Assistance and Real Property Acquisition
54 Policies Act of 1970, 84 Stat. 1894 (1971), any acts amendatory
55 thereof, any regulations duly adopted pursuant thereto, or
56 regulations duly adopted by the state of Minnesota, its agencies
57 or political subdivisions pursuant to law.

117*#055S

58 117.055 PETITION AND NOTICE.

59 In all cases a petition, describing the desired land,
60 stating by whom and for what purposes it is proposed to be
61 taken, and giving the names of all persons appearing of record
62 or known to the petitioner to be the owners thereof shall be
63 presented to the district court of the county in which the land
64 is situated praying for the appointment of commissioners to
65 appraise the damages which may be occasioned by such taking.
66 Notice of the objects of the petition and of the time and place
67 of presenting the same shall be served at least 20 days before
68 such time of presentation upon all persons named in the petition
69 as owners as defined in section 117.025, subdivision 3, and upon
70 all occupants of such land in the same manner as a summons in a

1 civil action. If any such owner be not a resident of the state,
 2 or his the owner's place of residence be unknown to the
 3 petitioner, upon the filing of an affidavit of the petitioner,
 4 his or the petitioner's agent or attorney, stating that he the
 5 petitioner believes that such owner is not a resident of the
 6 state, and that he the petitioner has mailed a copy of the
 7 notice to him the owner at his the owner's place of residence,
 8 or that after diligent inquiry his the owner's place of
 9 residence cannot be ascertained by the affiant, then service may
 10 be made upon such owner by three weeks' published notice. If
 11 the state be an owner, the notice shall be served upon the
 12 attorney general. Any owner not served as herein provided shall
 13 not be bound by such proceeding unless-he except upon
 14 voluntarily appears appearing therein. Any owner shall be
 15 furnished a right of way map or plat of all that part of his
 16 land to be taken upon written demand, provided that the
 17 petitioner shall have ten days from the receipt of the demand
 18 within which to furnish the same. Any plans or profiles which
 19 the petitioner has shall be made available to the owner for
 20 inspection.

117*#075S

21 117.075 COURT TO APPOINT COMMISSIONERS.

22 Upon proof being filed of the service of such notice, the
 23 court, at the time and place therein fixed or to which the
 24 hearing may be adjourned, shall hear all competent evidence
 25 offered for or against the granting of the petition, regulating
 26 the order of proof as it may deem best. If the proposed taking
 27 shall appear to be necessary and such as is authorized by law,
 28 the court by an order shall appoint three disinterested
 29 commissioners, and at least two alternates, residents of the
 30 county, to ascertain and report the amount of damages that will
 31 be sustained by the several owners on account of such taking.

32 Before appointing a commissioner, the court shall inquire
 33 whether each prospective commissioner has any relationship,
 34 business or otherwise, to any of the parties in the proceeding,
 35 or any interest in the proceeding which may constitute a
 36 conflict of interest, or which may create the appearance of
 37 impropriety should that person be appointed. Responses to this
 38 inquiry must be either written or on the record and made
 39 available by the court to any party in the proceeding before and
 40 after appointment. No person who might have difficulty in
 41 rendering an unbiased decision may be appointed to serve. The
 42 court, in its discretion, may appoint one registered, practicing
 43 attorney to the commission who is knowledgeable in eminent
 44 domain matters. All other commissioners appointed must be
 45 persons actively engaged in the occupation of real estate sales
 46 or real estate appraising or persons knowledgeable in real
 47 estate values. The order shall fix the time and place of the
 48 first meeting of the three commissioners and prescribe their
 49 compensation. At the first meeting at the office of the clerk
 50 of district court the appointees must be sworn by the clerk or
 51 an authorized deputy and shall take and sign the following oath
 52 before assuming their duties as commissioners:

53 (TITLE OF PROCEEDING)

54 each-for-himself/herself

55 does swear under penalty of perjury as follows:

56 I will faithfully and justly perform to the best of my
 57 ability, all the duties of the office and trust which I now
 58 assume as commissioner in the above entitled proceeding. I
 59 further swear that, except as disclosed in writing or on
 60 the record, I have no interest in any of the lands in the
 61 above proceeding or any present or past relationship,
 62 business or personal, with any of the parties to the above
 63 proceeding or any other actual or potential conflict of
 64 interest, and that I will render fair and impartial
 65 decisions, so help me God.

66 The order may, in the discretion of the court, limit the
 67 title or easement to be acquired by the petitioner by defining
 68 the rights and privileges which the owner of any of the lands
 69 may exercise therein in subordination to the public uses to
 70 which it is appropriated. In case any commissioner fails to act
 71 or fails to meet the qualifications required by this section,
 72 the court without further notice may appoint another in his-or
 73 her that commissioner's place.

74 The clerk of court in each county shall post in the
 75 courthouse in a prominent place a notice that a qualified person

1 may apply to have ~~his-or-her~~ the person's name placed upon a *
2 list of potential commission appointees for eminent domain
3 proceedings. The notice must contain the language of the oath
4 which the commissioners are required to take upon appointment
5 and shall list the other qualifications set forth in this
6 section. The court shall give due consideration to the names
7 appearing on the list, but is not bound to make appointments
8 from the list.

117*#086S

9 117.086 NONCONTIGUOUS TRACTS, TREATMENT AS UNIT.

10 No change for subd 1

11 Subd. 2. In the event that an appeal is taken, a party
12 claiming a unity in noncontiguous tracts shall give notice
13 thereof in ~~his~~ the notice of appeal as provided in section *
14 117.145.

15 No change for subd 3

117*#105S

16 117.105 FILING OF REPORT, TIME, FAILURE TO REPORT.

17 No change for subd 1

18 Subd. 2. If the commissioners fail to file their report
19 within the time provided by the order appointing the
20 commissioners, or within any extension of time to file granted
21 by the court, any owner may upon motion, after due notice to the
22 petitioner, have the proceedings set aside as to ~~him~~ that owner;
23 but, for cause shown, the court may extend the time for making *
24 their report. If the proceedings are set aside as to any
25 individual owner, ~~he~~ that owner shall be entitled to *
26 reimbursement for reasonable costs and disbursements including
27 attorney's fees.

117*#115S

28 117.115 REPORT, NOTICE.

29 No change for subd 1

30 Subd. 2. Within ten days after the date of the filing of
31 the report of commissioners, the petitioner shall notify each
32 respondent and ~~his~~ each respondent's attorney by mail of the *
33 filing of the report of commissioners setting forth the date of
34 filing of the report, the amount of the award, and all the terms
35 and conditions thereof as the same pertain to such respondent.
36 Such notification shall be addressed to the last known post
37 office address of each respondent and ~~his~~ each respondent's *
38 attorney.

117*#125S

39 117.125 DEPOSIT IN COURT.

40 Where the residence of a party is unknown, or ~~he~~ the party *
41 is an infant or other person under legal disability, or being
42 legally capable, refuses to accept payment, or if for any reason
43 it is doubtful to whom any award should be paid, the petitioner
44 may pay the same to the clerk of district court, to be paid out
45 under the direction of the district court; and unless an appeal
46 is taken, as hereinafter provided, such deposit with the clerk
47 shall be deemed a payment of the award. The award when
48 deposited shall not draw interest from the date of deposit.

117*#225S

49 117.225 EASEMENT DISCHARGE.

50 Whenever ~~the underlying fee owner claims~~ claiming that an *
51 easement acquired by condemnation is not being used for the
52 purposes for which it was acquired, ~~he~~ the underlying fee owner *
53 may apply to the district court of the county in which the land
54 is situated for an order discharging the easement, upon such
55 terms as are just and equitable. Due notice of said application
56 shall be given to all interested parties. Provided, however,
57 this section shall not apply to easements acquired by
58 condemnation by a public service corporation now or hereafter
59 doing business in the state of Minnesota.

117*#231S

60 117.231 PAYMENT IN INSTALLMENTS.

61 No change for subd 1 to 2

62 Subd. 3. PURCHASE OF PROPERTY; PROCEDURE. When the
63 property is purchased from the private owner, the amount of the
64 purchase price shall be paid in a lump sum, unless the property
65 owner at the time ~~he delivers~~ of delivering the conveyance to *
66 the condemning authority shall elect to have the purchase price
67 paid in not more than four annual installments and without
68 interest on the deferred installments.

117*#232S

69 117.232 DIRECT PURCHASE.

1 Subdivision 1. When acquisition of private property is
 2 accomplished by the state department of transportation by direct
 3 purchase the owner shall be entitled to reimbursement for
 4 appraisal fees, not to exceed a total of \$500. When acquisition
 5 of private property is accomplished by any other acquiring
 6 authority, the owner is entitled to reimbursement for appraisal
 7 fees, not to exceed \$500, if the owner is otherwise entitled to
 8 reimbursement under sections 117.50 to 117.56. The purchaser in
 9 all instances shall inform the owner of ~~his~~ the right, if any, *
 10 to reimbursement for appraisal fees reasonably incurred, in an
 11 amount not to exceed \$500, together with relocation costs,
 12 moving costs and any other related expenses to which an owner is
 13 entitled by sections 117.50 to 117.56. This subdivision does
 14 not apply to acquisition for utility purposes made by a public
 15 service corporation organized pursuant to section 300.03 or
 16 electric cooperative associations organized pursuant to section
 17 308.05.

18 No change for subd 2

117*#49S

19 117.49 APPROVAL OF PROCEEDINGS BY COMMISSIONER OF
 20 NATURAL RESOURCES.

21 In the event that the right to exercise the power of
 22 eminent domain in accordance with this chapter, is granted by
 23 law to any person, corporation or association qualified to do
 24 business in the state of Minnesota engaged in or preparing to
 25 engage in the business of transporting crude petroleum, oil,
 26 their related products and derivatives including liquefied
 27 hydrocarbons by pipeline as a common carrier, the right shall
 28 not be exercised by such person, corporation, or association
 29 until the plans of the project for which the exercise of the
 30 power of eminent domain is proposed shall have first been
 31 submitted to and approved by the commissioner of natural
 32 resources. The plans shall be submitted in sufficient detail so
 33 that the commissioner can make a determination as to the impact
 34 that the proposed project will have on the environment. The
 35 commissioner of natural resources shall make a comprehensive
 36 review of such plans and make detailed comments on the effect
 37 that such project, if pursued, would have on the environment,
 38 including recommendations for changes or alterations, if any,
 39 that would be required before such project would be approved by
 40 ~~him~~ the commissioner. Failure of the commissioner to approve or *
 41 disapprove the plans so submitted within 90 days after
 42 submission shall be deemed approval of the plans and the power
 43 of eminent domain may thereupon be exercised for such project.

117*#50S

44 117.50 DEFINITIONS.

45 No change for subd 1 to 2

46 Subd. 3. "Displaced person" means any person who moves
 47 from real property, or moves ~~his~~ personal property from real *
 48 property, as a result of acquisition undertaken by an acquiring
 49 authority or as a result of voluntary rehabilitation carried out
 50 by a person pursuant to acquisition or as a consequence thereof.

51 No change for subd 4 to 5

117*#521S

52 117.521 WAIVER OF RELOCATION BENEFITS.

53 Subdivision 1. Any owner-occupant of property who (a)
 54 prior to any action by the acquiring authority indicating an
 55 intent to acquire the property whether or not the owner-occupant
 56 is willing to sell, requests that the property be acquired
 57 through negotiation, or (b) has clearly shown an intent to sell
 58 the property on the public market prior to any inquiry or action
 59 by the acquiring authority, may voluntarily waive any relocation
 60 assistance, services, payments and benefits, for which ~~he-is~~ *
 61 eligible under this chapter by signing a waiver agreement
 62 specifically describing the type and amounts of relocation *
 63 assistance, services, payments and benefits for which ~~he-is~~ *
 64 eligible, separately listing those being waived, and stating
 65 that the agreement is voluntary and not made under any threat of
 66 acquisition by eminent domain by the acquiring authority. Prior
 67 to execution of the waiver agreement by the owner-occupant, the
 68 acquiring authority shall explain the contents thereof to the
 69 owner-occupant.

70 Any waiver not voluntarily agreed to is invalid, and the
 71 burden of proof shall be upon the acquiring authority to show
 72 that the agreement was entered into voluntarily. A statement at
 73 trial by a witness not involved in the acquisition of the

1 property, that the contents of the waiver agreement were
 2 explained to the owner-occupant in a manner understandable to
 3 the owner-occupant, describing the method of explanation, that
 4 the owner-occupant appeared to understand the terms and
 5 conditions of the waiver agreement, that no express or implied
 6 threats of taking the property by eminent domain, or any other
 7 threats intended to induce the owner-occupant to waive ~~his~~ ~~or~~ *
 8 ~~her~~ relocation assistance benefits, were made to the *
 9 owner-occupant by any employee or official of the acquiring
 10 authority throughout the entire process of acquisition of the
 11 property, and that the owner-occupant appeared to voluntarily
 12 enter into the agreement, shall, unless decided otherwise by the
 13 court, shift the burden of proof to the person claiming that the
 14 agreement was not entered into voluntarily.

15 Subd. 2. The owner of a rental property whose property is
 16 being acquired through negotiation as a result of either
 17 subdivision 1, clause (a) or (b), may waive only ~~his~~ the right *
 18 to relocation assistance, services, payments and benefits as
 19 outlined in subdivision 1, and non-owner occupants of the
 20 property being acquired shall receive all relocation assistance,
 21 services, payments and benefits for which they are eligible,
 22 notwithstanding the provision of subdivision 1.

23 No change for subd 3 to 4

119*#08S

24 119.08 PURCHASE OF ANNUITIES FOR EMPLOYEES.

25 Subdivision 1. At the request of an employee, MECC may
 26 negotiate and purchase an individual annuity contract from a
 27 company licensed to do business in the state of Minnesota for an
 28 employee for retirement or other purposes and may allocate a
 29 portion of the compensation otherwise payable to the employee as
 30 salary for the purpose of paying the entire premium due or to
 31 become due under such contract. The allocation shall be made in
 32 a manner which will qualify the annuity premiums, or a portion
 33 thereof, for the benefit afforded under section 403(b) of the
 34 current federal Internal Revenue Code or any equivalent
 35 provision of subsequent federal income tax law. The employee
 36 shall own such contract and ~~his~~ the employee's rights thereunder *
 37 shall be nonforfeitable except for failure to pay premiums.

120*#075S

38 120.075 ATTENDANCE; PREVIOUS ENROLLMENT; FAMILIES.

39 Subdivision 1. Any pupil who, pursuant to the provisions
 40 of Minnesota Statutes 1976, Section 120.065, or Minnesota
 41 Statutes, 1977 Supplement, Section 123.39, Subdivision 5a, was
 42 enrolled on either January 1, 1978, or April 5, 1978, in a
 43 school district of which ~~he~~ the pupil was not a resident may *
 44 continue in enrollment in that district.

45 Subd. 1a. Any pupil who, pursuant to section 123.39,
 46 subdivision 5, has continuously been enrolled since January 1,
 47 1977 in a school district of which ~~he~~ the pupil was not a *
 48 resident may continue in enrollment in that district, and that
 49 district shall be considered the pupil's district of residence.

50 Subd. 2. Any child who was under school age on either
 51 January 1, 1978, or April 5, 1978, but who otherwise would have
 52 qualified pursuant to the provisions of Minnesota Statutes 1976,
 53 Section 120.065, or Minnesota Statutes, 1977 Supplement, Section
 54 123.39, Subdivision 5a, for enrollment in a school district of
 55 which ~~he~~ the child was not a resident may enroll in that *
 56 district.

57 Subd. 3. Any pupil enrolled on either January 1, 1978, or
 58 April 5, 1978, in a non-public school, as defined in section
 59 123.932, subdivision 3, located in a district of which ~~he~~ the *
 60 pupil was not a resident who would otherwise have qualified for *
 61 enrollment in that district as a resident pursuant to
 62 subdivision 1 may attend the public schools of that district as
 63 a resident.

64 No change for subd 3a to 4

120*#0751S

65 120.0751 STATE BOARD OF EDUCATION; ENROLLMENT EXCEPTIONS.

66 Subdivision 1. The state board of education may permit a
 67 pupil who enrolls in a school district of which ~~he~~ the pupil is *
 68 not a resident to be deemed a resident pupil of that district
 69 pursuant to this section.

70 Subd. 2. The pupil or ~~his~~ the pupil's parent or guardian *
 71 shall make application to the state board, explaining the
 72 particular circumstances which make the nonresident district the
 73 appropriate district of attendance for the pupil. The

1 application must be signed by the pupil's parent or guardian and
2 the superintendent of the nonresident district.

3 No change for subd 3 to 5

120*#0752S

4 120.0752 AGREEMENTS BETWEEN SCHOOL BOARDS; ENROLLMENT
5 EXCEPTIONS.

6 Subdivision 1. A pupil may enroll in a school district of
7 which ~~he~~ the pupil is not a resident and be deemed a resident *
8 pupil of that district pursuant to this section.

9 Subd. 2. The pupil's parent or guardian must receive the
10 approval of the school board of the nonresident district and the
11 school board of the resident district. The approval shall be on
12 a form provided by the department of education. The
13 superintendent of the nonresident district shall forward a copy
14 of this form to the department of education within ten days of
15 its approval. If the student withdraws ~~his-enrollment~~ *
16 nonresident district the superintendent of that district shall
17 report the fact to the department of education.

120*#08S

18 120.08 ATTENDANCE; HIGH SCHOOL IN ADJOINING STATE.

19 Subdivision 1. Any person under 21 years of age residing
20 in any district not maintaining a secondary school who has
21 successfully completed the elementary school may, with the
22 consent of the board of such district, attend any secondary
23 school of a district in an adjoining state willing to admit ~~him~~ *
24 the person, which secondary school is nearer to ~~his~~ the place of *
25 residence than any duly established secondary school in
26 Minnesota, the distances being measured by the usual traveled
27 routes. Any tuition charged by the district so attended shall
28 be paid to the district attended by the district in which the
29 person resides. This tuition shall not be more than (a) such
30 district charges non-resident pupils of that state, (b) the
31 average maintenance cost exclusive of transportation per pupil
32 unit in average daily membership in the school attended, nor (c)
33 the tuition rate provided for in section 124.18, subdivision 2.

34 Any pupil attending a secondary school in an adjoining
35 state for whom tuition is paid from district funds is entitled
36 to transportation services in accordance with Minnesota Statutes.

37 Subd. 2. A school board in a district maintaining a
38 secondary school may by a majority vote provide for the
39 instruction of any resident pupil in a school district in an
40 adjoining state nearer to ~~his~~ the pupil's place of residence *
41 than the school of ~~his~~ the resident district, the distances *
42 being measured by the usual traveled routes. Any charge for
43 tuition by the district so attended or for transportation shall
44 be paid by the pupil's resident district provided that such
45 pupil shall continue to be a pupil of the district of ~~his~~ *
46 residence for the payment of apportionment and other state aids.

120*#095S

47 120.095 SCHOOL CENSUS.

48 Subdivision 1. Except as otherwise provided in this
49 section, the school board of each district shall cause to be
50 taken an enumeration, called the school census of all persons
51 under 21 years of age on September 1 during the year the census
52 is taken. The school census shall show the name and date of
53 birth of each person required to be enumerated and the name and
54 address of ~~his~~ the person's parent, guardian, or other person *
55 having charge of such child, and such other data as the state
56 board may require.

57 Subd. 2. The school census shall be taken by the clerk of
58 the board, or by some other person appointed by the board. Such
59 person taking such census shall certify to the board the
60 correctness of the enumeration and the information therein
61 contained. The board shall fix the compensation for such work.
62 Each child shall be counted in only one district, being that in
63 which ~~he~~ the child resides on September 1 and the enumeration *
64 period shall be from September 1 through October 1.

65 No change for subd 3 to 7

120*#10S

66 120.10 COMPULSORY ATTENDANCE.

67 No change for subd '1 to 2

68 Subd. 3. LEGITIMATE EXEMPTIONS. A parent, guardian,
69 or other person having control of a child may apply to a school
70 district to have the child excused from attendance for the whole
71 or any part of the time school is in session during any school
72 year. Application may be made to any member of the board, a

1 truant officer, a principal, or the superintendent. The school
2 board of the district in which the child resides may approve the
3 application upon the following being demonstrated to the
4 satisfaction of that board:

5 (1) That the child's bodily or mental condition is such as
6 to prevent ~~his~~ attendance at school or application to study for *
7 the period required; or

8 (2) That the child has already completed the studies
9 ordinarily required in the tenth grade; or

10 (3) That it is the wish of the parent, guardian, or other
11 person having control of the child, that ~~he~~ the child attend for *
12 a period or periods not exceeding in the aggregate three hours
13 in any week, a school for religious instruction conducted and
14 maintained by some church, or association of churches, or any
15 Sunday school association incorporated under the laws of this
16 state, or any auxiliary thereof. This school for religious
17 instruction shall be conducted and maintained in a place other
18 than a public school building, and in no event, in whole or in
19 part, shall be conducted and maintained at public expense.
20 However, a child may be absent from school on such days as the
21 child attends upon instruction according to the ordinances of
22 some church.

23 No change for subd 4

120*#11S

24 120.11 SCHOOL BOARDS AND TEACHERS, DUTIES.

25 It shall be the duty of each board through its clerk or
26 other authorized agent or employee, to report the names of
27 children required to attend school, with excuses, if any,
28 granted in such district, to the superintendent or principals
29 thereof, within the first week of school. Subsequent excuses
30 granted shall be forthwith reported in the same manner. The
31 clerk or principal shall provide the teachers in the several
32 schools ~~under-his-supervision~~ supervised, with the necessary *
33 information for the respective grades of school, relating to the
34 list of pupils with excuses granted. On receipt of the list of
35 such pupils of school age and the excuses granted, the clerk or
36 principals shall report the names of children not excused, who
37 are not attending school, with the names and addresses of their
38 parents, to the district superintendent within five days after
39 receiving the report.

120*#12S

40 120.12 COMPULSORY ATTENDANCE; HOW ENFORCED.

41 Subdivision 1. NOTICE TO PARENTS AND COUNTY ATTORNEY.

42 The district superintendent shall forthwith notify the
43 parent, guardian, or person in charge to send such child, of
44 whose unexcused absence ~~he~~ the superintendent has been informed, *
45 to school and upon ~~his~~ the notified person's neglect or refusal *
46 to comply with the notification, the district superintendent
47 shall, upon receipt of information of such non-compliance,
48 notify the county attorney of the facts in each case.
49 Notification by certified mail shall be considered sufficient
50 notice.

51 No change for subd 2 to 3

120*#14S

52 120.14 ATTENDANCE OFFICERS.

53 The board of any district may authorize the employment of
54 attendance officers, who shall investigate truancy or
55 non-attendance at school, make complaints, serve notice and
56 process, and attend to the enforcement of all laws and district
57 rules regarding school attendance. When any attendance officer
58 learns of any case of habitual truancy or continued
59 non-attendance of any child required to attend school ~~he~~ the *
60 officer shall immediately notify the person having control of *
61 such child to forthwith send to and keep ~~him~~ the child in *
62 school. ~~He~~ The officer shall act under the general supervision *
63 of the district superintendent.

120*#16S

64 120.16 INVESTIGATION AND AID TO CHILDREN.

65 Subdivision 1. RESOLUTION; CERTIFICATION. When a
66 board finds, by resolution, that any child in the district is
67 unable to attend school because ~~his~~ financial resources and *
68 needs require ~~his~~ employment elsewhere, the clerk shall certify *
69 the resolution of such fact to the county board of the county of
70 the child's residence. Upon such certification, the county
71 board shall, after investigation, furnish such aid as will
72 enable the child to attend school during the entire school year.

1 Subd. 2. REPORTS; CHILDREN RECEIVING AID. The
2 truant officer or other authorized officer shall notify the
3 teacher to whom any child receiving aid under the provisions of
4 this section may be assigned. It shall be the duty of the
5 teacher having charge of such child to report monthly to the
6 board the progress such child is making in ~~his~~ school work, and *
7 the record of attendance, together with such other information
8 as may be deemed necessary by the teacher.

120*#17S

9 120.17 HANDICAPPED CHILDREN.

10 No change for subd 1 to 3a

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

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

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

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

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

23 (b) The district shall not proceed with the initial formal
24 assessment of a child, the initial placement of a child in a
25 special education program or the initial provision of special
26 education services for a child without the prior written consent
27 of the child's parent or guardian. The refusal of a parent or
28 guardian to consent may be overridden by the decision in a
29 hearing held pursuant to clause (d) at the district's initiative
30 after at least one attempt to obtain this consent through a
31 conciliation conference held pursuant to clause (c);

32 (c) Parents and guardians shall have an opportunity to meet
33 with appropriate district staff in at least one conciliation
34 conference if they object to any proposal of which they are
35 notified pursuant to clause (a);

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

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

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

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

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

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

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

56 The hearing shall take place before an impartial hearing
57 officer mutually agreed to by the school board and the parent or
58 guardian. If the school board and the parent or guardian are
59 unable to agree on a hearing officer, the school board shall
60 request the commissioner to appoint a hearing officer. The
61 hearing officer shall not be a school board member or employee
62 of the school district where the child resides or of the child's
63 school district of residence, an employee of any other public
64 agency involved in the education or care of the child, or any
65 person with a personal or professional interest which would
66 conflict with ~~his~~ the person's objectivity at the hearing. A *
67 person who otherwise qualifies as a hearing officer is not an
68 employee of the district solely because the person is paid by
69 the district to serve as a hearing officer. If the hearing
70 officer requests an independent educational assessment of a
71 child, the cost of the assessment shall be at district expense.
72 The proceedings shall be recorded and preserved, at the expense
73 of the school district, pending ultimate disposition of the
74 action.

75 (e) The decision of the hearing officer pursuant to clause

1 (d) shall be rendered not more than 45 calendar days from the
2 date of the receipt of the request for the hearing. A hearing
3 officer may grant specific extensions of time beyond the 45-day
4 period at the request of either party. The decision of the
5 hearing officer shall be binding on all parties unless appealed
6 to the hearing review officer by the parent, guardian, or the
7 school board of the district where the child resides pursuant to
8 clause (f).

9 The local decision shall:

10 (1) be in writing;

11 (2) state the controlling facts upon which the decision is
12 made in sufficient detail to apprise the parties and the hearing
13 review officer of the basis and reason for the decision;

14 (3) state whether the special education program or special
15 education services appropriate to the child's needs can be
16 reasonably provided within the resources available to the
17 responsible district or districts;

18 (4) state the amount and source of any additional district
19 expenditure necessary to implement the decision; and

20 (5) be based on the standards set forth in subdivision 3a
21 and the rules of the state board.

22 (f) Any local decision issued pursuant to clauses (d) and
23 (e) may be appealed to the hearing review officer within 15
24 calendar days of receipt of that written decision, by the
25 parent, guardian, or the school board of the district where the
26 child resides.

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

41 The final decision shall:

42 (1) be in writing;

43 (2) include findings and conclusions; and

44 (3) be based upon the standards set forth in subdivision 3a
45 and in the rules of the state board.

46 (g) The decision of the hearing review officer shall be
47 final unless appealed by the parent or guardian or school board
48 to the court of appeals. The judicial review shall be in
49 accordance with chapter 14.

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

53 (1) the commissioner has a personal interest in or specific
54 involvement with the student who is a party to the hearing;

55 (2) the commissioner has been employed as an administrator
56 by the district that is a party to the hearing;

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

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

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

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

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

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

75 (i) Pending the completion of proceedings pursuant to this
76 subdivision, unless the district and the parent or guardian of

1 the child agree otherwise, the child shall remain in ~~his~~ the *
 2 child's current educational placement and shall not be denied *
 3 initial admission to school.

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

8 Subd. 3c. Repealed, 1981 c 358 art 3 s 20

9 Subd. 4. SPECIAL INSTRUCTIONS FOR NON-RESIDENT
 10 CHILDREN. When a school district provides instruction and
 11 services outside the district of residence, board and lodging,
 12 and any tuition to be paid, shall be paid by the district of
 13 residence. The tuition rate to be charged for any handicapped
 14 child shall be the actual cost of providing special instruction
 15 and services to the child including a proportionate amount for
 16 capital outlay and debt service but not including any amount for
 17 transportation, minus the amount of special aid for handicapped
 18 children received on behalf of that child. If the boards
 19 involved do not agree upon the tuition rate, either board may
 20 apply to the commissioner to fix the rate. The commissioner
 21 shall then set a date for a hearing, giving each board at least
 22 ten days' notice, and after the hearing the commissioner shall
 23 make ~~his~~ an order fixing the tuition rate, which shall be *
 24 binding on both school districts.

25 When a district provides instruction and services in a day
 26 program outside the district of residence, the district of
 27 residence shall be responsible for providing transportation.
 28 When a district provides instruction and services requiring
 29 board and lodging or placement in a residential program outside
 30 the district of residence, the nonresident district in which the
 31 child is placed shall be responsible for providing
 32 transportation. Transportation costs shall be paid by the
 33 district responsible for providing transportation and the state
 34 shall pay transportation aid to that district.

35 For the purposes of this section, any school district may
 36 enter into an agreement, upon terms and conditions which are
 37 mutually agreed upon, to provide special instruction and
 38 services for handicapped children. In that event, one of the
 39 participating units may employ and contract with necessary
 40 qualified personnel to offer services in the several districts.
 41 Each participating unit shall reimburse the employing unit a
 42 proportionate amount of the actual cost of providing the special
 43 instruction and services, less the amount of state special
 44 education aid, which shall be claimed in full by the employing
 45 district.

46 Subd. 4a. ATTENDANCE IN ANOTHER DISTRICT. No
 47 resident of a district who is eligible for special instruction
 48 and services pursuant to this section shall be denied provision
 49 of this instruction and service because ~~he-attends~~ of attending *
 50 a public school in another school district pursuant to section *
 51 123.39, subdivision 5, if ~~his~~ the attendance is not subject to
 52 section 120.075, 120.0751, or 120.0752. If the pupil attends a
 53 public school located in a contiguous district and the district
 54 of attendance does not provide special instruction and services,
 55 the district of residence shall provide necessary transportation
 56 for the pupil between the boundary of the district of residence
 57 and the educational facility where special instruction and
 58 services are provided within the district of residence. The
 59 district of residence may provide necessary transportation for
 60 the pupil between its boundary and the school attended in the
 61 contiguous district, but shall not pay the cost of
 62 transportation provided outside the boundary of the district of
 63 residence.

64 No change for subd 5 to 5a

65 Subd. 6. PLACEMENT IN ANOTHER DISTRICT; RESPONSIBILITY.

66 The responsibility for special instruction and services for a
 67 handicapped child temporarily placed in another district for
 68 care and treatment shall be determined in the following manner:

69 (a) The school district of residence of a child shall be
 70 the district in which ~~his~~ the child's parent resides, if living, *
 71 or ~~his~~ the child's guardian, or the district designated by the *
 72 commissioner of education if neither parent nor guardian is
 73 living within the state.

74 (b) When a child is temporarily placed for care and
 75 treatment in a day program located in another district and the
 76 child continues to live within the district of residence during

1 the care and treatment, the district of residence is responsible
2 for providing transportation and an appropriate educational
3 program for the child. The district may provide the educational
4 program at a school within the district of residence, at the
5 child's residence, or in the district in which the day treatment
6 center is located by paying tuition to that district.

7 (c) When a child is temporarily placed in a residential
8 program for care and treatment, the nonresident district in
9 which the child is placed is responsible for providing an
10 appropriate educational program for the child and necessary
11 transportation within the district while the child is attending
12 the educational program; and shall bill the district of the
13 child's residence for the actual cost of providing the program,
14 as outlined in subdivision 4, except that the board, lodging,
15 and treatment costs incurred in behalf of a handicapped child
16 placed outside of the school district of his residence by the *
17 commissioner of human services or the commissioner of
18 corrections or their agents, for reasons other than for making
19 provision for his the child's special educational needs shall *
20 not become the responsibility of either the district providing
21 the instruction or the district of the child's residence.

22 (d) The district of residence shall pay tuition and other
23 program costs, not including transportation costs, to the
24 district providing the instruction and services. The district
25 of residence may claim foundation aid for the child as provided
26 by law. Transportation costs shall be paid by the district
27 responsible for providing the transportation and the state shall
28 pay transportation aid to that district.

29 Subd. 7. PLACEMENT IN STATE INSTITUTION;
30 RESPONSIBILITY. Responsibility for special instruction and
31 services for a handicapped child placed in a state institution
32 on a temporary basis shall be determined in the following manner:

33 (a) The legal residence of such child shall be the school
34 district in which his the child's parent resides, if living, or *
35 his the child's guardian; *

36 (b) When the educational needs of such child can be met
37 through the institutional program, the costs for such
38 instruction shall be paid by the department to which the
39 institution is assigned;

40 (c) When it is determined that such child can benefit from
41 public school enrollment, provision for such instruction shall
42 be made in the following manner:

43 (1) Determination of eligibility for special instruction
44 and services shall be made by the commissioner of education and
45 the commissioner of the department responsible for the
46 institution;

47 (2) The school district where the institution is located
48 shall be responsible for providing transportation and an
49 appropriate educational program for the child and shall make a
50 tuition charge to the child's district of residence for the
51 actual cost of providing the program;

52 (3) The district of the child's residence shall pay the
53 tuition and other program costs excluding transportation costs
54 and may claim foundation aid for the child. Transportation
55 costs shall be paid by the district where the institution is
56 located and the state shall pay transportation aid to that
57 district.

58 Subd. 7a. ATTENDANCE AT SCHOOL FOR THE HANDICAPPED.
59 Responsibility for special instruction and services for a
60 visually disabled or hearing impaired child attending the
61 Minnesota School for the Deaf or the Minnesota Braille and
62 Sight-Saving School shall be determined in the following manner:

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

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

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

9 (c) When it is determined that the child can benefit from
10 public school enrollment but that the child should also remain
11 in attendance at the applicable school, the school district
12 where the institution is located shall provide an appropriate
13 educational program for the child and shall make a tuition
14 charge to the state board for the actual cost of providing the
15 program, less any amount of aid received pursuant to section
16 124.32. The state board shall pay the tuition and other program
17 costs including the unreimbursed transportation costs. Aids for
18 handicapped children shall be paid to the district providing the
19 special instruction and services. Special transportation shall
20 be provided by the district providing the educational program
21 and the state shall reimburse such district within the limits
22 provided by law.

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

32 (e) Notwithstanding the provisions of clauses (b) and (c),
33 the state board may agree to supply staff from the Minnesota
34 School for the Deaf and the Minnesota Braille and Sight-Saving
35 School to participate in the programs provided by the district
36 where the institutions are located when the programs are
37 provided to students in attendance at the state schools.

38 Subd. 8. Repealed, 1973 c 683 s 30

39 No change for subd 8a

40 Subd. 9. SPECIAL INSTRUCTION. No resident of a
41 district who is eligible for special instruction and services
42 pursuant to this section shall be denied provision of this
43 instruction and service on a shared time basis because of
44 attendance at a nonpublic school defined in section 123.932,
45 subdivision 3. If a resident handicapped pupil attends a
46 nonpublic school located within ~~his~~ the district of residence, *
47 the district shall provide necessary transportation for that
48 pupil within the district between the nonpublic school and the
49 educational facility where special instruction and services are
50 provided on a shared time basis. If a resident handicapped
51 pupil attends a nonpublic school located in a district
52 contiguous to ~~his~~ the district of residence and if no agreement *
53 exists pursuant to section 124A.034, subdivision 1 or 1a, for
54 the provision of special instruction and services on a shared
55 time basis to that pupil by the district of attendance, the
56 district of residence shall provide necessary transportation for
57 that pupil between the boundary of the district of residence and
58 the educational facility where the special instruction and
59 services are provided within the district of residence. The
60 district of residence may provide necessary transportation for
61 that pupil between its boundary and the nonpublic school
62 attended, but the nonpublic school shall pay the cost of
63 transportation provided outside the district boundary.

64 No change for subd 10 to 13

120*#64S

65 120.64 ASSIGNMENT OF TEACHERS.

66 No change for subd 1

67 Subd. 2. A full-time classroom teacher currently employed
68 by a school district which converts to a flexible school year
69 program shall not, without ~~his~~ the teacher's written consent, be *
70 required to teach under this program (1) more or less than the
71 number of scheduled days or their equivalent the schools of the
72 district were maintained during the year preceding
73 implementation of the flexible school year program; (2) in a
74 period of the calendar year substantially different from the
75 period in which ~~he~~ the teacher taught during the year preceding *

1 implementation of the flexible year program.

2 No change for subd 3

3 Subd. 4. Any school district operating a flexible school
 4 year program shall enter into one contract governing the entire
 5 school year with each teacher employed in a flexible program.
 6 If individual teachers contract to teach less than a period of
 7 175 days during a school year, each 175 days of employment
 8 accrued during any five year period after the adoption of a
 9 flexible year program shall be deemed consecutive and shall
 10 constitute a full year's employment for purposes of establishing
 11 and retaining continuing contract rights to a full school year
 12 position pursuant to sections 125.12, subdivisions 3 and 4, and
 13 125.17, subdivisions 2 and 3. A teacher who has not been
 14 discharged or advised of a refusal to renew ~~his~~ the teacher's
 15 contract by the applicable date, as specified in section 125.12
 16 or 125.17, in the year in which he the teacher will complete the
 17 requisite number of days for securing a continuing contract
 18 shall have a continuing full school year contract with the
 19 district.

20 No change for subd 5

120*#73S

21 120.73 AUTHORIZED FEES.

22 Subdivision 1. A school board is authorized to require
23 payment of fees in the following areas:

24 (a) In any program where the resultant product, in excess
25 of minimum requirements and at the pupil's option, becomes the
26 personal property of the pupil;

27 (b) Admission fees or charges for extra curricular
28 activities, where attendance is optional;

29 (c) A security deposit for the return of materials,
30 supplies, or equipment;

31 (d) Personal physical education and athletic equipment and
32 apparel, although any pupil may personally provide ~~his-own~~ it if
33 it meets reasonable requirements and standards relating to
34 health and safety established by the school board;

35 (e) Items of personal use or products which a student ~~may~~
36 purchase-at-his-own-option has an option to purchase such as
37 student publications, class rings, annuals, and graduation
38 announcements;

39 (f) Fees specifically permitted by any other statute,
40 including but not limited to section 171.04, clause (1);

41 (g) Field trips considered supplementary to a district
42 educational program;

43 (h) Any authorized voluntary student health and accident
44 benefit plan;

45 (i) For the use of musical instruments owned or rented by
46 the district, a reasonable rental fee not to exceed either the
47 rental cost to the district or the annual depreciation plus the
48 actual annual maintenance cost for each instrument;

49 (j) Transportation of pupils to and from extra curricular
50 activities conducted at locations other than school, where
51 attendance is optional;

52 (k) Motorcycle classroom education courses conducted
53 outside of regular school hours; provided the charge shall not
54 exceed the actual cost of these courses to the school district.

55 No change for subd 2 to 3

56 Subd. 4. A school board may waive any such deposit or fee
57 if any pupil or ~~his~~ the pupil's parent or guardian is unable to
58 pay it.

120*#80S

59 120.80 EARLY GRADUATION.

60 Subdivision 1. Notwithstanding any law to the contrary,
 61 any secondary school student who has completed all required
 62 courses may, with the approval of the student, ~~his~~ the student's
 63 parent or guardian, and local school officials, graduate prior
 64 to the completion of the school year. All aid which such
 65 student, had he the student not graduated, would have earned for
 66 the district pursuant to section 124A.02, plus that portion of
 67 the amount raised by the local tax levy which results from such
 68 transitional year students shall continue to be earned by the
 69 district.

70 No change for subd 2

120*#84S

71 120.84 PERMANENT SCHOOL FUND ADVISORY COMMITTEE.

72 A state permanent school fund advisory committee is
73 established to advise the department of natural resources on the

1 management of permanent school fund land, which is held in trust
 2 for the school districts of the state. The advisory committee
 3 shall consist of the following persons or their designees: the
 4 chairpersons chairs of the education committees of the *
 5 legislature, the chairpersons chairs of the senate committee on *
 6 finance and house committee on appropriations, the commissioner
 7 of education, one superintendent from a non-metropolitan
 8 district, and one superintendent from a metropolitan area
 9 district. The school district superintendents shall be
 10 appointed by the commissioner of education.

11 The advisory committee shall review the policies of the
 12 department of natural resources on management of school trust
 13 fund lands and shall recommend necessary changes in policy and
 14 implementation in order to ensure provident utilization of the
 15 permanent school fund lands.

121*#02S

16 121.02 STATE BOARD OF EDUCATION.

17 No change for subd 1 to 2a

18 Subd. 3. If a member ceases to be a resident of the
 19 congressional district from which ~~he was~~ appointed he the member *
 20 shall cease to be a member of the board. The governor shall
 21 appoint ~~his~~ a successor within six months thereafter. *

22 No change for subd 4

121*#03S

23 121.03 OATH.

24 Before entering upon the duties of ~~his~~ office each member *
 25 of the state board shall take an oath of office which shall be
 26 filed with the secretary of state.

121*#17S

27 121.17 QUESTIONS SUBMITTED TO ATTORNEY GENERAL.

28 If there be any doubt as to the proper construction of any
 29 part of the state school laws, the commissioner, at the request
 30 of any public officer, shall submit such question to the
 31 attorney general, who shall give ~~his~~ a written opinion thereon *
 32 and such opinion shall be binding until annulled or overruled by
 33 a court.

121*#19S

34 121.19 MEETINGS WITH SCHOOL BOARDS, SUPERINTENDENTS, AND
 35 PRINCIPALS.

36 For the purpose of considering matters affecting the
 37 interests of public education, the commissioner, or ~~his~~ a *
 38 representative, shall, upon notice, meet with the several school
 39 board members, superintendents, school principals, and teachers
 40 at such times and places in the state as ~~he~~ the commissioner *
 41 shall deem most convenient and beneficial.

121*#20S

42 121.20 TEACHERS' INSTITUTES.

43 Subdivision 1. The commissioner may order and conduct
 44 teachers' institutes for the professional instruction and
 45 training of teachers according to such rules and regulations as
 46 ~~he~~ the commissioner may prescribe. *

47 No change for subd 2

48 Subd. 3. The commissioner may use any public school
 49 buildings or facilities or equipment for purposes of teachers'
 50 institutes as ~~he~~ the commissioner may designate in ~~his~~ the order *
 51 calling the institute.

52 No change for subd 4

121*#28S

53 121.28 TEACHERS EMPLOYMENT BUREAU, DIRECTOR.

54 The commissioner shall nominate and the state board shall
 55 appoint a director of the state teachers employment bureau, who
 56 shall perform ~~his~~ duties under the general supervision of the *
 57 commissioner and shall be furnished necessary office rooms. The
 58 state board may appoint such clerical and other assistants as
 59 may be required to carry out the purposes of the state teachers
 60 employment bureau. The state board shall make the necessary
 61 rules and regulations for conducting this bureau. The
 62 commissioner shall designate one employee of this bureau who
 63 shall collect and receipt for all fees and report and pay the
 64 fees to the state treasurer.

121*#48S

65 121.48 PURCHASE OF ANNUITY FOR EMPLOYEES.

66 Subdivision 1. At the request of an employee, the state
 67 board of education may negotiate and purchase an individual
 68 annuity contract from a company licensed to do business in the
 69 state of Minnesota for an employee for retirement or other

1 purposes and may allocate a portion of the compensation
2 otherwise payable to the employee as salary for the purpose of
3 paying the entire premium due or to become due under such
4 contract. The allocation shall be made in a manner which will
5 qualify the annuity premiums, or a portion thereof, for the
6 benefit afforded under section 403(b) of the current federal
7 internal revenue code or any equivalent provision of subsequent
8 federal income tax law. The employee shall own such contract and
9 ~~his~~ the employee's rights thereunder shall be nonforfeitable *
10 except for failure to pay premiums.

11 No change for subd 2

121*#612S

12 121.612 CITATION.

13 No change for subd 1 to 1a

14 Subd. 2. BOARD OF DIRECTORS. The board of directors
15 of the foundation shall consist of the governor or the
16 governor's designee; the ~~chairpersons~~ chairs of the education *
17 committee and education finance division in the house of *
18 representatives and the ~~chairpersons~~ chairs of the education
19 committee and education subcommittee on education aids in the
20 senate; a minority member of the house of representatives to be
21 appointed by the house minority leader; a minority member of the
22 senate, to be appointed by the senate minority leader; the
23 commissioner of education; and 15 members to be appointed by the
24 governor. Of the 15 members appointed by the governor, six
25 shall represent various education groups and nine shall
26 represent various business groups. The board of directors shall
27 meet as soon as possible after the effective date of this
28 section. The commissioner of education shall serve as secretary
29 for the board of directors and provide administrative support to
30 the foundation.

31 No change for subd 3 to 5

121*#82S

32 121.82 EDUCATION COMMISSION.

33 No change for subd 1

34 Subd. 2. VACANCIES. Vacancies are filled by the
35 appointing power. If the legislature is not in session,
36 vacancies are filled as follows: A vacancy in the office held
37 by a house member is filled by the last speaker of the house, or
38 if ~~he~~ the speaker be not available, by the last ~~chairman~~ chair *
39 of the house rules committee; a vacancy in the office held by a
40 senate member is filled by the last senate committee on
41 committees or other appointing authority designated by the
42 senate rules in case of a senate vacancy.

43 No change for subd 3

121*#83S

44 121.83 MINNESOTA EDUCATION COUNCIL.

45 There is hereby established the Minnesota education council
46 composed of the members of the education commission of the
47 states representing this state, and two other persons from each
48 congressional district of which one shall be a legislator. Four
49 representatives shall be appointed by the speaker of the house
50 and four senators shall be appointed by the committee on
51 committees. Legislative members shall serve terms coinciding
52 with their respective terms of office. The commissioner of
53 education shall appoint one member from each congressional
54 district, for terms coinciding with the term of the
55 commissioner, who broadly represent professional and lay
56 interests within this state having the responsibilities for,
57 knowledge with respect to, and interest in educational matters.
58 The commissioner shall designate a ~~chairman~~ chair from among the *
59 council members. The council shall meet on the call of the
60 commissioner, but in any event the council shall meet not less
61 than twice in each year. The council may consider any and all
62 matters relating to recommendations of the education commission
63 of the states and the activities of the members representing
64 this state thereon, shall serve as a forum for major education
65 policies, and shall serve to exchange information about
66 important education activities of interest to all parties.
67 Members of the council shall serve without salary, but shall be
68 reimbursed for actual expenses incurred in attendance at
69 meetings of the council.

121*#844S

70 121.844 MEMBERS OF THE BOARD.

71 No change for subd 1

72 Subd. 2. VACANCIES. Vacancies are filled by the

1 appointing power. If the legislature is not in session,
 2 vacancies in the office of legislative members are filled as
 3 follows: A vacancy in the office held by a house member is
 4 filled by the last speaker of the house, or if he the speaker be *
 5 not available, by the last chairman chair of the house rules *
 6 committee; a vacancy in the office held by a senate member is
 7 filled by the last senate subcommittee on committees of the
 8 rules and administration committee or other appointing authority
 9 designated by the senate rules in case of a senate vacancy.

121*#901S

10 121.901 ADVISORY COUNCIL.

11 No change for subd 1 to 2

12 Subd. 3. The council shall annually select a chairman *
 13 chair and secretary from its membership. Meetings shall be held *
 14 at the call of the chairman chair or any three members. *

121*#911S

15 121.911 CASH FLOW; SCHOOL DISTRICT REVENUES; BORROWING
 16 FOR CURRENT OPERATING COSTS.

17 No change for subd 1 to 3

18 Subd. 4. Unless otherwise provided by law, no district
 19 shall, for the purpose of increasing the available cash balance
 20 of another fund, borrow or transfer funds from the building
 21 construction fund, debt redemption fund, trust and agency fund,
 22 or from any sinking fund for outstanding bonds issued for any
 23 purpose. However, if the contemplated use for which funds were
 24 originally placed in the building construction fund or a sinking
 25 fund is afterwards abandoned or if a balance remains after the
 26 use is accomplished, a district may devote these funds as
 27 provided in section 475.65. For the purpose of insuring fund
 28 integrity, ~~if the commissioner determines~~ on determining that a *
 29 district is in violation of this subdivision or section 121.904,
 30 ~~he the commissioner~~ shall require that such district maintain *
 31 separate bank accounts for building construction funds, debt
 32 redemption funds, trust and agency funds, and sinking funds for
 33 outstanding bonds. Nothing in this subdivision shall be
 34 construed to prohibit the use of common bank accounts for other
 35 funds unless prohibited by law.

36 No change for subd 5

121*#914S

37 121.914 STATUTORY OPERATING DEBT.

38 No change for subd 1 to 9

39 Subd. 10. (a) On or before January 1, 1977, the
 40 commissioner shall report to the legislature ~~his~~ on findings *
 41 concerning the amount of statutory operating debt for districts
 42 as of June 30, 1976, and interfund transfers during fiscal year
 43 1976 which are identified pursuant to subdivision 9. This
 44 report shall include any information available to the
 45 commissioner regarding possible increases in statutory operating
 46 debt for districts between June 30, 1976, and June 30, 1977, and
 47 justifications for these increases.

48 (b) On or before January 1, 1978, the commissioner shall *
 49 report to the legislature ~~his~~ on findings concerning the amount
 50 of statutory operating debt for districts as of June 30, 1977,
 51 interfund transfers during fiscal year 1977 which are identified
 52 pursuant to subdivision 2, and actual increases in statutory
 53 operating debt for districts between June 30, 1976, and June 30,
 54 1977.

121*#917S

55 121.917 EXPENDITURE LIMITATIONS.

56 No change for subd 1 to 3

57 Subd. 4. (1) If the net negative unappropriated fund
 58 balance in all the funds of a school district, other than
 59 statutory operating debt pursuant to section 121.914, capital
 60 expenditure, building construction, debt service, trust and
 61 agency, and post-secondary vocational-technical education funds,
 62 calculated in accordance with the uniform financial accounting
 63 and reporting standards for Minnesota school districts, as of
 64 June 30 each year, is more than 2-1/2 percent of the year's
 65 expenditure amount, the district shall, prior to September 15,
 66 submit a special operating plan to reduce the district's deficit
 67 expenditures to the commissioner of education for ~~his~~ approval. *

68 Notwithstanding any other law to the contrary, a district
 69 submitting a special operating plan to the commissioner under
 70 this clause which is disapproved by the commissioner shall not
 71 receive any aid pursuant to chapter 124 until a special
 72 operating plan of the district is so approved.

1 (2) A district shall receive aids pending the approval of
 2 its special operating plan under clause (1). A district which
 3 complies with its approved operating plan shall receive aids as
 4 long as the district continues to comply with the approved
 5 operating plan.

121*#934S

6 121.934 ESV COMPUTER COUNCIL.

7 No change for subd 1 to 2

8 Subd. 3. STATUS CHANGES. The position of a member
 9 who leaves Minnesota or whose employment status changes to a
 10 category different from that for which ~~he was~~ appointed shall be *
 11 deemed vacant.

12 Subd. 4. OFFICERS. The council shall elect a
 13 chairman chair and such other officers as it may deem necessary. *

14 Subd. 5. MEETINGS. The ESV computer council shall
 15 meet regularly at such times and places as the council shall
 16 determine. Meetings shall be called by the chairman chair or at *
 17 the written request of any six members.

18 No change for subd 6 to 7

122*#21S

19 122.21 DETACHMENT AND ANNEXATION OF LAND.

20 Subdivision 1. The owner of land which adjoins any
 21 independent district, and whose land is not in a special
 22 district may petition the county board of the county in which
 23 the greater part of the area proposed for detachment and
 24 annexation lies to detach all or any part of ~~his~~ the land *
 25 together with the intervening lands as defined in subparagraph
 26 (b) below, from the district it now is in, and to attach it,
 27 together with such intervening land, to the adjoining district.
 28 For purpose of this section, land is adjoining a school district
 29 if:

30 (a) The boundary of the area proposed for detachment and
 31 annexation is the same as the district boundary to which
 32 attachment is sought at any point, including corners, or

33 (b) The area proposed for detachment and annexation is
 34 separated at any point from the district to which annexation is
 35 sought by not more than one-half mile and the intervening land
 36 is vacant and unoccupied or is owned by one or more of the
 37 following: The United States, or the state of Minnesota or any
 38 of its political subdivisions, or an owner who is unknown or
 39 cannot be found or

40 (c) The area proposed by a land owner for detachment and
 41 annexation is adjoining (as defined in subparagraphs (a) and (b)
 42 above) any land proposed for detachment from and annexation to
 43 the same district in another pending petition.

44 No change for subd 2

45 Subd. 3. The petition shall be filed with the auditor who
 46 shall present it to the county board at its next meeting. At
 47 the meeting, the county board shall fix a time and place for
 48 hearing the petition, which time shall be not more than 60 nor
 49 less than ten days from the date of the meeting. The auditor
 50 shall forthwith serve notice of the hearing on each district
 51 directly affected by the petition, by mail addressed to the
 52 clerk. If any area affected by the petition is in another
 53 county, ~~he~~ the auditor shall mail a notice of hearing to the *
 54 auditor of such county--~~He~~ and shall also give one week's *
 55 published notice of the hearing in the county wherein the
 56 hearing is to be held, and ten days' posted notice in each
 57 school district affected. Such posted and published notice may
 58 combine pending petitions. At the hearing on the petition, the
 59 county board shall receive and hear any evidence for or against
 60 the petition. The hearing may be adjourned from time to time.

61 No change for subd 4

62 Subd. 5. Upon receipt ~~by the commissioner~~ of the order, ~~he~~ *
 63 the commissioner shall forthwith modify ~~his~~ the records and any *
 64 plats and petitions and proceedings involving districts affected *
 65 by such order presently before ~~him~~ the commissioner for action *
 66 or record, to conform to the order.

67 No change for subd 6

122*#23S

68 122.23 CONSOLIDATION.

69 No change for subd 1

70 Subd. 2. Upon a resolution of a school board in the area
 71 proposed for consolidation or upon receipt of a petition
 72 therefor executed by 25 percent of the voters resident in the
 73 area proposed for consolidation or by 50 such voters, whichever

1 is lesser, the county auditor of the county which contains the
 2 greatest land area of the proposed new district shall forthwith
 3 cause a plat to be prepared. The resolution or petition shall
 4 show the approximate area proposed for consolidation. The
 5 resolution or petition may propose either that the bonded debt
 6 of the component districts will be paid according to the levies
 7 previously made for that debt under chapter 475, as provided in
 8 subdivision 16a, or that the taxable property in the newly
 9 created district will be taxable for the payment of the bonded
 10 debt previously incurred by any component district as provided
 11 in subdivision 16b. The resolution or petition may also propose
 12 that referendum levies previously approved by voters of the
 13 component districts pursuant to section 124A.03, subdivision 2,
 14 or its predecessor provision, be combined as provided in section
 15 122.531, subdivision 2a or 2b, or that the referendum levies be
 16 discontinued. The resolution or petition may also propose that
 17 the board of the newly created district consist of seven
 18 members, and may also propose the establishment of separate
 19 election districts from which school board members will be
 20 elected, the boundaries of these election districts, and the
 21 initial term of the member elected from each of these election
 22 districts. If a county auditor receives more than one request
 23 for a plat ~~is-received-by-a-county-auditor~~ and the requests
 24 involve parts of identical districts, he the auditor shall
 25 forthwith prepare a plat which in his the auditor's opinion best
 26 serves the educational interests of the inhabitants of the
 27 districts or areas affected. The plat shall show:

*
*
*
*

- 28 (a) Boundaries of the proposed district, as determined by
- 29 the county auditor, and present district boundaries,
- 30 (b) The location of school buildings in the area proposed
- 31 as a new district and the location of school buildings in
- 32 adjoining districts,
- 33 (c) The boundaries of any proposed separate election
- 34 districts, in accordance with the provisions of section 123.32,
- 35 and
- 36 (d) Other pertinent information as determined by the county
- 37 auditor.

38 No change for subd 2a to 4

39 Subd. 5. Upon receipt of a plat and the supporting
 40 statement, each county's auditor shall immediately notify his
 41 ~~respective-county~~ the county's board. After such notification,
 42 and during the pendency of proceedings under the plat and
 43 supporting statement or for a period of six months, whichever is
 44 shorter, no action may be taken by the county board under any
 45 other law to modify the boundary of any district if any part of
 46 the district is included in an area proposed for consolidation.

*
*

47 No change for subd 6 to 9

48 Subd. 10. If an approved plat contains land area in any
 49 district not entitled to act on approval or rejection of the
 50 plat by action of its board, the plat may be approved by the
 51 residents of the land area within 60 days of approval of plat by
 52 the state board in the following manner:

53 A petition calling upon the county auditor to call and
 54 conduct an election on the question of adoption or rejection of
 55 the plat may be circulated in the land area by any person
 56 residing in the area. Upon the filing of the petition with the
 57 county auditor, executed by at least 25 percent of the eligible
 58 voters, as defined in section 123.32, subdivision 1a, in each
 59 district or part of a district contained in the land area, the
 60 county auditor shall forthwith call and conduct a special
 61 election of the electors resident in the whole land area on the
 62 question of adoption of the plat. For the purposes of this
 63 section, the term "electors resident in the whole land area"
 64 means any person residing on any remaining portion of land, a
 65 part of which is included in the consolidation plat. Any
 66 eligible voter, as defined in section 123.32, subdivision 1a,
 67 owning land included in the plat who lives upon land adjacent or
 68 contiguous to that part of his the voter's land included in the
 69 plat shall be included and counted in computing the 25 percent
 70 of the eligible voters, as defined in section 123.32,
 71 subdivision 1a, necessary to sign the petition and shall also be
 72 qualified to sign the petition. Failure to file the petition
 73 within 60 days of approval of the plat by the state board
 74 terminates the proceedings.

*

75 No change for subd 11

76 Subd. 12. The county auditor shall determine the date of

1 the election, the number of boundaries of voting precincts, and
 2 the location of the polling places where voting shall be
 3 conducted, and the hours the polls will be open. ~~He~~ The county *
 4 auditor shall also provide official ballots which shall be used *
 5 exclusively and shall be in the following form:

- 6 For consolidation
- 7 Against consolidation

8 ~~He~~ The county auditor shall appoint three election judges *
 9 for each polling place who shall act as clerks of election. The
 10 county may pay these election judges not to exceed \$1 per hour.
 11 The ballots and results shall be certified to the county auditor
 12 who shall canvass and tabulate the total vote cast for and
 13 against the proposal.

14 Subd. 13. If a majority of the votes cast on the question
 15 at the election approve the consolidation, and if the necessary
 16 approving resolutions of boards entitled to act on the plat have
 17 been adopted, the county auditor shall, within ten days of the
 18 election or of the expiration of the period during which an
 19 election can be called, issue ~~his~~ an order setting a date for *
 20 the effective date of the change. The effective date shall be at
 21 least three months after the day when the date must be set, and
 22 shall be July 1 of an odd-numbered year. ~~He~~ The auditor shall *
 23 mail or deliver a copy of such order to each auditor holding a
 24 copy of the plat and to the clerk of each district affected by
 25 the order and to the commissioner. If the election fails, the
 26 proceedings are terminated and the county auditor shall so
 27 notify the commissioner and the auditors and the clerk of each
 28 school district affected.

29 Subd. 14. Upon receipt of the order creating a new
 30 district, the commissioner shall forthwith, by order, assign an
 31 identification number to the new district and shall mail a copy
 32 of ~~his~~ the order to the county auditor and to each auditor who *
 33 holds a copy of the plat. If all of the territory in one and
 34 only one independent district maintaining a secondary school is
 35 included in the new independent district created pursuant to
 36 consolidation, and if the commissioner finds that it is more
 37 practical and reasonable and in the interest of efficiency and
 38 economy of operation to so do, ~~he~~ the commissioner may assign to *
 39 the new district the same number as previously held by the
 40 included independent district.

41 Subd. 15. If no district is divided by virtue of the
 42 proceedings, all of the assets, real and personal, of the
 43 districts involved and all legally valid and enforceable claims
 44 and contract obligations of the districts pass to the new
 45 district, except as provided in section 122.532. If a district
 46 is divided by virtue of the proceedings, upon receipt of the
 47 order of the commissioner, the auditor of the county containing
 48 the greatest land area of the new district shall present a copy
 49 of the plat and supporting statement and orders issued in the
 50 proceedings to the commissioner, together with such information
 51 as is available to ~~him~~ that auditor concerning the assets and *
 52 liabilities not secured by bonds of each district, any part of
 53 which is included in the newly created district. Thereafter
 54 within 30 days the commissioner shall issue ~~his~~ an order *
 55 providing for a division of the assets and liabilities of the
 56 districts involved and apportioning and dividing these assets
 57 and liabilities according to such terms as ~~he~~ the commissioner *
 58 may deem just and equitable. In making this division of assets
 59 and liabilities, the commissioner may consider the amount of
 60 bonded debt to be assumed by property in each area under the
 61 provisions of this section. If the order of consolidation
 62 transfers any real estate interest to the new district or to
 63 another district, the order apportioning assets and liabilities
 64 may impose a dollar claim on the district receiving the real
 65 estate in favor of any other district involved in an amount not
 66 exceeding the reasonable value of the real estate interest
 67 involved, which claim shall be paid in the manner provided by
 68 law for the enforcement of judgments.

69 No change for subd 16 to 17

70 Subd. 18. (a) If no board is provided for under the
 71 foregoing provision, upon receipt of the assigned identification
 72 number, the county auditor shall determine a date, not less than
 73 20 nor more than 60 days from the date of the receipt ~~by-him~~ *
 74 the assigned identification number, upon which date shall be
 75 held a special election in the district for the purpose of
 76 electing a board of six members for terms as follows: two until

1 the July 1 one year after the effective date of the
 2 consolidation, two until the expiration of one year from said
 3 July 1, and two until the expiration of two years from said July
 4 1, to hold office until a successor is elected and qualifies
 5 according to provisions of law governing the election of board
 6 members in independent districts. If the resolution or petition
 7 for consolidation pursuant to subdivision 2 proposed that the
 8 board of the newly created district consists of seven members,
 9 then seven members shall be elected at this election for the
 10 terms provided in this clause except that three members shall
 11 hold office until the expiration of two years from said July 1.
 12 If the resolution or petition for consolidation pursuant to
 13 subdivision 2 proposed the establishment of separate election
 14 districts, these members shall be elected from separate election
 15 districts according to the provisions of that resolution or
 16 petition and of section 123.32.

17 (b) The county auditor shall give ten days' posted notice
 18 of election in the area in which the election is to be held and
 19 also if there be a newspaper published in the proposed new
 20 district, one weeks' published notice shall be given. The
 21 notice shall specify the time, place and purpose of the election.

22 (c) The county may pay the election judges not to exceed \$1
 23 per hour for their services.

24 (d) Any person desiring to be a candidate for a school
 25 election shall file an application with the county auditor to
 26 have ~~his~~ the applicant's name placed on the ballot for such
 27 office, specifying the term for which the application is made.
 28 The application shall be filed not less than 12 days before the
 29 election.

30 (e) The county auditor shall prepare, at the expense of the
 31 county, necessary ballots for the election of officers, placing
 32 thereon the names of the proposed candidates for each office.
 33 The ballots shall be marked and signed as official ballots and
 34 shall be used exclusively at the election. The county auditor
 35 shall determine the number of voting precincts and the
 36 boundaries of each. ~~He~~ The county auditor shall determine the
 37 location of polling places and the hours the polls shall be
 38 open--~~He~~ and shall appoint three election judges for each
 39 polling place who shall act as clerks of election. Election
 40 judges shall certify ballots and results to the county auditor
 41 for tabulation and canvass.

42 (f) ~~Upon~~ After making a canvass and tabulation by the
 43 ~~county auditor he,~~ the county auditor shall issue a certificate
 44 of election to the candidate for each office who received the
 45 largest number of votes cast for the office. ~~He~~ The county
 46 auditor shall deliver such certificate to the person entitled
 47 thereto by certified mail, and each person so certified shall
 48 file an acceptance and oath of office with the county auditor
 49 within 30 days of the date of mailing of the certificate. A
 50 person who fails to qualify prior to the time specified shall be
 51 deemed to have refused to serve, but such filing may be made at
 52 any time before action to fill vacancy has been taken.

53 (g) The board of each district included in the new enlarged
 54 district shall continue to maintain school therein until the
 55 effective date of the consolidation. Such boards shall have
 56 power and authority only to make such contracts, to do such
 57 things as are necessary to maintain properly the schools for the
 58 period prior to that date, and to certify to the county auditor
 59 according to levy limitations applicable to the component
 60 districts the taxes collectible in the calendar year when the
 61 consolidation becomes effective.

62 (h) It shall be the immediate duty of the newly elected
 63 board of the new enlarged district, when the members thereof
 64 have qualified and the board has been organized, to plan for the
 65 maintenance of the school or schools of the new district for the
 66 next school year, to enter into the necessary negotiations and
 67 contracts for the employment of personnel, purchase of equipment
 68 and supplies, and other acquisition and betterment purposes,
 69 when authorized by the voters to issue bonds under the
 70 provisions of chapter 475; and on the effective date of the
 71 consolidation to assume the full duties of the care, management
 72 and control of the new enlarged district. The board of the new
 73 enlarged district shall give due consideration to the
 74 feasibility of maintaining such existing attendance centers and
 75 of establishing such other attendance centers, especially in
 76 rural areas, as will afford equitable and efficient school

1 administration and assure the convenience and welfare of the
2 pupils residing in the enlarged district. The obligations of
3 the new board to teachers employed by component districts shall
4 be governed by the provisions of section 122.532.

5 No change for subd 19

122*#45S

6 122.45 DISTRIBUTION AND DIVISION OF ASSETS AND
7 LIABILITIES; TAXATION.

8 Subdivision 1. Title to all the property, real and
9 personal, of any district dissolved under the provisions of
10 sections 122.41 to 122.52 and all legally valid and enforceable
11 claims and contract obligations, pass to the district to which
12 such dissolved district is attached. If a district is divided
13 by virtue of the proceedings, the commissioner shall issue his a
14 subsequent order providing for the division of the assets and
15 liabilities according to such terms as he the commissioner may
16 deem just and equitable.

17 No change for subd 2 to 3a

122*#532S

18 122.532 EMPLOYEES OF REORGANIZED DISTRICTS.

19 No change for subd 1 to 3

20 Subd. 4. Except as provided in this section, the
21 provisions of section 125.12 or 125.17 shall apply to the
22 employment of each teacher by the new employing district on the
23 same basis as they would have applied to his the employment if
24 he the teacher had been employed by that new district before the
25 effective date of the consolidation or dissolution and
26 attachment. For the purpose of applying the provisions of
27 subdivision 3, clause (b), and the provisions of section 125.12,
28 subdivision 6b, pursuant to this section, a teacher's date of
29 first employment shall be the date he-began of beginning
30 continuous employment in the pre-existing district which
31 employed him the teacher.

122*#86S

32 122.86 EDUCATIONAL PLANNING TASK FORCES.

33 No change for subd 1 to 3

34 Subd. 4. ORGANIZATION. The ECSU director shall call
35 the first meeting of each task force at a time designated-by-him
36 prior to September 30, 1977. In those areas in which an ECSU
37 has not been formed, the commissioner shall call the initial
38 meeting. At this meeting, each task force shall elect from its
39 membership a chairman chair and such other officers as it may
40 deem necessary, and conduct any other necessary organizational
41 business.

123*#11S

42 123.11 COMMON SCHOOL DISTRICTS; MEETINGS, ELECTIONS.

43 Subdivision 1. The annual meeting of all common districts
44 shall be held on the last Tuesday in June, at eight o'clock
45 p.m., unless a different hour has been fixed at the preceding
46 annual meeting, upon ten days' posted notice given by the clerk,
47 and specifying the matters to come before such meeting; but
48 failure of the clerk to give such notice, or to specify the
49 business to be transacted thereat, shall not affect the validity
50 of any business, except the raising of money to build or
51 purchase a school house, the authorizing of an issue of bonds,
52 the fixing of a school house site, or the organization as an
53 independent district. At the annual meeting in a common
54 district five legal voters shall constitute a quorum. The
55 chairman chair and clerk of the board shall officiate in their
56 respective capacities at all meetings of the electors of the
57 district. In the event of the absence of the chairman chair or
58 clerk, the voters shall elect a chairman chair or clerk pro
59 tem. The voters shall have the power in an annual meeting to
60 repeal and modify their proceedings. The polls at all meetings
61 shall be open at least one hour.

62 Subd. 2. The annual meeting shall have power to elect by
63 ballot officers of the district. In all elections or vote by
64 ballot, the clerk shall record the names of all voters
65 participating therein and the chairman chair shall appoint two
66 electors who with the assistance of the clerk shall supervise
67 the balloting and canvass the votes. If any candidates receive
68 an equal number of votes for an office, the board shall resolve
69 the tie by lot.

70 Subd. 3. Any person desiring to be a candidate for a
71 district office at the annual meeting of the district shall file
72 with the clerk of the district an application to be placed on

1 the ballot for such office, or any five voters of the district
 2 may file such application for or on behalf of any qualified
 3 voter in the district that they desire shall be such candidate.
 4 The application shall be filed not less than 12 days before the
 5 annual school district meeting. The clerk of the district, in
 6 ~~his~~ the notice of annual meeting, shall state the names of the
 7 candidates for whom applications have been filed, failure to do
 8 so shall not affect the validity of the election thereafter
 9 held. At the annual meeting of common districts, nomination of
 10 candidates for offices may be made from the floor by any
 11 qualified voter.

12 No change for subd 4

13 Subd. 5. At the first meeting of each district, the
 14 ~~chairman~~ chair shall be elected to hold office until July 1
 15 following the next annual meeting. The treasurer, until one
 16 year from such date, and the clerk until two years from such
 17 date.

18 Subd. 6. A board member elected at an annual meeting upon
 19 notice from the clerk, shall, on or before the first Saturday in
 20 July, file with the clerk ~~his~~ an acceptance of the office and
 21 ~~his~~ an official oath. Any person appointed by the board or
 22 elected at a special meeting to fill a vacancy shall file in
 23 writing ~~his~~ an acceptance of the office and ~~his~~ an official oath
 24 within ten days after the notice of such appointment or election
 25 by the clerk. A person who fails to qualify prior to the time
 26 specified shall be deemed to have refused to serve, but such
 27 filing, if made at any time before action to fill the vacancy
 28 has been taken, shall be sufficient.

29 Subd. 7. Upon the filing of a petition therefor, executed
 30 by five eligible voters, as defined in section 123.32,
 31 subdivision 1a, of the common district, specifying the business
 32 to be acted upon, or upon the adoption of a proper resolution so
 33 specifying, signed by a majority of the members of the board,
 34 the clerk shall forthwith call a special meeting of the district
 35 upon ten days' posted notice and one week's published notice if
 36 there be a newspaper printed in the district and specify in the
 37 notice the business named in the request or resolution and the
 38 time and place of the meeting. If there be no clerk in the
 39 district or if ~~he~~ the clerk fails for three days after receiving
 40 a request or resolution to give notice of a meeting, it may be
 41 called by like notice by five eligible voters, as defined in
 42 section 123.32, subdivision 1a, of the district. No business
 43 except that named in the notice shall be transacted at the
 44 meeting. If there are not five eligible voters, as defined in
 45 section 123.32, subdivision 1a, or if there is not a board
 46 therein, the county auditor may call a special meeting by giving
 47 notice thereof as provided in this section. The voters at a
 48 special meeting have power to repeal or modify their proceedings.

123*#12S

49 123.12 BOARDS OF COMMON SCHOOL DISTRICTS.

50 Subdivision 1. The care, management and control of a
 51 common district is vested in a board of three members to be
 52 known as the school board. The term of office of a member shall
 53 be three years, and until ~~his~~ a successor qualifies. The board
 54 of each common district shall consist of a ~~chairman~~ chair, a
 55 treasurer, and a clerk. The board may by resolution establish a
 56 time and place for regular meeting and no notice of such meeting
 57 need be sent to any members of the board.

58 No change for subd 2 to 14

123*#13S

59 123.13 OFFICERS OF COMMON SCHOOL DISTRICTS.

60 Subd. 2. The treasurer shall receive and be responsible
 61 for all money in the district and disburse the same on orders
 62 signed by the clerk and countersigned by the ~~chairman~~ chair or
 63 other vouchers authorized by law; provided, that, in the event
 64 that the ~~chairman~~ chair has been continuously absent from the
 65 district for a period of 30 days or more, the treasurer may pay
 66 orders without the signature of the ~~chairman~~ chair. Each order
 67 shall state the fund on which it is drawn, the name of the
 68 payee, and the nature of the claim for which such order is
 69 issued and shall be so drawn that when signed by the treasurer
 70 in an appropriate place, it becomes a check on the school
 71 district depository. ~~He~~ The treasurer shall keep an account of
 72 each fund, and of all receipts and disbursements showing the
 73 sources of all receipts and the nature and purpose of
 74 disbursements. ~~He~~ The treasurer shall deposit the funds of the

1 district in the official depository in accordance with the
2 provisions of law.

3 Subd. 3. Repealed, 1978 c 706 s 69

4 Subd. 4. Repealed, 1978 c 706 s 69

5 Subd. 5. Repealed, 1978 c 706 s 69

6 Subd. 6. Repealed, 1978 c 706 s 69

7 Subd. 7. Repealed, 1978 c 706 s 69

123*#32S

8 123.32 INDEPENDENT SCHOOL DISTRICTS, ELECTIONS.

9 No change for subd 1

10 Subd. 1a. (a) An eligible voter for a school district
11 election shall be a person who at the time of the election:

12 (1) Is 18 or more years of age;

13 (2) Is a citizen of the United States;

14 (3) Is a resident of the school district; and

15 (4) Has resided in Minnesota for 20 days.

16 (b) The following persons are not eligible voters:

17 (1) Any person who has been convicted of treason or any
18 felony, who has not had ~~his~~ civil rights restored; *

19 (2) Any person who is under guardianship over ~~his~~ person; *

20 (3) Any person who is adjudicated to be non compos mentis
21 or insane; and

22 (4) Any person who is not properly registered, if a voter
23 registration system has been adopted for such school district.

24 No change for subd 2 to 19

25 Subd. 20. Any qualified voter may file with the clerk of
26 the district an application to be placed on the ballot in ~~his~~ *
27 the voter's particular election district as a candidate for *
28 office as a member of the school board from such district.

29 No change for subd 21 to 22

30 Subd. 23. (1) Unless action is taken by the board under
31 subparagraphs (2) and (3) of this subdivision, in a district
32 which is reclassified to an independent district from a county
33 district or a common district containing ten or more townships,
34 by provisions of this code, the board of such district shall
35 continue to govern the district until July 1 following the next
36 annual election as provided for independent districts, at which
37 election six members shall be elected at large from the
38 district, two members for a one-year term from July 1 next
39 following the election, two members for a two-year term from
40 said July 1, and two members for a three-year term from said
41 July 1, to serve until a successor is elected and qualifies; if
42 such district is reclassified to an independent district from a
43 common district of ten or more townships containing less than
44 ten schools, the board of such district shall continue to govern
45 the district, and the members presently serving shall continue
46 to the end of their term. At the next annual election of school
47 board members following July 1 following the adoption of the
48 code, two members shall be elected for a three-year term and one
49 member for a two-year term each commencing on July 1 next
50 following the election. Thereafter, members shall be elected as
51 in independent districts.

52 (2) In any district which is reclassified from a common
53 district of ten or more townships to an independent district by
54 the provisions of this code, the election of the board members
55 may be held biennially concurrently with the general elections
56 in the areas by resolution of the board made within 90 days of
57 the adoption of this code. Board members presently serving
58 shall continue in office until the expiration of the term to
59 which they were elected. At the next general election following
60 the adoption of the code, board members shall be elected to fill
61 all vacancies then occurring and any vacancies caused by
62 reclassification to an independent district. Provided that
63 three board members shall be elected for a term of four years
64 each and any necessary additional board members shall be elected
65 for a term of two years each, to serve until a successor is
66 elected and qualifies. The term of members shall commence on
67 the first Monday in January following the general election.
68 Thereafter, three members shall be elected at each general
69 election for a term of four years from the first Monday in
70 January following the general election.

71 (3) If a reclassified district was a county district and if
72 the board of such district determines, by resolution, to retain
73 its organization providing for area representation and a five
74 man member board, a resolution affecting such organization may *
75 be adopted by the board at any time before 30 days before the

1 next election following the effective date of this code. The
 2 resolution, if adopted, shall divide the district into five
 3 election districts coterminous with the county commissioner
 4 districts, and shall specify the terms to which members from
 5 each election district shall be elected so as to provide for a
 6 continuation of the present organizational structure of the
 7 board. In a district which is reclassified to an independent
 8 school district from a county district by provisions of this
 9 code, the election of board members may be held biennially from
 10 county commissioner districts as now established concurrently
 11 with the general elections in the areas upon resolution of the
 12 board adopted at least 30 days before the election next
 13 following the effective date of this code. If such a resolution
 14 is adopted, board members presently serving shall continue in
 15 office until the expiration of the term to which they were
 16 elected to serve until a successor is elected and qualified.
 17 Thereafter, vacancies caused by expiration of term shall be
 18 filled at each general election for a term of four years from
 19 the first Monday in January following the general election.
 20 Districts reclassified as independent districts that were county
 21 districts shall also have the powers and duties contained in
 22 sections 128.03 to 128.06 in addition to their status as an
 23 independent district.

24 Subd. 24. (a) Any person entitled to vote in an election
 25 in an independent district who will be absent from the district
 26 at the time the election is held, or who by reason of physical
 27 disability or religious discipline will be unable to appear at
 28 the polling place at the time the election is held, may vote by
 29 mail or hand deliver an absentee ballot envelope in accordance
 30 with this subdivision.

31 (b) Not more than 45 nor less than one day before the
 32 election a voter desiring an absentee ballot shall make a
 33 request in writing for an absentee ballot to the clerk of the
 34 district. The request shall be made in person or by mail, shall
 35 be signed, and shall state substantially the following: a) the
 36 permanent address of the applicant; b) the reason the applicant
 37 cannot vote in person; c) that the applicant wishes a ballot for
 38 (date election to be held); and d) that the applicant will be
 39 qualified to vote at the election. The temporary mailing
 40 address, if any, of the applicant shall be included in the
 41 request.

42 (c) As soon as the ballots are printed, the clerk shall, by
 43 mail or in person, deliver a ballot to each applicant. The
 44 clerk also shall furnish a "ballot envelope" and a return
 45 envelope, both envelopes addressed to the clerk of the district.

46 (d) Together with the ballot and envelopes the clerk shall
 47 furnish an instruction sheet to each applicant. The sheet shall
 48 read: "Absentee Voting School District
 49 No. Instructions

- 50 1. Mark your ballot in the usual manner making certain
- 51 that no one observes how you vote.
- 52 2. Enclose ballot in 'ballot envelope' and seal. Do not
- 53 make any marks on ballot envelope.
- 54 3. Place sealed 'ballot envelope' in regular mailing
- 55 envelope furnished to you.
- 56 4. Execute certificate on bottom of this sheet and enclose
- 57 with 'ballot envelope' in regular envelope and mail not later
- 58 than one day before the election. If your ballot is received by
- 59 the clerk after the close of the polls, it will not be counted.

60 CERTIFICATE

61 I,, hereby certify that I am a legal resident of
 62 School District Number; that I am years of
 63 age and reside at; that I am under no legal disability
 64 to vote; that I am entitled to vote at this election in the
 65 district, and I will not vote in any manner other than by the
 66 ballot contained in the enclosed 'ballot envelope.'
 67"

68 (e) Before any ballots are counted, the clerk shall deliver
 69 unopened all regular mailing envelopes which have come into his
 70 the clerk's possession and all ballots delivered to him the
 71 clerk by the officers or employees of the United States post
 72 office department and all other ballot envelopes delivered
 73 to him the clerk in person prior to the opening of the ballot
 74 boxes by the judges together with all applications for absentee
 75 ballots to the judges of election at the proper polling places.
 76 The clerk shall sign his name clerk's signature shall be written

*
*
*
*
*

1 over the seals of the regular mailing envelopes to insure
2 against tampering and deliver the same to the judges after the
3 polls have opened and before they close.

4 (f) Before opening the ballot boxes, the judges shall
5 inspect the regular envelopes to ascertain that they were
6 properly mailed and then open the regular envelopes and compare
7 the signature on the certificate contained in the envelope with
8 the signature as it appears on the application for absentee
9 ballot. Having satisfied themselves that the vote should be
10 allowed, one of the judges shall write the word "received" and
11 ~~his own initials on~~ initial the "ballot envelope" and deposit *
12 the unopened "ballot envelope" in a separate absentees ballot
13 box.

14 (g) After the polls have closed and before the regular
15 ballot boxes are opened, the judges shall open the absentees
16 ballot box, remove the ballot from each "ballot envelope",
17 initial it and deposit it in the regular ballot box.

18 (h) Ballots received by the clerk after the count has been
19 begun by the judges are void.

20 (i) The board is authorized to provide necessary funds to
21 the clerk for the execution of this chapter.

22 (j) In any district where permanent registration of voters
23 is required no ballot may be accepted from any voter who is not
24 validly registered.

25 (k) Any person who shall wilfully make or sign any false
26 certificates specified herein; any person who shall wilfully
27 make any false or untrue statement in any application for an
28 absentee ballot; any person who shall wilfully exhibit to any *
29 other person any ballot marked by ~~him~~ the exhibitor; any person
30 who shall in any way wilfully do any act contrary to the terms
31 and provisions of this chapter with intent to cast an illegal
32 vote in any district or to aid another in so doing shall be
33 guilty of a felony.

34 Subd. 25. CONTESTS. (a) Any voter may contest the
35 election of any person for or against whom ~~he~~ the voter had the *
36 right to vote, who is declared elected to a school district
37 office, or other questions submitted to public vote, by
38 proceeding as follows:

39 ~~He~~ The voter shall file with the clerk of the district *
40 court of the county in which the administrative office of the
41 school district is located, within ten days after the canvass is
42 completed, a written notice of contest specifying the points
43 upon which the contest will be made, and cause a copy thereof to
44 be served within said period as follows:

45 (1) If the contest is upon the election of any person, then *
46 upon the person whose election ~~he~~ the voter is contesting and
47 the official authorized to issue the certificate of election;

48 (2) If the contest is upon the question of consolidation or
49 reorganization, then upon the county auditor authorized by law
50 to issue the order;

51 (3) If the contest be upon any other question, by serving a
52 copy upon the clerk of the district.

53 When the contestee desires to offer testimony on points not *
54 specified in contestant's notice, ~~he~~ the contestee shall file
55 and serve on the contestant a notice specifying the additional
56 points. The notices shall be treated as the pleadings in the
57 case and may be amended in the discretion of the court in the
58 manner and within the times as the court orders. Thereafter the
59 matter shall be tried and determined by the court at a time set
60 by the court within 30 days after the canvass. So far as
61 consistent with this section, the rules of civil procedure apply.

62 (b) An appeal taken from the determination of the district
63 court in any contest instituted under this code shall be in
64 accordance with the rules of civil appellate procedure.

65 No change for subd 26 to 28

66 Subd. 29. REQUIREMENTS FOR PETITIONS. Any petition
67 to a school board authorized in this section or sections
68 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a,
69 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14,
70 subdivision 5a, and 275.125 or any other law which requires the
71 board to submit an issue to referendum or election shall meet
72 the following requirements to be valid.

73 (1) Each page of the petition shall contain a heading at
74 its top which specifies the particular action the board is being
75 petitioned to take. The signatures on any page which does not
76 contain such a heading shall all be invalidated. All pages of

1 the petition shall be assembled and filed with the board as a
2 single instrument.

3 (2) Each page of the petition shall contain an
4 authentication signed by the circulator of the petition
5 specifying as follows:

6 I personally have circulated this page of the petition, all
7 signatures were made in my presence, I believe that ~~each-person~~ *
8 the signers signed ~~his-or-her~~ their own name names and that *
9 each person who has signed is eligible to vote in a school
10 district election according to Minnesota Statutes, section
11 123.32.

12 Signed: Signature of
13 Petition Circulator

14 Date:

15 The signatures on any page which does not contain such an
16 authentication shall all be invalidated.

17 (3) ~~Each-signer~~ Signers of the petition shall personally *
18 sign ~~his~~ their own name names in ink or indelible pencil and *
19 shall indicate after ~~his~~ the name ~~his~~ the place of residence by *
20 street and number, or other description sufficient to identify
21 the place. Except as provided in clause (4) of this
22 subdivision, any signature which does not meet these
23 requirements shall be invalidated.

24 (4) ~~An-individual~~ Individuals who ~~is~~ are unable to write *
25 ~~his-name~~ their names shall be required to make ~~his-mark~~ their *
26 marks on the petition. The circulator of the petition shall *
27 certify the mark by signing the individual's name and address
28 and shall thereafter print the phrase "mark certified by
29 petition circulator."

30 (5) A petition to be valid must contain the minimum number
31 of valid signatures of eligible voters specified in the law
32 authorizing the petition and election.

123*#33S

33 123.33 BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

34 Subdivision 1. The care, management, and control of
35 independent districts shall be vested in a board of directors,
36 to be known as the school board. The term of office of a member
37 shall be three years and until ~~his~~ a successor qualifies. The *
38 membership of the school board shall consist of six elected
39 directors together with such ex officio member as may be
40 provided by law. But the board may submit to the electors at
41 any school election the question whether the board shall consist
42 of seven members and if a majority of those voting on the
43 proposition favor a seven member board, a seventh member shall
44 be elected at the next election of directors for a three-year
45 term and thereafter the board shall consist of seven members.

46 No change for subd 2

47 Subd. 3. A vacancy caused by a member being unable to
48 serve on such board and attend its meetings for not less than 90
49 days because of illness or prolonged absence from the district,
50 may, after the board has by resolution declared such vacancy to
51 exist, be filled by the board at any regular or special meeting
52 thereof for the remainder of the unexpired term, or until such
53 ill or absent member is again able to resume ~~his~~ duties as a *
54 member of such board whichever date is earliest. When such ill *
55 or absent member is again able to resume ~~his~~ duties as a member *
56 of the board, the board shall by resolution so determine and
57 declare such person to be again a member of the board, and the
58 member appointed by the board ~~in-his-place~~ to be no longer a *
59 member thereof.

60 No change for subd 4

61 Subd. 5. A majority of the voting members of the board
62 shall constitute a quorum. No contract shall be made or
63 authorized, except at a regular meeting of the board or at a
64 special meeting at which all members are present or of which all
65 members have had notice. Special meetings may be called by the
66 ~~chairman~~ chair or clerk or any three members upon notice mailed *
67 to each member at least three days prior thereto.

68 No change for subd 6 to 7

69 Subd. 8. The board may remove, for proper cause, any
70 member or officer of the board and fill the vacancy; but such
71 removal must be by a concurrent vote of at least four members,
72 at a meeting of whose time, place, and object ~~he~~ the charged *
73 member has been duly notified, with the reasons for such *
74 proposed removal and after an opportunity to be heard in ~~his-own~~ *
75 defense against the removal. *

1 Subd. 9. Repealed, 1975 c 162 s 42
2 No change for subd 10 to 16

123*#335S

3 123.335 IMPREST CASH FUNDS.

4 Subdivision 1. The board may establish one or more imprest
5 funds for the payment in cash of any proper claim against the
6 district which it is impractical to pay in any other manner,
7 except that no claim for salary or personal expenses of a
8 district officer or employee shall be paid from such funds. The
9 board shall appoint a custodian of each such fund ~~and he~~ who *
10 shall be responsible for its safekeeping and disbursement
11 according to law. Money for the operation of such fund shall be
12 secured by a transfer from the general fund. A claim itemizing
13 all the various demands for which disbursements have been made
14 from the fund shall be presented to the board at the next board
15 meeting after the disbursements have been made. The board shall
16 act upon it as in the case of other claims and an order shall be
17 issued to the custodian for the amount allowed. The custodian
18 shall use the proceeds of the order to replenish the fund; and
19 if the board fails to approve the claim in full for any
20 sufficient reason, ~~he~~ the custodian shall be personally *
21 responsible for the difference.

22 Subd. 2. The board may authorize an imprest fund for the
23 purpose of advancing money to officers or employees to pay the
24 actual and necessary expenses of such officer or employee in
25 attending meetings outside of the district. The board shall
26 appoint a custodian of such fund ~~and he~~ who shall be responsible *
27 for its safekeeping and disbursement according to law. At the
28 first regular meeting of the board after such meeting, the
29 custodian shall submit an itemized claim for the actual and
30 necessary expenses incurred and paid. The board shall act upon
31 it as in the case of other claims and an order shall be issued
32 to the custodian for the amount allowed. The custodian shall
33 use the proceeds of the order to repay the amount advanced from
34 the fund and make final settlement with the officer or
35 employee. As an alternative the board may authorize travel
36 advances if control is maintained by use of a travel advance
37 account, the balance of which is supported by names of employees
38 to whom money has been advanced.

123*#34S

39 123.34 OFFICERS OF INDEPENDENT SCHOOL DISTRICTS.

40 Subdivision 1. Within ten days after the election of the
41 first board in independent districts and annually thereafter on
42 July 1, or as soon thereafter as practicable, the board shall
43 meet and organize by selecting a ~~chairman~~ chair, clerk, and a *
44 treasurer, who shall hold their offices for one year and until
45 their successors are selected and qualify. The persons who
46 perform the duties of the clerk and treasurer need not be
47 members of the board and the board by resolution may combine the
48 duties of the offices of clerk and treasurer in a single person
49 in the office of business affairs. They may appoint a
50 superintendent who shall be ex officio a member of the board,
51 but not entitled to vote therein. In districts in which board
52 members are elected at the general election in November, the
53 annual meeting of the board shall be held on the first Monday of
54 January or as soon thereafter as practicable.

55 Subd. 2. The ~~chairman~~ chair when present shall preside at *
56 all meetings of the board, countersign all orders upon the
57 treasurer for claims allowed by the board, represent the
58 district in all actions and perform all the duties usually
59 incumbent on such officer. In case of absence, inability, or
60 refusal of the clerk to draw orders for the payment of money
61 authorized by a vote of the majority of the board to be paid,
62 the orders may be drawn by the ~~chairman~~ chair, and paid by the *
63 treasurer, a statement thereof, with a copy of such orders,
64 being delivered to the clerk by the treasurer, or the office of
65 the clerk may be declared vacant by the ~~chairman~~ chair and *
66 treasurer and filled by appointment.

67 No change for subd 3 to 4

68 Subd. 5. In the event that valid orders are presented to
69 the treasurer for payment, and ~~he has~~ there are insufficient *
70 funds on hand to pay them, ~~he~~ the treasurer shall receive, *
71 endorse and process them in accordance with section 124.06.

72 Subd. 6. Repealed, 1980 c 609 art 6 s 48

73 Subd. 7. When the duty devolves upon any person employed
74 by a board to receive money and pay it over to the treasurer of

1 the district, the district shall require a bond from such person
 2 and pay all premiums therefor. The amount of each bond shall be
 3 fixed by the board and the bond approved by it. The bond shall
 4 be not less than \$500 conditioned for the faithful performance
 5 of ~~his~~ the duty and shall be filed with the clerk. In lieu of *
 6 individual bonds, the district may prescribe and keep in effect
 7 a schedule or position insurance policy or blanket bond in such
 8 aggregate amount as the district determines, insuring the
 9 fidelity of such persons in the amount of not less than \$500 for
 10 each such person.

11 Subd. 8. The clerk shall keep a record of all meetings of
 12 the district and the board in books provided by the district for
 13 that purpose. ~~He~~ The clerk shall, within three days after an *
 14 election notify all persons elected of their election. On or *
 15 before August 15 of each year ~~he~~ the clerk shall file with the *
 16 board a report of the revenues, expenditures and balances in
 17 each fund for the preceding fiscal year. The report together
 18 with vouchers and supporting documents shall subsequently be
 19 examined by a public accountant or the state auditor, either of
 20 whom shall be paid by the school district, as provided in
 21 section 121.908, subdivision 3. The board shall by resolution
 22 approve the report or require a further or amended report. On
 23 or before August 15 of each year, ~~he~~ the clerk shall make and *
 24 transmit to the commissioner certified reports, showing:

- 25 (1) The condition and value of school property;
- 26 (2) The revenues and expenditures in detail, and such other
 27 financial information required by law, rule, or as may be called
 28 for by the commissioner;
- 29 (3) The length of school term and the enrollment and
 30 attendance by grades; and
- 31 (4) Such other items of information as may be called for by
 32 the commissioner.

33 ~~He~~ The clerk shall enter in ~~his~~ the clerk's record book *
 34 copies of all ~~his~~ reports and of the teachers' term reports, as *
 35 they appear in the registers, and of the proceedings of any *
 36 meeting as furnished ~~him~~ by the clerk pro tem, and keep an *
 37 itemized account of all the expenses of the district. ~~He~~ The *
 38 clerk shall furnish to the auditor of the proper county, on or *
 39 before October 10 of each year, an attested copy of ~~his~~ the *
 40 clerk's record, showing the amount of money voted by the *
 41 district or the board for school purposes; draw and sign all *
 42 orders upon the treasurer for the payment of money for bills
 43 allowed by the board for salaries of officers and for teachers'
 44 wages and all claims, to be countersigned by the ~~chairman~~ chair. *
 45 Such orders shall state the consideration, payee, and the fund
 46 and the clerk shall take a receipt therefor. Teachers' wages
 47 shall have preference in the order in which they become due, and
 48 no money applicable for teachers' wages shall be used for any
 49 other purpose, nor shall teachers' wages be paid from any fund
 50 except that raised or apportioned for that purpose.

51 No change for subd 9

52 Subd. 10. Each school building or unit of classification
 53 as designated by section 120.05, subdivision 1, clauses (1), (2)
 54 and (3), in an independent school district shall be under the
 55 supervision of a principal who is assigned to that
 56 responsibility by the board of education in that school district
 57 upon the recommendation of the superintendent of schools of that
 58 school district.

59 Each principal assigned the responsibility for the
 60 supervision of a school building or units of classification
 61 shall hold valid certification in the assigned position of
 62 supervision and administration as established by the rules of
 63 the state board of education.

64 The principal shall provide administrative, supervisory and
 65 instructional leadership services, under the supervision of the
 66 superintendent of schools of the school district and in
 67 accordance with the policies, rules and regulations of the board
 68 of education, for the planning, management, operation and
 69 evaluation of the education program of the building or buildings
 70 to which ~~he~~ the principal is assigned. *

123*#35S

71 123.35 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS.

72 No change for subd 1 to 11

73 Subd. 12. At the request of an employee and as part of ~~his~~ *
 74 the employee's compensation arrangement, the board may purchase *
 75 an individual annuity contract for an employee for retirement or

1 other purposes and may make payroll allocations in accordance
 2 with such arrangement for the purpose of paying the entire
 3 premium due and to become due under such contract. The
 4 allocation shall be made in a manner which will qualify the
 5 annuity premiums (or a portion thereof) for the benefit afforded
 6 under section 403(b) of the current Federal Internal Revenue
 7 Code or any equivalent provision of subsequent federal income
 8 tax law. The employee shall own such contract and ~~his~~ the
 9 employee's rights thereunder shall be nonforfeitable except for
 10 failure to pay premiums. Section 125.12 shall not be applicable
 11 hereto and the board shall have no liability thereunder because
 12 of its purchase of any individual annuity contracts. This
 13 statute shall be applied in a nondiscriminatory manner to
 14 employees of the school district.

15 No change for subd 13 to 15

123*#351S

16 123.351 COOPERATIVE CENTERS FOR VOCATIONAL EDUCATION.

17 No change for subd 1 to 2

18 Subd. 3. GOVERNING BOARD. (a) The center shall be
 19 operated by a center board of not less than five members which
 20 shall consist of members from school boards of each of the
 21 participating school districts within the center, appointed by
 22 their respective school boards. Each participating school
 23 district shall have at least one member on the board. The board
 24 shall choose an administrative officer to administer board
 25 policy and directives who shall serve as an ex officio member of
 26 the board but shall not have a vote.

27 (b) The terms of office of the first members of the board
 28 shall be determined by lot as follows: one-third of the members
 29 for one year, one-third for two years, and the remainder for
 30 three years, all terms to expire on June 30 of the appropriate
 31 year; provided that if the number of members is not evenly
 32 divisible by three, the membership will be as evenly distributed
 33 as possible among one, two and three year terms with the
 34 remaining members serving the three year term. Thereafter the
 35 terms shall be for three years commencing on July 1 of each
 36 year. If a vacancy occurs on the center board, it shall be
 37 filled by the appropriate school board within 90 days. A person
 38 appointed to the center board shall qualify as a board member by
 39 filing with the chairman chair a written certificate of
 40 appointment from ~~his~~ the appointing school board.

41 (c) The first meeting of a center board shall be at a time
 42 mutually agreed upon by board members. At this meeting, the
 43 center board shall choose its officers and conduct any other
 44 necessary organizational business. Thereafter the center board
 45 shall meet on the first of July of each year or as soon
 46 thereafter as practicable pursuant to notice sent to all center
 47 board members by the chief executive officer of the center.

48 (d) The officers of the center board shall be a chairman
 49 chair, vice-chairman vice-chair, clerk and treasurer, no two of
 50 whom when possible shall be from the same school district.
 51 The chairman chair shall preside at all meetings of the center
 52 board except in ~~his~~ the chair's absence the vice-chairman
 53 vice-chair shall preside. The clerk shall keep a complete
 54 record of the minutes of each meeting and the treasurer shall be
 55 the custodian of the funds of the center. Insofar as
 56 applicable, sections 123.33 and 123.34, shall apply to the board
 57 and officers of the center.

58 (e) Each participating school district shall have equal
 59 voting power with at least one vote. A majority of the center
 60 board shall be a quorum. Any motion other than adjournment
 61 shall pass only upon receiving a majority of the votes of the
 62 entire center board.

63 No change for subd 4 to 9

123*#36S

64 123.36 SCHOOLHOUSES AND SITES, ACCESS BY PERSONS FOR
 65 NONCURRICULAR PURPOSES, INDEPENDENT SCHOOL DISTRICTS.

66 No change for subd 1 to 12

67 Subd. 13. PROCEEDS OF SALE OR EXCHANGE. Proceeds of
 68 the sale or exchange of school buildings or real property of the
 69 school district shall be used as provided in this subdivision.

70 (1) In districts with outstanding bonds, the proceeds of
 71 the sale or exchange shall first be deposited in the debt
 72 retirement fund of the district in an amount sufficient to meet
 73 when due that percentage of the principal and interest payments
 74 for outstanding bonds which is ascribable to the payment of

1 expenses necessary and incidental to the construction or
2 purchase of the particular building or property which is sold.

3 (2) After satisfying the requirements of clause (1), a
4 district with outstanding bonds may deposit proceeds of the sale
5 or exchange in its capital expenditure fund if the amount
6 deposited is used for the following:

7 (a) for energy audits on district owned buildings conducted
8 pursuant to chapter 116H, and for funding those energy
9 conservation and renewable energy measures which the energy
10 audits indicate will reduce the use of nonrenewable sources of
11 energy to the extent that the projected energy cost savings will
12 amortize the cost of the conservation measures within a period
13 of ten years or less;

14 (b) for capital expenditures for the purpose of reducing or
15 eliminating barriers to or increasing access to school
16 facilities by handicapped persons;

17 (c) for capital expenditures to bring district facilities
18 into compliance with the uniform fire code adopted pursuant to
19 chapter 299F;

20 (d) for expenditures for the removal of asbestos from
21 school buildings or property or for asbestos encapsulation, if
22 the method for asbestos removal or encapsulation is approved by
23 the department of education;

24 (e) for expenditures for the cleanup of polychlorinated
25 biphenyls, if the method for cleanup is approved by the
26 department of education;

27 (f) for capital expenditures for the betterment, as defined
28 in section 475.51, subdivision 8, of district-owned school
29 buildings, other than as provided in clauses (b), (c), and (d);
30 or

31 (g) to replace the building or property sold.

32 The amount of the proceeds used for the purposes specified
33 in clauses (a), (b), (c), (d), and (e) shall be deducted from
34 the levy limitation computed for the levy authorized in section
35 275.125, subdivisions 11b and 11c, as applicable, in the first
36 year after the deposit and from levy limitations computed for
37 this levy in succeeding years until the entire amount is
38 deducted.

39 (3) In a district with outstanding bonds, the amount of the
40 proceeds of the sale or exchange remaining after the application
41 of clauses (1) and (2), which is sufficient to meet when due
42 that percentage of the principal and interest payments for the
43 district's outstanding bonds which is not governed by clause
44 (1), shall be deposited in the debt retirement fund.

45 (4) Any proceeds of the sale or exchange remaining in
46 districts with outstanding bonds after the application of
47 clauses (1), (2), and (3), and all proceeds of the sale or
48 exchange in districts without outstanding bonds shall be
49 deposited in the capital expenditure fund of the district.

50 (5) Notwithstanding clauses (2) and (3), a district with
51 outstanding bonds may deposit in its capital expenditure fund
52 and use for any lawful capital expenditure without the reduction
53 of any levy limitation the same percentage of the proceeds of
54 the sale or exchange of a building or property as the percentage
55 of the initial cost of purchasing or constructing the building
56 or property which was paid using revenue from the capital
57 expenditure fund.

58 (6) Every district which sells or exchanges a building or
59 property shall report to the commissioner in the form and at the
60 time he the commissioner prescribes on the disposition of the
61 proceeds of the sale or exchange. *

62 No change for subd 14

123*#39S

63 123.39 INDEPENDENT SCHOOL DISTRICTS, TRANSPORTATION.

64 No change for subd 1 to 2

65 Subd. 4. The board may provide for the instruction of any
66 resident pupil in another district when inadequate room,
67 distance to school, unfavorable road conditions, or other facts
68 or conditions make attendance in his the pupil's own district *
69 unreasonably difficult or impractical, in which case such
70 district shall pay to the district so attended the tuition
71 agreed upon or charged, pursuant to section 124.18, subdivision
72 2, and may provide transportation; provided, that such pupil
73 shall continue to be a pupil of the district of his residence *
74 for the payment of apportionment and other state aids.

75 No change for subd 5 to 8

1 Subd. 8a. Notwithstanding the provisions of section
 2 221.021, any public school district or school bus contractor
 3 providing transportation services to a school district on a
 4 regular basis in this state may operate school buses, excluding
 5 motor coach buses, for the purpose of providing transportation
 6 to nonpupils of the school district attending school events, as
 7 defined in section 123.38, subdivision 2a or 2b, provided that
 8 no person carrier having a charter carrier permit has ~~his~~ its
 9 principal office and place of business or bus garage within 12
 10 miles of the principal office of the school district. School
 11 district owned buses and the operators thereof shall otherwise
 12 comply with the provisions of this section and the rules of the
 13 state board of education and shall be insured in at least the
 14 amounts stated in section 466.04, subdivision 1. In all cases
 15 the total cost of providing such services, as determined by
 16 sound accounting procedures, shall be paid by charges made
 17 against those using the buses.

18 No change for subd 8b to 13

123*#58S

19 123.58 EDUCATIONAL COOPERATIVE SERVICE UNITS.

20 No change for subd 1 to 4

21 Subd. 5. GOVERNING BOARD. (a) The care, management,
 22 and control of an ECSU shall be vested in a board of directors
 23 composed of not less than six nor more than 15 members. Members
 24 of the ECSU board of directors shall be current members of
 25 school boards of participating public school districts.
 26 Election to the ECSU board of directors shall be by vote of all
 27 current school board members of participating public school
 28 districts with each school board member having one vote.

29 (b) At the initial election, not less than six nor more
 30 than 15 members shall be elected at large from the ECSU,
 31 one-third of the members for a one year term from July 1 next
 32 following the election, one-third of the members for a two year
 33 term, and one-third of the members for a three year term, to
 34 serve until a successor is elected and qualifies; provided that
 35 if the number of members is not evenly divisible by three, the
 36 membership will be as evenly distributed as possible among one,
 37 two, and three year terms with the remaining members serving the
 38 three year term. Elections shall occur after the third Tuesday
 39 in May but not later than June 15, or within 90 days following
 40 the filing of the initial petition with the state board of
 41 education. Thereafter, members shall be elected to serve a term
 42 of three years beginning on July 1 next following the election.

43 (c) Notwithstanding any contrary provisions in (a) and
 44 (b), the school boards of districts within that ECSU whose
 45 boundaries coincide with those of development region 11 may form
 46 a representative assembly composed of one current school board
 47 member from each district. The care, management, and control of
 48 that ECSU shall be vested in the representative assembly if one
 49 is formed. The representative assembly shall elect an executive
 50 committee of not less than six nor more than 15 members to terms
 51 as provided in clause (b) to have those powers and to carry out
 52 those duties delegated to it by the representative assembly. In
 53 the election of its executive committee, the representative
 54 assembly shall establish such electoral districts as necessary
 55 to ensure proportional representation based on school
 56 enrollments within the ECSU. The provisions of clauses (d),
 57 (e), (f) and (g) of this subdivision shall apply to the
 58 executive committee of this ECSU.

59 (d) A vacancy on the board which results in an unexpired
 60 term shall be filled by appointment by the board of directors
 61 until such vacancy can be filled at the next annual election.

62 (e) The first meeting of the ECSU board shall be at a time
 63 mutually agreed upon by board members. At this meeting, the
 64 ECSU board shall choose its officers and conduct any other
 65 necessary organizational business. The ECSU board may, in its
 66 discretion, appoint up to three superintendents of school
 67 districts within the ECSU as ex officio, non-voting members of
 68 the board and shall encourage the advisory participation of
 69 administrators of nonpublic school administrative units within
 70 the ECSU to the extent allowed by law.

71 (f) The officers of the ECSU board shall be a chairman
 72 chair, vice-chairman vice-chair, clerk and treasurer, no two of
 73 whom when possible shall be from the same school district.

74 (g) A member of the ECSU board shall have the same
 75 liability applicable to a member of an independent school board.

1 No change for subd 6 to 11

123*#62S

2 123.62 PLATS.

3 The auditor shall keep in ~~his~~ the auditor's office books *
 4 containing a correct plat and description of each district, *
 5 whether wholly or partly in ~~his~~ the auditor's county. The
 6 auditor shall submit to the state department a description and
 7 the revised plats showing changes made in district boundaries
 8 within 60 days of such changes.

123*#70S

9 123.70 HEALTH STANDARDS; SCHOOL CHILDREN.

10 No change for subd 1 to 3

11 Subd. 4. A child who is enrolling or enrolled in a public,
 12 private or parochial school may substitute a statement from a
 13 parent or guardian in lieu of the statement from a physician or
 14 public clinic which provides immunizations. If the statement is
 15 from a parent or guardian, the statement shall indicate the
 16 month and year of each immunization given. In order for the
 17 statement to be acceptable it must indicate that the following
 18 was given: no less than one dose of vaccine each for measles,
 19 mumps, and rubella given separately or in combination, and no
 20 less than three doses of vaccine for poliomyelitis, and no less
 21 than four doses of vaccine for diphtheria, tetanus, and
 22 pertussis. ~~If~~ The commissioner of health finds, on finding that *
 23 any of the above requirements are not necessary to protect the
 24 public's health, ~~he~~ may suspend for one year that requirement. *

25 No change for subd 5

26 Subd. 6. ~~If~~ The commissioner of health finds, on finding *
 27 that an immunization required pursuant to this section is not
 28 necessary to protect the public's health, ~~he~~ may suspend for one *
 29 year the requirement that children receive that immunization. *

30 No change for subd 7 to 9

123*#702S

31 123.702 SCHOOL BOARD RESPONSIBILITIES.

32 No change for subd 1 to 1a

33 Subd. 2. If any child's screening indicates a condition *
 34 which requires diagnosis or treatment, ~~his~~ the child's parents *
 35 shall be notified of the condition and the school board shall
 36 ensure that an appropriate follow-up and referral process is
 37 available, in accordance with procedures established pursuant to
 38 section 123.703, subdivision 1.

39 No change for subd 3 to 7

123*#744S

40 123.744 SCHOOL BOARDS; STUDENT MEMBERS.

41 The board of directors of any school district may appoint a
 42 student to serve as an advisory member to the school board. The
 43 student shall serve as an advisory member to the board only ~~as~~ *
 44 ~~long-as-he-attends~~ while attending school in the district, and *
 45 shall not receive any compensation or be reimbursed for any
 46 expenses incurred while serving in this capacity.

47 A student advisory member may be permitted to attend school
 48 board meetings, to be furnished with agenda materials, to
 49 introduce items for inclusion in the agenda, and to participate
 50 in discussion but shall not be entitled to vote.

123*#75S

51 123.75 MISSING CHILDREN; VOLUNTARY FINGERPRINTING
 52 PROGRAMS.

53 Subdivision 1. DEFINITION. For purposes of this
 54 section:

55 (a) "child" means a person under 18 years old; and

56 (b) "missing child" means a child who has run away or is
 57 otherwise missing from the home or the care, custody, and
 58 control of ~~his-or-her~~ the child's parents, guardian, legal *
 59 custodian, or other person having responsibility for the child. *

60 No change for subd 2 to 5

123*#932S

61 123.932 DEFINITIONS.

62 No change for subd 1a

63 Subd. 1b. "Textbook" means any book or book substitute *
 64 which a pupil uses as a text or text substitute in a particular *
 65 class or program in the school ~~he~~ regularly attends attended and
 66 a copy of which is expected to be available for the individual
 67 use of each pupil in this class or program, which book or book
 68 substitute or text or text substitute shall be limited to books,
 69 workbooks, or manuals, whether bound or in looseleaf form,
 70 intended for use as a principal source of study material for a

1 given class or a group of students. The term includes only such
 2 secular, neutral and nonideological textbooks as are available
 3 and are of benefit to Minnesota public school pupils.

4 No change for subd 1c to 1l

124*#05S

5 124.05 DEPOSITORY LAW.

6 Subdivision 1. At the annual organizational meeting in
 7 independent districts and at the annual district meeting in
 8 common districts or at other times if necessary, the board shall
 9 designate one or more national or state banks as official
 10 depositories for district money, and thereupon shall require the
 11 treasurer to deposit all or part of the district money in such
 12 bank or banks. Such designation shall be in writing and set
 13 forth all the terms and conditions upon which the deposits are
 14 made; signed by the chairman chair and clerk, and made a part of *
 15 the minutes of the board. Thereupon such bank or banks shall
 16 become legal depositories for district money. If the board
 17 shall refuse or fail to designate one or more depositories in
 18 accordance with this subdivision, the treasurer shall deposit
 19 the funds of the district in accordance with the provisions of
 20 subdivision 2, and shall file a statement of his the selection *
 21 of the depository with the clerk of the district. The treasurer
 22 shall not thereafter be liable for the loss of any funds through
 23 the insolvency or default of such depository in the absence of
 24 negligence on his the treasurer's part in the selection of the *
 25 depository.

26 No change for subd 2 to 4

124*#06S

27 124.06 INSUFFICIENT FUNDS TO PAY ORDERS.

28 In the event that a district has insufficient funds to pay
 29 its usual lawful current obligations, subject to section 471.69,
 30 the board may enter into agreements with banks or any person to
 31 take its orders at any rate of interest not to exceed six
 32 percent per annum. Any order drawn after having been presented
 33 to the treasurer for payment and not paid for want of funds
 34 shall be endorsed by the treasurer by putting on the back
 35 thereof the words "not paid for want of funds," giving the date
 36 of endorsement and signed by the treasurer. A record of such
 37 presentment, nonpayment and endorsement shall be made by the
 38 treasurer. Every such order shall bear interest at the rate of
 39 not to exceed six percent per annum from the date of such
 40 presentment. The treasurer shall serve a written notice upon
 41 the payee or his the payee's assignee, personally, or by mail, *
 42 when he the treasurer is prepared to pay such orders; such *
 43 notice may be directed to the payee or his the payee's assignee *
 44 at the address given in writing by such payee or assignee to
 45 such treasurer, at any time prior to the service of such
 46 notice. No order shall draw any interest if such address is not
 47 given when the same is unknown to the treasurer, and no order
 48 shall draw any interest after the service of such notice.

124*#07S

49 124.07 LAND IN SETTLEMENT OF CLAIM AGAINST SURETY.

50 No change for subd 1

51 Subd. 2. TITLE TO BE HELD BY DISTRICT. Title to
 52 lands or interests so acquired shall be held by the district.
 53 Each tract or portion shall be sold by the district as soon as
 54 there may be realized the fair value as determined by such
 55 board. Any such sale may be authorized by resolution of the
 56 board, and may be made for cash, or for part cash and the
 57 deferred balance secured by contract for deed or purchase money
 58 mortgage, on such terms as the board approves. Conveyances,
 59 contracts, or other instruments evidencing any sale shall be
 60 executed by the chairman chair and the clerk of the board. *
 61 Lands so acquired and held for resale shall be deemed public
 62 lands used for exclusively public purposes and as such shall be
 63 exempt from taxation.

124*#10S

64 124.10 AUDITOR'S DUTIES.

65 Subdivision 1. A copy of the apportionment of the school
 66 endowment fund shall be furnished by the state board to the
 67 commissioner of finance, who thereupon shall draw his warrants *
 68 on the state treasury, payable to the several districts, for the
 69 amount due each district. There is hereby annually appropriated
 70 from the school endowment fund the amount of such apportionments.

71 No change for subd 2 to 3

124*#12S

1 124.12 MANNER OF PAYMENT OF STATE AIDS.

2 No change for subd 1

3 Subd. 2. It shall be the duty of the commissioner of
4 education to deliver to the commissioner of finance a
5 certificate for each district entitled to receive state aid
6 under the provisions of this chapter. Upon the receipt of such
7 certificate, it shall be the duty of the commissioner of finance
8 to draw ~~his~~ a warrant upon the state treasurer in favor of the *
9 district for the amount shown by each certificate to be due to
10 the district. The commissioner of finance shall transmit such
11 warrants to the district together with a copy of the certificate
12 prepared by the commissioner.

13 Subd. 3. Repealed, 1969 c 16 s 4

14 Subd. 4. Repealed, 1969 c 16 s 4

124*#14S

15 124.14 DISTRIBUTION OF SCHOOL AIDS; APPROPRIATION.

16 No change for subd 1

17 Subd. 2. ~~if-the-commissioner-determines~~ On determining *
18 that the amount of state aid distributed to a school district is *
19 in error, ~~he the commissioner~~ is authorized to adjust the amount *
20 of aid consistent with this subdivision. ~~if-the-commissioner~~ *
21 ~~determines~~ On determining that the amount of aid is in excess of *
22 the school district's entitlement, ~~he the commissioner~~ is *
23 authorized to recover the amount of the excess by any *
24 appropriate means. Notwithstanding the fiscal years designated
25 by the appropriation, the excess may be recovered by reducing
26 future aid payments to the school district. Notwithstanding any
27 law to the contrary, if the aid reduced is not of the same type
28 as that overpaid, the school district shall adjust all necessary
29 financial accounts to properly reflect all revenues earned in
30 accordance with the uniform financial accounting and reporting
31 standards pursuant to sections 121.90 to 121.92.

32 Notwithstanding the fiscal years designated by the
33 appropriation, ~~if-the-commissioner-determines~~ on determining *
34 that the amount of an aid paid is less than the school *
35 district's entitlement, ~~he the commissioner~~ is authorized to *
36 increase such aid from the current appropriation.

37 No change for subd 3 to 7

124*#15S

38 124.15 REDUCTION OF AID FOR VIOLATION OF LAW.

39 No change for subd 1 to 2

40 Subd. 2a. After consultation with the commissioner of
41 human rights, the state board of education shall adopt rules and
42 regulations in conformance with chapter 14 which direct school
43 districts to file with the commissioner of education assurances
44 of compliance with state and federal laws prohibiting
45 discrimination and which specify the information required to be
46 submitted in support of the assurances. The commissioner of
47 education shall provide copies of the assurances and the
48 supportive information to the commissioner of human rights. If,
49 after ~~review-of~~ reviewing the assurances and the supportive *
50 information it appears ~~to-the-commissioner-of-human-rights~~ that *
51 one or more violations of the Minnesota human rights act are *
52 occurring in the district, ~~he the commissioner of human rights~~ *
53 shall notify the commissioner of education of the violations,
54 and the commissioner of education may then proceed pursuant to
55 subdivision 3.

56 Subd. 3. When it appears ~~to-the-commissioner~~ that one or *
57 more of the violations enumerated is occurring in a district, ~~he~~ *
58 the commissioner shall forthwith notify the board of that *
59 district in writing thereof. Such notice shall specify the
60 violations, set a reasonable time within which the district
61 shall correct the specified violations, describe the correction
62 required, and advise that if the correction is not made within
63 the time allowed, special state aids to the district will be
64 reduced. The time allowed for correction may be extended by the
65 commissioner if there is reasonable ground therefor.

66 Subd. 4. The board to which such notice is given may by a
67 majority vote of the whole board decide to dispute that the
68 specified violation exists or that the time allowed is
69 reasonable or the correction specified is correct, or that the
70 commissioner may reduce aids, in which case written notice of
71 such decision shall be given the commissioner. If the
72 commissioner, after such further investigation as ~~he the~~ *
73 commissioner deems necessary, adheres to ~~his~~ the previous *
74 notice, such board shall be entitled to a hearing by the state

1 board, in which event a time and place shall be set therefor and
 2 notice be given by mail to the board of the district. The state
 3 board shall adopt rules governing the proceedings for hearings
 4 which shall be designed to give a full and fair hearing and
 5 permit interested parties an opportunity to produce evidence
 6 relating to the issues involved. Such rules may provide that
 7 any question of fact to be determined upon such review may be
 8 referred to one or more members of the board or to an employee
 9 of the state board acting as a referee to hear evidence and
 10 report to the state board the testimony taken. The state board,
 11 or any person designated to receive evidence upon a review under
 12 this act, shall have the same right to issue subpoenas and
 13 administer oaths and parties to the review shall have the same
 14 right to subpoenas issued as are accorded with respect to
 15 proceedings before the industrial commission. There shall be a
 16 stenographic record made of all testimony given and other
 17 proceedings during such hearing, and as far as practicable rules
 18 governing reception of evidence in courts shall obtain. The
 19 decision of the state board shall be in writing and the
 20 controlling facts upon which the decision is made shall be
 21 stated in sufficient detail to apprise the parties and the
 22 reviewing court the basis and reason of the decision. The
 23 decision shall be confined to whether or not the specified
 24 violations or any of them existed at the date of the
 25 commissioner's first notice, whether such violations as did
 26 exist were corrected within the time permitted, and whether such
 27 violations require reduction of the state aids under this
 28 section.

29 No change for subd 5 to 8

124*#17S

30 124.17 DEFINITION OF PUPIL UNITS.

31 No change for subd 1 to 2a

32 Subd. 2b. Notwithstanding subdivision 2, pupils enrolled
 33 in the Minnesota National Guard program shall be construed to be
 34 in attendance for purposes of computing average daily membership
 35 during any period of the regular school year, but not to include
 36 summer school, during which the pupil is attending military
 37 active duty training pursuant to that program. During that
 38 period of military active duty training, the pupil shall earn
 39 all aid for the district of residence or attendance which would
 40 be otherwise earned by ~~his~~ the pupil's presence. *

41 No change for subd 2c to 3

124*#2131S

42 124.2131 EQUALIZATION AID REVIEW COMMITTEE.

43 Subdivision 1. ADJUSTED ASSESSED VALUE. (a)
 44 COMPUTATION. The equalization aid review committee,
 45 consisting of the commissioner of education, the commissioner of
 46 administration, the commissioner of agriculture, and the
 47 commissioner of revenue, is hereby continued and permanently
 48 established. The duty of this committee shall be to review the
 49 assessed valuation of the districts of the state. The
 50 department of revenue shall annually conduct an assessment/sales
 51 ratio study of the taxable property in each school district in
 52 accordance with the procedures referenced in paragraphs (b) and
 53 (c). Based upon the results of this assessment/sales ratio
 54 study, the department of revenue shall determine an aggregate
 55 equalized assessed value for the various strata of taxable
 56 property in each school district, which value shall be
 57 designated as the adjusted assessed value. The department of
 58 revenue shall take such steps as are necessary in the
 59 performance of that duty and may incur such expense as is
 60 necessary therefor. The commissioner of revenue is authorized
 61 to reimburse any county or governmental official for requested *
 62 ~~services performed at-his-request~~ in ascertaining such adjusted *
 63 valuation. On or before March 15, annually, the department of
 64 revenue shall submit its report on the assessed values
 65 established by the previous year's assessment to said committee
 66 for approval or rejection and, if approved, such report shall be
 67 filed not later than the following July 1 with the commissioner
 68 of education and each county auditor for those school districts
 69 for which ~~he~~ the auditor has the responsibility for *
 70 determination of mill rates. A copy of the adjusted assessed
 71 value so filed shall be forthwith mailed to the clerk of each
 72 district involved and to the county assessor or supervisor of
 73 assessments of the county or counties in which such district is
 74 located.

1 (b) METHODOLOGY. In making its annual
2 assessment/sales ratio studies, the department of revenue shall
3 use a methodology consistent with the most recent Standard on
4 Assessment Ratio Studies published by the assessment standards
5 committee of the International Association of Assessing
6 Officers. The commissioner of revenue shall supplement this
7 general methodology with specific procedures necessary for
8 proper execution of the study in accordance with other Minnesota
9 laws impacting the assessment/sales ratio study. The
10 commissioner shall document these specific procedures in writing
11 and shall publish the procedures in the State Register, but
12 these procedures will not be considered "rules" pursuant to the
13 Minnesota Administrative Procedure Act. By January 15, 1985,
14 the commissioner shall report to the ~~chairmen~~ chairs of the *
15 house tax committee and the senate committee on taxes and tax
16 laws the results of a study which the commissioner shall prepare
17 comparing the 1983 sales ratio study based upon the original
18 1983 assessment/sales ratio study methodology with the new
19 methodology as provided in clause (b). The 1984 adjusted
20 assessed values which are certified to the commissioner of
21 education shall be computed using the 1983 assessment/sales
22 ratio study methodology unless the 1985 legislature directs
23 otherwise.

24 (c) AGRICULTURAL LANDS. For purposes of determining
25 the adjusted assessed value of agricultural lands for the
26 calculation of 1977 adjusted assessed values and thereafter, the
27 market value of agricultural lands shall be the arithmetic
28 average of (1) the price for which the property would sell in an
29 arms length transaction, and (2) the income which could be
30 derived from its free market gross rental rate capitalized at a
31 rate of nine percent.

32 No change for subd 2 to 8

33 Subd. 9. HEARING EXAMINER. In addition to the
34 powers and duties of the tax court as prescribed by chapter 271,
35 and any act amendatory thereof, any hearing ordered pursuant to
36 the provisions hereunder may be heard by a hearing examiner in
37 lieu of one or more judges of the tax court. If a hearing is
38 conducted by a hearing examiner, such hearing examiner shall
39 exercise the same powers conferred by law upon one or more
40 judges of the tax court. ~~He~~ The hearing examiner shall report *
41 to the court. The court is authorized to make findings of fact
42 based on the report of the hearing examiner in the same manner
43 as is required by these provisions when the hearing is conducted
44 by the court. The tax court may employ hearing examiners upon
45 such terms and conditions as it shall prescribe. A hearing
46 examiner so appointed shall be in the unclassified service of
47 the state.

48 No change for subd 10 to 11

124*#2137S

49 124.2137 STATE SCHOOL AGRICULTURAL CREDIT.

50 Subdivision 1. TAX REDUCTIONS. The county auditor
51 shall reduce the tax for school purposes on all property
52 receiving the homestead credit pursuant to section 273.13,
53 subdivision 23, by an amount equal to 36 percent of the tax levy
54 imposed on up to 320 acres of land including the buildings and
55 structures thereon but excluding all dwellings and an acre of
56 land for each dwelling. The county auditor shall reduce the tax
57 for school purposes on all other agricultural lands classified
58 pursuant to section 273.13, subdivision 23, including buildings
59 and structures thereon but excluding all dwellings and an acre
60 of land for each dwelling, and on timber land classified
61 pursuant to section 273.13, subdivision 23, paragraph (b) by an
62 amount equal to 26 percent of the tax levy imposed on the
63 property. The tax on timber land classified pursuant to section
64 273.13, subdivision 8a shall be reduced by an amount equal to 26
65 percent of the tax levy imposed on the property. The tax on all
66 real estate devoted to temporary and seasonal residential
67 occupancy for recreational purposes, but not devoted to
68 commercial purposes, shall be reduced by an amount equal to 15
69 percent of the tax imposed on the property. The amounts so
70 computed by the county auditor shall be submitted to the
71 commissioner of revenue as part of the abstracts of tax lists
72 required to be filed with the commissioner under the provisions
73 of section 275.29. Any prior year adjustments shall also be
74 certified in the abstracts of tax lists. The commissioner of
75 revenue shall review the certifications to determine their

1 accuracy--He and may make changes in the certification as he *
 2 ~~may-deem~~ deemed necessary or return a certification to the *
 3 county auditor for corrections. The amount of the reduction
 4 provided under this subdivision which any taxpayer can receive
 5 shall not exceed \$100 in the case of seasonal residential
 6 recreational property. In the case of property owned by more
 7 than one person, the maximum amount of the reduction shall apply
 8 to the total of all the owners. For purposes of computing the
 9 credit pursuant to this subdivision, the "tax levy" shall be the
 10 tax levy reduced by the credits provided by sections 273.115,
 11 273.116, 273.123, 273.42, subdivision 2, and 473H.10.

12 No change for subd 2 to 3

124*#41S

13 124.41 SCHOOL LOANS.

14 No change for subd 1

15 Subd. 2. APPLICATION FORMS; RULES. The commissioner,
 16 with the assistance of the attorney general or ~~an~~ a designated *
 17 ~~assistant designated-by-him~~, shall prepare forms of applications *
 18 for debt service loans and capital loans and instruments
 19 evidencing the loans. The state board shall promulgate rules to
 20 facilitate the commissioner's operations in compliance with
 21 sections 124.36 to 124.47. The rules shall be subject to the
 22 procedure set forth in sections 14.02, 14.04 to 14.36, 14.38,
 23 14.44 to 14.45, and 14.57 to 14.62.

24 No change for subd 3

124*#42S

25 124.42 DEBT SERVICE LOANS.

26 No change for subd 1

27 Subd. 2. NOTE. Each debt service loan shall be
 28 evidenced by a note which shall be executed on behalf of the
 29 district by the signatures of its ~~chairman~~ chair or vice *
 30 ~~chairman vice-chair~~ and the school district clerk, shall be *
 31 dated November 1 of the year in which executed, and shall state
 32 its principal amount, interest rate, and that it is payable at
 33 the commissioner's office. It shall have printed thereon, or
 34 the commissioner shall attach thereto, a grill for entry of the
 35 date and amount of each payment and allocations of each payment
 36 to accrued interest or principal, and a certificate to be
 37 executed by the county auditor of each county in which any
 38 portion of the school district is situated, prior to the
 39 delivery of the note, stating that the county auditor has
 40 entered the debt service loan evidenced thereby in his the *
 41 auditor's bond register. The notes shall be delivered to the *
 42 commissioner not later than November 15 of the year in which
 43 executed. The commissioner shall cause a record to be made and
 44 preserved showing the obligor district and the date and
 45 principal amount of each note.

46 No change for subd 3 to 4

124*#43S

47 124.43 CAPITAL LOANS.

48 No change for subd 1

49 Subd. 2. DISTRICT PROCEDURES. The school board of
 50 any district desiring a loan shall adopt a resolution stating
 51 the amount proposed to be borrowed, the purpose for which the
 52 debt is to be incurred, and an estimate of the dates when the
 53 facilities for which the loan is requested will be contracted
 54 for and completed. The question of authorizing the borrowing of
 55 funds for the facilities shall be submitted to the voters of the
 56 district at a regular or special election. The question
 57 submitted shall state the total amount to be borrowed from all
 58 sources. A majority of those voting on the question shall be
 59 sufficient to authorize the district to effect the state loan
 60 application and also to issue the bonds on public sale in
 61 accordance with chapter 475. Applications for loans shall be
 62 accompanied by (a) a copy of the resolution, (b) a certificate
 63 by the clerk showing the vote at the election, (c) a certificate
 64 by the clerk and treasurer showing the then outstanding
 65 indebtedness of the district, and (d) a certificate by the
 66 county auditor of each county in which a portion of the district
 67 lies showing the information in ~~his~~ the auditor's official *
 68 records which is required to be used in computing the debt limit
 69 of the district under section 475.53, subdivision 4. The
 70 clerk's and treasurer's certificate shall show, as to each
 71 outstanding bond issue, the amount originally issued, the
 72 purpose for which issued, the date of issue, the amount
 73 remaining unpaid as of the date of the resolution, and the

1 interest rates and due dates and amounts of principal thereon.
 2 Applications shall be in the form and accompanied by the
 3 additional data which the commissioner and state board of
 4 education prescribe. When an application is received, the
 5 commissioner shall obtain from the commissioner of revenue, and
 6 from the public utilities commission when required, the
 7 information in their official records which is required to be
 8 used in computing the debt limit of the district under section
 9 475.53, subdivision 4.

10 No change for subd 3 to 4

11 Subd. 5. PARTICIPATION BY COUNTY AUDITOR; RECORD OF
 12 CONTRACT; PAYMENT OF LOAN. Before delivery of any capital
 13 loan contract, the school district shall file a copy thereof
 14 with the county auditor of each county in which any portion of
 15 the district is situated, and shall obtain from each county
 16 auditor and furnish to the commissioner a certificate stating
 17 that the county auditor has entered the capital loan evidenced
 18 thereby in ~~his~~ the auditor's bond register. As each executed *
 19 contract is delivered to the commissioner, the commissioner
 20 shall cause a record thereof to be made and preserved showing
 21 the name and address of the district, the date of the contract,
 22 and the amount of the loan initially approved in accordance with
 23 subdivision 1. Upon receipt of the resolution required in
 24 subdivision 4, the commissioner shall issue a warrant on the
 25 capital loan account for the amount which may be disbursed in
 26 accordance with subdivision 1, payable on presentation to the
 27 state treasurer. On presentation the treasurer shall remit the
 28 amount to the district and enter the date and amount in ~~his~~ the *
 29 treasurer's account with the district. Interest thereon shall *
 30 accrue from that date.

31 No change for subd 6

124*#46S

32 124.46 ISSUANCE AND SALE OF BONDS.

33 Subdivision 1. On or before October 1 in each year, the
 34 commissioner shall certify to the commissioner of finance the
 35 amount ~~which he anticipates will~~ anticipated to be needed for *
 36 debt service loans and capital loans to be made under the
 37 maximum effort school aid law prior to October 1 in the
 38 following year. Each such certification of the commissioner
 39 shall also state ~~his~~ an estimate of the dates and amounts the *
 40 certified amount will be needed in the maximum effort school
 41 loan fund and ~~his~~ an estimate as to the years and amounts in *
 42 which payments on debt service loans and capital loans will be *
 43 received.

44 No change for subd 2 to 4

124*#62S

45 124.62 FEDERAL AID TO EDUCATION, ACCEPTANCE BY THE STATE.

46 No change for subd 1 to 2

47 Subd. 3. The state treasurer shall be the custodian of all
 48 funds received from the United States on account of such
 49 acceptance, and ~~he~~ shall disburse such funds on requisition of *
 50 the state board for purposes consistent with the acts of
 51 congress and in accordance with the provisions of this section
 52 and of the order of acceptance.

125*#04S

53 125.04 QUALIFIED TEACHER DEFINED.

54 A qualified teacher is one holding a valid license, as
 55 hereinafter provided, to perform the particular service for *
 56 which ~~he-is~~ employed in a public school.

125*#09S

57 125.09 SUSPENSION OR REVOCATION OF LICENSES.

58 Subdivision 1. GROUNDS FOR REVOCATION. The board of
 59 teaching or the state board of education, whichever has
 60 jurisdiction over a teacher's licensure, may, on the written
 61 complaint of the board employing a teacher, or of a teacher
 62 organization, or of any other interested person, which complaint
 63 shall specify the nature and character of the charges, suspend
 64 or revoke such teacher's license to teach for any of the
 65 following causes:

66 (1) Immoral character or conduct;

67 (2) Failure, without justifiable cause, to teach for the
 68 term of ~~his~~ the teacher's contract; *

69 (3) Gross inefficiency or wilful neglect of duty; or

70 (4) Failure to meet licensure requirements; or

71 (5) Fraud or misrepresentation in obtaining a license.

72 Subd. 2. Repealed, 1976 c 222 s 209

1 Subd. 3. Repealed, 1976 c 222 s 209

125*#12S

2 125.12 EMPLOYMENT; CONTRACTS, TERMINATION.

3 No change for subd 1 to 1a

4 Subd. 2. HIRING, DISMISSING. School boards shall
 5 hire or dismiss teachers at duly called meetings. Where a
 6 husband and wife, brother and sister, or two brothers or
 7 sisters, constitute a quorum, no contract employing a teacher
 8 shall be made or authorized except upon the unanimous vote of
 9 the full board. No teacher related by blood or marriage, within
 10 the fourth degree, computed by the civil law, to a board member
 11 shall be employed except by a unanimous vote of the full board.
 12 The initial employment of the teacher in the district shall be
 13 by written contract, signed by the teacher and by the ~~chairman~~
 14 chair and clerk. All subsequent employment of the teacher in
 15 the district shall be by written contract, signed by the teacher
 16 and by the ~~chairman~~ chair and clerk, except where there is a
 17 master agreement covering the employment of the teacher.
 18 Contracts for teaching or supervision of teaching can be made
 19 only with qualified teachers. No teacher shall be required to
 20 reside within the employing school district as a condition to
 21 teaching employment or continued teaching employment.

22 No change for subd 2a to 3

23 Subd. 4. TERMINATION OF CONTRACT AFTER PROBATIONARY
 24 PERIOD. A teacher who has completed ~~his~~ a probationary period
 25 in any school district, and who has not been discharged or
 26 advised of a refusal to renew ~~his~~ the teacher's contract
 27 pursuant to subdivision 3, shall have a continuing contract with
 28 such district. Thereafter, the teacher's contract shall remain
 29 in full force and effect, except as modified by mutual consent
 30 of the board and the teacher, until terminated by a majority
 31 roll call vote of the full membership of the board prior to
 32 April 1 upon one of the grounds specified in subdivision 6 or
 33 prior to June 1 upon one of the grounds specified in
 34 subdivisions 6a or 6b, or until the teacher is discharged
 35 pursuant to subdivision 8, or by the written resignation of the
 36 teacher submitted prior to April 1; provided, however, that if
 37 an agreement as to the terms and conditions of employment for
 38 the succeeding school year has not been adopted pursuant to the
 39 provisions of sections 179A.01 to 179A.25 prior to March 1, the
 40 teacher's right of resignation shall be extended to the 30th
 41 calendar day following the adoption of said contract in
 42 compliance with section 179A.20, subdivision 5. Such written
 43 resignation by the teacher shall be effective as of June 30 if
 44 submitted prior to that date and the teachers' right of
 45 resignation for the school year then beginning shall cease on
 46 July 15. Before a teacher's contract is terminated by the
 47 board, the board shall notify the teacher in writing and state
 48 its ground for the proposed termination in reasonable detail
 49 together with a statement that the teacher may make a written
 50 request for a hearing before the board within 14 days after
 51 receipt of such notification. Within 14 days after receipt of
 52 this notification the teacher may make a written request for a
 53 hearing before the board and it shall be granted upon reasonable
 54 notice to the teacher of the date set for hearing, before final
 55 action is taken. If no hearing is requested within such period,
 56 it shall be deemed acquiescence by the teacher to the board's
 57 action. Such termination shall take effect at the close of the
 58 school year in which the contract is terminated in the manner
 59 aforesaid. Such contract may be terminated at any time by
 60 mutual consent of the board and the teacher and this section
 61 shall not affect the powers of a board to suspend, discharge, or
 62 demote a teacher under and pursuant to other provisions of law.

63 No change for subd 5

64 Subd. 6. GROUNDS FOR TERMINATION. A continuing
 65 contract may be terminated, effective at the close of the school
 66 year, upon any of the following grounds:

- 67 (a) Inefficiency;
- 68 (b) Neglect of duty, or persistent violation of school
 69 laws, rules, regulations, or directives;
- 70 (c) Conduct unbecoming a teacher which materially impairs
 71 ~~his~~ the teacher's educational effectiveness;
- 72 (d) Other good and sufficient grounds rendering the teacher
 73 unfit to perform ~~his~~ the teacher's duties.

74 A contract shall not be terminated upon one of the grounds
 75 specified in clauses (a), (b), (c), or (d), unless the teacher

1 shall have failed to correct the deficiency after being given
2 written notice of the specific items of complaint and reasonable
3 time within which to remedy them.

4 No change for subd 6a

5 Subd. 6b. UNREQUESTED LEAVE OF ABSENCE. The school
6 board may place on unrequested leave of absence, without pay or
7 fringe benefits, as many teachers as may be necessary because of
8 discontinuance of position, lack of pupils, financial
9 limitations, or merger of classes caused by consolidation of
10 districts. The unrequested leave shall be effective at the
11 close of the school year. In placing teachers on unrequested
12 leave, the board shall be governed by the following provisions:

13 (a) The board may place probationary teachers on
14 unrequested leave first in the inverse order of their
15 employment. No teacher who has acquired continuing contract
16 rights shall be placed on unrequested leave of absence while
17 probationary teachers are retained in positions for which the
18 teacher who has acquired continuing contract rights is licensed;

19 (b) Teachers who have acquired continuing contract rights
20 shall be placed on unrequested leave of absence in fields in
21 which they are licensed in the inverse order in which they were
22 employed by the school district. In the case of equal
23 seniority, the order in which teachers who have acquired
24 continuing contract rights shall be placed on unrequested leave
25 of absence in fields in which they are licensed shall be
26 negotiable;

27 (c) Notwithstanding the provisions of clause (b), no
28 teacher shall be entitled to exercise any seniority when that
29 exercise results in that teacher being retained by the district
30 in a field for which the teacher holds only a provisional
31 license, as defined by the board of teaching, unless that
32 exercise of seniority results in the placement on unrequested
33 leave of absence of another teacher who also holds a provisional
34 license in the same field. The provisions of this clause shall
35 not apply to vocational education licenses;

36 (d) Notwithstanding clauses (a), (b) and (c), if the
37 placing of a probationary teacher on unrequested leave before a
38 teacher who has acquired continuing rights, the placing of a
39 teacher who has acquired continuing contract rights on
40 unrequested leave before another teacher who has acquired
41 continuing contract rights but who has greater seniority, or the
42 restriction imposed by the provisions of clause (c) would place
43 the district in violation of its affirmative action program, the
44 district may retain the probationary teacher, the teacher with
45 less seniority, or the provisionally licensed teacher;

46 (e) Teachers placed on unrequested leave of absence shall
47 be reinstated to the positions from which they have been given
48 leaves of absence or, if not available, to other available
49 positions in the school district in fields in which they are
50 licensed. Reinstatement shall be in the inverse order of
51 placement on leave of absence. No teacher shall be reinstated
52 to a position in a field in which the teacher holds only a
53 provisional license, other than a vocational education license,
54 while another teacher who holds a nonprovisional license in the
55 same field remains on unrequested leave. The order of
56 reinstatement of teachers who have equal seniority and who are
57 placed on unrequested leave in the same school year shall be
58 negotiable;

59 (f) No appointment of a new teacher shall be made while
60 there is available, on unrequested leave, a teacher who is
61 properly licensed to fill such vacancy, unless the teacher fails
62 to advise the school board within 30 days of the date of
63 notification that a position is available to that teacher; ~~that~~ *
64 ~~he or she~~ who may return to employment and ~~that he or she will~~ *
65 assume the duties of the position to which appointed on a future
66 date determined by the board;

67 (g) A teacher placed on unrequested leave of absence may
68 engage in teaching or any other occupation during the period of
69 this leave;

70 (h) The unrequested leave of absence shall not impair the
71 continuing contract rights of a teacher or result in a loss of
72 credit for previous years of service;

73 (i) The unrequested leave of absence of a teacher who is
74 placed on unrequested leave of absence prior to January 1, 1978
75 and who is not reinstated shall continue for a period of two
76 years after which the right to reinstatement shall terminate.

1 The unrequested leave of absence of a teacher who is placed on
 2 unrequested leave of absence on or after January 1, 1978 and who
 3 is not reinstated shall continue for a period of five years,
 4 after which the right to reinstatement shall terminate; provided
 5 the teacher's right to reinstatement shall also terminate if he
 6 ~~or-she~~ the teacher fails to file with the board by April 1 of
 7 any year a written statement requesting reinstatement;

*
 *

8 (j) The same provisions applicable to terminations of
 9 probationary or continuing contracts in subdivisions 3 and 4
 10 shall apply to placement on unrequested leave of absence;

11 (k) Nothing in this subdivision shall be construed to
 12 impair the rights of teachers placed on unrequested leave of
 13 absence to receive unemployment compensation if otherwise
 14 eligible.

15 Subd. 7. SUSPENSION AND LEAVE OF ABSENCE FOR HEALTH
 16 REASONS. Affliction with active tuberculosis or other
 17 communicable disease, mental illness, drug or alcoholic
 18 addiction, or other serious incapacity shall be grounds for
 19 temporary suspension and leave of absence while the teacher is
 20 suffering from such disability. Unless the teacher consents,
 21 such action shall be taken only upon evidence that suspension is
 22 required from a physician who has examined the teacher. The
 23 physician shall be competent in the field involved and shall be
 24 selected by the teacher from a list of three provided by the
 25 school board, and the examination shall be at the expense of the
 26 school district. A copy of the report of the physician shall be
 27 furnished the teacher upon request. If the teacher fails to
 28 submit to the examination within the prescribed time, the board
 29 may discharge ~~him~~ the teacher, effective immediately. In the
 30 event of mental illness, if the teacher submits to such an
 31 examination and the examining physician's or psychiatrist's
 32 statement is unacceptable to the teacher or the board, a panel
 33 of three physicians or psychiatrists shall be selected to
 34 examine the teacher at the board's expense. The board and the
 35 teacher shall each select a member of this panel, and these two
 36 members shall select a third member. The panel shall examine
 37 the teacher and submit a statement of its findings and
 38 conclusions to the board. Upon receipt and consideration of the
 39 statement from the panel the board may suspend the teacher. The
 40 board shall notify the teacher in writing of such suspension and
 41 the reasons therefor. During the leave of absence the teacher
 42 shall be paid sick leave benefits by the district up to the
 43 amount of ~~his~~ unused accumulated sick leave, and after it is
 44 exhausted, the district may in its discretion pay ~~him~~ additional
 45 benefits. The teacher shall be reinstated to ~~his~~ the teacher's
 46 position upon evidence from such a physician ~~that-he-has-made~~ of
 47 sufficient recovery ~~and-is to be~~ capable of resuming performance
 48 of ~~his~~ duties in a proper manner. In the event that the teacher
 49 does not qualify for reinstatement within twelve months after
 50 the date of suspension, ~~his~~ the continuing disability may be a
 51 ground for discharge under subdivision 8.

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52 Subd. 8. IMMEDIATE DISCHARGE. A school board may
 53 discharge a continuing-contract teacher, effective immediately,
 54 upon any of the following grounds:

55 (a) Immoral conduct, insubordination, or conviction of a
 56 felony;

57 (b) Conduct unbecoming a teacher which requires the
 58 immediate removal of the teacher from ~~his~~ classroom or other
 59 duties;

*

60 (c) Failure without justifiable cause to teach without
 61 first securing the written release of the school board;

62 (d) Gross inefficiency which the teacher has failed to
 63 correct after reasonable written notice;

64 (e) Willful neglect of duty; or

65 (f) Continuing physical or mental disability subsequent to
 66 a twelve months leave of absence and inability to qualify for
 67 reinstatement in accordance with subdivision 7.

68 Prior to discharging a teacher the board shall notify the
 69 teacher in writing and state its ground for the proposed
 70 discharge in reasonable detail. Within ten days after receipt
 71 of this notification the teacher may make a written request for
 72 a hearing before the board and it shall be granted before final
 73 action is taken. The board may, however, suspend a teacher with
 74 pay pending the conclusion of such hearing and determination of
 75 the issues raised therein after charges have been filed which
 76 constitute ground for discharge.

1 Subd. 9. HEARING PROCEDURES. Any hearing held
 2 pursuant to this section shall be held upon appropriate and
 3 timely notice to the teacher, and any hearing held pursuant to
 4 subdivision 6 or 8 shall be private or public at the discretion
 5 of the teacher. A hearing held pursuant to subdivision 6b shall
 6 be public and may be consolidated by the school board. At the
 7 hearing, the board and the teacher may each be represented by
 8 counsel at ~~its-or-his~~ each party's own expense, and such counsel *
 9 may examine and cross-examine witnesses and present arguments.
 10 The board shall first present evidence to sustain the grounds
 11 for termination or discharge and then receive evidence presented
 12 by the teacher. Each party may then present rebuttal evidence.
 13 Dismissal of the teacher shall be based upon substantial and
 14 competent evidence in the record. All witnesses shall be sworn
 15 upon oath administered by the presiding officer of the board.
 16 The clerk of the board shall issue subpoenas for witnesses or
 17 the production of records pertinent to the grounds upon the
 18 request of either the board or the teacher. The board shall
 19 employ a court reporter to record the proceedings at the
 20 hearing, and either party may obtain a transcript thereof at its
 21 own expense.

22 No change for subd 10 to 13

23 Subd. 14. RECORDS RELATING TO INDIVIDUAL TEACHER;
 24 ACCESS; EXPUNGEMENT. All evaluations and files generated
 25 within a school district relating to each individual teacher
 26 shall be available to each individual teacher upon written
 27 request. Effective January 1, 1976, all evaluations and files,
 28 wherever generated, relating to each individual teacher shall be
 29 available to each individual teacher upon written request. The
 30 teacher shall have the right to reproduce any of the contents of
 31 the files at the teacher's expense and to submit for inclusion
 32 in the file written information in response to any material
 33 contained therein.

34 A school district may destroy the files as provided by law
 35 and shall expunge from the teacher's file any material found to
 36 be false or substantially inaccurate through the grievance
 37 procedure required pursuant to section 179A.20, subdivision 4;
 38 provided, the grievance procedure promulgated by the director of
 39 the bureau of mediation services, pursuant to section 179A.04,
 40 subdivision 3, clause (h), shall apply to those principals and
 41 supervisory employees not included in an appropriate unit as
 42 defined in section 179A.03. Expungement proceedings shall be
 43 commenced within the time period provided in the collective
 44 bargaining agreement for the commencement of a grievance. If no
 45 time period is provided in the bargaining agreement, the
 46 expungement proceedings shall commence within 15 days after the
 47 teacher has knowledge of the inclusion in ~~his~~ the teacher's file *
 48 of the material ~~he~~ the teacher seeks to have expunged. *

125*#121S

49 125.121 COACHES, TERMINATION OF DUTIES.

50 No change for subd 1 to 2

51 Subd. 3. This section shall not apply to the termination
 52 of coaching duties pursuant to a district transfer policy or as
 53 a result of the nonrenewal or termination of the employee's
 54 contract or the employee's discharge, demotion or suspension
 55 pursuant to sections 125.12 or 125.17. This section shall not
 56 apply to the termination of an employee's coaching duties prior
 57 to ~~his~~ completion of the probationary period of employment. *

125*#14S

58 125.14 SUMMER SCHOOLS; TEACHERS' CONTRACTS.

59 In order to encourage further preparation and education of
 60 its teachers, the board of an independent school district may
 61 stipulate in a teacher's contract the amount ~~he-or-she~~ the *
 62 teacher may receive conditioned upon attending summer school. *

125*#15S

63 125.15 KEEPING OF REGISTERS.

64 Each teacher shall keep a register, furnished by the clerk,
 65 showing the daily attendance of each pupil, and such other
 66 matters as may be required in such register. ~~He~~ Each teacher *
 67 shall also keep such record of deportment and scholarship as may
 68 be required by the board. The register shall show the names and
 69 ages of all pupils, the names and number of days' attendance of
 70 all pupils between the ages of five and eight years, between
 71 eight and fifteen years, and between fifteen and twenty-one
 72 years, and the names of all paying tuition. The teacher shall
 73 return such register, properly kept, to the clerk within ten

1 days after the close of the school year.

125*#16S

2 125.16 TEACHERS' REPORTS.

3 No order shall be issued for the payment of the wages of
4 any teacher while ~~he~~ the teacher is in default in making reports
5 or in returning ~~his~~ the teacher's register. The teachers,
6 principals, and superintendents shall make such reports as may
7 be required by law or the rules of the state or local board
8 under like penalty.

*
*

125*#17S

9 125.17 TEACHER TENURE ACT; CITIES OF THE FIRST CLASS;
10 DEFINITIONS.

11 No change for subd 1 to 4

12 Subd. 5. HEARING OF CHARGES AGAINST TEACHER. The
13 charges against a teacher shall be in writing and signed by the
14 person making the same and then filed with the secretary or
15 clerk of the school board having charge of the school in which
16 the teacher is employed. Such school board before discharging
17 or demoting a teacher shall then accord the teacher against whom
18 such charges have been filed a full hearing and give to the
19 teacher at least ten days' notice in writing of the time and
20 place of such hearing; such notice may be served personally or
21 sent by certified mail addressed to such teacher at ~~his~~ the
22 teacher's last known post office address; provided, that if the
23 charge be made by any person not in connection with the school
24 system the charge may be disregarded by such school board. Upon
25 such hearing being held such school board shall hear all
26 evidence that may be adduced in support of the charges and for
27 the teacher's defense thereto. Either party shall have the
28 right to have a written record of the hearing at the expense of
29 the board and to have witnesses subpoenaed and all witnesses so
30 subpoenaed shall be examined under oath. Any member of the
31 school board conducting such a hearing shall have authority to
32 issue subpoenas and to administer oaths to witnesses.

*
*

33 No change for subd 6 to 11

34 Subd. 12. RECORDS RELATING TO INDIVIDUAL TEACHER;
35 ACCESS; EXPUNGEMENT. All evaluations and files generated
36 within a school district relating to each individual teacher
37 shall be available to each individual teacher upon ~~his~~ the
38 teacher's written request. Effective January 1, 1976, all
39 evaluations and files, wherever generated, relating to each
40 individual teacher shall be available to each individual teacher
41 upon ~~his~~ the teacher's written request. The teacher shall have
42 the right to reproduce any of the contents of the files at the
43 teacher's expense and to submit for inclusion in the file
44 written information in response to any material contained
45 therein.

*
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*

46 A school district may destroy the files as provided by law
47 and shall expunge from the teacher's file any material found to
48 be false or substantially inaccurate through the grievance
49 procedure required pursuant to section 179A.20, subdivision 4;
50 provided, the grievance procedure promulgated by the director of
51 the bureau of mediation services, pursuant to section 179A.04,
52 subdivision 3, clause (h), shall apply to those principals and
53 supervisory employees not included in an appropriate unit as
54 defined in section 179A.03. Expungement proceedings shall be
55 commenced within the time period provided in the collective
56 bargaining agreement for the commencement of a grievance. If no
57 time period is provided in the bargaining agreement, the
58 expungement proceedings shall commence within 15 days after the
59 teacher has knowledge of the inclusion in ~~his~~ the teacher's file
60 of the material ~~he~~ the teacher seeks to have expunged.

*
*

125*#18S

61 125.18 SABBATICAL LEAVE FOR SCHOOL TEACHERS.

62 No change for subd 1

63 Subd. 2. Any teacher who makes application for and accepts
64 sabbatical leave shall agree that, upon the conclusion of said
65 sabbatical leave, ~~he~~ the teacher shall return to ~~his~~ the
66 teacher's position for a period determined by the board before
67 the leave is granted, or repay the district the portion of
68 salary received while on sabbatical leave.

*
*

69 No change for subd 3 to 4

125*#183S

70 125.183 MEMBERSHIP.

71 No change for subd 1

72 Subd. 3. Except for the representatives of higher

1 education and the public, to be eligible for appointment to the
 2 board of teaching a person must be fully licensed for the
 3 position ~~he-holds~~ held and have at least five years teaching *
 4 experience in Minnesota, including the two years immediately
 5 preceding nomination and appointment. The board shall be
 6 composed of one teacher whose responsibilities are those either
 7 of a librarian, psychologist, remedial reading teacher, speech
 8 therapist, or vocational teacher, three elementary school
 9 classroom teachers, three secondary classroom teachers, one
 10 higher education representative, from a higher education faculty
 11 preparing teachers; one school administrator and six members of
 12 the public, two of whom shall be present or former members of
 13 local school boards. Each nominee other than a public nominee
 14 shall be selected on the basis of ~~his~~ professional experience, *
 15 and knowledge of teacher education, accreditation and licensure.

16 Subd. 4. The position of a member who leaves Minnesota or
 17 whose employment status changes to a category different from
 18 that from which ~~he-was~~ appointed shall be deemed vacant. *

19 No change for subd 5 to 6

125*#184S

20 125.184 MEETINGS.

21 Subdivision 1. The board of teaching shall meet regularly
 22 at such times and places as the board shall determine. Meetings
 23 shall be called by the ~~chairman~~ chair or at the written request *
 24 of any eight members.

25 No change for subd 2

125*#185S

26 125.185 DUTIES.

27 No change for subd 1 to 2

28 Subd. 3. The board shall elect a ~~chairman~~ chair and such *
 29 other officers as it may deem necessary.

30 No change for subd 4 to 6

31 Subd. 7. Any person who shall in any manner ~~represent~~ *
 32 ~~himself-as~~ claim to be a licensed teacher without a valid *
 33 existing license issued ~~to-him~~ by the board or any person who *
 34 employs fraud or deception in applying for or securing a license
 35 shall be guilty of a gross misdemeanor.

36 Subd. 8. Repealed, 1976 c 271 s 98

37 No change for subd 9

125*#60S

38 125.60 EXTENDED LEAVES OF ABSENCE.

39 No change for subd 1 to 3

40 Subd. 4. Any teacher who is reinstated to a teaching
 41 position after an extended leave of absence pursuant to this
 42 section shall retain seniority and continuing contract rights in
 43 the employing district as though ~~he~~ the teacher had been *
 44 teaching in the district during the period ~~when-he-was-on~~ of the *
 45 extended leave; provided, however, this subdivision shall not be
 46 construed to require a board to reinstate a teacher to any
 47 particular position or to include the years spent on the
 48 extended leave of absence in the determination of a teacher's
 49 salary upon ~~his~~ return to teaching in this district. *

50 Subd. 5. The years spent by a teacher on an extended leave
 51 of absence pursuant to this section shall not be included in the
 52 determination of ~~his~~ salary upon ~~his~~ return to teaching in the *
 53 district. The credits earned by a teacher on an extended leave
 54 of absence pursuant to this section shall not be included in the
 55 determination of ~~his~~ salary upon ~~his~~ return to teaching in the *
 56 district for a period equal to the time of the extended leave of
 57 absence.

58 No change for subd 6

59 Subd. 6a. No school board shall be obligated to reinstate
 60 a teacher who takes a full time or part time position as a *
 61 teacher in another Minnesota school district while ~~he-is~~ on an
 62 extended leave of absence pursuant to this section. This
 63 subdivision shall not apply to a teacher who is employed as a
 64 substitute teacher.

65 No change for subd 6b to 8

125*#611S

66 125.611 TEACHER EARLY RETIREMENT INCENTIVE PROGRAM.

67 No change for subd '1 to 10

68 Subd. 11. Notwithstanding the provisions of subdivisions
 69 2, 3 and 7, a teacher who has entered into an agreement for
 70 termination of services and withdrawal from active teaching
 71 service with an early retirement incentive may be employed as a
 72 substitute teacher after ~~his~~ retirement. *

1 No change for subd 12 to 13

126*#02S

2 126.02 PHYSICAL AND HEALTH EDUCATION.

3 Subdivision 1. INSTRUCTION REQUIRED IN PUBLIC SCHOOLS.

4 There shall be established and provided in all the public
5 schools of this state, physical and health education, training,
6 and instruction of pupils of both sexes. Every pupil attending
7 any such school, ~~insofar as he or she is~~ to the extent *
8 physically fit and able to do so, shall participate in the
9 physical training program. Suitable modified courses shall be
10 provided for pupils physically or mentally unable or unfit to
11 take the courses prescribed for normal pupils. No pupil shall
12 be required to undergo a physical or medical examination or
13 treatment if the parent or legal guardian of the person of such
14 pupil shall in writing notify the teacher or principal or other
15 person in charge of such pupil ~~that he objects of an objection~~ *
16 to such physical or medical examination or treatment; provided
17 that secondary school pupils in junior and senior years need not
18 take the course unless required by the local school board.

19 No change for subd 2

126*#11S

20 126.11 ARBOR DAY.

21 No change for subd 1 to 2

22 Subd. 3. The governor shall in any way ~~he deems~~ deemed *
23 necessary encourage the observances and exercises set forth in
24 this section and ~~he~~ shall by proclamation call the public's
25 attention to the importance of the state forest resources and
26 the policy herein set forth. *

126*#115S

27 126.115 MOTORCYCLE SAFETY EDUCATION PROGRAM.

28 No change for subd 1 to 2

29 Subd. 3. APPROPRIATION. All funds in the motorcycle
30 safety fund created by section 171.06, subdivision 2a are hereby
31 annually appropriated to the commissioner of public safety to
32 carry out the purposes of subdivisions 1 and 2. The
33 commissioner of public safety may make grants from the fund to
34 the commissioner of education at such times and in such amounts
35 as ~~he~~ the commissioner deems necessary to carry out the purposes *
36 of subdivisions 1 and 2. Not more than five percent of the
37 funds so appropriated shall be expended to defray the
38 administrative costs of carrying out the purposes of
39 subdivisions 1 and 2, and not more than 50 percent of the money
40 so appropriated shall be expended for the combined purpose of
41 training and coordinating the activities of motorcycle safety
42 instructors and making reimbursements to schools and other
43 approved organizations.

126*#20S

44 126.20 EYE PROTECTIVE DEVICES.

45 No change for subd 1 to 4

46 Subd. 5. Any person desiring protective-corrective lenses
47 instead of the protective devices supplied by the educational
48 institution shall, ~~at his own expense~~ pay for, procure and equip *
49 ~~himself with~~, keep, and use industrial quality eye protective *
50 devices.

51 No change for subd 6

126*#262S

52 126.262 DEFINITIONS.

53 No change for subd 1

54 Subd. 2. "Pupil of limited English proficiency" means a
55 pupil in any of the grades of kindergarten through 12 who meets
56 the following requirements:

57 (a) The pupil, as declared by ~~his~~ a parent or guardian (1) *
58 first learned a language other than English, (2) comes from a
59 home where the language usually spoken is other than English, or
60 (3) usually speaks a language other than English; and

61 (b) The pupil's score is significantly below the average
62 district score for pupils of the same age on a nationally normed
63 English reading or English language arts achievement test. A
64 pupil's score shall be considered significantly below the
65 average district score for pupils of the same age if it is
66 one-third of a standard deviation below that average score.

67 No change for subd 3 to 8

126*#264S

68 126.264 RIGHTS OF PARENTS.

69 No change for subd 1

70 Subd. 2. Any parent whose child is enrolled in an

1 educational program for limited English proficient students
2 shall have the right, either at the time of the original
3 notification of enrollment or at the close of any semester
4 thereafter, to withdraw ~~his~~ the child from the program by *
5 providing written notice of this intent to the principal of the
6 school in which ~~his~~ the child is enrolled or to the *
7 superintendent of the school district in which ~~his~~ the child *
8 resides. Nothing herein shall preclude a parent from
9 reenrolling a child of limited English proficiency in an
10 educational program for limited English proficient students.

11 No change for subd 3

126*#36S

12 126.36 TEACHERS; LICENSES.

13 No change for subd 1 to 4

14 Subd. 5. PERSONS ELIGIBLE FOR EMPLOYMENT. Any person
15 licensed under this section shall be eligible for employment by
16 a school board as a teacher in a bilingual education or English
17 as a second language program in which the language for which ~~he~~ *
18 the person is licensed is taught or used as a medium of *
19 instruction. A school board may prescribe only those additional
20 qualifications for teachers licensed under this section as are
21 approved by the board of teaching.

22 Subd. 6. Repealed, 1980 c 609 art 3 s 24

23 No change for subd 7

126*#49S

24 126.49 TEACHERS; LICENSES; EXEMPTIONS.

25 No change for subd 1 to 4

26 Subd. 5. PERSONS ELIGIBLE FOR EMPLOYMENT; EXEMPTIONS.

27 Any person licensed under this section shall be eligible for
28 employment by a school board or a participating school as a
29 teacher in an American Indian language and culture education
30 program in which the American Indian language or culture in
31 which ~~he~~ the person is licensed is taught. A school district or *
32 participating school may prescribe only those additional
33 qualifications for teachers licensed under this section as are
34 approved by the board of teaching. Any school board or
35 participating school upon request may be exempted from the
36 licensure requirements of this section in the hiring of one or
37 more American Indian language and culture education teachers for
38 any school year in which compliance would, in the opinion of the
39 commissioner of education, create a hardship in the securing of
40 the teachers.

41 No change for subd 6 to 8

127*#04S

42 127.04 JUDGMENT PAID BY TREASURER.

43 Except as hereinafter provided, no execution shall issue
44 upon any judgment against a school district for the recovery of
45 money. Unless the same be stayed by appeal, the treasurer shall
46 pay such judgment, upon presentation of a certified copy
47 thereof, if ~~he has~~ there is sufficient money of the district not *
48 otherwise appropriated. ~~If he~~ A treasurer who fails to do so, *
49 ~~he~~ shall be personally liable for the amount, unless the *
50 collection be afterwards stayed.

127*#05S

51 127.05 TAX LEVY FOR UNPAID JUDGMENT.

52 If such judgment is not satisfied, or stayed by appeal or
53 otherwise, before the next annual meeting of the district, a
54 certified copy thereof may be presented at its annual meeting,
55 whereupon the district shall cause the amount of the judgment,
56 with interest, to be added to the tax of the district. If such
57 tax is not levied and certified to the county auditor on or
58 before October 1 next after presentation, a certified copy
59 thereof may be filed with such auditor at any time before ~~he~~ the *
60 auditor has extended the tax of such district, with an affidavit *
61 showing the amount remaining unpaid thereon and the fact of such
62 presentation to the district. Thereupon the auditor shall at
63 once levy and extend such amount as a tax upon the property
64 taxable within the district. By mutual agreement between the
65 district and the judgment creditor the levy may be spread
66 equally over a period of more than one year.

127*#08S

67 127.08 IMPROPER CLASSIFICATION OF PUPILS.

68 No district shall classify its pupils with reference to
69 race, color, social position, or nationality, nor separate its
70 pupils into different schools or departments upon any of such
71 grounds. Any district so classifying or separating any of its

1 pupils, or denying school privileges to any of its pupils upon
 2 any such ground shall forfeit its share in all apportioned
 3 school funds for any apportionment period in which such
 4 classification, separation, or exclusion shall occur or
 5 continue. The state commissioner upon notice to the offending
 6 district and upon proof of the violation of the provisions of
 7 this section, shall withhold in the semiannual apportionment the
 8 share of such district and the county auditor shall thereupon
 9 exclude such district from ~~his~~ the apportionment for such period. *

127*#10S

10 127.10 FAILURE OF CLERK TO REPORT.

11 Any clerk of a school district who fails to make any report
 12 required ~~of-him~~ by law shall forfeit not less than \$5, nor more
 13 than \$50, for the use of the district. *

127*#11S

14 127.11 DRAWING ILLEGAL ORDER.

15 Any school district clerk who illegally draws an order upon
 16 the treasurer, any ~~chairman~~ chair or other officer who attests
 17 the order, and any school district treasurer who knowingly pays
 18 the order, shall each forfeit to the district twice the amount
 19 of the order, to be collected in an action brought in the name
 20 of the district by any eligible voter, as defined in section
 21 123.32, subdivision 1a, of the district. *

127*#12S

22 127.12 NEGLECTING TO KEEP OR DELIVER RECORDS.

23 Any school district clerk who shall neglect to keep ~~the~~
 24 official books and records ~~of-his-office~~ in the manner
 25 prescribed by law or shall wilfully refuse to deliver such books
 26 and records to ~~his~~ a successor in office, shall forfeit to the
 27 use of the district the sum of \$10 for each offense. *

127*#15S

28 127.15 DEALING IN SCHOOL SUPPLIES.

29 Except as provided for in sections 471.87 and 471.88, no
 30 teacher in the public schools, nor any state, county, town,
 31 city, or district school officer, including any superintendent
 32 of schools, or any member of any school board, nor any person
 33 connected with the public school system in any capacity, shall
 34 be interested directly or indirectly in the sale, proceeds, or
 35 profits of any book, apparatus, or furniture used, or to be
 36 used, in any school with which ~~he~~ the person is connected in any
 37 official capacity. Any person violating any of the provisions
 38 of this section shall forfeit not less than \$50, nor more than
 39 \$200 for each such offense. This section shall not apply to a
 40 person who may have an interest in the sale of any book of
 41 which ~~he-himself~~ that person is the author. *

127*#16S

42 127.16 DUTY OF OFFICERS TO REPORT VIOLATIONS OF LAW.

43 Every officer to whom reports are required by law to be
 44 made and for the failure to make which a penalty or fine or
 45 forfeiture is provided, shall give immediate written notice of
 46 such failure to the delinquent and to the proper county
 47 attorney. Such county attorney shall thereupon institute proper
 48 proceedings to collect such penalty, fine, or forfeiture. Upon
 49 complaint of the district superintendent, or when it comes to
 50 ~~his~~ the attorney's knowledge that any school officer has
 51 violated any provision of law for which violation a penalty,
 52 fine or forfeiture is provided, such attorney shall institute
 53 like proceedings. *

127*#19S

54 127.19 OFFICERS, TEACHERS; NEGLECT OF DUTY; PENALTY.

55 Any school officer, truant officer, teacher of a public or
 56 private school, school principal or district superintendent
 57 refusing, wilfully failing, or neglecting to perform any duty
 58 imposed ~~upon-him~~ by the provisions of law relating to the
 59 compulsory attendance in school of children of school age shall
 60 be guilty of a misdemeanor; and, upon conviction thereof,
 61 punished for each offense by a fine of not to exceed \$10 or by
 62 imprisonment in the county jail for not to exceed ten days. All
 63 such fines, when collected, shall be paid into the county
 64 treasury for the benefit of the school district in which the
 65 offense is committed. *

127*#20S

66 127.20 VIOLATIONS; PENALTIES.

67 Any person who shall fail or refuse to send to or keep in
 68 school any child of whom ~~he~~ the person has legal charge or
 69 control, and who is required by law to attend school, when *

1 notified so to do by a truant officer or other official as
 2 hereinbefore provided, or any person who induces or attempts to
 3 induce any such child unlawfully to be absent himself from *
 4 school, or who knowingly harbors or employs, while school is in
 5 session, any child unlawfully absent from school, shall be
 6 guilty of a misdemeanor; and, upon conviction thereof, punished
 7 by a fine of not to exceed \$50, or by imprisonment in the county
 8 jail for not more than 30 days. All such fines, when collected,
 9 shall be paid into the county treasury for the benefit of the
 10 school district in which the offense is committed.

127*#23S

11 127.23 STATE OFFICIALS TO BE DISINTERESTED; PENALTY.

12 If the commissioner of education, his an assistant or any *
 13 employee connected with his the commissioner's office, or any *
 14 member of any school board shall accept or receive any money,
 15 gift or any property, or favor from any person, firm, or
 16 corporation offering for sale any textbooks, or any agent
 17 thereof, or from any person in any way interested in the sale of
 18 textbooks, he the person accepting or receiving it shall, upon *
 19 conviction, be punished by a fine not exceeding \$700, or by
 20 imprisonment in the county jail for not more than six months, or
 21 both by such fine and imprisonment.

127*#27S

22 127.27 DEFINITIONS.

23 No change for subd 1 to 9

24 Subd. 10. "Suspension" means an action taken by the school
 25 administration, under rules promulgated by the school board,
 26 prohibiting a pupil from attending school for a period of no
 27 more than five school days. This definition does not apply to
 28 dismissal from school for one school day or less. Each
 29 suspension action shall include a readmission plan. The
 30 readmission plan shall include, where appropriate, a provision
 31 for alternative programs to be implemented upon readmission.
 32 Suspension may not be consecutively imposed against the same
 33 pupil for the same course of conduct, or incident of misconduct,
 34 except where the pupil will create an immediate and substantial
 35 danger to surrounding persons or property around-him. In no *
 36 event shall suspension exceed 15 school days, provided that an
 37 alternative program shall be implemented to the extent that
 38 suspension exceeds five days.

127*#29S

39 127.29 GROUNDS FOR DISMISSAL.

40 Subdivision 1. No school shall dismiss any pupil without
 41 attempting to provide alternative programs of education prior to
 42 dismissal proceedings, except where it appears that the pupil
 43 will create an immediate and substantial danger to himself self *
 44 or to surrounding persons or property around-him. Such programs *
 45 may include special tutoring, modification of the curriculum for
 46 the pupil, placement in a special class or assistance from other
 47 agencies.

48 No change for subd 2

127*#30S

49 127.30 SUSPENSION PROCEDURES.

50 Subdivision 1. No suspension from school shall be imposed
 51 without an informal administrative conference with the pupil,
 52 except where it appears that the pupil will create an immediate
 53 and substantial danger to himself self or to surrounding persons *
 54 or property around-him. *

55 Subd. 2. A written notice containing the grounds for
 56 suspension, a brief statement of the facts, a description of the
 57 testimony, a readmission plan, and a copy of sections 127.26 to
 58 127.39, shall be personally served upon the pupil at or before
 59 the time the suspension is to take effect, and upon his the *
 60 pupil's parent or guardian by certified mail within 48 hours of *
 61 the conference. In the event a pupil is suspended without an
 62 informal administrative conference on the grounds that the pupil
 63 will create an immediate and substantial danger to surrounding *
 64 persons or property around-him, the written notice shall be *
 65 served either personally or by certified mail upon the pupil
 66 and his the pupil's parent or guardian within 48 hours of the *
 67 suspension. Service by certified mail is complete upon mailing.

68 No change for subd 3

127*#31S

69 127.31 EXCLUSION AND EXPULSION PROCEDURES.

70 No change for subd 1

71 Subd. 2. Written notice of intent to take action shall:

- 1 (a) Be served upon the pupil and ~~his~~ the pupil's parent or *
 2 guardian by certified mail;
- 3 (b) Contain a complete statement of the facts, a list of
 4 the witnesses and a description of their testimony;
- 5 (c) State the date, time, and place of the hearing;
- 6 (d) Be accompanied by a copy of sections 127.26 to 127.39;
- 7 (e) Describe alternative educational programs accorded the
 8 pupil prior to commencement of the expulsion or exclusion
 9 proceedings; and
- 10 (f) Inform the pupil and parent or guardian of the right to:
 11 (1) Have legal counsel at the hearing;
 12 (2) Examine the pupil's records before the hearing;
 13 (3) Present evidence; and
 14 (4) Confront and cross-examine witnesses.

15 No change for subd 3 to 5

16 Subd. 6. The pupil shall have a right to a representative
 17 of ~~his~~ the pupil's own choosing, including legal counsel. If a *
 18 pupil is financially unable to retain counsel, the school board
 19 shall advise the pupil's parent or guardian of available legal
 20 assistance.

21 No change for subd 7 to 8

22 Subd. 9. At a reasonable time prior to the hearing, the
 23 pupil, parent or guardian, or ~~his~~ representative, shall be given *
 24 access to all public school system records pertaining to the
 25 pupil, including any tests or reports upon which the proposed
 26 action may be based.

27 Subd. 10. The pupil, parent or guardian, or ~~his~~ *
 28 representative, shall have the right to compel the attendance of
 29 any official employee or agent of the public school system or
 30 any public employee or any other person who may have evidence
 31 upon which the proposed action may be based, and to confront and
 32 to cross-examine any witness testifying for the public school
 33 system.

34 Subd. 11. The pupil, parent or guardian, or ~~his~~ *
 35 representative, shall have the right to present evidence and
 36 testimony, including expert psychological or educational
 37 testimony.

38 No change for subd 12 to 14

127*#32S

39 127.32 APPEAL.

40 An exclusion or expulsion decision made pursuant to
 41 sections 127.26 to 127.39 may be appealed to the commissioner of
 42 education. The commissioner or ~~his~~ the commissioner's *
 43 representative shall make a final decision based upon a record
 44 of evidence presented at the hearing. Such ruling shall be
 45 binding upon the parties, subject to judicial review as provided
 46 in section 127.33.

127*#37S

47 127.37 NOTICE OF RIGHT TO BE REINSTATED.

48 Whenever a pupil fails to return to school within ten
 49 school days of the termination of dismissal, the pupil and ~~his~~ *
 50 the pupil's parents shall be informed by certified mail of the *
 51 pupil's right to attend and to be reinstated in the public
 52 school.

127*#38S

53 127.38 POLICIES TO BE ESTABLISHED.

54 The commissioner of education shall promulgate guidelines
 55 to assist each school board. Each school board shall establish
 56 uniform criteria for dismissal and adopt policies and rules in
 57 writing to effectuate the purposes of sections 127.26 to
 58 127.39. The policies will emphasize the prevention of dismissal
 59 action through early detection of problems. The policies shall
 60 recognize the continuing responsibility of the school for the
 61 education of the pupil during the dismissal period and help
 62 prepare ~~him~~ the pupil for readmission. *

128A#05S

63 128A.05 ATTENDANCE.

64 No change for subd 1 to 2

65 Subd. 3. Attendance at the academy for the deaf and the
 66 academy for the blind is subject to the compulsory attendance
 67 provisions of section 120.10 except that attendance may be
 68 excused pursuant to that section by the commissioner of
 69 education or ~~his~~ a designee. Any person failing to comply with *
 70 the provisions of section 120.10 is subject to the provisions of
 71 section 120.12. The superintendent of the applicable academy
 72 shall exercise the duties imposed by section 120.12. Attendance

1 at the academy for the deaf or the academy for the blind shall
2 fulfill the mandatory requirements of section 120.17. The
3 academies are subject to sections 127.26 to 127.39.

128A#07S

4 128A.07 EXPENSE OF PUPILS.

5 Any individual attending the school for the deaf or the
6 braille and sight-saving school shall be provided, by the person
7 legally liable for ~~his~~ the pupil's support, with sufficient *
8 funds to furnish ~~him~~ the pupil with proper clothing, postage, *
9 and necessary incidental expenses. If the person legally liable
10 for ~~his~~ the pupil's support is unable to make these *
11 provisions ~~for-him~~, the county welfare board of the county of *
12 which ~~he~~ the pupil is a resident shall pay to the superintendent *
13 of the pupil's school ~~in-which-he-is-a-pupil~~ a sum to be fixed *
14 by the commissioner of education pursuant to rules promulgated
15 by the state board. In addition, the school district of
16 residence shall be liable for the actual transportation of the
17 pupil to and from the school ~~in-which-he-is-a-pupil~~. *

18 Applicants from other states who can benefit by being
19 enrolled may be accepted so long as acceptance does not preclude
20 acceptance of an eligible Minnesota resident. The commissioner
21 of education shall obtain reimbursement from other states for
22 the costs incurred in connection with nonresidents accepted and
23 may contract with the appropriate authorities of other states to
24 effect reimbursement. All money received from other states
25 shall be paid to the state treasurer and placed in the general
26 fund.

129*#11S

27 129.11 AGREEMENTS WITH DISTRICTS IN OTHER STATES.

28 No change for subd 1

29 Subd. 2. An agreement proposed for adoption by a school
30 board under this section shall be in the form and contain such
31 terms as may be prescribed by the commissioner of education from
32 time to time by ~~his~~ published order and no agreement shall be *
33 submitted to a referendum by the people under subdivision 3
34 unless it has first been approved by the commissioner of
35 education in writing by endorsement thereon.

36 No change for subd 3 to 5

129*#121S

37 129.121 STATE HIGH SCHOOL LEAGUE.

38 Subdivision 1. The governing board of any high school may
39 delegate the control, supervision and regulation of
40 interscholastic athletics and other extracurricular activities
41 referred to in section 123.38 to the Minnesota state high school
42 league, a nonprofit incorporated voluntary association.
43 Membership in said Minnesota state high school league shall be
44 composed of such Minnesota high schools whose governing boards
45 have certified in writing to the state commissioner of education
46 that they have elected to delegate the control, supervision and
47 regulation of their interscholastic athletic events and other
48 extracurricular activities to said league. The Minnesota state
49 high school league is hereby empowered to exercise the control,
50 supervision and regulation of interscholastic athletics,
51 musical, dramatic and other contests by and between pupils of
52 the Minnesota high schools, delegated to it pursuant to this
53 section. The Minnesota high school league may establish a
54 policy or guidelines for the guidance of member high schools in
55 the voluntary formation or alteration of athletic or other
56 extracurricular conferences. The commissioner of education, or
57 ~~his~~ the commissioner's representative, shall be an ex officio *
58 member of the governing body of such league, with the same
59 rights and privileges as other members of its governing body.
60 The rules and regulations of said league shall be exempt from
61 the provisions of sections 14.02, 14.04 to 14.36, 14.38, 14.44
62 to 14.45, and 14.57 to 14.62.

63 No change for subd 2 to 5

129A#02S

64 129A.02 COMMISSIONER; CONSUMER ADVISORY COUNCIL, STAFF.

65 No change for subd 2

66 Subd. 3. CONSUMER ADVISORY COUNCIL. To assure that
67 consumer concerns are integral parts of the considerations of
68 the department, the commissioner shall establish and appoint a
69 consumer advisory council on vocational rehabilitation which
70 shall be composed of nine members. No fewer than five members
71 of the council shall be handicapped persons, and there shall be
72 one person appointed to the council to represent each of the

1 following: business, labor, education, medicine and the private
 2 rehabilitation industry. The remaining members shall be public
 3 members. Under the direction of the commissioner, the council
 4 shall organize itself and elect a chairman chair and other *
 5 officers as it deems appropriate. The council shall meet at the
 6 call of the chairman chair or the commissioner as often as *
 7 necessary. The council shall expire and the terms, compensation
 8 and removal of members shall be as provided in section 15.059.

9 Subd. 4. Repealed, 1Spl985 c 14 art 9 s 78

129A#07S

10 129A.07 COMMUNITY LONG-TERM SHELTERED WORKSHOP BOARDS.
 11 Subdivision 1. Every city, town, county, nonprofit
 12 corporation, or combination thereof establishing a community
 13 long-term sheltered workshop or work activity program shall
 14 appoint a long-term sheltered workshop board of no fewer than
 15 nine members before becoming eligible for the assistance
 16 provided by sections 129A.06 to 129A.08. When any city, town,
 17 or county singly establishes such a workshop or work activity
 18 program, the board shall be appointed by the chief executive *
 19 officer of the city or the chairman chair of the governing board
 20 of the county or town. When any combination of cities, towns,
 21 counties or nonprofit corporations establishes a workshop or
 22 work activity program, the chief executive officers of the *
 23 cities, nonprofit corporations and the chairmen chairs of the
 24 governing bodies of the counties or towns shall appoint the
 25 board. If a nonprofit corporation singly establishes a workshop
 26 or work activity program, the corporation shall appoint the
 27 board of directors. Membership on a board shall be
 28 representative of the community served and shall include a
 29 handicapped person. One-third to one-half of the board shall be
 30 representative of industry or business. The remaining members
 31 should be representative of lay associations for the
 32 handicapped, labor, the general public, and education, welfare,
 33 medical, and health professions. Nothing in sections 129A.06 to
 34 129A.08 shall be construed to preclude the appointment of
 35 elected or appointed public officials or members of the board of
 36 directors of the sponsoring nonprofit corporation to the board,
 37 so long as representation described above is preserved. If a
 38 county establishes a workshop or work activity program and
 39 manages the workshop with county employees, the governing board
 40 shall be the county board of commissioners and other provisions
 41 of this chapter pertaining to membership on the governing board
 42 do not apply.

43 No change for subd 2 to 3

129A#08S

44 129A.08 EVALUATION AND FUNDING OF WORKSHOPS AND WORK
 45 ACTIVITY PROGRAMS.

46 No change for subd 1 to 4

47 Subd. 5. RULE AUTHORITY. In addition to the powers
 48 already conferred ~~on him~~ by law, the commissioner shall *
 49 promulgate rules on:

- 50 (a) state certification of all long-term sheltered
- 51 workshops and work activity programs;
- 52 (b) eligibility of community long-term sheltered workshops
- 53 and work activity programs to receive state grants;
- 54 (c) standards for qualification of personnel and quality of
- 55 professional service and for in-service training and education
- 56 leave programs for personnel;
- 57 (d) eligibility for service so that no person will be
- 58 denied service on the basis of race, creed or color;
- 59 (e) regulatory fees for consultation services;
- 60 (f) standards and criteria by which handicapped persons are
- 61 to be judged eligible for the services;
- 62 (g) evaluation criteria for long-term sheltered workshops;
- 63 and
- 64 (h) program evaluation criteria for work activity programs
- 65 in order to determine the extent to which these programs meet
- 66 the goals and objectives established in state and federal law
- 67 relating to work activity programs.

68 The rules on evaluation criteria for long-term sheltered
 69 workshops must be in effect by July 1, 1986. The rules must be
 70 used in making allocations for fiscal years beginning after June
 71 30, 1987.

72 No change for subd 6

129B#46S

73 129B.46 PRINCIPAL-TEACHER AND CAREER TEACHER COMPONENT.

1 Subdivision 1. STATUS. An improved learning program
 2 may include a principal-teacher and career teacher component.
 3 The principal-teacher and career teacher shall not be the
 4 exclusive teacher for students assigned to ~~him-or-her~~ them but *
 5 shall serve the function of developing and implementing a
 6 student's overall learning program. The principal-teacher and
 7 career teacher may be responsible for regular classroom
 8 assignments as well as learning programs for other assigned *
 9 students ~~assigned-to-him-or-her~~. *

10 No change for subd 2 to 4

11 Subd. 5. DUTIES. The principal-teacher and career
 12 teacher shall be responsible for:

13 (a) The overall education and learning plan of assigned *
 14 students ~~assigned-to-him-or-her~~. This plan shall be designed by *
 15 the principal-teacher and career teacher with the student,
 16 parents, and other faculty, and shall seek to maximize the
 17 learning potential and maturation level of each pupil;

18 (b) Measuring the proficiency of the assigned *
 19 ~~assigned-to-him-or-her~~ and assisting other staff in identifying *
 20 pupil needs and making appropriate educational and subject
 21 groupings;

22 (c) When part of the district's plan, taking responsibility *
 23 for the parent and early childhood education of assigned *
 24 students ~~assigned-to-him-or-her~~;

25 (d) Designing and being responsible for program components
 26 which meet special learning needs of high potential and talented
 27 students; and

28 (e) Coordinating the ongoing, year-to-year learning program
 29 for assigned students ~~assigned-to-him-or-her~~. *

129B#47S

30 129B.47 COUNSELOR-TEACHER COMPONENT.

31 Subdivision 1. STATUS. An improved learning program
 32 may include a counselor-teacher component. The
 33 counselor-teacher shall not be the exclusive teacher with
 34 respect to the learning process of assigned students ~~assigned-to~~ *
 35 ~~him-or-her~~. *

36 No change for subd 2 to 4

37 Subd. 5. DUTIES. The counselor-teacher shall be
 38 responsible for providing guidance and counseling services to
 39 assigned students ~~assigned-to-him-or-her~~. This includes working *
 40 with individual students, groups of students and families.

129C#10S

41 129C.10 MINNESOTA SCHOOL OF THE ARTS AND RESOURCE CENTER.

42 No change for subd 1 to 3

43 Subd. 4. EMPLOYEES. (1) The board shall appoint a
 44 director of the school of the arts and resource center who shall
 45 serve in the unclassified service.

46 (2) The board shall employ, upon recommendation of the
 47 director, a coordinator of the resource center who shall serve
 48 in the unclassified service.

49 (3) The board shall employ, upon recommendation of the
 50 director, up to six department ~~chairpersons~~ chairs who shall *
 51 serve in the unclassified service. The ~~chairpersons~~ chairs *
 52 shall be licensed teachers unless no licensure exists for the
 53 subject area or discipline for which the ~~chairperson~~ chair is *
 54 hired.

55 (4) The board may employ other necessary employees, upon
 56 recommendation of the director.

57 The employees hired under this subdivision and other
 58 necessary employees hired by the board shall be state employees
 59 in the executive branch.

60 No change for subd 5 to 6

134*#22S

61 134.22 COMPACT ADMINISTRATOR.

62 The state board of education shall designate an officer or
 63 employee of the state department of education as compact
 64 administrator. The compact administrator shall receive copies
 65 of all agreements entered into by the state or its political
 66 subdivisions and other states or political subdivisions; consult
 67 with, advise, and aid such governmental units in the formulation
 68 of such agreements; make such recommendations to the governor,
 69 legislature, and governmental agencies and units as ~~he~~ the *
 70 administrator deems desirable to effectuate the purposes of this *
 71 compact; and consult and cooperate with the compact
 72 administrators of other party states.

134*#23S

1 134.23 AGREEMENTS.

2 The compact administrator and the governing body of any
3 political subdivision of the state or the library board thereof
4 operating a public library may enter into agreements with other
5 states or their political subdivisions pursuant to the compact.
6 Such agreements as may be made pursuant to this compact on
7 behalf of the state of Minnesota shall be made by the compact
8 administrator. Such agreements as may be made on behalf of a
9 political subdivision shall be made after due notice to, and
10 consultation with, the compact administrator ~~and-consultation~~
11 ~~with-him.~~

*
*
*

136*#111S

12 136.111 STUDENTS; RECIPROCITY WITH OTHER INSTITUTIONS.

13 Subdivision 1. In order to make the most provident
14 utilization of state universities, and private colleges in
15 Minnesota, and public and private colleges and universities in
16 other states and in foreign countries and to avoid duplication
17 of facilities, it is desirable to provide means which will
18 enable a student resident within the areas served by such
19 institutions of higher education to obtain ~~his~~ the student's
20 desired courses in the most expedient manner and at the least
21 possible cost.

*

22 Subd. 2. The state university board may therefore enter
23 into contracts with private colleges or public colleges or
24 universities, or the governing boards thereof, in other states
25 and in foreign countries and private colleges within this state
26 on a reciprocal basis in order to accomplish the following:

27 (a) To enable a student at any institution party to such a
28 contract to take a specialized course or courses at a different
29 institution from that in which ~~he~~ the student is enrolled, with
30 or without the payment of tuition charges at the other
31 institution;

*

32 (b) To enable a student enrolled in any of the institutions
33 party to the contract to attend another institution party to
34 such contract without being required to pay nonresident tuition
35 fees and in accordance with the terms of such contract;

36 (c) A contract entered into pursuant to this subdivision
37 shall provide for approximately equal advantages between the
38 contracting institutions and shall provide that the admission of
39 nonresidents shall be on a space available basis only.

40 No change for subd 3 to 5

136*#12S

41 136.12 EDUCATIONAL MANAGEMENT.

42 Subdivision 1. The educational management of the state
43 universities is vested in a board of nine directors who shall
44 constitute the state university board. The directors shall be
45 appointed by the governor, subject to the advice and consent of
46 the senate. One director shall be a student at a state
47 university or have graduated from a state university within one
48 year prior to ~~his-or-her~~ the date of appointment. Other than
49 the student or recent graduate director, at least one director
50 shall be a resident of each congressional district and two
51 directors shall be graduates of a state university in this state.

*

52 No change for subd 2

136*#142S

53 136.142 GIFTS, BEQUESTS, ETC.

54 Subdivision 1. The state university board may receive and
55 accept on behalf of the state and for the benefit of any state
56 university any gift, bequest, devise, or endowment which any
57 person, firm, corporation, or association may make to the board
58 by will, deed, gift, or otherwise for the purpose of the
59 university activity funds. The state university board may use
60 any moneys heretofore given it or any of the universities under
61 its jurisdiction by any person, firm, corporation, or
62 association by will, deed, gift, devise, or endowment for the
63 purpose of providing moneys for any aspect of the university
64 activity funds, provided that such use of such moneys is not
65 inconsistent with the terms and conditions under which the money
66 was received by the board or a university under its
67 jurisdiction. Gifts, bequests, devises, or endowments
68 heretofore or hereafter so received are hereby appropriated to
69 the board for the purposes stated. Gifts, bequests, devises or
70 endowments of real property shall be reviewed by the ~~chairmen~~
71 chairs of the Minnesota house of representatives appropriations
72 and the Minnesota senate finance committees who shall give their
73 recommendations to the legislative advisory commission. The

*
*

1 legislative advisory commission shall then recommend to the
 2 board whether or not the property should be accepted. The
 3 recommendation of the committee shall be advisory only. Failure
 4 or refusal of the commission to make a recommendation promptly
 5 shall be deemed a negative recommendation. All taxes and
 6 special assessments constituting a lien on any real property
 7 received and accepted by the board under this section shall be
 8 paid in full before title is transferred to the state. All other
 9 moneys deposited in the university activity funds are hereby
 10 appropriated to the board for use in the respective universities
 11 where collected.

12 No change for subd 2

136*#35S

13 136.35 SPECIAL REVENUE FUND.

14 The gross total income derived from the sale of bonds, and
 15 receipts and income derived from charges or fees, rentals, and
 16 all other revenue established for the use and service of any
 17 such buildings or structures shall, within three days after
 18 receipt thereof, be paid to and held by the treasurer of the
 19 board ~~and held by him~~ as a special fund known as, "The
 20 University Board of the State of Minnesota Revenue Fund". The
 21 treasurer shall be custodian of such special fund, which fund
 22 shall be held and disbursed for the purposes provided in
 23 sections 136.31 to 136.38. The said special fund shall be
 24 protected by a corporate surety bond executed by the treasurer
 25 of the board with a surety authorized to do business under the
 26 laws of the state of Minnesota. The amount of such bond shall
 27 be fixed by resolution of said university board or its successor
 28 and may be increased or diminished at any time. The premiums of
 29 such bonds shall be payable from "The University Board of the
 30 State of Minnesota Revenue Fund" and charged as an item of
 31 maintenance expense.

32 A certified copy of each resolution providing for the
 33 issuance of bonds under sections 136.31 to 136.38 shall be filed
 34 with the treasurer of the board, and it shall be the duty of
 35 said treasurer to keep and maintain separate accounts in said
 36 special fund for each bond issue in accordance with the
 37 covenants and the directions set out in the resolution providing
 38 for the issuance of said bonds and to disburse funds from the
 39 proper account for the payment of the principal of and interest
 40 on the bonds in accordance with the directions and covenants of
 41 said resolution authorizing the issue thereof. All
 42 disbursements for maintenance and operation costs shall be made
 43 from the proper maintenance and operation account upon order of
 44 said board or its successor in accordance with the covenants set
 45 out in the resolution authorizing the issuance of bonds. All
 46 disbursements for construction costs shall be made from a
 47 separate account in said special fund upon order of said board
 48 or its successor in accordance with the covenants set out in the
 49 resolution authorizing said bonds.

136*#40S

50 136.40 MINNESOTA STATE UNIVERSITY BONDS.

51 No change for subd 1

52 Subd. 2. LOANS OF BOND PROCEEDS. Each loan
 53 authorized to be made under this section shall be payable solely
 54 from net revenues annually received by the board in its revenue
 55 fund from charges, fees, and rentals for the use and service of
 56 housing, food service, union, and other student facilities and
 57 activities, in excess of the current costs of operation and
 58 maintenance of such facilities, and in excess of net revenues
 59 from time to time needed to pay principal and interest due on
 60 revenue bonds of the board and to maintain all reserves securing
 61 such bonds in accordance with the provisions of the resolutions
 62 of the board authorizing their issuance. Each loan shall be
 63 made in a principal amount equal to the amount of the state
 64 bonds issued to provide the loan, and shall bear interest at the
 65 average annual rate borne by the bonds, and shall be payable in
 66 equal annual installments, including principal and interest,
 67 each in the amount required annually to retire the loan within
 68 the maximum term permitted by law for revenue bonds of the
 69 board. The annual payments shall be made by the board to the
 70 commissioner of finance ~~and credited by him~~ who shall credit the
 71 payments to the state bond fund on November 1 immediately
 72 following the date of the issuance of the bonds and on November
 73 1 in each year thereafter, until the bonds and any bonds
 74 refunding the same have been fully paid and redeemed, and until

1 the total amount of such annual payments equals the total amount
2 of principal and interest actually paid on the state bonds; at
3 which time the commissioner of finance shall cancel and satisfy
4 the loan.

5 No change for subd 3 to 7

6 Subd. 8. BOND AUTHORIZATION AND APPROPRIATION. For
7 the purpose of providing money to be loaned to the Minnesota
8 state university board for the acquisition and betterment of
9 public land, buildings, and improvements of a capital nature,
10 the state auditor is directed to sell and issue Minnesota state
11 university bonds in the maximum amount of \$4,500,000 to be
12 expended for dormitory, residence hall, and food service
13 facilities at the state universities, in accordance with the
14 recommendations of the legislative buildings commission to the
15 1969 session of the legislature, and in the maximum amount of
16 \$7,500,000 to be expended for student union facilities at said
17 universities, in the manner and upon the conditions provided in
18 subdivisions 1 to 7, which total amounts are authorized to be
19 expended for these purposes. No expenditures for the authorized
20 purposes shall be made until the board has consulted the
21 chairmen chairs of the senate finance committee and house of *
22 representatives appropriations committee and received their
23 recommendations thereon. Such recommendation shall be advisory
24 only. Failure or refusal to make a recommendation promptly
25 shall be deemed a negative recommendation. The bonds shall be
26 sold, issued, and secured as provided in subdivisions 1 to 7 and
27 in article XI, section 7, of the Constitution. In order to
28 reduce the amount of taxes otherwise required by the
29 Constitution to be levied for the payment of interest and
30 principal thereon, there is appropriated annually to the
31 Minnesota state university bond account in the state bond fund
32 from the general fund in the state treasury a sum of money
33 sufficient in amount, when added to the balance on hand on
34 November 1 in each year in said Minnesota state university bond
35 account, to pay all principal and interest due and to become due
36 on said bonds to and including July 1 in the second ensuing
37 year. The moneys received and on hand pursuant to this annual
38 appropriation are available in the state bond fund prior to the
39 levy of the tax in any year required by the Constitution and by
40 subdivision 7 and shall be used to reduce the amount of the tax
41 otherwise required to be levied.

42 No change for subd 9

136*#55S

43 136.55 ANNUITIES, PURCHASE BY BOARD.

44 Subdivision 1. At the request of an employee the state
45 university board may negotiate and purchase an individual
46 annuity contract from a company licensed to do business in
47 Minnesota for an employee for retirement or other purposes and
48 may allocate a portion of the compensation otherwise payable to
49 the employee as salary for the purpose of paying the entire
50 premium due or to become due under such contract. The allocation
51 shall be made in a manner which will qualify the annuity
52 premiums, or a portion thereof, for the benefit afforded under
53 section 403(b) of the current federal internal revenue code or
54 any equivalent provision of subsequent federal income tax law.
55 The employee shall own such contract and ~~his~~ the employee's *
56 rights thereunder shall be nonforfeitable except for failure to
57 pay premiums.

58 No change for subd 2

136*#70S

59 136.70 ANNUITIES, PURCHASE BY BOARD.

60 Subdivision 1. At the request of an employee the state
61 board for community colleges may negotiate and purchase an
62 individual annuity contract from a company licensed to do
63 business in Minnesota for an employee for retirement or other
64 purposes and may allocate a portion of the compensation
65 otherwise payable to the employee as salary for the purpose of
66 paying the entire premium due or to become due under such
67 contract. The allocation shall be made in a manner which will
68 qualify the annuity premiums, or a portion thereof, for the
69 benefit afforded under section 403(b) of the current federal
70 internal revenue code or any equivalent provision of subsequent
71 federal income tax law. The employee shall own such contract
72 and ~~his~~ the employee's rights thereunder shall be nonforfeitable *
73 except for failure to pay premiums.

74 No change for subd 2

136*#83S

1 136.83 PROSPECTUS.
 2 The executive director of the teachers retirement fund
 3 shall distribute to each person having shares to the credit of
 4 ~~his~~ the person's employee's share account record a prospectus of *
 5 the Minnesota supplemental retirement investment fund when
 6 received from the latter fund.

136*#84S

7 136.84 TITLE TO ASSETS, PERSONAL RIGHTS.
 8 The right of a person who has shares to the credit of ~~his~~ *
 9 the person's employee's share account record to redeem ~~his~~ the *
 10 shares or any portion thereof is a personal right only and shall
 11 not be assignable. Legal title to the assets of the
 12 supplemental retirement fund shall be in the state of Minnesota
 13 or the state board of investment or the nominee of either,
 14 subject to the rights of the teachers retirement fund. Any
 15 assignment or attempted assignment of shares to the credit of an
 16 employee's share account record by any person is null and void.
 17 Such shares are exempt from garnishment or levy under attachment
 18 or execution and from all taxation by the state of Minnesota,
 19 except that none shall be exempt from taxation under chapter
 20 291, unless transferred to a surviving spouse or minor or
 21 dependent child of the decedent or a trust for their benefit.

136*#88S

22 136.88 EXTENDED LEAVES OF ABSENCE.
 23 No change for subd 1 to 3
 24 Subd. 4. A teacher on an extended leave of absence
 25 pursuant to this section shall have the right to be reinstated
 26 to the same position or a similar position within the department
 27 or program from which the leave was granted at the beginning of
 28 the school year which immediately follows a year of extended
 29 leave of absence, unless the teacher is discharged or placed on
 30 retrenchment or on lay-off or ~~his~~ the teacher's contract is *
 31 terminated while ~~he~~ the teacher is on the extended leave. A *
 32 board shall not be obligated to reinstate a teacher who is on an
 33 extended leave of absence pursuant to this section unless the
 34 teacher advises the board of ~~his~~ an intention to return before *
 35 February 1 in the school year preceding the school year in which
 36 ~~he~~ the teacher wishes to return. *
 37 No change for subd 5
 38 Subd. 6. The years spent by a teacher on an extended leave
 39 of absence pursuant to this section shall not be included in the
 40 determination of ~~his~~ the teacher's salary upon ~~his~~ reinstatement *
 41 to the same or similar position by the board which granted the
 42 leave. The credits earned by a teacher on an extended leave of
 43 absence pursuant to this section shall not be included in the
 44 determination of ~~his~~ the teacher's salary upon ~~his~~ reinstatement *
 45 to the same or similar position by the board which granted the
 46 leave for a period of time equal to the time of the extended
 47 leave of absence.
 48 No change for subd 7 to 8

136A#03S

49 136A.03 EXECUTIVE OFFICERS; EMPLOYEES.
 50 The higher education coordinating board may appoint an
 51 executive secretary or director as its principal executive
 52 officer, and such other officers and employees as it may deem
 53 necessary to carry out its duties. The executive secretary or
 54 director shall possess such powers and perform such duties as
 55 are delegated ~~to him~~ by the board and shall serve in the *
 56 unclassified service of the state civil service. The salary of
 57 the executive director shall be established pursuant to section
 58 15A.081, subdivision 1. ~~He~~ The executive director shall be a *
 59 person qualified by training and ability in the field of higher
 60 education or in educational administration. The board may also
 61 appoint other officers and professional employees who shall
 62 serve in the unclassified service of the state civil service and
 63 fix the salaries thereof which shall be commensurate with
 64 salaries in the classified service. All other employees shall
 65 be in the classified civil service.
 66 An officer or professional employee in the unclassified
 67 service as provided in this section is a person who has studied
 68 higher education or a related field at the graduate level or has
 69 similar experience and who is qualified for a career in some
 70 aspect of higher education and for activities in keeping with
 71 the planning and administrative responsibilities of the board
 72 and who is appointed to assume responsibility for administration

1 of educational programs or research in matters of higher
2 education.

136A#17S

3 136A.17 PROVISIONS FOR FEDERAL PROGRAMS.

4 No change for subd 1 to 6

5 Subd. 7. The benefits of the loan programs will not be
6 denied any student because of ~~his~~ the student's family income or *
7 lack of need if ~~his~~ the student's adjusted annual family income *
8 at the time the note is executed is less than the maximum
9 prescribed in the applicable federal regulations.

10 No change for subd 8 to 11

136A#1701S

11 136A.1701 SUPPLEMENTAL AND ADDITIONAL LOANS.

12 No change for subd 1 to 6

13 Subd. 7. REPAYMENT OF LOANS. The board shall
14 establish repayment procedures for loans made under this
15 section, but in no event shall the period of permitted repayment
16 exceed ten years from the eligible student's termination of ~~his~~ *
17 the student's post-secondary academic or vocational program, or *
18 15 years from the date of ~~his~~ the student's first loan under *
19 this section, whichever is less.

20 No change for subd 8 to 10

136A#233S

21 136A.233 WORK-STUDY GRANTS.

22 No change for subd 1 to 2

23 Subd. 3. Work-study payments shall be made to eligible
24 students by post-secondary institutions as follows:

25 (a) Students shall be selected for participation in the
26 program by the post-secondary institution on the basis of
27 student financial need.

28 (b) No eligible student shall be employed under the state
29 work-study program ~~during-the-period-when-he-or-she-is~~ while not *
30 a full time student; provided, with the approval of the
31 institution, a full time student who becomes a part-time student
32 during an academic year may continue to be employed under the
33 state work-study program for the remainder of the academic year.

34 (c) Students will be paid for hours actually worked and the
35 maximum hourly rate of pay shall not exceed the maximum hourly
36 rate of pay permitted under the federal college work-study
37 program.

38 (d) Minimum pay rates will be determined by an applicable
39 federal or state law.

40 (e) Not less than 20 percent of the compensation paid to
41 the student under the state work-study program shall be paid by
42 the eligible employer.

43 (f) Each post-secondary institution receiving funds for
44 state work-study grants shall make a reasonable effort to place
45 work-study students in employment with eligible employers
46 outside the institution.

47 (g) The percent of the institution's work-study allocation
48 provided to graduate students shall not exceed the percent of
49 graduate student enrollment at the participating institution.

136A#29S

50 136A.29 POWERS; DUTIES.

51 No change for subd 1

52 Subd. 2. The authority shall annually elect one of its
53 members as ~~chairman~~ chair, one as ~~vice-chairman~~ vice-chair, and *
54 one as secretary, as well as elect additional officers deemed
55 necessary by the authority.

56 No change for subd 3 to 23

136A#55S

57 136A.55 POST-SECONDARY EDUCATION CONSORTIUM; CREATION.

58 No change for subd 1

59 Subd. 2. The consortium shall be coordinated by a
60 southwestern and west central Minnesota post-secondary education
61 consortium board consisting of: the provost of the university
62 of Minnesota, or ~~his~~ a designee; the chancellor of the state *
63 university system, or ~~his~~ a designee; the chancellor of the *
64 community college system, or ~~his~~ a designee; the assistant *
65 commissioner for vocational-technical education within the state
66 department of education, or ~~his~~ a designee; the executive *
67 director of the higher education coordinating board, or ~~his~~ a *
68 designee; and three persons representing the public at large who
69 shall be appointed by the governor.

70 No change for subd 3 to 4

136C#212S

1 136C.212 FEDERAL AID, REPORTS TO THE LEGISLATURE.
 2 The state treasurer, as custodian for vocational
 3 educational funds, shall make to the legislature at each
 4 biennial session a report of the receipts and disbursements of
 5 money received by ~~him~~ the state treasurer under the provisions *
 6 of federal and state acts relating to vocational education and
 7 the state board shall make to the legislature at each biennial
 8 session a report of its administration of such acts and the
 9 expenditure of money allotted to the state under the provisions
 10 of such acts.

136D#72S

11 136D.72 GOVERNING BOARD.

12 No change for subd 1

13 Subd. 2. TERMS. The terms of the members of the
 14 first school board shall, as nearly as possible, consist of
 15 one-third of the members for one year, one-third of the members
 16 for two years, and one-third of the members for three years.
 17 The members of the first board shall determine by lot which
 18 length of term each member of the first board shall be
 19 assigned. Terms of office of the members of the board shall
 20 expire on June 30. Thereafter the terms of office of board
 21 members shall be for three years commencing on July 1 of each
 22 year. If a vacancy occurs on the board, it shall be filled by
 23 the appropriate school board. A person appointed to the board
 24 shall qualify as a board member by filing with the chief
 25 executive officer thereof a written certificate of appointment
 26 from ~~his-respective~~ the appointing school board. *

27 No change for subd 3

28 Subd. 4. OFFICERS, DUTIES. The officers shall be a
 29 ~~chairman chair, vice-chairman vice-chair,~~ clerk and treasurer, *
 30 no two of whom shall be from the same school district.
 31 The ~~chairman chair~~ shall preside at all meetings of the *
 32 intermediate board and in ~~his~~ the chair's absence the ~~vice~~ *
 33 ~~chairman vice-chair~~ shall preside. The clerk shall keep a *
 34 complete record of the minutes of each meeting, and the
 35 treasurer shall be the custodian of the funds of said district.
 36 Insofar as applicable, sections 123.33 and 123.34 shall apply to
 37 the board and officers of said district.

38 No change for subd 5

137*#02S

39 137.02 POWERS AND DUTIES OF BOARD OF REGENTS.

40 No change for subd 1

41 Subd. 2. EMPLOYEES MAY BE BONDED. The regents of
 42 the university shall have authority to indemnify the officers or
 43 the employees of the university against liability arising out of
 44 the operation of motor vehicles or other equipment by them while
 45 engaged in the performance of their duties as such public
 46 officials or employees and to pay out of the public funds the
 47 premiums on the indemnity insurance policies insuring such
 48 governmental agency against such liability. The regents may
 49 defend any such officer or employee, in the name and on behalf
 50 of the officer or employee, in any suit brought against ~~him~~ the *
 51 officer or employee to enforce a claim, whether groundless or *
 52 otherwise, arising out of the operation of a motor vehicle or *
 53 other equipment ~~by-him~~ in the performance of ~~his~~ official
 54 duties, and may compromise and settle such claim or suit and pay
 55 out of public funds the amount of such settlement or compromise,
 56 or the amount of any judgment against such officer or employee
 57 based on any such claim without first requiring such officer or
 58 employee to settle or pay any such claim. The regents may, in
 59 their discretion, pay the premiums of the indemnity insurance
 60 policies referred to in this subdivision, insuring such officers
 61 or employees against liability for or injury to persons or
 62 property, within the limits of this subdivision, and such
 63 payment of insurance premiums out of public funds shall in no
 64 way impose on the regents any liability.

65 No change for subd 3 to 4

137*#023S

66 137.023 UNIVERSITY STUDENT ON BOARD OF REGENTS.

67 In electing members of the board of regents pursuant to
 68 Article 13, Section 3, of the Constitution of the state of
 69 Minnesota, and Territorial Laws 1851, Chapter 3, Section 5, and
 70 commencing with the election of members of the board of regents
 71 in 1977, one member of the board of regents of the university
 72 shall be a person who at the time of ~~his~~ election to the board *
 73 is a student at the university or who has graduated from the

1 university within the five years prior to his election. This *
 2 person shall serve for a six year term and represent the state *
 3 at large. Upon expiration of his the term or in the event of a *
 4 vacancy in his the office, one position shall be filled by a *
 5 person having the same qualifications.

138*#17S

6 138.17 GOVERNMENT RECORDS; ADMINISTRATION.

7 No change for subd 1 to 1a

8 Subd. 1b. TRANSFER PROCESS. After July 1, 1982, all
 9 records deemed to be of continuing value and authorized for
 10 transfer to the archives by the records disposition panel shall
 11 be retained by the requesting agency or may be transferred to
 12 the archives in accordance with subdivision 1, notwithstanding
 13 the provisions of chapter 13. The responsible authority of the
 14 state agency, political subdivision, or statewide system
 15 transferring records to the archives shall notify the archivist
 16 or his a designee with regard to the records transferred of the *
 17 classification of the records pursuant to chapter 13.

18 No change for subd 1c to 7

19 Subd. 8. EMERGENCY RECORDS PRESERVATION. In light
 20 of the danger of nuclear or natural disaster, the commissioner
 21 of administration shall establish and maintain a program for the
 22 selection and preservation of public records considered
 23 essential to the operation of government and to the protection
 24 of the rights and interests of persons, and shall make or cause
 25 to be made preservation duplicates or designate as preservation
 26 duplicates existing copies of such essential public records.
 27 Preservation duplicates shall be durable, accurate, complete,
 28 and clear, and such duplicates reproduced by photographic or
 29 other process which accurately reproduces and forms a durable
 30 medium for so reproducing the original shall have the same force
 31 and effect for all purposes as the original record whether the
 32 original record is in existence or not. A transcript,
 33 exemplification, or certified copy of such preservation
 34 duplicate shall be deemed for all purposes to be a transcript,
 35 exemplification, or certified copy of the original record. Such
 36 preservation duplicates shall be preserved in the place and
 37 manner of safekeeping prescribed by the commissioner.

38 Every county, municipality, or other subdivision of
 39 government may institute a program for the preservation of
 40 necessary documents essential to the continuity of government.
 41 Such a program shall first be submitted to the commissioner for
 42 his approval or disapproval and no such program shall be *
 43 instituted until such approval is obtained.

138*#31S

44 138.31 DEFINITIONS.

45 No change for subd 1 to 3

46 Subd. 4. "Object" means a natural or man-made artificial *
 47 article, implement, skeleton, bone, or other item of
 48 archaeological interest.

49 No change for subd 5 to 13

138*#36S

50 138.36 LICENSES.

51 No change for subd 1

52 Subd. 2. POWER TO ISSUE. The director of the
 53 Minnesota historical society, acting as an agent of the state,
 54 may issue a license to a qualified person approved by the state
 55 archaeologist to engage in field archaeology on a specified
 56 state site. The director of the Minnesota historical society
 57 may also issue a license to a qualified person, either in
 58 connection with the right to engage in field archaeology on a
 59 specified site, or alone, to engage in purely preliminary or
 60 exploratory activities in a specified area where a site is
 61 thought to exist. If a state site or an area to be described in
 62 a license is under the jurisdiction of any other agency of the
 63 state, or, if the field archaeology to be licensed may interfere
 64 with a project of any other agency, the applicant for a permit
 65 shall obtain the approval of that agency. The attorney general
 66 upon recommendation of the director of the historical society
 67 may apply to the district court for injunctive relief to *
 68 restrain activities which in his the director's opinion may
 69 damage historical or archaeological sites on public lands or
 70 waters.

71 No change for subd 3 to 5

138*#38S

72 138.38 REPORTS OF STATE ARCHAEOLOGIST.

1 The state archaeologist shall consult with and keep the
 2 director of the historical society informed as to significant
 3 field archaeology, projected or in progress, and as to
 4 significant discoveries made. Annually, and also upon leaving
 5 office, the state archaeologist shall file with the director of
 6 the historical society a full report of ~~his~~ the office's
 7 activities including a summary of the activities of ~~his~~
 8 licensees, from the effective date hereof or from the date of
 9 the last full report of the state archaeologist.

*
*

139*#08S

10 139.08 BOARD OF THE ARTS.

11 Subdivision 1. MEMBERSHIP. The board of the arts
 12 shall consist of 11 members to be appointed by the governor with
 13 the advice and consent of the senate. One member shall be
 14 appointed from each of the congressional districts, and the
 15 remaining members shall be appointed at large. Persons
 16 appointed to the board shall have demonstrated experience or
 17 interest in the arts. No member shall within two years prior to
 18 ~~his~~ appointment have received or applied for, in ~~his-own~~ the
 19 member's name, a grant, loan or other form of assistance from
 20 the board or its predecessor, the state arts council. No more
 21 than four of the members shall during their terms of office be
 22 officers, directors or employees of recipient sponsoring
 23 organizations. The board members shall annually select from
 24 their membership a ~~chairman~~ chair and other officers as they
 25 deem necessary.

*
*

26 No change for subd 2 to 3

27 Subd. 4. REMOVAL OF MEMBERS; FILLING VACANCIES. A
 28 member may be removed by the governor at any time (1) for cause
 29 after notice and hearing, (2) for failing to submit any report
 30 required in subdivision 5, or (3) for missing three consecutive
 31 scheduled meetings of the board. The ~~chairman~~ chair shall
 32 inform the governor of a member missing the three meetings. The
 33 secretary of the board shall inform in writing a member after
 34 two consecutive missed meetings and before the next meeting that
 35 the member is subject to removal ~~if-he-misses~~ by missing the
 36 next meeting. Vacancies on the board shall be filled by the
 37 governor, with the advice and consent of the senate, for the
 38 remainder of the unexpired term.

*

39 No change for subd 5

139*#09S

40 139.09 EXECUTIVE DIRECTOR; STAFF.

41 The director shall be selected by a majority of the board,
 42 and shall serve at the pleasure of the board. The director
 43 shall be knowledgeable in the arts, and shall have demonstrated
 44 proficiency in the administration of programs relating to the
 45 arts. The director may upon designation and instruction by the
 46 board serve as the state agent to apply for, receive and
 47 disburse federal funds made available to the state in
 48 furtherance of the arts. The director is the chief
 49 administrative officer of the board and is responsible for
 50 performing the executive duties of the board as provided in this
 51 chapter. ~~HE~~ The director shall not be a member of the board.
 52 All other employees of the board shall be in the classified
 53 civil service of the state. No employee of the board or its
 54 advisory committees may be an applicant for or recipient of
 55 board assistance, nor may an employee be an officer, director or
 56 employee of a recipient sponsoring organization.

*

139*#10S

57 139.10 DUTIES.

58 Subdivision 1. The board shall through the following
 59 activities stimulate and encourage the creation, performance and
 60 appreciation of the arts in the state:

61 (a) receive and consider any requests for grants, loans or
 62 other forms of assistance;

63 (b) advise and serve as a technical resource at the request
 64 of sponsoring organizations and political subdivisions in the
 65 state on programs relating to the arts;

66 (c) advise and recommend on existing or proposed activities
 67 of the departments of the state relating to the arts;

68 (d) accept gifts and grants to the board and distribute the
 69 same in accordance with the instructions of the donor insofar as
 70 the instructions are consistent with law;

71 (e) promulgate by rule procedures to be followed by the
 72 board in receiving and reviewing requests for grants, loans or
 73 other forms of assistance;

1 (f) promulgate by rule standards consistent with this
2 chapter to be followed by the board in the distribution of
3 grants, loans and other forms of assistance;

4 (g) distribute according to the above procedures and
5 standards grants, loans and other forms of assistance for
6 artistic activities to departments and agencies of the state,
7 political subdivisions, sponsoring organizations and, in
8 appropriate cases, to individuals engaged in the creation or
9 performance of the arts; provided that a member of the board
10 shall not participate in deliberations or voting on assistance
11 to groups or persons in which that member has an interest as
12 officer, director, employee or recipient;

13 (h) appoint advisory committees which the board determines
14 are essential to the performance of its powers and duties under
15 this section; provided that no member of an advisory committee
16 shall within two years prior to ~~his~~ his appointment have personally
17 received or applied for ~~in-his-own-name~~ a grant, loan or other
18 form of assistance from the board or its predecessor.

19 No change for subd 2 to 4

140*#36S

20 140.36 BOARD OF TRUSTEES; COMPOSITION.

21 No change for subd 1 to 2

22 Subd. 3. JOINT LAW LIBRARY. Wherever a joint law
23 library is established by order, or wherever two or more law
24 libraries are maintained within one county, the board of
25 trustees shall consist of a judge of the district or ~~his~~ a
26 designee, one judge from each county included in the order or
27 from each district within a single county, or ~~his~~ a designee,
28 one member of the board of county commissioners from each county
29 included in the order or from each district within a single
30 county, to be selected by the county board at its annual
31 election of officers, and one attorney admitted to the practice
32 of law, residing in each county included in the order or in each
33 district within a single county, to be selected by the county
34 attorney of each county or district within the county.

140*#421S

35 140.421 HENNEPIN AND RAMSEY COUNTIES; FEES FOR LAW
36 LIBRARIES.

37 Subdivision 1. CIVIL ACTIONS. In Hennepin and Ramsey
38 Counties, the district administrator or ~~his~~ a designee shall
39 collect in each civil suit, action or proceeding filed in the
40 district, municipal and conciliation courts of the district, in
41 the manner in which other fees are collected, a law library fee
42 from:

43 (a) The plaintiff, petitioner or other person instituting
44 the suit, action or proceeding, at the time of the filing of the
45 first paper; and

46 (b) Each defendant, respondent, intervenor or other party
47 who appears, either separately or jointly, to be collected at
48 the time of the filing of the first paper by the defendant,
49 respondent, intervenor or other party, or at the time when ~~his~~
50 the party's appearance is entered in the case.

51 Subd. 2. PROBATE PROCEEDINGS. The district
52 administrator or ~~his~~ a designee shall collect a law library fee
53 from the petitioner instituting proceedings for supervised and
54 unsupervised guardianship, conservatorship, descent, formal and
55 informal probate, trusts and summary assignments at the time of
56 the filing of the petition. The disbursement shall be an item
57 of expense of administration of the estate, entitling the
58 petitioner to reimbursement out of the estate.

59 No change for subd 3

140*#422S

60 140.422 LIBRARY FEES COLLECTED IN ALL OTHER COUNTIES.

61 Subdivision 1. CIVIL FEE ASSESSMENT. In counties
62 other than Hennepin and Ramsey, the clerk of court shall collect
63 in each civil suit, action or proceeding filed in the district,
64 county or county municipal and conciliation courts of the
65 county, in the manner in which other fees are collected, a law
66 library fee from:

67 (a) The plaintiff, petitioner or other person instituting
68 the suit, action or proceeding, at the time of the filing of the
69 first paper; and

70 (b) Each defendant, respondent, intervenor or other party
71 who appears, either separately or jointly, to be collected at
72 the time of the filing of the first paper by the defendant,
73 respondent, intervenor or other party, or at the time when ~~his~~

1 the party's appearance is entered in the case. *

2 No change for subd 2 to 4

140*#44S

3 140.44 DEPOSITS WITH COUNTY TREASURER; COUNTY AUDITOR.

4 These fees shall be paid to the county treasurer or county
5 auditor, who shall give ~~his~~ a receipt therefor. The county *
6 treasurer or county auditor may disburse these funds and any
7 other money belonging to this board only at the direction of the
8 board of trustees.

141*#21S

9 141.21 DEFINITIONS.

10 No change for subd 1 to 2

11 Subd. 3. SOLICITOR. "Solicitor" means a person who
12 for a salary or for commission, acts as an agent, independent
13 contractor, ~~salesman~~ salesperson, or counselor in procuring or *
14 attempting to procure students or enrollees for a course of
15 instruction by solicitation in any form made at any place except
16 on the actual business premises of the school and except for
17 rendering public information service at the invitation or
18 permission of a school or educational organization.

19 No change for subd 4 to 7

141*#25S

20 141.25 LICENSE.

21 No change for subd 1 to 6

22 Subd. 7. MINIMUM STANDARDS. No license shall be
23 issued unless the commissioner first determines:

24 (a) That the applicant has a sound financial condition with
25 sufficient resources available to meet the school's financial
26 obligations; to refund all tuition and other charges, within a
27 reasonable period of time, in the event of dissolution of the
28 school or in the event of any justifiable claims for refund
29 against the school by the student body; to provide adequate
30 service to its students and prospective students; and for the
31 proper use and support of the school to be maintained;

32 (b) That the applicant has satisfactory training facilities
33 with sufficient tools and equipment and the necessary number of
34 work stations to train adequately the students currently
35 enrolled, and those proposed to be enrolled;

36 (c) That the applicant employs a sufficient number of
37 qualified instructors trained by experience and education to
38 give the training contemplated;

39 (d) That the premises and conditions under which the
40 students work and study are sanitary, healthful, and safe,
41 according to modern standards;

42 (e) That each occupational course or program of instruction
43 or study shall be of such quality and content as to provide
44 education and training which will adequately prepare enrolled
45 students for entry level positions in the occupation for which
46 trained;

47 (f) That the living quarters which are owned, maintained,
48 or approved by the applicant for students are sanitary and safe;

49 (g) That the contract or enrollment agreement used by the
50 school complies with the following provisions:

51 (1) The name and address of the school must be clearly
52 stated;

53 (2) Inclusion of a clear and conspicuous disclosure that
54 such agreement becomes a legally binding instrument upon written
55 acceptance of the student by the school unless cancelled
56 pursuant to section 141.271;

57 (3) Must contain the school's cancellation and refund
58 policy which shall be clearly and conspicuously entitled,
59 "Buyer's Right to Cancel";

60 (4) The total cost of the course including tuition and all
61 other charges shall be clearly stated;

62 (5) The name and description of the course, including the
63 number of hours of classroom instruction and/or home study
64 lessons shall be included;

65 (6) No contract or agreement shall contain a wage
66 assignment provision and/or a confession of judgment clause;

67 (7) Each contract or enrollment agreement shall contain a
68 clear and conspicuous explanation of the form and means of
69 notice the student should use in the event ~~he~~ the student elects *
70 to cancel the contract or sale, the effective date of
71 cancellation, and the name and address of the seller to which
72 the notice should be sent or delivered.

73 No change for subd 8 to 12

141*#271S

1 141.271 REFUNDS.

2 Subdivision 1. NOTICE OF ACCEPTANCE OR REJECTION; RIGHT
3 TO REFUND. Every school shall notify each student, in
4 writing, of ~~his-or-her~~ acceptance or rejection. In the event *
5 that the student is rejected by the school, all tuition, fees
6 and other charges shall be refunded.

7 No change for subd 2 to 7

8 Subd. 8. TIME OF REFUND. Each school shall
9 acknowledge in writing any valid notice of cancellation within
10 ten business days after the receipt of such notice and within 30
11 business days shall refund to the student any amounts due ~~him~~ *
12 and arrange for termination of the student's obligation to pay
13 any sum in excess of that due under the cancellation and refund
14 policy.

15 No change for subd 9 to 13

141*#28S

16 141.28 PROHIBITIONS.

17 No change for subd 1 to 4

18 Subd. 5. IMPROBABLE COURSE COMPLETION OR EMPLOYMENT.

19 No school, agent or solicitor shall enroll a prospective
20 student when it is obvious that the prospective student is
21 unlikely to successfully complete a course of instruction or is
22 unlikely to qualify for employment in the vocation or field for
23 which the training is designed unless this fact is affirmatively
24 disclosed to the prospective student. If a prospective student
25 expresses a desire to enroll after such disclosure, a disclaimer
26 may be obtained by the school. Such disclaimer shall be signed
27 by the student and shall state ~~that-the-student-is~~ substantially *
28 as follows: "I am fully aware that it is unlikely ~~he-or-she~~ I *
29 will be able to successfully complete the course of instruction" *
30 and/or ~~is~~ "I am fully aware of the improbability or *
31 impossibility that ~~he-or-she~~ I will qualify for employment in *
32 the vocation or field for which the course was designed." *

141*#29S

33 141.29 REVOCATION OF LICENSE OR PERMIT.

34 No change for subd 1 to 2

35 Subd. 3. POWERS AND DUTIES. The commissioner shall
36 have (in addition to the powers and duties now vested therein by
37 law) the following powers and duties:

38 (a) To negotiate and enter into interstate reciprocity
39 agreements with similar agencies in other states, if in the
40 judgment of the commissioner such agreements are or will be
41 helpful in effectuating the purposes of Laws 1973, Chapter 714;

42 (b) To grant conditional school license for periods of less
43 than one year if in the judgment of the commissioner correctable
44 deficiencies exist at the time of application and when refusal
45 to issue school license would adversely affect currently
46 enrolled students;

47 (c) The commissioner may upon ~~his~~ the commissioner's own *
48 motion, and shall upon the verified complaint in writing of any
49 person setting forth fact which, if proved, would constitute
50 grounds for refusal or revocation under Laws 1973, Chapter 714,
51 investigate the actions of any applicant or any person or
52 persons holding or claiming to hold a license or permit.
53 However, before proceeding to a hearing on the question of
54 whether a license or permit shall be refused, revoked or
55 suspended for any cause enumerated in subdivision 1, the
56 commissioner may grant a reasonable time to the holder of or
57 applicant for a license or permit to correct the situation. If
58 within such time the situation is corrected, no further action
59 leading to refusal, revocation, or suspension shall be taken.

141*#30S

60 141.30 INSPECTION.

61 (a) The commissioner or ~~his~~ a delegate may inspect the *
62 instructional books and records, ~~his~~ classrooms, dormitories, tools,
63 equipment and classes of any school or applicant for license at
64 any reasonable time. The commissioner may require the
65 submission of a certified public audit, or if there is no such
66 audit available the commissioner or ~~his~~ a delegate may inspect *
67 the financial books and records of the school. In no event
68 shall such financial information be used by the commissioner to
69 regulate or set the tuition or fees charged by the school.

70 (b) No agent or employee of the state of Minnesota shall
71 divulge to any person other than a member of the department of
72 education, or duly constituted law enforcement official, any

1 data obtained from an inspection of the financial records of a
 2 school, except in connection with a legal or administrative
 3 proceeding commenced to enforce a requirement of law.

144*#05S

4 144.05 GENERAL DUTIES OF COMMISSIONER; REPORTS.

5 The state commissioner of health shall have general
 6 authority as the state's official health agency and shall be
 7 responsible for the development and maintenance of an organized
 8 system of programs and services for protecting, maintaining, and
 9 improving the health of the citizens. This authority shall
 10 include but not be limited to the following:

11 (a) Conduct studies and investigations, collect and analyze
 12 health and vital data, and identify and describe health problems;

13 (b) Plan, facilitate, coordinate, provide, and support the
 14 organization of services for the prevention and control of
 15 illness and disease and the limitation of disabilities resulting
 16 therefrom;

17 (c) Establish and enforce health standards for the
 18 protection and the promotion of the public's health such as
 19 quality of health services, reporting of disease, regulation of
 20 health facilities, environmental health hazards and ~~manpower~~ *
 21 personnel; *

22 (d) Affect the quality of public health and general health
 23 care services by providing consultation and technical training
 24 for health professionals and paraprofessionals;

25 (e) Promote personal health by conducting general health
 26 education programs and disseminating health information;

27 (f) Coordinate and integrate local, state and federal
 28 programs and services affecting the public's health;

29 (g) Continually assess and evaluate the effectiveness and
 30 efficiency of health service systems and public health
 31 programming efforts in the state; and

32 (h) Advise the governor and legislature on matters relating
 33 to the public's health.

144*#051S

34 144.051 DATA RELATING TO LICENSED AND REGISTERED PERSONS.

35 Subdivision 1. PURPOSE. The legislature finds that
 36 accurate information pertaining to the numbers, distribution and
 37 characteristics of health-related ~~manpower~~ personnel is required *
 38 in order that there exist an adequate information resource at
 39 the state level for purposes of making decisions pertaining to
 40 health ~~manpower~~ personnel. *

41 Subd. 2. INFORMATION SYSTEM. The commissioner of
 42 health shall establish a system for the collection, analysis and
 43 reporting of data on individuals licensed or registered by the
 44 commissioner or the health-related licensing boards as defined
 45 in section 214.01, subdivision 2. Individuals licensed or
 46 registered by the commissioner or the health-related licensing
 47 boards shall provide information to the commissioner of health
 48 that ~~he~~ the commissioner may, pursuant to section 144.052, *
 49 require. The commissioner shall publish at least biennially, a
 50 report which indicates the type of information available and
 51 methods for requesting the information.

144*#052S

52 144.052 USE OF DATA.

53 Subdivision 1. RULES. The commissioner, after
 54 consultation with the health-related licensing boards as defined
 55 in section 214.01, subdivision 2, shall promulgate rules in
 56 accordance with chapter 14 regarding the types of information
 57 collected and the forms used for collection. The types of
 58 information collected shall include licensure or registration
 59 status, name, address, birth date, sex, professional activity
 60 status, and educational background or similar information needed
 61 in order to make decisions pertaining to health ~~manpower~~ *
 62 personnel. *

63 Subd. 2. COORDINATION WITH LICENSURE RENEWAL. In
 64 order that the collection of the information specified in this
 65 section not impose an unnecessary burden on the licensed or
 66 registered individual or require additional administrative cost
 67 to the state, the commissioner of health shall, whenever
 68 possible, collect the information at the time of the
 69 individual's licensure or registration renewal. The
 70 health-related licensing boards shall include the request for
 71 the information that the commissioner may require pursuant to
 72 subdivision 1 with the licensure renewal application materials,
 73 provided, however, that the collection of health ~~manpower~~ *

1 personnel data by the commissioner shall not cause the licensing *
2 boards to incur additional costs or delays with regard to the
3 license renewal process.

144*#053S

4 144.053 RESEARCH STUDIES CONFIDENTIAL.

5 No change for subd 1 to 2

6 Subd. 3. The furnishing of such information to the state
7 commissioner of health or ~~his~~ an authorized representative, or *
8 to any other cooperating agency in such research project, shall
9 not subject any person, hospital, sanitarium, nursing home or
10 other person or agency furnishing such information, to any
11 action for damages or other relief.

12 No change for subd 4

144*#07S

13 144.07 POWERS OF COMMISSIONER.

14 The commissioner may:

15 (1) make all reasonable rules and regulations necessary to
16 carry into effect the provisions of sections 144.06, 144.07, and
17 144.09, and may amend, alter, or repeal such rules or
18 regulations;

19 (2) accept private gifts for the purpose of carrying out
20 the provisions of those sections;

21 (3) cooperate with agencies, whether city, state, federal,
22 or private, which carry on work for maternal and infant hygiene;

23 (4) make investigations and recommendations for the purpose
24 of improving maternity care;

25 (5) promote programs and services available in Minnesota
26 for parents and families of victims of sudden infant death
27 syndrome; and

28 (6) collect and report to the legislature the most current
29 information regarding the frequency and causes of sudden infant
30 death syndrome.

31 The commissioner shall include in ~~his~~ the report to the *
32 legislature a statement of the operation of those sections.

144*#074S

33 144.074 FUNDS RECEIVED FROM OTHER SOURCES.

34 The state commissioner of health may receive and accept
35 money, property, or services from any person, agency, or other
36 source for any public health purpose within the scope of ~~his~~ *
37 statutory authority. All money so received is annually
38 appropriated for those purposes in the manner and subject to the
39 provisions of law applicable to appropriations of state funds.

144*#076S

40 144.076 MOBILE HEALTH CLINIC.

41 The state commissioner of health may establish, equip, and
42 staff with ~~his~~ the commissioner's own members or volunteers from *
43 the healing arts, or may contract with a public or private
44 nonprofit agency or organization to establish, equip, and staff
45 a mobile unit, or units to travel in and around poverty stricken
46 areas and Indian reservations of the state on a prescribed
47 course and schedule for diagnostic and general health
48 counseling, including counseling on and distribution of dietary
49 information, to persons residing in such areas. For this
50 purpose the state commissioner of health may purchase and equip
51 suitable motor vehicles, and furnish a driver and such other
52 personnel as the department deems necessary to effectively carry
53 out the purposes for which these mobile units were established
54 or may contract with a public or private nonprofit agency or
55 organization to provide the service.

144*#12S

56 144.12 REGULATION, ENFORCEMENT, LICENSES, FEES.

57 Subdivision 1. RULES. The commissioner may adopt
58 reasonable rules pursuant to chapter 14 for the preservation of
59 the public health. The rules shall not conflict with the
60 charter or ordinance of a city of the first class upon the same
61 subject. The commissioner may control, by rule, by requiring
62 the taking out of licenses or permits, or by other appropriate
63 means, any of the following matters:

64 (1) The manufacture into articles of commerce, other than
65 food, of diseased, tainted, or decayed animal or vegetable
66 matter;

67 (2) The business of scavenging and the disposal of sewage;

68 (3) The location of mortuaries and cemeteries and the
69 removal and burial of the dead;

70 (4) The management of boarding places for infants and the
71 treatment of infants in them;

1 (5) The pollution of streams and other waters and the
2 distribution of water by persons for drinking or domestic use;

3 (6) The construction and equipment, in respect to sanitary
4 conditions, of schools, hospitals, almshouses, prisons, and
5 other public institutions, and of lodging houses and other
6 public sleeping places kept for gain;

7 (7) The treatment, in hospitals and elsewhere, of persons
8 suffering from communicable diseases, including all manner of
9 venereal disease and infection, the disinfection and quarantine
10 of persons and places in case of those diseases, and the
11 reporting of sicknesses and deaths from them;

12 Neither the commissioner nor any local board of health nor
13 director of public health may adopt any rule or regulation for
14 the treatment in any penal or correctional institution of any
15 person suffering from any communicable disease or venereal
16 disease or infection, which requires the involuntary detention
17 of any person after the expiration of ~~his~~ the period of sentence *
18 to the penal or correctional institution, or after the
19 expiration of the period to which the sentence may be reduced by
20 good time allowance or by the lawful order of any judge or the
21 department of corrections;

22 (8) The prevention of infant blindness and infection of the
23 eyes of the newly born by the designation, from time to time, of
24 one or more prophylactics to be used in those cases and in the
25 manner that the commissioner directs, unless specifically
26 objected to by a parent of the infant;

27 (9) The furnishing of vaccine matter; the assembling,
28 during epidemics of smallpox, with other persons not vaccinated,
29 but no rule of the board or of any public board or officer shall
30 at any time compel the vaccination of a child, or exclude,
31 except during epidemics of smallpox and when approved by the
32 local board of education, a child from the public schools for
33 the reason that the child has not been vaccinated; any person
34 required to be vaccinated may select for that purpose any
35 licensed physician and no rule shall require the vaccination of
36 any child whose physician certifies that by reason of ~~his~~ the *
37 child's physical condition vaccination would be dangerous; *

38 (10) The accumulation of filthy and unwholesome matter to
39 the injury of the public health and its removal;

40 (11) The collection, recording, and reporting of vital
41 statistics by public officers and the furnishing of information
42 to them by physicians, undertakers, and others of births,
43 deaths, causes of death, and other pertinent facts;

44 (12) The construction, equipment, and maintenance, in
45 respect to sanitary conditions, of lumber camps, migratory or
46 migrant labor camps, and other industrial camps;

47 (13) The general sanitation of tourist camps, summer
48 hotels, and resorts in respect to water supplies, disposal of
49 sewage, garbage, and other wastes and the prevention and control
50 of communicable diseases; and, to that end, may prescribe the
51 respective duties of county and local health officers; and all
52 county and local boards of health shall make such investigations
53 and reports and obey such directions as the commissioner may
54 require or give and, under the supervision of the commissioner,
55 enforce the regulations;

56 (14) Atmospheric pollution which may be injurious or
57 detrimental to public health;

58 (15) Sources of radiation, and the handling, storage,
59 transportation, use and disposal of radioactive isotopes and
60 fissionable materials; and

61 (16) The establishment, operation and maintenance of all
62 clinical laboratories not owned, or functioning as a component
63 of a licensed hospital. These laboratories shall not include
64 laboratories owned or operated by five or less licensed
65 practitioners of the healing arts, unless otherwise provided by
66 federal law or regulation, and in which these practitioners
67 perform tests or procedures solely in connection with the
68 treatment of their patients. Rules promulgated under the
69 authority of this clause, which shall not take effect until
70 federal legislation relating to the regulation and improvement
71 of clinical laboratories has been enacted, may relate at least
72 to minimum requirements for external and internal quality
73 control, equipment, facility environment, personnel,
74 administration and records. These rules may include the
75 establishment of a fee schedule for clinical laboratory
76 inspections. The provisions of this clause shall expire 30 days

1 after the conclusion of any fiscal year in which the federal
2 government pays for less than 45 percent of the cost of
3 regulating clinical laboratories.

4 No change for subd 2 to 3

144*#122S

5 144.122 LICENSE AND PERMIT FEES.

6 The state commissioner of health, by rule and regulation,
7 may prescribe reasonable procedures and fees for filing with the
8 commissioner as prescribed by statute and for the issuance of
9 original and renewal permits, licenses, registrations and
10 certifications issued under ~~his~~ authority of the commissioner. *

11 The expiration dates of the various licenses, permits,
12 registrations and certifications as prescribed by the rules and
13 regulations shall be plainly marked thereon. Fees may include
14 application and examination fees and a penalty fee for renewal
15 applications submitted after the expiration date of the
16 previously issued permit, license, registration, and
17 certification. The commissioner may also prescribe, by rule and
18 regulation, reduced fees for permits, licenses, registrations,
19 and certifications when the application therefor is submitted
20 during the last three months of the permit, license,
21 registration, or certification period. Fees proposed to be
22 prescribed in the rules and regulations shall be first approved
23 by the department of finance. All fees proposed to be
24 prescribed in rules and regulations shall be reasonable. The
25 fees shall be in an amount so that the total fees collected by
26 the commissioner will, where practical, approximate the cost to
27 the commissioner in administering the program. All fees
28 collected shall be deposited in the state treasury and credited
29 to the general fund unless otherwise specifically appropriated
30 by law for specific purposes.

144*#125S

31 144.125 TESTS OF INFANTS FOR INBORN METABOLIC ERRORS
32 CAUSING MENTAL RETARDATION.

33 It is the duty of (1) the administrative officer or other
34 person in charge of each institution caring for infants 28 days
35 or less of age and (2) the person required in pursuance of the
36 provisions of section 144.215, to register the birth of a child,
37 to cause to have administered to every such infant or child in
38 its ~~or his~~ care tests for phenylketonuria and other inborn *
39 errors of metabolism causing mental retardation in accordance
40 with rules or regulations prescribed by the state commissioner
41 of health. Testing and the recording and reporting of the
42 results of such tests shall be performed at such times and in
43 such manner as may be prescribed by the state commissioner of
44 health. The provisions of this section shall not apply to any
45 infant whose parents object thereto on the grounds that such
46 tests and treatment conflict with their religious tenets and
47 practices.

144*#145S

48 144.145 FLUORIDATION OF MUNICIPAL WATER SUPPLIES.

49 For the purpose of promoting public health through
50 prevention of tooth decay, the person, firm, corporation, or
51 municipality having jurisdiction over a municipal water supply,
52 whether publicly or privately owned or operated, shall control
53 the quantities of fluoride in the water so as to maintain a
54 fluoride content prescribed by the state commissioner of
55 health. In the manner provided by law, the state commissioner
56 of health shall promulgate rules and regulations relating to the
57 fluoridation of public water supplies which shall include, but
58 not be limited to the following: (1) The means by which
59 fluoride is controlled; (2) the methods of testing the fluoride
60 content; and (3) the records to be kept relating to
61 fluoridation. The state commissioner of health shall enforce
62 the provisions of this section. In so doing ~~he~~ the commissioner *
63 shall require the fluoridation of water in all municipal water
64 supplies on or before January 1, 1970. The state commissioner
65 of health shall not require the fluoridation of water in any
66 municipal water supply where such water supply in the state of
67 nature contains sufficient fluorides to conform with the rules
68 and regulations of such commissioner.

144*#212S

69 144.212 DEFINITIONS.

70 No change for subd 1 to 5

71 Subd. 6. "State registrar" means the commissioner of
72 health or ~~his~~ a designee. *

1 No change for subd 7 to 11

144*#214S

2 144.214 LOCAL REGISTRARS OF VITAL STATISTICS.

3 No change for subd 1

4 Subd. 2. FAILURE OF DUTY. A local registrar who
5 neglects or fails to discharge ~~his~~ duties as provided by *
6 sections 144.211 to 144.227 may be relieved of ~~his~~ the duties as *
7 local registrar by the state registrar after notice and
8 hearing. The state registrar may appoint a successor to serve
9 as local registrar. If a local registrar fails to file or
10 transmit birth or death certificates the state registrar shall
11 obtain them by other means.

12 Subd. 3. DUTIES. The local registrar shall examine
13 each certificate of birth and death received ~~by-him~~, pursuant to *
14 the rules of the commissioner. If the certificate is complete
15 it shall be registered. The local registrar shall enforce the
16 provisions of sections 144.211 to 144.227 and the rules
17 promulgated thereunder within the registration district, and
18 shall promptly report violations of the laws or rules to the
19 state registrar.

20 No change for subd 4

144*#225S

21 144.225 DISCLOSURE OF INFORMATION FROM VITAL RECORDS.

22 No change for subd 1

23 Subd. 2. INFORMATION ABOUT CERTAIN BIRTHS.

24 Disclosure of information pertaining to the birth of a child to
25 a woman who was not married to the child's father when the child
26 was conceived nor when the child was born or information from
27 which it can be ascertained, shall be made only to the guardian
28 of the person, the person to whom the record pertains when the
29 person is 18 years of age or older, a parent of the person born
30 to a mother who was not married to the child's father when the
31 child was conceived nor when the child was born as provided by
32 section 144.218, subdivision 1, or upon order of a court of
33 competent jurisdiction. The birth and death records of the
34 commissioner of health shall be open to inspection by the
35 commissioner of human services and it shall not be necessary for
36 ~~him~~ the commissioner of human services to obtain an order of the *
37 court in order to inspect records or to secure certified copies
38 of them.

39 No change for subd 3 to 5

144*#226S

40 144.226 FEES.

41 Subdivision 1. The fees for any of the following services
42 shall be in an amount prescribed by rule of the commissioner:

43 (a) The issuance of a certified copy or certification of a
44 vital record, or a certification that the record cannot be
45 found, provided that a fee shall not be charged for any
46 certified copy required for service in the armed forces or the
47 Merchant Marine of the United States or required in the
48 presentation of claims to the United States Veterans
49 Administration of any state or territory of the United States,
50 or for any copy requested by the commissioner of human services
51 for the discharge of ~~his~~ duties relating to state wards. No fee *
52 shall be charged for verification of information requested by
53 official agencies of this state, local governments in this
54 state, or the federal government;

55 (b) The replacement of a birth certificate;

56 (c) The filing of a delayed registration of birth or death;

57 (d) The alteration, correction, or completion of any vital
58 record, provided that no fee shall be charged for an alteration,
59 correction, or completion requested within one year after the
60 filing of the certificate; and

61 (e) The verification of information from or noncertified
62 copies of vital records. Fees charged shall approximate the
63 costs incurred in searching and copying the records. The fee
64 shall be payable at time of application.

65 No change for subd 2

144*#335S

66 144.335 ACCESS TO HEALTH RECORDS.

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

69 (a) "Patient" means a natural person who has received
70 health care services from a provider for treatment of a medical,
71 psychiatric or mental condition, or a person ~~he~~ the patient *
72 designates in writing as ~~his~~ a representative. Except for *

1 minors who have received health care services pursuant to
2 sections 144.341 to 144.347, in the case of a minor, "patient"
3 includes a parent or guardian, or a person acting as a parent or
4 guardian in the absence of a parent or guardian.

5 (b) "Provider" means (1) any person who furnishes health
6 care services and is licensed to furnish the services pursuant
7 to chapters 147, 148, 150A, 151 or 153; and (2) a health care
8 facility licensed pursuant to chapters 144 or 144A.

9 Subd. 2. PATIENT ACCESS. (a) Upon request a provider
10 shall supply to a patient complete and current information
11 possessed by that provider concerning any diagnosis, treatment
12 and prognosis of the patient in terms and language the patient
13 can reasonably be expected to understand.

14 (b) Upon a patient's written request, a provider at a
15 reasonable cost to the patient shall furnish to the patient (1)
16 copies of the patient's health record, including but not limited
17 to laboratory reports, X-rays, prescriptions, and other
18 technical information used in assessing the patient's health
19 condition, (2) the pertinent portion of the record relating to a
20 specific condition, or (3) a summary of the record.

21 (c) If a provider, as defined in subdivision 1, clause (b)
22 (1), reasonably determines that the information is detrimental
23 to the physical or mental health of the patient, or is likely to
24 cause the patient to inflict self harm, or to harm himself-or *
25 another, he the provider may withhold the information from the *
26 patient and may supply the information to an appropriate third
27 party or to another provider, as defined in subdivision 1,
28 clause (b) (1). The other provider or third party may release
29 the information to the patient.

30 (d) A provider as defined in subdivision 1, clause (b) (2),
31 shall release information upon written request unless, prior to
32 the request, a provider as defined in subdivision 1, clause (b)
33 (1), has designated and described a specific basis for
34 withholding the information as authorized by paragraph (c).

35 No change for subd 3

36 Subd. 4. ADDITIONAL PATIENT RIGHTS. The rights set
37 forth in this section are in addition to the rights set forth in
38 sections 144.651 and 144.652 and any other provision of law
39 relating to the access of a patient to ~~his~~ the patient's health *
40 records. *

144*#336S

41 144.336 REGISTRY OF PERSONS TYPED FOR HUMAN LEUKOCYTE
42 ANTIGENS.

43 Subdivision 1. RELEASE RESTRICTED. No person,
44 including the state, a state agency, or a political subdivision,
45 that maintains or operates a registry of the names of persons,
46 their human leukocyte antigen types, and their willingness to be
47 a tissue donor shall reveal the identity of the person or ~~his~~ *
48 the person's human leukocyte antigen type without the person's *
49 consent. If the data are maintained by a governmental entity,
50 the data are classified as private data on individuals as
51 defined in section 13.02, subdivision 12.

52 No change for subd 2

144*#34S

53 144.34 INVESTIGATION AND CONTROL OF OCCUPATIONAL
54 DISEASES.

55 Any physician having under ~~his~~ professional care any person *
56 whom ~~he~~ the physician believes to be suffering from poisoning *
57 from lead, phosphorus, arsenic, brass, silica dust, carbon
58 monoxide gas, wood alcohol, or mercury, or their compounds, or
59 from anthrax or from compressed-air illness or any other disease
60 contracted as a result of the nature of the employment of such
61 person shall within five days mail to the department of health a
62 report stating the name, address, and occupation of such
63 patient, the name, address, and business of ~~his~~ the patient's *
64 employer, the nature of the disease, and such other information *
65 as may reasonably be required by the department. The department
66 shall prepare and furnish the physicians of this state suitable
67 blanks for the reports herein required. No report made pursuant
68 to the provisions of this section shall be admissible as
69 evidence of the facts therein stated in any action at law or in
70 any action under the workers' compensation act against any
71 employer of such diseased person. The department of health is
72 authorized to investigate and to make recommendations for the
73 elimination or prevention of occupational diseases which have
74 been reported to it, or which shall be reported to it, in

1 accordance with the provisions of this section. The department
 2 is also authorized to study and provide advice in regard to
 3 conditions that may be suspected of causing occupational
 4 diseases. Information obtained upon investigations made in
 5 accordance with the provisions of this section shall not be
 6 admissible as evidence in any action at law to recover damages
 7 for personal injury or in any action under the workers'
 8 compensation act. Nothing herein contained shall be construed
 9 to interfere with or limit the powers of the department of labor
 10 and industry to make inspections of places of employment or
 11 issue orders for the protection of the health of the persons
 12 therein employed. When upon investigation the commissioner of
 13 health reaches a conclusion that a condition exists which is
 14 dangerous to the life and health of the workers in any industry
 15 or factory or other industrial institutions ~~he~~ the commissioner
 16 shall file a report thereon with the department of labor and
 17 industry.

144*#341S

18 144.341 LIVING APART FROM PARENTS AND MANAGING FINANCIAL
 19 AFFAIRS, CONSENT FOR SELF.

20 Notwithstanding any other provision of law, any minor who
 21 is living separate and apart from ~~his~~ parents or legal guardian,
 22 whether with or without the consent of a parent or guardian and
 23 regardless of the duration of such separate residence, and who
 24 is managing ~~his-own~~ personal financial affairs, regardless of
 25 the source or extent of ~~his~~ the minor's income, may give
 26 effective consent to personal medical, dental, mental and other
 27 health services ~~for-himself~~, and the consent of no other person
 28 is required.

144*#342S

29 144.342 MARRIAGE OR GIVING BIRTH, CONSENT FOR HEALTH
 30 SERVICE FOR SELF OR CHILD.

31 Any minor who has been married or has borne a child may
 32 give effective consent to personal medical, mental, dental and
 33 other health services ~~for-his-or-her-child, and-for-himself-or~~
 34 herself or to services for the minor's child, and the consent of
 35 no other person is required.

144*#343S

36 144.343 PREGNANCY, VENEREAL DISEASE, ALCOHOL OR DRUG
 37 ABUSE, ABORTION.

38 No change for subd 1

39 Subd. 2. NOTIFICATION CONCERNING ABORTION.

40 Notwithstanding the provisions of section 13.02, subdivision 8,
 41 no abortion operation shall be performed upon an unemancipated
 42 minor or upon a woman for whom a guardian or conservator has
 43 been appointed pursuant to sections 525.54 to 525.551 because of
 44 a finding of incompetency, until at least 48 hours after written
 45 notice of the pending operation has been delivered in the manner
 46 specified in subdivisions 2 to 4.

47 (a) The notice shall be addressed to the parent at ~~his~~ the
 48 usual place of abode of the parent and delivered personally to
 49 the parent by the physician or ~~his~~ an agent.

50 (b) In lieu of the delivery required by clause (a), notice
 51 shall be made by certified mail addressed to the parent at ~~his~~
 52 the usual place of abode of the parent with return receipt
 53 requested and restricted delivery to the addressee which means
 54 postal employee can only deliver the mail to the authorized
 55 addressee. Time of delivery shall be deemed to occur at 12
 56 o'clock noon on the next day on which regular mail delivery
 57 takes place, subsequent to mailing.

58 No change for subd 3 to 5

59 Subd. 6. SUBSTITUTE NOTIFICATION PROVISIONS. If
 60 subdivision 2 of this law is ever temporarily or permanently
 61 restrained or enjoined by judicial order, subdivision 2 shall be
 62 enforced as though the following paragraph were incorporated as
 63 paragraph (c) of that subdivision; provided, however, that if
 64 such temporary or permanent restraining order or injunction is
 65 ever stayed or dissolved, or otherwise ceases to have effect,
 66 subdivision 2 shall have full force and effect, without being
 67 modified by the addition of the following substitute paragraph
 68 which shall have no force or effect until or unless an
 69 injunction or restraining order is again in effect.

70 (c)(i) If such a pregnant woman elects not to allow the
 71 notification of one or both of her parents or guardian or
 72 conservator, any judge of a court of competent jurisdiction
 73 shall, upon petition, or motion, and after an appropriate

1 hearing, authorize a physician to perform the abortion if said
 2 judge determines that the pregnant woman is mature and capable
 3 of giving informed consent to the proposed abortion. If said
 4 judge determines that the pregnant woman is not mature, or if
 5 the pregnant woman does not claim to be mature, the judge shall
 6 determine whether the performance of an abortion upon her
 7 without notification of her parents, guardian, or conservator
 8 would be in her best interests and shall authorize a physician
 9 to perform the abortion without such notification if said judge
 10 concludes that the pregnant woman's best interests would be
 11 served thereby.

12 (ii) Such a pregnant woman may participate in proceedings
 13 in the court on her own behalf, and the court may appoint a
 14 guardian ad litem for her. The court shall, however, advise her
 15 that she has a right to court appointed counsel, and shall, upon
 16 her request, provide her with such counsel.

17 (iii) Proceedings in the court under this section shall be
 18 confidential and shall be given such precedence over other
 19 pending matters so that the court may reach a decision promptly
 20 and without delay so as to serve the best interests of the
 21 pregnant woman. A judge of the court who conducts proceedings
 22 under this section shall make in writing specific factual
 23 findings and legal conclusions supporting ~~his~~ the decision and *
 24 shall order a record of the evidence to be maintained *
 25 including ~~his~~ the judge's own findings and conclusions.

26 (iv) An expedited confidential appeal shall be available to
 27 any such pregnant woman for whom the court denies an order
 28 authorizing an abortion without notification. An order
 29 authorizing an abortion without notification shall not be
 30 subject to appeal. No filing fees shall be required of any such
 31 pregnant woman at either the trial or the appellate level.
 32 Access to the trial court for the purposes of such a petition or
 33 motion, and access to the appellate courts for purposes of
 34 making an appeal from denial of the same, shall be afforded such
 35 a pregnant woman 24 hours a day, seven days a week.

36 No change for subd 7

144*#345S

37 144.345 REPRESENTATIONS TO PERSONS RENDERING SERVICE.

38 The consent of a minor who ~~represents-that-he-may~~ claims to
 39 be able to give effective consent for the purpose of receiving *
 40 medical, dental, mental or other health services but who may not *
 41 in fact do so, shall be deemed effective without the consent of
 42 the minor's parent or legal guardian, if the person rendering
 43 the service relied in good faith upon the representations of the
 44 minor.

144*#35S

45 144.35 POLLUTION OF WATER.

46 No sewage or other matter that will impair the
 47 healthfulness of water shall be deposited where it will fall or
 48 drain into any pond or stream used as a source of water supply
 49 for domestic use. The commissioner shall have general charge of
 50 all springs, wells, ponds, and streams so used and take all
 51 necessary and proper steps to preserve the same from such
 52 pollution as may endanger the public health. In case of
 53 violation of any of the provisions of this section, the
 54 commissioner may, with or without a hearing, order any person to
 55 desist from causing such pollution and to comply with such
 56 direction of as the commissioner ~~as-he~~ may deem proper and *
 57 expedient in the premises. Such order shall be served forthwith
 58 upon the person found to have violated such provisions.

144*#417S

59 144.417 COMMISSIONER OF HEALTH, ENFORCEMENT, PENALTIES.

60 Subdivision 1. RULES AND REGULATIONS. The state
 61 commissioner of health shall adopt rules and regulations
 62 necessary and reasonable to implement the provisions of sections
 63 144.411 to 144.417, except as provided for in section 144.414.

64 The state commissioner of health may, upon request, waive
 65 the provisions of sections 144.411 to 144.417 if he the *
 66 commissioner determines there are compelling reasons to do so *
 67 and a waiver will not significantly affect the health and
 68 comfort of nonsmokers.,

69 No change for subd 2 to 3

144*#422S

70 144.422 TUBERCULOSIS SUSPECTS.

71 No change for subd 1

72 Subd. 2. REPORTS OF SUSPECTS. Any health officer who

1 has information that a patient does by his conduct or mode of *
2 living, endanger the health and well-being of his family members *
3 or other persons, may make a report thereof to the county board
4 of the county in which the patient resides or is found. The
5 report shall state the name and address of the patient and a
6 summary of the health officer's information. If upon the
7 examination of the report the county board shall have reasonable
8 cause to believe that the patient is infected with tuberculosis
9 in the infectious stage and does by his conduct or mode of *
10 living, endanger the health and well-being of his family members *
11 or other persons it shall so find, and may by resolution direct
12 that the patient be committed to the public hospital designated
13 in the resolution where the patient shall remain until
14 discharged by the chief medical officer of the hospital. A copy
15 of the resolution shall be served upon the patient in the manner
16 of service of a summons in a civil action. If the patient
17 refuses to enter the hospital, a copy of the resolution with the
18 findings and with proof of the service aforesaid, certified to
19 by the county auditor, shall be filed with the clerk of the
20 district court of the county in which the proceedings were held,
21 and upon presentation thereof to a judge of the court, the judge
22 shall order the sheriff or other person to apprehend the patient
23 and deliver him the patient to the chief medical officer of the *
24 hospital designated in the resolution.

25 Subd. 3. HEALTH OFFICER PARTY TO PROCEEDINGS; APPEALS.
26 The health officer making the report referred to in
27 subdivision 2, and his any successor in office, shall be deemed *
28 a party to all proceedings had in connection therewith. Any
29 party aggrieved by the resolution of the county board in
30 committing or refusing to commit the patient, may appeal
31 therefrom to said district court. If an appeal is taken by the
32 health officer, the notice of appeal shall be served upon the
33 patient and filed with the county auditor with proof of such
34 service, within 20 days after the adoption of said resolution.
35 If an appeal is taken by the patient, the notice of appeal shall
36 be filed with the county auditor within 20 days after the
37 service of a copy of said resolution as provided for in
38 subdivision 2, but such appeal shall not stay the commitment
39 unless a stay is granted by order of court.

40 Subd. 4. PAPERS FILED WITH CLERK OF DISTRICT COURT.
41 Within five days after receipt of the notice of appeal, the
42 county auditor shall certify and file with the clerk of said
43 court a copy of the health officer's report, a transcript of the
44 proceedings had by the county board thereon, and a copy of the
45 notice of appeal showing the date of the filing of same in his *
46 the auditor's office, together with the required proofs of *
47 service.

48 Subd. 5. HEARING APPEAL; DETERMINATION. Upon three
49 days notice to the adverse party the court shall set a date for
50 hearing the appeal, which hearing may be had at any general or
51 special term of court, or by the court in chambers; and the
52 court may, if it deems advisable, appoint three duly licensed
53 doctors of medicine as a board to examine the patient to
54 determine whether or not he the patient is afflicted with *
55 tuberculosis in the infectious stage. The patient shall be *
56 entitled to have his a personal physician present at the time of
57 the examination. The board so appointed shall examine the
58 patient at the time and place designated by the court and shall
59 make a written report of its findings. If said findings are
60 positive, at least one of such examiners shall appear at the
61 hearing and give testimony. The court shall summarily hear and
62 determine said appeal, and at the trial thereof all
63 technicalities and matters of form not affecting substantial
64 merits shall be disregarded.

65 Subd. 6. FINDINGS, COMMITMENT. If the patient is
66 found to be afflicted with tuberculosis in the infectious stage
67 and the court finds that the patient does by conduct or mode of
68 living, endanger the health and well-being of his family members *
69 or other persons, and finds and determines it to be for the best *
70 interests of the patient, his family members or the public, the
71 court shall issue to the sheriff a warrant, in duplicate,
72 committing the patient to the custody of the chief medical
73 officer of the public hospital named in its findings and
74 determination, where the patient shall remain until discharged
75 therefrom by the chief medical officer when his discharge will *
76 not endanger the health of any other person, or by the court

1 upon petition of the patient. The court may, upon consent of
 2 the commissioner of human services, order the patient confined
 3 at a place the commissioner may designate until the commissioner
 4 determines the patient may be safely cared for at the hospital
 5 named in the court's findings or may be discharged. The
 6 commissioner of human services may transfer the patient to the
 7 hospital, and at any time prior to the patient's discharge the
 8 commissioner, upon request of the officer in charge of the
 9 hospital, may return the patient to the place designated by the
 10 commissioner.

11 No change for subd 7 to 8

12 Subd. 9. EXPENSES AND COST, PAYMENT. The expense of
 13 the proceedings under the provisions of subdivisions 1 to 7, and
 14 the cost of the care, treatment and maintenance furnished to the
 15 committed person, is a charge against the county of ~~his~~ *
 16 residence. If the person resided in the state throughout the
 17 year preceding commitment under the provisions of those
 18 subdivisions, exclusive of the time spent in a hospital, but did
 19 not reside continuously in any one county during that time, then
 20 the cost of the person's care, treatment and maintenance shall
 21 be paid by the county in which the person resided longest during
 22 the year preceding commitment. If the person did not reside in
 23 the state throughout the year preceding commitment, exclusive of
 24 the time spent in a hospital, then the person's care, treatment
 25 and maintenance shall be provided at a place the commissioner
 26 may designate, and the county of commitment shall pay an amount
 27 not to exceed 20 percent of the cost of care. The county in
 28 which the person is present at the time of commitment shall
 29 conduct an investigation of the person's residence and financial
 30 circumstances and shall submit information from the
 31 investigation to the commissioner of human services within one
 32 month of the date of commitment.

33 Subd. 10. LIABILITY OF PATIENT FOR EXPENSES AND COST.

34 Any patient committed under the provisions of subdivisions 1
 35 to 7, who at the time of ~~his~~ commitment has financial ability to *
 36 pay, or who prior to ~~his~~ discharge shall become financially able *
 37 to pay, shall be liable for the cost of ~~his~~ care, treatment and *
 38 maintenance to the county paying the same, or to the
 39 commissioner of human services, as the case may be.

144*#424S

40 144.424 REGULATIONS; VIOLATIONS; RELEASE.

41 No change for subd 8

42 Subd. 9. Any person who is confined to any sanatorium or
 43 hospital for tuberculous care and treatment, whether committed
 44 under the provisions of section 144.422, subdivisions 1 to 7, or
 45 entering the same voluntarily, and who is refused discharge upon
 46 written demand to the chief medical officer, may petition the
 47 district court of the county in which the hospital is located
 48 for an order directing ~~his~~ release, and if it appears to the *
 49 court after a trial on the merits that the patient is not
 50 afflicted with tuberculosis in the infectious stage and has
 51 progressed in the cure of the disease to a point when ~~his~~ the *
 52 release will not endanger the health and well-being of ~~his~~ *
 53 family members or other persons, the court may direct release. *
 54 Such petition shall not be renewed oftener than once every six
 55 months.

56 Subd. 10. Repealed, 1980 c 357 s 22

57 No change for subd 11

144*#471S

58 144.471 LOCAL BOARD OF HEALTH; DUTIES.

59 When any person having tuberculosis is not attended by any
 60 physician or when the physician attending any such person fails
 61 to perform any duty required ~~of him~~ by any provision of sections *
 62 144.424 to 144.47, the duties required to be so performed by any
 63 such physician shall be performed by the local board of health.

144*#49S

64 144.49 VIOLATIONS; PENALTIES.

65 No change for subd 1 to 7

66 Subd. 8. Any person lawfully engaged in the practice of
 67 healing who wilfully makes any false statement in any report
 68 required to be made ~~by him~~ pursuant to sections 144.424 to *
 69 144.47 is guilty of a misdemeanor.

144*#51S

70 144.51 LICENSE APPLICATIONS.

71 Before a license shall be issued under sections 144.50 to
 72 144.56, the person applying shall submit evidence satisfactory

1 to the state commissioner of health that he the person is not *
2 less than 18 years of age and of reputable and responsible
3 character; in the event the applicant is an association or
4 corporation or governmental unit like evidence shall be
5 submitted as to the members thereof and the persons in charge.
6 All applicants shall, in addition, submit satisfactory evidence
7 of their ability to comply with the provisions of sections
8 144.50 to 144.56 and all rules, regulations, and minimum
9 standards adopted thereunder.

144*#55S

10 144.55 LICENSES; ISSUANCE, SUSPENSION AND REVOCATION BY
11 COMMISSIONER.

12 No change for subd 1 to 2

13 Subd. 3. STANDARDS FOR LICENSURE. Notwithstanding
14 the provisions of section 144.56, for the purpose of hospital
15 licensure, the commissioner of health shall use as minimum
16 standards the hospital certification regulations promulgated
17 pursuant to Title XVIII of the Social Security Act, 42 U.S.C.,
18 Section 1395, et. seq. The commissioner may use as minimum
19 standards changes in the federal hospital certification
20 regulations promulgated after May 7, 1981 if he the commissioner *
21 finds that such changes are reasonably necessary to protect
22 public health and safety. The commissioner shall also
23 promulgate in rules additional minimum standards for new
24 construction.

25 No change for subd 4

26 Subd. 5. COORDINATION OF INSPECTIONS. Prior to
27 conducting routine inspections of hospitals, a state agency
28 shall notify the commissioner of its intention to inspect. The
29 commissioner shall then determine whether the inspection is
30 necessary in light of any previous inspections conducted by the
31 commissioner, any other state agency, or the joint commission.
32 The commissioner shall notify the agency of ~~his~~ the *
33 determination and may authorize the agency to conduct the
34 inspection. No state agency may routinely inspect any hospital
35 without the authorization of the commissioner. The commissioner
36 shall coordinate, insofar as is possible, routine inspections
37 conducted by state agencies, so as to minimize the number of
38 inspections to which hospitals are subject.

39 No change for subd 6 to 11

144*#56S

40 144.56 STANDARDS.

41 Subdivision 1. The state commissioner of health shall, in
42 the manner prescribed by law, adopt and enforce reasonable
43 rules, regulations, and standards under sections 144.50 to
44 144.56 which he the commissioner finds to be necessary and in *
45 the public interests and may rescind or modify them from time to
46 time as may be in the public interest, insofar as such action is
47 not in conflict with any provision thereof.

48 No change for subd 2 to 4

144*#651S

49 144.651 PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES;
50 BILL OF RIGHTS.

51 No change for subd 1 to 6

52 Subd. 7. PHYSICIAN'S IDENTITY. Patients and
53 residents shall have or be given, in writing, the name, business
54 address, telephone number, and specialty, if any, of the
55 physician responsible for coordination of their care. In cases
56 where it is medically inadvisable, as documented by the
57 attending physician in a patient's or resident's care record,
58 the information shall be given to the patient's or resident's
59 guardian or other person designated by the patient or resident
60 as ~~his-or-her~~ a representative. *

61 Subd. 8. RELATIONSHIP WITH OTHER HEALTH SERVICES.

62 Patients and residents who receive services from an outside
63 provider are entitled, upon request, to be told the identity of
64 the provider. Residents shall be informed, in writing, of any
65 health care services which are provided to those residents by
66 individuals, corporations, or organizations other than their
67 facility. Information shall include the name of the outside
68 provider, the address, and a description of the service which
69 may be rendered. In cases where it is medically inadvisable, as
70 documented by the attending physician in a patient's or
71 resident's care record, the information shall be given to the
72 patient's or resident's guardian or other person designated by
73 the patient or resident as ~~his-or-her~~ a representative. *

1 Subd. 9. INFORMATION ABOUT TREATMENT. Patients and
 2 residents shall be given by their physicians complete and
 3 current information concerning their diagnosis, treatment,
 4 alternatives, risks, and prognosis as required by the
 5 physician's legal duty to disclose. This information shall be
 6 in terms and language the patients or residents can reasonably
 7 be expected to understand. Patients and residents may be
 8 accompanied by a family member or other chosen representative.
 9 This information shall include the likely medical or major
 10 psychological results of the treatment and its alternatives. In
 11 cases where it is medically inadvisable, as documented by the
 12 attending physician in a patient's or resident's medical record,
 13 the information shall be given to the patient's or resident's
 14 guardian or other person designated by the patient or resident
 15 as ~~his-or-her~~ a representative. Individuals have the right to *
 16 refuse this information.

17 Every patient or resident suffering from any form of breast
 18 cancer shall be fully informed, prior to or at the time of
 19 admission and during her stay, of all alternative effective
 20 methods of treatment of which the treating physician is
 21 knowledgeable, including surgical, radiological, or
 22 chemotherapeutic treatments or combinations of treatments and
 23 the risks associated with each of those methods.

24 No change for subd 10 to 23

25 Subd. 24. CHOICE OF SUPPLIER. ~~A-resident~~ Residents *
 26 may purchase or rent goods or services not included in the per
 27 diem rate from a supplier of ~~his-or-her~~ their choice unless *
 28 otherwise provided by law. The supplier shall ensure that these
 29 purchases are sufficient to meet the medical or treatment needs
 30 of the resident residents. *

31 No change for subd 25 to 29

144*#652S

32 144.652 BILL OF RIGHTS NOTICE TO PATIENT OR RESIDENT;
 33 VIOLATION.

34 No change for subd 1

35 Subd. 2. CORRECTION ORDER; EMERGENCIES. A
 36 substantial violation of the rights of any patient or resident
 37 as defined in section 144.651, shall be grounds for issuance of
 38 a correction order pursuant to section 144.653 or 144A.10. The
 39 issuance or nonissuance of a correction order shall not
 40 preclude, diminish, enlarge, or otherwise alter private action
 41 by or on behalf of a patient or resident to enforce any
 42 unreasonable violation of ~~his~~ the patient's or resident's rights. *
 43 Compliance with the provisions of section 144.651 shall not be
 44 required whenever emergency conditions, as documented by the
 45 attending physician in a patient's medical record or a
 46 resident's care record, indicate immediate medical treatment,
 47 including but not limited to surgical procedures, is necessary
 48 and it is impossible or impractical to comply with the
 49 provisions of section 144.651 because delay would endanger the
 50 patient's or resident's life, health, or safety.

144*#653S

51 144.653 RULES; PERIODIC INSPECTIONS; ENFORCEMENT.

52 No change for subd 1 to 5

53 Subd. 6. REINSPECTIONS; FINES. If upon reinspection
 54 it is found that the licensee of a facility required to be
 55 licensed under the provisions of sections 144.50 to 144.58 has
 56 not corrected deficiencies specified in the correction order, a
 57 notice of noncompliance with a correction order shall be issued
 58 stating all deficiencies not corrected. Unless a hearing is
 59 requested under subdivision 8, the licensee shall forfeit to the
 60 state within 15 days after receipt by ~~him~~ the licensee of such *
 61 notice of noncompliance with a correction order up to \$1,000 for
 62 each deficiency not corrected. For each subsequent
 63 reinspection, the licensee may be fined an additional amount for
 64 each deficiency which has not been corrected. All forfeitures
 65 shall be paid into the general fund. The commissioner of health
 66 shall promulgate by rule and regulation a schedule of fines
 67 applicable for each type of uncorrected deficiency.

68 No change for subd 7

69 Subd. 8. HEARINGS, A licensee of a facility
 70 required to be licensed under the provisions of sections 144.50
 71 to 144.58 is entitled to a hearing on any notice of
 72 noncompliance with a correction order issued to ~~him~~ the licensee *
 73 as a result of a reinspection, provided that ~~he~~ the licensee *
 74 makes a written request therefor within 15 days of receipt by

1 ~~him~~ the licensee of the notice of noncompliance with a *
 2 correction order. Failure to request a hearing shall result in
 3 the forfeiture of a penalty as determined by the commissioner of
 4 health in accordance with subdivision 6. A request for a
 5 hearing shall operate as a stay during the hearing and review
 6 process of the payment of any forfeiture provided for in this
 7 section. Upon receipt of the request for a hearing, a hearing
 8 officer, who shall not be an employee of the state commissioner
 9 of health, shall be appointed by the state commissioner of
 10 health, and the hearing officer shall promptly schedule a
 11 hearing on the matter, giving at least ten days notice of the
 12 date, time, and place of the hearing to the licensee. Upon
 13 determining that the licensee of a facility required to be
 14 licensed under sections 144.50 to 144.58 has not corrected the
 15 deficiency specified in the correction order, the hearing
 16 officer shall impose a penalty as determined by the commissioner
 17 of health in accordance with subdivision 6. The hearing and
 18 review thereof shall be in accordance with the relevant
 19 provisions of the administrative procedures act.

20 No change for subd 9

144*#67S

21 144.67 INFORMATIONAL AND STATISTICAL RESEARCH.
 22 The state commissioner of health shall collect, transcribe,
 23 compile, classify, and preserve information received ~~by-him~~, *
 24 analyze this information, and make studies therefrom showing the
 25 incidence of tumors of various types, the procedures in the care
 26 of these tumors, and the effectiveness of the different methods
 27 of treatment on tumors. The informational and statistical
 28 results of these studies shall be available to the physicians
 29 and surgeons in the state. A follow-up information service may
 30 be made available to assist in completing hospital case records
 31 when subsequent data on a tumor case is obtained.

144*#68S

32 144.68 RECORDS AND REPORTS.
 33 Subdivision 1. PERSON PRACTICING HEALING ARTS.
 34 Every person licensed to practice the healing arts in any form,
 35 upon request of the state commissioner of health, shall prepare
 36 and forward to the commissioner, in the manner and at such times
 37 as ~~he~~ the commissioner designates, a detailed record of each *
 38 case of malignant disease treated or seen by ~~him~~ the person *
 39 professionally.

40 Subd. 2. HOSPITALS AND SIMILAR INSTITUTIONS. Every
 41 hospital, sanatorium, nursing home or other institution for the
 42 hospitalization or care of human beings, upon request of the
 43 state commissioner of health, shall prepare and forward to the
 44 commissioner, in the manner and at the times ~~that-he-designates~~ *
 45 designated by the commissioner, a detailed record of each case *
 46 of malignant disease having been therein.

47 No change for subd 3

144*#691S

48 144.691 GRIEVANCE PROCEDURES.
 49 No change for subd 1
 50 Subd. 2. PATIENT NOTICE. Each patient receiving
 51 treatment at a hospital or an outpatient surgery center shall be
 52 notified of the grievance or complaint mechanism which is
 53 available to ~~him~~ the patient. *

54 No change for subd 3 to 4

144*#693S

55 144.693 MEDICAL MALPRACTICE CLAIMS; REPORTS.
 56 No change for subd 1
 57 Subd. 2. The state commissioner of health shall collect
 58 and review the data reported pursuant to subdivision 1. On
 59 December 1, 1976, and on January 2 of each year thereafter, the
 60 state commissioner of health shall report to the legislature ~~his~~ *
 61 the findings related to the incidence and size of malpractice *
 62 claims against hospitals, outpatient surgery centers, and health
 63 maintenance organizations, and shall make any appropriate
 64 recommendations to reduce the incidence and size of the claims.
 65 Data published by the state commissioner of health pursuant to
 66 this subdivision with respect to malpractice claims information
 67 shall be summary data within the meaning of section 13.02,
 68 subdivision 19.

69 Subd. 3. The state commissioner of health shall have
 70 access to the records of any insurer relating to malpractice
 71 claims made against hospitals, outpatient surgery centers, and
 72 health maintenance organizations in years prior to 1976 if ~~he~~ *

1 the commissioner determines the records are necessary to fulfill *
 2 his the duties of the commissioner under Laws 1976, Chapter 325. *

144*#697S
 3 144.697 GENERAL POWERS AND DUTIES OF STATE COMMISSIONER
 4 OF HEALTH.
 5 Subdivision 1. The commissioner of health may contract
 6 with third parties for services necessary to carry out his the *
 7 commissioner's activities where this will promote economy, avoid *
 8 duplication of effort, and make best use of available expertise.
 9 No change for subd 2 to 4

144*#72S
 10 144.72 OPERATION.
 11 No change for subd 1
 12 Subd. 2. APPLICATION. On or before June first
 13 annually, every person, partnership or corporation, operating or
 14 seeking to operate a children's camp, shall make application in
 15 writing to the commissioner for a permit to conduct a children's
 16 camp. Such application shall be in such form and shall contain
 17 such information as the commissioner may find necessary to his *
 18 determination determine that the children's camp will be *
 19 operated and maintained in such a manner as to protect and
 20 preserve the health and safety of the persons using the camp.
 21 Where a person, partnership or corporation operates or is
 22 seeking to operate more than one children's camp, a separate
 23 application shall be made for each camp.
 24 Subd. 3. ISSUANCE OF PERMITS. If the commissioner
 25 should determine from the application that the health and safety
 26 of the persons using the camp will be properly safeguarded, he *
 27 the commissioner may, prior to actual inspection of the camp, *
 28 issue the permit in writing. No fee shall be charged for the
 29 permit. The permit shall be posted in a conspicuous place on
 30 the premises occupied by the camp.

144*#73S
 31 144.73 STATE COMMISSIONER OF HEALTH, DUTIES.
 32 No change for subd 1 to 2
 33 Subd. 3. HEARINGS. The camp operator shall be
 34 entitled to a hearing before the commissioner on the revocation
 35 of his the operator's permit. A request for such hearing shall *
 36 be made by the camp operator in writing. The hearing shall be
 37 held at the time and place designated by the commissioner and at
 38 least five days written notice of such hearing shall be given to
 39 the camp operator. The notice may be served by certified mail.
 40 The camp operator shall be entitled to be represented by legal
 41 counsel and shall have the right to produce evidence and
 42 testimony at such hearing. The commissioner may appoint in
 43 writing any competent person to preside at such hearing. Such
 44 person shall take testimony, administer oaths, issue subpoenas,
 45 compel the attendance of witnesses, and transmit the record of
 46 the hearing to the commissioner. The decision of the
 47 commissioner shall be based on the evidence and testimony
 48 presented at such hearing.
 49 No change for subd 4

144*#74S
 50 144.74 REGULATIONS, STANDARDS.
 51 The state commissioner of health is authorized to adopt and
 52 enforce such reasonable regulations and standards as he the *
 53 commissioner determines necessary to protect the health and *
 54 safety of children in attendance at children's camps. Such
 55 regulations and standards may include reasonable restrictions
 56 and limitations on the following:
 57 (1) Camp sites and buildings, including location, layout,
 58 lighting, ventilation, heating, plumbing, drainage and sleeping
 59 quarters;
 60 (2) Sanitary facilities, including water supply, toilet and
 61 shower facilities, sewage and excreta disposal, waste and
 62 garbage disposal, and the control of insects and rodents, and
 63 (3) Food service, including storage, refrigeration,
 64 sanitary preparation and handling of food, the cleanliness of
 65 kitchens and the proper functioning of equipment.

144*#8091S
 66 144.8091 REIMBURSEMENT TO NONPROFIT AMBULANCE SERVICES.
 67 No change for subd 1
 68 Subd. 2. For purposes of this section, "volunteer
 69 ambulance attendant" means a person who provides emergency
 70 medical services for a licensed ambulance service without the
 71 expectation of remuneration and who does not depend in any way

1 upon the provision of these services for the person's
2 livelihood. An individual may be considered a volunteer
3 ambulance attendant even though that individual receives an
4 hourly stipend for each hour of actual service provision, except
5 for hours on standby alert, even though this hourly stipend is
6 regarded as taxable income for purposes of state or federal law,
7 provided that this hourly stipend does not exceed \$500 in the
8 year in which the individual received his training. *

9 No change for subd 3

144A#01S

10 144A.01 DEFINITIONS.

11 No change for subd 1 to 8

12 Subd. 9. "Nursing home administrator" means a person who
13 administers, manages, supervises, or is in general
14 administrative charge of a nursing home, whether or not the
15 individual has an ownership interest in the home, and whether or
16 not his the person's functions and duties are shared with one or *
17 more individuals, and who is licensed pursuant to section
18 144A.21.

19 No change for subd 10

144A#04S

20 144A.04 QUALIFICATIONS FOR LICENSE.

21 No change for subd 1 to 2a

22 Subd. 3. The facility must meet the minimum health,
23 sanitation, safety and comfort standards prescribed by the rules
24 of the commissioner of health with respect to the construction,
25 equipment, maintenance and operation of a nursing home. The
26 commissioner of health may temporarily waive compliance with one
27 or more of the standards if he the commissioner determines that: *

28 (a) Temporary noncompliance with the standard will not
29 create an imminent risk of harm to a nursing home resident; and
30 (b) A controlling person on behalf of all other controlling
31 persons:

32 (1) Has entered into a contract to obtain the materials or
33 labor necessary to meet the standard set by the commissioner of
34 health, but the supplier or other contractor has failed to
35 perform the terms of the contract and the inability of the
36 nursing home to meet the standard is due solely to that failure;
37 or

38 (2) Is otherwise making a diligent good faith effort to
39 meet the standard.

40 The commissioner of health shall allow, by rule, a nursing
41 home to provide fewer hours of nursing care to intermediate care
42 residents of a nursing home than required by the present rules
43 of the commissioner if the commissioner determines that the
44 needs of the residents of the home will be adequately met by a
45 lesser amount of nursing care.

46 No change for subd 3a to 4

47 Subd. 5. ADMINISTRATORS. Except as otherwise
48 provided by this subdivision, a nursing home must have a full
49 time licensed nursing home administrator serving the facility.
50 In any nursing home of less than 25 beds, the director of
51 nursing services may also serve as the licensed nursing home
52 administrator. Two nursing homes having a total of 100 beds or
53 less and located within 50 miles of each other may share the
54 services of a licensed administrator if the administrator
55 divides his full time work week between the two facilities in *
56 proportion to the number of beds in each facility. Every
57 nursing home shall have a person-in-charge on the premises at
58 all times in the absence of the licensed administrator. The
59 name of the person in charge must be posted in a conspicuous
60 place in the facility. The commissioner of health shall by rule
61 promulgate minimum education and experience requirements for
62 persons-in-charge, and may promulgate rules specifying the times
63 of day during which a licensed administrator must be on the
64 nursing home's premises. A nursing home may employ as its
65 administrator the administrator of a hospital licensed pursuant
66 to sections 144.50 to 144.56 if the individual is licensed as a
67 nursing home administrator pursuant to section 144A.20 and the
68 nursing home and hospital have a combined total of 150 beds or
69 less and are located within one mile of each other. A
70 nonproprietary retirement home having fewer than 15 licensed
71 nursing home beds may share the services of a licensed
72 administrator with a nonproprietary nursing home, having fewer
73 than 150 licensed nursing home beds, that is located within 25
74 miles of the retirement home. A nursing home which is located

1 in a facility licensed as a hospital pursuant to sections 144.50
2 to 144.56, may employ as its administrator the administrator of
3 the hospital if the individual meets minimum education and long
4 term care experience criteria set by rule of the commissioner of
5 health.

6 No change for subd 6

144A#06S

7 144A.06 TRANSFER OF INTERESTS.

8 Subdivision 1. NOTICE; EXPIRATION OF LICENSE. Any
9 controlling person who makes any transfer of a beneficial
10 interest in a nursing home shall notify the commissioner of
11 health of the transfer within 14 days of its occurrence. The
12 notification shall identify by name and address the transferor
13 and transferee and shall specify the nature and amount of the
14 transferred interest. ~~If the commissioner of health determines~~ *
15 On determining that the transferred beneficial interest exceeds *
16 ten percent of the total beneficial interest in the nursing home
17 facility, the structure in which the facility is located, or the
18 land upon which the structure is located, ~~he the commissioner~~ *
19 may, and ~~if he determines on determining~~ that the transferred *
20 beneficial interest exceeds 50 percent of the total beneficial
21 interest in the facility, the structure in which the facility is
22 located, or the land upon which the structure is located, ~~he the~~ *
23 commissioner shall, require that the license of the nursing home *
24 expire 90 days after the date of transfer. The commissioner of
25 health shall notify the nursing home by certified mail of the
26 expiration of the license at least 60 days prior to the date of
27 expiration.

28 Subd. 2. RELICENSURE. The commissioner of health by
29 rule shall prescribe procedures for relicensure under this
30 section. The commissioner of health shall relicensure a nursing
31 home if the facility satisfies the requirements for license
32 renewal established by section 144A.05. A facility shall not be
33 relicensed by the commissioner if at the time of transfer there
34 are any uncorrected violations. The commissioner of health may
35 temporarily waive correction of one or more violations if ~~he the~~ *
36 commissioner determines that: *

- 37 (a) Temporary noncorrection of the violation will not
- 38 create an imminent risk of harm to a nursing home resident; and
- 39 (b) A controlling person on behalf of all other controlling
- 40 persons:
 - 41 (1) Has entered into a contract to obtain the materials or
 - 42 labor necessary to correct the violation, but the supplier or
 - 43 other contractor has failed to perform the terms of the contract
 - 44 and the inability of the nursing home to correct the violation
 - 45 is due solely to that failure; or
 - 46 (2) Is otherwise making a diligent good faith effort to
 - 47 correct the violation.

144A#10S

48 144A.10 INSPECTION; COMMISSIONER OF HEALTH; FINES.

49 No change for subd 1

50 Subd. 2. INSPECTIONS. The commissioner of health
51 shall inspect each nursing home to ensure compliance with
52 sections 144A.01 to 144A.17 and the rules promulgated to
53 implement them. The inspection shall be a full inspection of
54 the nursing home. If upon a reinspection provided for in
55 subdivision 5 the representative of the commissioner of health
56 finds one or more uncorrected violations, a second inspection of
57 the facility shall be conducted. The second inspection need not
58 be a full inspection. No prior notice shall be given of an
59 inspection conducted pursuant to this subdivision. Any employee
60 of the commissioner of health who willfully gives or causes to
61 be given any advance notice of an inspection required or
62 authorized by this subdivision shall be subject to suspension or
63 dismissal in accordance with chapter 43A. An inspection
64 required by a federal rule or statute may be conducted in
65 conjunction with or subsequent to any other inspection. Any
66 inspection required by this subdivision may be in addition to or
67 in conjunction with the reinspections required by subdivision
68 5. Nothing in this subdivision shall be construed to prohibit
69 the commissioner of health from making more than one unannounced
70 inspection of any nursing home during its license year. The
71 commissioner of health shall coordinate ~~his~~ inspections of *
72 nursing homes with inspections by other state and local agencies.
73 The commissioner shall conduct inspections and
74 reinspections of health facilities with a frequency and in a

1 manner calculated to produce the greatest benefit to residents
2 within the limits of the resources available to the
3 commissioner. In performing this function, the commissioner may
4 devote proportionately more resources to the inspection of those
5 facilities in which conditions present the most serious concerns
6 with respect to resident health, treatment, comfort, safety, and
7 well-being.

8 These conditions include but are not limited to: change in
9 ownership; frequent change in administration in excess of normal
10 turnover rates; complaints about care, safety, or rights; where
11 previous inspections or reinspections have resulted in
12 correction orders related to care, safety, or rights; and, where
13 persons involved in ownership or administration of the facility
14 have been indicted for alleged criminal activity. Any facility
15 that has none of the above conditions or any other condition
16 established by the commissioner that poses a risk to resident
17 care, safety, or rights shall be inspected once every two years.

18 No change for subd 3

19 Subd. 4. CORRECTION ORDERS. Whenever a duly
20 authorized representative of the commissioner of health finds
21 upon inspection of a nursing home, that the facility or a
22 controlling person or an employee of the facility is not in
23 compliance with sections 144.651, 144A.01 to 144A.17, or 626.557
24 or the rules promulgated thereunder, a correction order shall be
25 issued to the facility. The correction order shall state the
26 deficiency, cite the specific rule or statute violated, state
27 the suggested method of correction, and specify the time allowed
28 for correction. If the commissioner finds that the nursing home
29 had uncorrected or repeated violations which create a risk to
30 resident care, safety, or rights, the commissioner shall notify
31 the commissioner of human services who shall (1) review
32 reimbursement to the nursing home to determine the extent to
33 which the state has paid for substandard care and, (2) furnish
34 ~~his-or-her~~ the findings and disposition to the commissioner of
35 health within 30 days of notification. *

36 No change for subd 4a to 6a

37 Subd. 7. ACCUMULATION OF FINES. A nursing home
38 shall promptly notify the commissioner of health in writing when
39 a violation noted in a notice of noncompliance is corrected.
40 Upon receipt of written notification by the commissioner of
41 health, the daily fine assessed for the deficiency shall stop
42 accruing. The facility shall be reinspected within three
43 working days after receipt of the notification. If upon
44 reinspection the representative of the commissioner of health
45 determines that a deficiency has not been corrected as indicated
46 by the notification of compliance the daily fine assessment
47 shall resume and the amount of fines which otherwise would have
48 accrued during the period prior to resumption shall be added to
49 the total assessment due from the nursing home. The
50 commissioner of health shall notify the nursing home of the
51 resumption by certified mail. The nursing home may challenge
52 the resumption as a contested case in accordance with the
53 provisions of chapter 14. Recovery of the resumed fine shall be
54 stayed if a controlling person or ~~his~~ a legal representative on
55 behalf of the nursing home makes a written request for a hearing
56 on the resumption within 15 days of receipt of the notice of
57 resumption. The cost of a reinspection conducted pursuant to
58 this subdivision shall be added to the total assessment due from
59 the nursing home. *

60 Subd. 8. RECOVERY OF FINES; HEARING. Fines assessed
61 under this section shall be payable 15 days after receipt of the
62 notice of noncompliance and at 15 day intervals thereafter, as
63 the fines accrue. Recovery of an assessed fine shall be stayed
64 if a controlling person or ~~his~~ a legal representative on behalf
65 of the nursing home makes a written request for a hearing on the
66 notice of noncompliance within 15 days after the home's receipt
67 of the notice. A hearing under this subdivision shall be
68 conducted as a contested case in accordance with chapter 14. If
69 a nursing home, after notice and opportunity for hearing on the
70 notice of noncompliance, or on the resumption of the fine, does
71 not pay a properly assessed fine in accordance with this
72 subdivision, the commissioner of health shall notify the
73 commissioner of human services who shall deduct the amount from
74 reimbursement moneys due or to be due the facility under chapter
75 256B. The commissioner of health may consolidate the hearings
76 provided for in subdivisions 7 and 8 in cases in which a

1 facility has requested hearings under both provisions. The
2 hearings provided for in subdivisions 7 and 8 shall be held
3 within 30 days after the request for the hearing. If a
4 consolidated hearing is held, it shall be held within 30 days of
5 the request which occurred last.

6 No change for subd 9 to 10

144A#11S

7 144A.11 LICENSE SUSPENSION OR REVOCATION; HEARING;
8 RELICENSING.

9 Subdivision 1. OPTIONAL PROCEEDINGS. The
10 commissioner of health may institute proceedings to suspend or
11 revoke a nursing home license, or he may refuse to grant or *
12 renew the license of a nursing home if any action by a
13 controlling person or employee of the nursing home:

14 (a) Violates any of the provisions of sections 144A.01 to
15 144A.08, 144A.13 or 144A.16, or the rules promulgated thereunder;

16 (b) Permits, aids, or abets the commission of any illegal
17 act in the nursing home;

18 (c) Performs any act contrary to the welfare of a patient
19 or resident of the nursing home; or

20 (d) Obtains, or attempts to obtain, a license by fraudulent
21 means or misrepresentation.

22 No change for subd 2

23 Subd. 3. HEARING. No nursing home license may be
24 suspended or revoked without a hearing held as a contested case
25 in accordance with chapter 14. If the controlling person
26 designated under section 144A.03, subdivision 2, as an agent to
27 accept service on behalf of all of the controlling persons of
28 the nursing home has been notified by the commissioner of health
29 that the facility will not receive an initial license or that a
30 license renewal has been denied, the controlling person or ~~his~~ a *
31 legal representative on behalf of the nursing home may request
32 and receive a hearing on the denial. This hearing shall be held
33 as a contested case in accordance with chapter 14.

34 No change for subd 3a to 4

144A#12S

35 144A.12 INJUNCTIVE RELIEF; SUBPOENAS.

36 Subdivision 1. INJUNCTIVE RELIEF. In addition to
37 any other remedy provided by law, the commissioner of health may
38 ~~in his own name~~ bring an action in the district court in Ramsey *
39 county or in the district in which a nursing home is located to
40 enjoin a controlling person or an employee of the nursing home
41 from illegally engaging in activities regulated by sections
42 144A.01 to 144A.17. A temporary restraining order may be
43 granted by the court in the proceeding if continued activity by
44 the controlling person or employee would create an imminent risk
45 of harm to a resident of the facility.

46 Subd. 2. SUBPOENAS. In all matters pending before
47 ~~him~~ the commissioner under sections 144A.01 to 144A.17, the *
48 commissioner of health shall have the power to issue subpoenas
49 and compel the attendance of witnesses and the production of all
50 necessary papers, books, records, documents and other
51 evidentiary material. Any person failing or refusing to appear
52 or testify regarding any matter about which ~~he~~ that person may *
53 be lawfully questioned or to produce any papers, books, records,
54 documents or evidentiary materials in the matter to be heard,
55 after having been required by order of the commissioner of
56 health or by a subpoena of the commissioner of health to do so
57 may, upon application by the commissioner of health to the
58 district court in any district, be ordered by the court to
59 comply therewith. The commissioner of health may issue
60 subpoenas and may administer oaths to witnesses, or take their
61 affirmation. Depositions may be taken within or without the
62 state in the manner provided by law for the taking of
63 depositions in civil actions. A subpoena or other process or
64 paper may be served upon any named person anywhere within the
65 state by any officer authorized to serve subpoenas in civil
66 actions, with the same fees and mileage and in the same manner
67 as prescribed by law for process issued out of the district
68 court of this state. Fees and mileage and other costs of
69 persons subpoenaed by the commissioner of health shall be paid
70 in the same manner as for proceedings in district court.

144A#13S

71 144A.13 COMPLAINTS; RESIDENT'S RIGHTS.

72 Subdivision 1. PROCESSING. All matters relating to
73 the operation of a nursing home which are the subject of a

1 written complaint from a resident and which are received by a
 2 controlling person or employee of the nursing home shall be
 3 delivered to the facility's administrator for evaluation and
 4 action. Failure of the administrator within seven days of its
 5 receipt to resolve the complaint, or alternatively, the failure
 6 of the administrator to make a reply within seven days after ~~he~~ *
 7 ~~receives-it~~ its receipt to the complaining resident stating that *
 8 the complaint did not constitute a valid objection to the
 9 nursing home's operations, shall be a violation of section
 10 144A.10. If a complaint directly involves the activities of a
 11 nursing home administrator, the complaint shall be resolved in
 12 accordance with this section by a person, other than the
 13 administrator, duly authorized by the nursing home to
 14 investigate the complaint and implement any necessary corrective
 15 measures.

16 Subd. 2. RESIDENT'S RIGHTS. The administrator of a
 17 nursing home shall inform each resident in writing at the time
 18 of admission of ~~his~~ the right to complain to the administrator *
 19 about facility accommodations and services. A notice of the
 20 right to complain shall be posted in the nursing home. The *
 21 administrator shall also inform each resident of ~~his~~ the right *
 22 to complain to the commissioner of health. No controlling
 23 person or employee of a nursing home shall retaliate in any way
 24 against a complaining nursing home resident and no nursing home
 25 resident may be denied any right available to ~~him~~ the resident *
 26 under chapter 566.

144A#14S

27 144A.14 VOLUNTARY RECEIVERSHIP.

28 A majority in interest of the controlling persons of a
 29 nursing home may at any time request the commissioner of health
 30 to assume the operation of the nursing home through appointment
 31 of a receiver. Upon receiving a request for a receiver, the
 32 commissioner of health may, if ~~he~~ the commissioner deems *
 33 receivership desirable, enter into an agreement with a majority
 34 in interest of the controlling persons, providing for the
 35 appointment of a receiver to take charge of the facility under
 36 conditions deemed appropriate by both parties. The agreement
 37 shall specify all terms and conditions of the receivership and
 38 shall preserve all rights of the facility residents as granted
 39 by law. A receivership initiated in accordance with this
 40 section shall terminate at the time specified by the parties or
 41 at the time when either party notifies the other in writing that
 42 ~~he~~ the party wishes to terminate the receivership agreement. *

144A#15S

43 144A.15 INVOLUNTARY RECEIVERSHIP.

44 Subdivision 1. PETITION, NOTICE. In addition to any
 45 other remedy provided by law, the commissioner of health may
 46 petition the district court in Ramsey county or in the district
 47 in which a nursing home is located for an order directing the
 48 controlling persons of the nursing home to show cause why the
 49 commissioner of health or ~~his~~ a designee should not be appointed *
 50 receiver to operate the facility. The petition to the district
 51 court shall contain proof by affidavit that the commissioner of
 52 health has either commenced license suspension or revocation
 53 proceedings, suspended or revoked a license, or decided not to
 54 renew the nursing home license. The order to show cause shall
 55 be returnable not less than five days after service is completed
 56 and shall provide for personal service of a copy to the nursing
 57 home administrator and to the persons designated as agents by
 58 the controlling persons to accept service on their behalf
 59 pursuant to section 144A.03, subdivision 2.

60 No change for subd 2

61 Subd. 3. POWERS AND DUTIES OF RECEIVER. A nursing
 62 home receiver appointed pursuant to this section shall with all
 63 reasonable speed, but in any case, within 18 months after the
 64 receivership order, provide for the orderly transfer of all the
 65 nursing home's residents to other facilities or make other
 66 provisions for their continued safety and health care. The
 67 receiver may correct or eliminate those deficiencies in the
 68 facility which seriously endanger the life, health or safety of
 69 the residents unless the correction or elimination of
 70 deficiencies involves major alterations in the physical
 71 structure of the nursing home. ~~He~~ The receiver shall, during *
 72 this period, operate the nursing home in a manner designed to
 73 guarantee the safety and adequate health care of the residents.
 74 The receiver shall take no action which impairs the legal rights

1 of a resident of the nursing home. He The receiver shall have *
 2 power to make contracts and incur lawful expenses. He The *
 3 receiver shall collect incoming payments from all sources and *
 4 apply them to the cost incurred in the performance of ~~his~~ the *
 5 receiver's functions ~~as-receiver~~. No security interest in any *
 6 real or personal property comprising the nursing home or
 7 contained within it, or in any fixture of the facility, shall be
 8 impaired or diminished in priority by the receiver. The
 9 receiver shall pay all valid obligations of the nursing home and
 10 shall deduct these expenses, if appropriate, from rental
 11 payments owed to any controlling person by virtue of the
 12 receivership.

13 Subd. 4. RECEIVER'S FEE; LIABILITY; COMMISSIONER
 14 ASSISTANCE. A nursing home receiver appointed pursuant to
 15 this section shall be entitled to a reasonable receiver's fee as
 16 determined by the court. The receiver shall be liable only in
 17 ~~his~~ an official capacity for injury to person and property by *
 18 reason of the conditions of the nursing home. He The receiver *
 19 shall not be personally liable, except for ~~his~~ gross negligence *
 20 and intentional acts. The commissioner of health shall assist *
 21 the receiver in carrying out ~~his~~ these duties. *

22 No change for subd 5

144A#18S

23 144A.18 ADMINISTRATOR'S LICENSES; PENALTY.

24 No person shall act as a nursing home administrator or
 25 purport to be a nursing home administrator unless ~~he~~ that person *
 26 is licensed by the board of examiners for nursing home
 27 administrators. A violation of this section is a misdemeanor.

144A#19S

28 144A.19 BOARD OF EXAMINERS FOR ADMINISTRATORS; CREATION,
 29 MEMBERSHIP.

30 Subdivision 1. There is hereby created the board of
 31 examiners for nursing home administrators which shall consist of
 32 the following members:

33 (a) A designee of the commissioner of health who shall be a
 34 nonvoting member;

35 (b) The commissioner of human services, or ~~his~~ a designee *
 36 who shall be a nonvoting member; and

37 (c) The following members appointed by the governor:

38 (1) Two members actively engaged in the management,
 39 operation, or ownership of proprietary nursing homes;

40 (2) Two members actively engaged in the management or
 41 operation of nonprofit nursing homes;

42 (3) One member actively engaged in the practice of medicine;

43 (4) One member actively engaged in the practice of
 44 professional nursing; and

45 (5) Three public members as defined in section 214.02.

46 No change for subd 2 to 3

144A#20S

47 144A.20 ADMINISTRATOR QUALIFICATIONS.

48 Subdivision 1. The board of examiners may issue licenses
 49 to qualified persons as nursing home administrators, and shall
 50 establish qualification criteria for nursing home
 51 administrators. No license shall be issued to a person as a
 52 nursing home administrator unless ~~he~~ that person: *

53 (a) Is at least 18 years of age and otherwise suitably
 54 qualified;

55 (b) Has satisfactorily met standards set by the board of
 56 examiners, which standards shall be designed to assure that
 57 nursing home administrators will be individuals who, by training
 58 or experience are qualified to serve as nursing home
 59 administrators; and

60 (c) Has passed an examination approved by the board and
 61 designed to test for competence in the subject matters referred
 62 to in clause (b), or has been approved by the board of examiners
 63 through the development and application of other appropriate
 64 techniques.

65 No change for subd 2

144A#22S

66 144A.22 ORGANIZATION OF BOARD.

67 The board of examiners shall elect from its membership a
 68 chairman chair, vice-chairman vice-chair and *
 69 secretary-treasurer, and shall adopt rules to govern its
 70 proceedings. Except as otherwise provided by law the board of
 71 examiners shall employ and fix the compensation and duties of an
 72 executive secretary and other necessary personnel to assist it

1 in the performance of its duties. The executive secretary shall
2 not be a member of the board of examiners.

144A#251S

3 144A.251 MANDATORY PROCEEDINGS.

4 In addition to its discretionary authority to initiate
5 proceedings under section 144A.24 and chapter 214, the board of
6 examiners shall initiate proceedings to suspend or revoke a
7 nursing home administrator license or shall refuse to renew a
8 license if within the preceding two year period the
9 administrator was employed at a nursing home which during the
10 period of ~~his~~ employment incurred the following number of *
11 uncorrected violations, which violations were in the
12 jurisdiction and control of the administrator and for which a
13 fine was assessed and allowed to be recovered:

14 (a) Two or more uncorrected violations which created an
15 imminent risk of harm to a nursing home resident; or

16 (b) Ten or more uncorrected violations of any nature.

144A#27S

17 144A.27 ACTING ADMINISTRATORS.

18 If a licensed nursing home administrator is removed from
19 ~~his~~ the position by death or other unexpected cause, the *
20 controlling persons of the nursing home suffering the removal
21 may designate an acting nursing home administrator who may serve
22 without a license for no more than 90 days, unless an extension
23 is granted by the board of examiners.

144A#51S

24 144A.51 DEFINITIONS.

25 No change for subd 1

26 Subd. 2. "Administrative agency" or "agency" means any
27 division, official, or employee of a state or local governmental
28 agency, but does not include:

29 (a) Any member of the senate or house of representatives;

30 (b) The governor or ~~his~~ personal staff of the governor; *

31 (c) Any instrumentality of the federal government of the
32 United States; or

33 (d) Any court or judge.

34 No change for subd 3 to 6

144A#52S

35 144A.52 OFFICE OF HEALTH FACILITY COMPLAINTS; CREATION.

36 No change for subd 1

37 Subd. 2. The director may appoint a deputy director and
38 one personal secretary to discharge the responsibilities of ~~his~~ *
39 the office. Any deputy director or personal secretary and all *
40 other employees of the office shall be classified employees of
41 the state commissioner of health.

42 Subd. 3. The director may delegate to members of ~~his~~ the *
43 staff any of ~~his~~ the authority or duties of the director except *
44 the duty of formally making recommendations to the legislature,
45 administrative agencies, health facilities, health care
46 providers, and the state commissioner of health.

47 Subd. 4. The director shall attempt to include on-his *
48 staff persons with expertise in areas such as law, health care,
49 social work, dietary needs, sanitation, financial audits,
50 health-safety requirements as they apply to health facilities,
51 and any other relevant fields. To the extent possible,
52 employees of the office shall meet federal training requirements
53 for health facility surveyors.

144A#53S

54 144A.53 DIRECTOR; POWERS AND DUTIES.

55 Subdivision 1. POWERS. The director may:

56 (a) Promulgate by rule, pursuant to chapter 14, and within
57 the limits set forth in subdivision 2, the methods by which
58 complaints against health facilities, health care providers or
59 administrative agencies are to be made, reviewed, investigated,
60 and acted upon; provided, however, that ~~he may not charge~~ a fee *
61 may not be charged for filing a complaint; *

62 (b) Recommend legislation and changes in rules to the state
63 commissioner of health, legislature, governor, administrative
64 agencies or the federal government;

65 (c) Investigate, upon a complaint or upon ~~his-own~~ *
66 initiative of the director, any action or failure to act by a *
67 health care provider or a health facility;

68 (d) Request and receive access to relevant information,
69 records, or documents in the possession of an administrative
70 agency, a health care provider, or a health facility which ~~he~~ *
71 the director deems necessary for the discharge of ~~his~~ *

1 responsibilities;

2 (e) Enter and inspect, at any time, a health facility;
3 provided that the director shall not unduly interfere with or
4 disturb the activities of a resident unless the resident
5 consents;

6 (f) Issue a correction order pursuant to section 144.653 or
7 any other law which provides for the issuance of correction
8 orders to health care facilities;

9 (g) Recommend the certification or decertification of
10 health facilities pursuant to Title XVIII or Title XIX of the
11 United States Social Security Act;

12 (h) Assist residents of health facilities in the
13 enforcement of their rights under Minnesota law; and

14 (i) Work with administrative agencies, health facilities,
15 health care providers and organizations representing consumers
16 on programs designed to provide information about health
17 facilities to the public and to health facility residents.

18 Subd. 2. COMPLAINTS. The director may receive a
19 complaint from any source concerning an action of an
20 administrative agency, a health care provider, or a health
21 facility. He The director may require a complainant to pursue
22 other remedies or channels of complaint open to the complainant
23 before accepting or investigating the complaint.

24 The director shall keep written records of all complaints
25 and ~~his~~ any action upon them. After completing ~~his~~ an
26 investigation of a complaint, ~~he~~ the director shall inform the
27 complainant, the administrative agency having jurisdiction over
28 the subject matter, the health care provider and the health
29 facility of the action taken.

30 Subd. 3. RECOMMENDATIONS. If, after duly
31 considering a complaint and whatever material ~~he~~ the director
32 deems pertinent, the director determines that the complaint is
33 valid, ~~he~~ the director may recommend that an administrative
34 agency, a health care provider or a health facility should:

35 (a) Modify or cancel the actions which gave rise to the
36 complaint;
37 (b) Alter the practice, rule or decision which gave rise to
38 the complaint;

39 (c) Provide more information about the action under
40 investigation; or

41 (d) Take any other step which the director considers
42 appropriate.

43 If the director requests, the administrative agency, a
44 health care provider or health facility shall, within the time
45 specified, inform the director about the action taken on ~~his~~ a
46 recommendation.

47 Subd. 4. REFERRAL OF COMPLAINTS. If a complaint
48 received by the director relates to a matter more properly
49 within the jurisdiction of an occupational licensing board or
50 other governmental agency, the director shall forward the
51 complaint to that agency and shall inform the complaining party
52 of the forwarding. The agency shall promptly act in respect to
53 the complaint, and shall inform the complaining party and the
54 director of its disposition. If a governmental agency receives
55 a complaint which is more properly within the jurisdiction of
56 the director, it shall promptly forward the complaint to the
57 director, and shall inform the complaining party of the
58 forwarding. If the director has reason to believe that an
59 official or employee of an administrative agency or health
60 facility has acted in a manner warranting criminal or
61 disciplinary proceedings, ~~he~~ the director shall refer the matter
62 to the state commissioner of health, the commissioner of human
63 services, an appropriate prosecuting authority, or other
64 appropriate agency.

144A#54S

65 144A.54 PUBLICATION OF RECOMMENDATIONS; REPORTS.

66 Subdivision 1. Except as otherwise provided by this
67 section, the director may determine the form, frequency, and
68 distribution of ~~his~~ the conclusions and recommendations. The
69 director shall transmit ~~his~~ the conclusions and recommendations
70 to the state commissioner of health and the legislature. Before
71 announcing a conclusion or recommendation that expressly or by
72 implication criticizes an administrative agency, a health care
73 provider or a health facility, the director shall consult with
74 that agency, health care provider or facility. When publishing
75 an opinion adverse to an administrative agency, a health care

1 provider or a health facility, ~~he~~ the director shall include in
 2 the publication any statement of reasonable length made to ~~him~~
 3 the director by that agency, health care provider or health
 4 facility in defense or explanation of the action. *

5 Subd. 2. In addition to whatever other reports the
 6 director may make, ~~he~~ the director shall, at the end of each
 7 year, report to the state commissioner of health and the
 8 legislature concerning the exercise of ~~his~~ the director's
 9 functions during the preceding year. The state commissioner of
 10 health may, at any time, request and receive information, other
 11 than resident records, from the director. *

12 Subd. 3. In performing ~~his~~ the duties under Laws 1976,
 13 Chapter 325, the director shall preserve the confidentiality of
 14 resident records. ~~He~~ The director may release a resident's
 15 records with the written approval of the resident who is the
 16 subject of the records. *

144A#611S

17 144A.611 REIMBURSABLE EXPENSES PAYABLE TO NURSING
 18 ASSISTANTS.

19 No change for subd 1

20 Subd. 2. NURSING ASSISTANTS. A nursing assistant
 21 who has completed an approved training program shall be
 22 reimbursed by the nursing home for ~~his~~ actual costs of tuition
 23 and reasonable expenses for the training program 90 days after
 24 the date of ~~his~~ employment, or upon completion of the approved
 25 training program, whichever is later. *

26 No change for subd 3

145*#01S

27 145.01 LOCAL HEALTH BOARDS; HEALTH OFFICERS.

28 Every town board shall be a board of health within and for
 29 the town and have jurisdiction over every statutory city within
 30 its boundaries wherein no organized board of health exists.
 31 Every statutory city not within the boundaries of a town shall,
 32 and every other statutory city may provide by ordinance for the
 33 establishment of a board of health therefor. Every home rule
 34 charter city shall by charter or ordinance establish a board of
 35 health which shall be composed as provided in this section
 36 unless otherwise provided by charter. In the absence of
 37 provision for a board of health in any home rule charter city,
 38 or in any statutory city not within the boundaries of a town,
 39 the state commissioner of health, hereinafter called the state
 40 commissioner, may appoint three or more persons to act as such
 41 until a local board is established and organized and may fix
 42 their compensation, which the city shall pay. Two members of
 43 each county board, chosen by it yearly at its annual meeting,
 44 and one resident physician elected at the same time, shall
 45 constitute the county board of health, with jurisdiction over
 46 all unorganized towns therein, and with such other powers and
 47 duties in reference to the public health as the state
 48 commissioner shall, by ~~his~~ published regulations, prescribe. *

49 All local health boards of each county shall cooperate so far as
 50 practicable and the state commissioner by written order may
 51 require any two or more local boards to act together for the
 52 prevention or suppression of epidemic diseases. At least one
 53 member of every local board shall be a physician, who shall be
 54 the local health officer and executive of the board except that
 55 a home rule charter city may provide by charter that the council
 56 shall be the board of health, but in that case it shall appoint
 57 a health officer who is a physician. If no member of a town
 58 board is a physician, it shall appoint a health officer for the
 59 town. The compensation of all local health officers shall be
 60 prescribed by the appointing body ~~appointing-him~~ or the body to
 61 which ~~he~~ the officer belongs and the same, together with ~~his~~
 62 necessary expenses, shall be paid by the county or municipality
 63 in which ~~he~~ the local health officer serves. *

145*#03S

64 145.03 DUTIES OF LOCAL BOARDS OF HEALTH; PENALTIES.

65 All local boards of health and health officers shall make
 66 such investigations and reports and obey such directions
 67 concerning communicable diseases as the state board may require
 68 or give; and, under the general supervision of the state board,
 69 they shall cause all laws and regulations relating to the public
 70 health to be obeyed and enforced. When the state board shall
 71 have reason or cause to believe, from its records or any other
 72 information in its possession, that the provisions of this
 73 section are being or have been violated, the state board shall

1 advise the attorney general thereof, giving the information in
 2 support of such belief, and the attorney general or, under ~~his~~ *
 3 the attorney general's direction, the county attorney of any *
 4 county in which the violation occurs, shall forthwith institute
 5 proceedings for the enforcement of the provisions of this
 6 section and for the punishment of the violation thereof.

145*#05S

7 145.05 POWERS OF HEALTH OFFICER IN ASSUMING JURISDICTION
 8 OVER COMMUNICABLE DISEASES.

9 The health officer in a municipality or the chairman chair *
 10 of the board of supervisors in a town shall employ, at the cost *
 11 of the health district over which ~~his~~ the local board of health
 12 has jurisdiction and in which the person afflicted with a
 13 communicable disease is located, all medical and other help
 14 necessary in the control of such communicable disease, or for
 15 carrying out, within such jurisdiction, the lawful regulations
 16 and directions of the state commissioner, ~~his~~ and the *
 17 commissioner's officers or employees, and, upon ~~his~~ failure so *
 18 to do, the state commissioner may employ such assistance at the
 19 expense of the district involved. Any person ~~whose~~ who has a *
 20 duty it-is-to of self care ~~for-himself~~ or to care for another *
 21 afflicted with a communicable disease shall be liable for the
 22 reasonable cost thereof to the municipality or town paying such
 23 cost, excepting that the municipality or town constituting such
 24 district shall be liable for all expense incurred in
 25 establishing, enforcing, and releasing quarantine, half of which
 26 may be recovered from the county, as provided for under sections
 27 145.06 and 145.07.

145*#07S

28 145.07 APPEAL FROM DISALLOWANCE; COSTS.

29 Within ten days after written notice by the auditor to the
 30 clerk of the town or city of the disallowance of the whole or
 31 any part of the half of any such claim chargeable upon the
 32 county, the claimant may appeal from such disallowance to the
 33 district court by giving notice of appeal as in other cases and
 34 without giving any bond or other security thereon. Such appeal
 35 shall be noticed, tried, and determined as in other appeals from
 36 the disallowance of claims by the county board. Unless the
 37 appellant shall recover more than the amount allowed by the
 38 county board, ~~he~~ the appellant shall be liable for costs and *
 39 disbursements; otherwise the county shall be liable.

145*#12S

40 145.12 COUNTY PUBLIC HEALTH AND HOME HEALTH SERVICE
 41 PERSONNEL; PUBLIC HEALTH NURSING COMMITTEE.

42 No change for subd 1

43 Subd. 2. NURSING COMMITTEE, HENNEPIN COUNTY. In
 44 Hennepin county, when a nursing district is formed under the
 45 provisions of section 145.08, subdivision 3, the governing
 46 bodies of the municipalities, school districts and towns
 47 comprising such nursing district, meeting in a joint session,
 48 shall detail the district public nurses to act under the
 49 direction of a nursing committee of nine members appointed by
 50 representatives of such governing bodies meeting in joint
 51 session, as follows:

- 52 Four from the membership of said governing bodies; and,
- 53 Four residents of the nursing district who do not hold any
- 54 other elective public office, at least one of whom shall be a
- 55 physician; and one superintendent of an independent school
- 56 district within Hennepin county or that superintendent's
- 57 designee.

58 The nursing committee shall have power to employ nurses and
 59 make all other commitments and expenditures necessary to carry
 60 out the purposes of this act, and may arrange with one of the
 61 participating public units in the district for the keeping and
 62 disbursements of its fund. Expenditures shall be by warrant or
 63 order signed by the chairman chair of the committee and *
 64 countersigned by its secretary.

65 The nursing committee shall be a permanent organization and
 66 meet at regular intervals with the nurses. At its first meeting
 67 each year, the committee shall elect from its members a chairman *
 68 chair and secretary. All appointments to membership of the *
 69 nursing committee shall be for one year and until successors are
 70 appointed. The committee shall fill vacancies in its membership
 71 for the unexpired term.

145*#123S

72 145.123 PUBLIC HEALTH AND HOME HEALTH SERVICES.

1 No change for subd 1
 2 Subd. 2. SCHEDULE OF FEES. The county board or the
 3 nursing district, as the case may be, shall set up an equitable
 4 schedule of fees, taking into consideration the ability of some
 5 of the ill or disabled persons to pay fully for the services
 6 received, the ability of others to pay only a part of the fee,
 7 and the inability of others to pay any part thereof. Public
 8 health and home health services shall not be denied to any
 9 person who is in need of such services and lacks means, either
 10 personally or as a beneficiary under a health or accident
 11 insurance policy, to pay either in whole or in part for the cost
 12 of the services ~~he has~~ received. These fees may not exceed the *
 13 costs of the actual service furnished, as determined by a study
 14 of costs which the county board or the nursing district will
 15 make each year. The results of this study, together with a
 16 schedule of such fees, shall be filed with the state
 17 commissioner of health.

18 No change for subd 3 to 4

145*#125S

19 145.125 COUNTY PUBLIC HEALTH NURSING SERVICE.

20 No change for subd 1

21 Subd. 2. CERTIFICATE BY COUNTY BOARD; CERTIFICATE TO
 22 COMMISSIONER OF FINANCE. At the end of each 60 day period
 23 provided for in subdivision 1, the state commissioner of health
 24 shall certify to the commissioner of finance, in the manner
 25 prescribed by law, the name of each such county, the amount to
 26 be paid to it, and that there are funds available for the
 27 payment thereof. Such certificate shall be supported by the
 28 certificate of the county board of such county. Thereupon, the *
 29 commissioner of finance shall draw ~~his~~ a warrant upon the state
 30 treasurer payable to the county for the amount so certified.

145*#15S

31 145.15 WHAT BODIES EXCEPTED.

32 No body shall be so delivered:

33 (1) After it has been regularly interred;

34 (2) After it has been claimed for burial or cremation by
 35 any person entitled to receive it for such purpose;

36 (3) Without the consent of all known relatives of the
 37 person deceased;

38 (4) If such person in ~~his~~ last sickness requested that ~~his~~ *
 39 the remains be buried; *

40 (5) If ~~he~~ the person died while detained as a witness or *
 41 under suspicion of crime; or *

42 (6) If by any provision of the law another disposition
 43 thereof be required.

145*#161S

44 145.161 DISSECTION; WHEN PERMITTED.

45 The right to dissect the dead body of a human being shall
 46 be limited to: (a) cases specially provided by statute, or by
 47 the direction or will of the deceased; (b) cases where a coroner
 48 is authorized to hold an inquest upon the body, and then only so
 49 far as ~~he~~ the coroner may authorize dissection; (c) cases where *
 50 the husband or wife shall authorize dissection for the purpose
 51 of ascertaining the cause of death, and then only to the extent
 52 so authorized; and (d) cases where one of the next of kin,
 53 charged by law with the duty of burial, shall authorize
 54 dissection for the purpose of ascertaining the cause of death
 55 and then only to the extent so authorized, provided no
 56 dissection shall be performed pursuant to this clause if there
 57 is objection by anyone of such next of kin. Every person who
 58 shall make, cause or procure to be made, any dissection of the
 59 body of a human being, except as hereinbefore provided, shall be
 60 guilty of a gross misdemeanor.

145*#19S

61 145.19 APPEAL TO DISTRICT COURT.

62 Within five days after service of such notice, any party
 63 aggrieved by an order made under sections 145.17 and 145.18 may
 64 appeal therefrom to the district court of the county by giving
 65 notice of appeal as in other cases, together with a bond of not
 66 less than \$500, to be approved by the judge of the court,
 67 conditioned for the prosecution of the appeal to judgment and
 68 for payment of all costs and expenses that may be awarded
 69 against the appellant. If the appeal be taken within 20 days
 70 before the time for holding any general term of the court within
 71 the county, it shall be heard at such time and, at either
 72 party's request, may be tried by a jury; if taken more than 20

1 days before any such term, the judge shall appoint a time and
 2 place for hearing the same and, if demanded, direct the sheriff
 3 of the county to summon a jury of 12 persons to serve in the
 4 cause, any of whom may be challenged as in civil cases, and
 5 ~~salesmen~~ substitute jurors may be called and the appeal tried as *
 6 in other civil cases. During the pendency of the appeal such
 7 trade or employment shall not be exercised contrary to the order
 8 of the board; and, upon violation of any such order, the appeal
 9 shall forthwith be dismissed. Upon the return of the verdict
 10 the court may either alter or amend the order of the board or
 11 confirm or amend it in full, to conform to such verdict. If the
 12 matter be tried by the court, it shall have and exercise the
 13 same power.

145*#24S

14 145.24 VIOLATIONS; PENALTIES.

15 Subdivision 1. Every member of any local board of health
 16 or any health officer refusing or neglecting to perform any duty
 17 imposed ~~upon him~~ by any statute, ordinance, or bylaw relating to *
 18 the public health shall be guilty of a misdemeanor.

19 No change for subd 2 to 3

145*#36S

20 145.36 EXPOSING PERSON WITH CONTAGIOUS DISEASE.

21 Every person who shall wilfully expose ~~himself~~ self or *
 22 another affected with any contagious or infectious disease, in
 23 any public place or thoroughfare, except upon ~~his~~ the person's *
 24 necessary removal in a manner not dangerous to the public
 25 health, shall be guilty of a misdemeanor.

145*#412S

26 145.412 CRIMINAL ACTS.

27 No change for subd 1 to 2

28 Subd. 3. It shall be unlawful to perform an abortion when
 29 the fetus is potentially viable unless:

30 (1) the abortion is performed in a hospital;

31 (2) the attending physician certifies in writing that in

32 ~~his~~ the physician's best medical judgment the abortion is *
 33 necessary to preserve the life or health of the pregnant woman;
 34 and

35 (3) to the extent consistent with sound medical practice

36 the abortion is performed under circumstances which will

37 reasonably assure the live birth and survival of the fetus.

38 No change for subd 4

145*#42S

39 145.42 ABORTIONS; NON-LIABILITY FOR REFUSAL TO PERFORM.

40 No change for subd 1

41 Subd. 2. No physician, nurse, or other person who refuses
 42 to perform or assist in the performance of an abortion shall,
 43 because of that refusal, be dismissed, suspended, demoted, or
 44 otherwise prejudiced or damaged by a hospital with which ~~he~~ the *
 45 person is affiliated or by which ~~he~~ the person is employed. *

145*#424S

46 145.424 PROHIBITION OF TORT ACTIONS.

47 Subdivision 1. WRONGFUL LIFE ACTION PROHIBITED. No
 48 person shall maintain a cause of action or receive an award of
 49 damages on behalf of ~~himself~~ that person based on the claim that *
 50 but for the negligent conduct of another, ~~he~~ the person would *
 51 have been aborted.

52 No change for subd 2 to 3

145*#43S

53 145.43 HEARING AIDS; RESTRICTIONS ON SALES.

54 No change for subd 1

55 Subdivision 1a. 30-DAY GUARANTEE AND BUYER RIGHT TO
 56 CANCEL. No person shall sell a hearing aid in this state
 57 unless:

58 (a) The seller provides the buyer with a 30-day written
 59 money-back guarantee. The guarantee must:

60 (1) permit the buyer to cancel the purchase for any reason
 61 within 30 days after receiving the hearing aid by giving or
 62 mailing written notice of cancellation to the seller;

63 (2) entitle the buyer, upon cancellation, to receive a full
 64 refund of ~~his~~ payment within 30 days of return of the hearing *
 65 aid to the seller; provided, however, that the seller may retain
 66 as a cancellation fee the actual cost of any custom ear molds
 67 made for the cancelled hearing aid so long as this cancellation
 68 fee does not exceed ten percent of the buyer's total payment for
 69 the hearing aid;

70 (b) The seller shall provide a written receipt or contract

1 to the buyer which includes, in immediate proximity to the space
 2 reserved for the signature of the buyer, or on the first page if
 3 there is no space reserved for the signature of the buyer, a
 4 clear and conspicuous disclosure of the following specific
 5 statement in all capital letters of no less than 12 point
 6 bold-face type: THE BUYER HAS THE RIGHT TO CANCEL THIS PURCHASE
 7 FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH
 8 CALENDAR DAY AFTER RECEIPT OF THE HEARING AID(S).

9 Subd. 2. Repealed, 1984 c 418 s 2

10 Subd. 3. Repealed, 1975 c 182 s 2

145*#49S

11 145.49 POWERS TRANSFERRED.

12 All powers and duties now or hereafter vested in or imposed
 13 upon the local health boards defined in Minnesota Statutes 1945,
 14 Section 145.01, shall, in all areas included in the jurisdiction
 15 of any health department established under sections 145.47 to
 16 145.54, be transferred to, vested in and imposed upon such
 17 health department from the date when the health officer of such
 18 health department assumes the responsibilities of ~~his~~ *
 19 appointment or such later date as may be determined by such
 20 health department; provided, however, that nothing herein shall
 21 affect the registration of vital statistics, except that when
 22 any city comes within the jurisdiction of any health department
 23 established under sections 145.47 to 145.54 and is without a
 24 city health officer, the state registrar of vital statistics
 25 shall appoint a local registrar therein.

145*#50S

26 145.50 RESPONSIBLE TO LOCAL BOARD OF HEALTH.

27 No change for subd 1

28 Subd. 2. The board of health of a health department
 29 embracing one county shall consist of five members appointed by
 30 the board of county commissioners. Where two or more counties
 31 combine to form a health department, each such county shall, by
 32 the same method, appoint two members to the board of health,
 33 except that the county having the largest population shall
 34 appoint three such members. In each such board of health, one
 35 member from each county shall be selected from the largest
 36 participating municipality located within such county. In each
 37 such board of health, one of the members so appointed shall be a
 38 doctor of medicine and one shall be a doctor of dental surgery,
 39 each licensed to practice in Minnesota. The remaining members
 40 of the board shall be ~~laymen~~ laypersons, representative of the *
 41 people served by the health department.

42 No change for subd 3

43 Subd. 4. The officers of the board shall be a chairman *
 44 chair and a vice-chairman vice-chair, to be elected annually by *
 45 the members thereof for a term of one year.

145*#52S

46 145.52 BOARDS; ORGANIZATION, DUTIES.

47 Subdivision 1. The board of health of every health
 48 department organized under sections 145.47 to 145.54 shall hold
 49 regular meetings at least quarterly at such time and place as
 50 may be provided by such board, and such special meetings as may
 51 be called by its chairman chair or a majority of its members. *
 52 Members may receive a per diem not to exceed \$25 plus statutory
 53 travel and other necessary expenses while engaged in their
 54 official duties.

55 Subd. 2. The board of health shall employ a health officer
 56 who shall be a doctor of medicine duly licensed and registered
 57 in the state of Minnesota who shall have the approval of the
 58 state commissioner of health. ~~He~~ The health officer shall be *
 59 appointed for a term of five years subject to removal for cause
 60 after a hearing before the board of health:--~~He~~ and shall be the *
 61 executive officer of the board of health, shall select
 62 subordinate personnel subject to the approval of the board and
 63 shall have general supervision of all work conducted by such
 64 health department.

65 No change for subd 3 to 7

145*#63S

66 145.63 LIMITATION ON LIABILITY FOR MEMBERS OF REVIEW
 67 ORGANIZATIONS.

68 No person who is a member or employee of, who acts in an
 69 advisory capacity to or who furnishes counsel or services to, a
 70 review organization shall be liable for damages or other relief
 71 in any action brought by a person or persons whose activities
 72 have been or are being scrutinized or reviewed by a review

1 organization, by reason of the performance by him the person of *
 2 any duty, function or activity of such review organization,
 3 unless the performance of such duty, function or activity was
 4 motivated by malice toward the person affected thereby. No
 5 person shall be liable for damages or other relief in any action
 6 by reason of the performance of him the person of any duty, *
 7 function, or activity as a member of a review committee or by
 8 reason of any recommendation or action of the review committee
 9 when the person acts in the reasonable belief that his the *
 10 action or recommendation is warranted by facts known to him the *
 11 person or the review organization after reasonable efforts to *
 12 ascertain the facts upon which the review organization's action
 13 or recommendation is made, except that any corporation
 14 designated as a review organization under the Code of Federal
 15 Regulations, title 42, section 466 (1983) shall be subject to
 16 actions for damages or other relief by reason of any failure of
 17 a person, whose care or treatment is required to be scrutinized
 18 or reviewed by the review organization, to receive medical care
 19 or treatment as a result of a determination by the review
 20 organization that medical care was unnecessary or inappropriate.
 145*#64S

21 145.64 CONFIDENTIALITY OF RECORDS OF REVIEW ORGANIZATION.
 22 All data and information acquired by a review organization,
 23 in the exercise of its duties and functions, shall be held in
 24 confidence, shall not be disclosed to anyone except to the
 25 extent necessary to carry out one or more of the purposes of the
 26 review organization, and shall not be subject to subpoena or
 27 discovery. No person described in section 145.63 shall disclose
 28 what transpired at a meeting of a review organization except to
 29 the extent necessary to carry out one or more of the purposes of
 30 a review organization. The proceedings and records of a review
 31 organization shall not be subject to discovery or introduction
 32 into evidence in any civil action against a professional arising
 33 out of the matter or matters which are the subject of
 34 consideration by the review organization. Information,
 35 documents or records otherwise available from original sources
 36 shall not be immune from discovery or use in any civil action
 37 merely because they were presented during proceedings of a
 38 review organization, nor shall any person who testified before a
 39 review organization or who is a member of it be prevented from
 40 testifying as to matters within his the person's knowledge, but *
 41 a witness cannot be asked about his the witness' testimony *
 42 before a review organization or opinions formed by him the *
 43 witness as a result of its hearings. The provisions of this *
 44 section shall not apply to a review organization of the type
 45 described in section 145.61, subdivision 5, clause (h).
 145*#67S

46 145.67 PROTECTION OF PATIENT.
 47 Nothing contained in sections 145.61 to 145.67 shall be
 48 construed to relieve any person of any liability which he the *
 49 person has incurred or may incur to a patient as a result of *
 50 furnishing health care to such patient.

145*#698S
 51 145.698 CONFINEMENT OF DRUG DEPENDENT PERSON.
 52 Subdivision 1. When a person has been accused of violating
 53 any state or local law or ordinance in district or municipal
 54 court, and if it appears to the court that the defendant may be
 55 a drug dependent person, or by reason of the repeated use of
 56 drugs may not be responsible for his that person's actions, the *
 57 court may adjourn the proceedings and order the county attorney
 58 to file a petition for commitment of the defendant pursuant to
 59 the Minnesota hospitalization and commitment act for confinement
 60 in a hospital, a mental health center, the Willmar state
 61 hospital or other drug treatment facility until such time as the
 62 court feels that such person can be returned to the court.
 63 No change for subd 2

145*#852S
 64 145.852 IDENTIFYING DEVICES FOR PERSONS HAVING CERTAIN
 65 CONDITIONS.
 66 No change for subd 1
 67 Subd. 2. Any person may carry an identification card
 68 bearing his the person's name, type of medical condition, *
 69 physician's name, and other medical information.
 70 Subd. 3. By wearing an identifying device a person gives
 71 his consent for any law enforcement officer or medical *
 72 practitioner who finds him the person in a disabled condition to *

1 make a reasonable search of ~~his~~ the person's clothing or other *
 2 effects for an identification card of the type described in *
 3 subdivision 2.

145*#853S

4 145.853 DUTY OF LAW ENFORCEMENT OFFICER.

5 Subdivision 1. A law enforcement officer shall make a *
 6 diligent effort to determine whether any disabled person ~~he~~ *
 7 ~~finds~~ found is a person having epilepsy or a diabetic, or *
 8 suffers from some other type of illness that would cause the *
 9 condition. Whenever feasible, this effort shall be made before
 10 the person is charged with a crime or taken to a place of
 11 detention.

12 No change for subd 2

13 Subd. 3. A law enforcement officer who finds a disabled *
 14 person without an identifying device or identification card is *
 15 not relieved of ~~his~~ the duty to that person to make a diligent *
 16 effort to ascertain the existence of any illness causing the *
 17 disabled condition.

18 Subd. 4. A cause of action against a law enforcement *
 19 officer does not arise from ~~his~~ the officer's making a *
 20 reasonable search of the disabled person to locate an *
 21 identifying device or identification card, even though the *
 22 person is not wearing an identifying device or carrying an *
 23 identification card.

24 Subd. 5. A law enforcement officer who determines or has *
 25 reason to believe that a disabled person is suffering from an *
 26 illness causing ~~his~~ the person's condition shall promptly notify *
 27 the person's physician, if practicable. If the officer is *
 28 unable to ascertain the physician's identity or to communicate *
 29 with ~~him~~ the physician, the officer shall make a reasonable *
 30 effort to cause the disabled person to be transported *
 31 immediately to a medical practitioner or to a facility where *
 32 medical treatment is available. If the officer believes it *
 33 unduly dangerous to move the disabled person, ~~he~~ the officer *
 34 shall make a reasonable effort to obtain the assistance of a *
 35 medical practitioner.

145*#854S

36 145.854 DUTY OF MEDICAL PRACTITIONERS.

37 Subdivision 1. A medical practitioner, in discharging ~~his~~ *
 38 a duty to a disabled person whom ~~he~~ the practitioner has *
 39 undertaken to examine or treat, shall make a reasonable search *
 40 for an identifying device or identification card of the type *
 41 described in section 145.852, subdivision 2 and examine them for *
 42 emergency information.

43 Subd. 2. A cause of action against a medical practitioner *
 44 does not arise from ~~his~~ the practitioner's making a reasonable *
 45 search of a disabled person to locate an identifying device or *
 46 identification card, even though the person is not wearing an *
 47 identifying device or carrying an identification card.

145*#892S

48 145.892 DEFINITIONS.

49 No change for subd 1 to 9

50 Subd. 10. "Commissioner" means the commissioner of health *
 51 or ~~his~~ a representative. *

145*#912S

52 145.912 DEFINITIONS.

53 No change for subd 1 to 12

54 Subd. 13. "Health education" means those activities which *
 55 develop each individual's awareness and sense of responsibility *
 56 for ~~his~~ each individual's own health, the health of the family, *
 57 and the health of the community, including basic information *
 58 concerning the availability of health services in the community.

59 Subd. 14. "Environmental health services" means those *
 60 services designed to achieve an environment conducive to ~~man's~~ *
 61 human health, comfort, safety, and well being. These services *
 62 include food protection, hazardous substances and product *
 63 safety, water supply sanitation, septic tank and soil absorption *
 64 type sewage disposal, water pollution control, occupational *
 65 health and safety, radiation control, air pollution control, *
 66 noise pollution control, vector control, institutional *
 67 sanitation, recreational sanitation including swimming pool *
 68 sanitation and safety, housing code enforcement for health and *
 69 safety purposes unless the enforcement is performed by another *
 70 city or county agency designated by the county board or city *
 71 council, and general nuisance control.

72 No change for subd 15 to 20

145*#9135

1 145.913 LOCAL BOARD OF HEALTH; ORGANIZATION.
 2 Subdivision 1. COUNTIES. A county may by resolution
 3 organize a board of health under the provisions of this section
 4 exercising one of the following options, and assign the
 5 responsibilities of sections 145.911 to 145.922 accordingly:

6 (a) The county board of a county that has or hereafter
 7 establishes an operational human services board pursuant to
 8 chapter 402, or Laws 1974, Chapter 293, shall assign the
 9 responsibilities of sections 145.911 to 145.922 to the human
 10 services board.

11 (b) The county board may assume the responsibilities of the
 12 board of health pursuant to sections 145.911 to 145.922.

13 (c) The county board may assign the responsibilities of a
 14 board of health under sections 145.911 to 145.922 to the board
 15 of health of said county organized under sections 145.47 to
 16 145.55, or Laws 1969, Chapter 235.

17 (d) The county board may organize a board of health and
 18 assign the responsibilities of sections 145.911 to 145.922 to
 19 such board of health. The board of health for a single county
 20 shall consist of five members appointed by the county board.
 21 When two or more counties combine to form a board of health,
 22 each county board shall appoint two members to the board of
 23 health, except that the county board having the largest
 24 population shall appoint three such members. At least two
 25 members of the board of health shall be providers of health
 26 services. The remaining members shall be ~~laymen-representative~~ *
 27 lay representatives of the people in the community and shall *
 28 include at least one person who is not a member of the county
 29 board. Continuity of membership shall be assured by having
 30 approximately one-third of the members terms expire each year.
 31 First appointments may be for less than three years, thereafter
 32 all terms shall be three years. No member shall serve more than
 33 three consecutive terms. The board shall elect a chairman chair *
 34 and vice-chairman vice-chair with terms of one year. *

35 No change for subd 1a

36 Subd. 2. CITIES. A city, located in a county with a
 37 population of 300,000 or more persons, or any city which is
 38 located in three counties, may by resolution organize a board of
 39 health under the provisions of this section exercising one of
 40 the following options, and assign the responsibilities of
 41 sections 145.911 to 145.922 accordingly;

42 (a) The city council may assume the responsibilities of the
 43 board of health pursuant to sections 145.911 to 145.922.

44 (b) The city council may assign the responsibilities of the
 45 board of health to the board of health of said city organized
 46 under section 145.01.

47 (c) The city council may organize a board of health and
 48 assign the responsibilities of sections 145.911 to 145.922 to
 49 such board of health. The board of health for a single city
 50 shall consist of five members appointed by the city council.
 51 When two or more cities combine to form a board of health, each
 52 city council shall appoint two members to the board of health,
 53 except that the city council of the city having the largest
 54 population shall appoint three such members. At least two
 55 members of the board of health shall be providers of health
 56 services. The remaining members shall be ~~laymen-representative~~ *
 57 lay representatives of the people in the community and shall *
 58 include at least one person who is not a member of the city
 59 council. Continuity of membership shall be assured by having
 60 approximately one-third of the members' terms expire each year.
 61 First appointments may be for less than three years, thereafter
 62 all terms shall be three years. No member shall serve more than
 63 three consecutive terms. The board shall elect a chairman chair *
 64 and a vice-chairman vice-chair with terms of one year. *

65 Subd. 3. ADVISORY COMMITTEE. In each case where a
 66 board of health has been assigned the responsibilities of
 67 sections 145.911 to 145.922 a single local community health
 68 services advisory committee shall be established by the
 69 participating county boards or city councils to advise, consult
 70 with, or make recommendations to the board of health on matters
 71 relating to the development, maintenance, funding, and
 72 evaluation of community health services. The committee shall
 73 consist of not less than nine members and no more than 21
 74 members. The membership of the advisory committee shall be as
 75 follows: at least one-third providers of health services,

1 including at least three licensed health professionals; and at
 2 least one-third consumers selected to represent consumers
 3 organizations or constituencies within the community, provided,
 4 however, that the advisory committee to a county board of health
 5 for a county with 300,000 or more persons shall be as follows:
 6 at least 51 percent local government officials and the remainder
 7 divided equally between providers of health services and
 8 consumers. Continuity of membership of each advisory committee
 9 shall be assured by having an approximately equal number of
 10 terms expire each year. First appointments may be for less than
 11 two years, thereafter all terms shall be two years and no member
 12 shall serve more than three consecutive terms. Notwithstanding
 13 any law to the contrary, members may receive a per diem and be
 14 reimbursed for travel and other necessary expenses while engaged
 15 in their official duties, as determined by the appointing
 16 authority. The committee shall elect officers including a
 17 chairman chair and vice-chairman vice-chair with terms of one *
 18 year. The committee shall meet at least three times a year and *
 19 at the call of the chairman chair or a majority of the members.

145*#914S

20 145.914 LOCAL BOARD OF HEALTH; AUTHORITY.

21 No change for subd 1 to 10

22 Subd. 11. MANPOWER PERSONNEL SHORTAGES AND OTHER HEALTH *
 23 CARE PROBLEMS. When the board of health determines that *
 24 there is an acute shortage of medical or other health manpower *
 25 personnel, or that there is a significant problem in providing *
 26 access to health care in the area, the board of health shall *
 27 address itself to the resolution of those problems. The
 28 solution may involve providing assistance to recruit medical or
 29 other health personnel to the area, or the development of
 30 suitable linkages between area medical and allied health
 31 personnel that will make more effective use of existing private,
 32 nonprofit and community resources and extend health care into
 33 the community.

145*#919S

34 145.919 COMMUNITY HEALTH SERVICES ADVISORY COMMITTEE.

35 An advisory committee is established to advise, consult
 36 with, and make recommendations to the state commissioner of
 37 health on matters relating to the development, maintenance,
 38 funding and evaluation of community health services. Each board
 39 of health meeting the eligibility requirements of section
 40 145.917 may appoint a member to serve on the committee. The
 41 terms shall be two years and no member shall serve more than
 42 three consecutive terms. Continuity of membership shall be
 43 assured by having an approximately equal number of terms expire
 44 each year. Members may receive a per diem and shall be
 45 reimbursed for travel and other necessary expenses while engaged
 46 in their official duties. The committee shall meet at least
 47 quarterly and special meetings may be called by the chairman *
 48 chair or a majority of the members. The committee shall expire *
 49 on the date provided by section 15.059, subdivision 5.

145*#925S

50 145.925 FAMILY PLANNING GRANTS.

51 No change for subd 1 to 5

52 Subd. 6. The request of any person for family planning *
 53 services or his-or-her the refusal to accept any service shall *
 54 in no way affect the right of the person to receive public
 55 assistance, public health services, or any other public
 56 service. Nothing in this section shall abridge the right of the
 57 individual to make decisions concerning family planning, nor
 58 shall any individual be required to state his-or-her a reason *
 59 for refusing any offer of family planning services.

60 Any employee of the agencies engaged in the administration
 61 of the provisions of this section may refuse to accept the duty
 62 of offering family planning services to the extent that the duty
 63 is contrary to his personal beliefs. A refusal shall not be *
 64 grounds for dismissal, suspension, demotion, or any other
 65 discrimination in employment. The directors or supervisors of
 66 the agencies shall reassign the duties of employees in order to
 67 carry out the provisions of this section.

68 All information gathered by any agency, entity, or
 69 individual conducting programs in family planning is private
 70 data on individuals within the meaning of section 13.02,
 71 subdivision 12.

72 No change for subd 7 to 8

146*#01S

1 146.01 DEFINITION; PRACTICING HEALING AND PRACTICE OF
2 HEALING.

3 The term "practicing healing" or "practice of healing"
4 shall mean and include any person who shall in any manner for
5 any fee, gift, compensation, or reward, or in expectation
6 thereof, engage in, or hold ~~himself~~ out to the public as being *
7 engaged in, the practice of medicine or surgery, the practice of
8 osteopathy, the practice of chiropractic, the practice of any
9 legalized method of healing, or the diagnosis, analysis,
10 treatment, correction, or cure of any disease, injury, defect,
11 deformity, infirmity, ailment, or affliction of human beings, or
12 any condition or conditions incident to pregnancy or childbirth,
13 or examination into the fact, condition, or cause of human
14 health or disease, or who shall, for any fee, gift,
15 compensation, or reward, or in expectation thereof, suggest,
16 recommend, or prescribe any medicine or any form of treatment,
17 correction, or cure thereof; also any person, or persons,
18 individually or collectively, who maintains an office for the
19 reception, examination, diagnosis, or treatment of any person
20 for any disease, injury, defect, deformity, or infirmity of body
21 or mind, or who attaches the title of doctor, physician,
22 surgeon, specialist, M.D., M.B., D.O., D.C., or any other word,
23 abbreviation, or title to ~~his~~ the person's name indicating, or *
24 designed to indicate, that ~~he~~ the person is engaged in the *
25 practice of healing.

146*#13S

26 146.13 REGISTRATION FEES.

27 Every person not hereinafter excepted from the provisions
28 of this chapter authorized to practice healing in this state
29 shall, in the month of January each year, register with the
30 secretary of the particular board of examiners which examined
31 and registered or licensed ~~him~~ the person to practice that *
32 branch or system of healing ~~which-he-pursues~~ pursued; and shall, *
33 at that time, for the purpose of making such registration, sign *
34 and send to such secretary in writing ~~signed-by-him-his~~ the *
35 following: name, the name of the place, and the address, at *
36 ~~which he-is-engaged-in~~ the practice of healing is engaged in, *
37 and pay to the secretary each year a fee in an amount to be
38 fixed by rule of the respective board of examiners. Any person
39 who shall change the address or place ~~at-which-he-practices~~ *
40 healing of practice during the year shall forthwith notify such *
41 secretary in writing of such change, giving such new address or
42 place. The secretary of each board of examiners shall keep a
43 proper register of all such persons and to each person so
44 registering the proper board shall issue a certificate for the
45 current year, signed by the president and the secretary and
46 sealed with the seal of such board, setting forth ~~his~~ name, the *
47 name of the place and the address at which ~~he-is-engaged-in~~ the *
48 practice of healing is engaged in, and the branch or system of *
49 healing ~~by-him~~ pursued. Any person not hereinafter excepted *
50 from the provisions of this chapter lawfully entitled to engage
51 in the practice of healing in this state after the month of
52 January in any year, and who shall not be registered as provided
53 in this section, shall, within 30 days after first so engaging
54 in the practice of healing, register with the proper examining
55 board in the manner provided in this chapter, pay to the
56 secretary of such board the fee above required, and received
57 from such board a certificate as above prescribed for the
58 balance of such year. Every person receiving a certificate, as
59 herein provided, shall display the same in a conspicuous place
60 in the office or other corresponding place where ~~he-pursues~~ the *
61 practice of healing is pursued. *

62 All fees received by the secretary of any examining board
63 for registration required by this section shall be paid to the
64 general fund. The expenses of keeping proper registers,
65 furnishing the certificates herein provided for, employing
66 inspectors for procuring evidence of any violation of the laws
67 administered thereby and aiding in the enforcement of such laws,
68 and for such other expenses as may be necessarily paid or
69 incurred in the exercise of its powers or performance of its
70 duties, shall be paid from the appropriation made to the
71 examining board.

146*#14S

72 146.14 LISTS OF PERSONS REGISTERED.

73 On or before the first day of March in each year, the
74 secretaries of the several examining boards shall certify to the

1 state commissioner of health, under the hand of the president
 2 and secretary and the seal of the particular examining board, a
 3 list of all persons registered with the board for the current
 4 year. The secretary of each of the several examining boards of
 5 this state shall, within 60 days after any examination conducted
 6 by ~~his~~ the examining board, certify in writing to the state
 7 commissioner of health, in the manner prescribed, a list of all
 8 persons admitted or licensed by ~~his~~ the board to practice
 9 healing in this state and whose names have not been previously
 10 so certified to the state commissioner of health in the then
 11 current year. Within 30 days after receiving from the
 12 secretaries of the several examining boards any of the lists of
 13 persons lawfully engaged in the practice of healing in this
 14 state, as by this section provided, the state commissioner of
 15 health shall cause such lists to be printed and a copy thereof
 16 to be sent to each city or district health officer and each
 17 sheriff and county attorney in the state.

146*#18S

18 146.18 PRACTICING WITHOUT REGISTERING, OR DISPLAYING
 19 CERTIFICATE.

20 Any person who shall practice healing or attempt to
 21 practice healing in this state without having registered with
 22 the examining board in the system or branch of healing ~~by-him~~
 23 pursued, as herein provided, or without displaying ~~his~~ a
 24 certificate of annual registration with the proper board of
 25 examiners, as herein provided, shall be guilty of a misdemeanor.

146*#20S

26 146.20 FAILURE TO CERTIFY LISTS OF REGISTERED PERSONS;
 27 PENALTY.

28 Any secretary of any examining board who shall fail to
 29 certify to the state commissioner of health the lists of persons
 30 registered with ~~the~~ that examining board ~~of-which-he-is-the~~
 31 ~~secretary~~ as and within the time by this chapter required, shall
 32 be guilty of a misdemeanor.

147*#01S

33 147.01 BOARD OF MEDICAL EXAMINERS.

34 No change for subd 1 to 2

35 Subd. 3. BOARD ADMINISTRATION. The board shall
 36 elect from among its number a president, a vice-president, and a
 37 secretary-treasurer, who shall each serve for one year, or until
 38 ~~his~~ a successor is elected and qualifies. The board shall have
 39 authority to adopt rules as may be found necessary to carry out
 40 the purposes of this chapter. The members of the board shall
 41 have authority to administer oaths and the board, in session, to
 42 take testimony as to matters pertaining to the duties of the
 43 board. Six members of the board shall constitute a quorum for
 44 the transaction of business. The board shall have a common
 45 seal, which shall be kept by the executive secretary, whose duty
 46 it shall be to keep a record of all proceedings of the board,
 47 including a register of all applicants for license under this
 48 chapter, giving their names, addresses, ages, educational
 49 qualifications, and the result of their examination. These
 50 books and registers shall be prima facie evidence of all the
 51 matters therein recorded.

52 No change for subd 4

147*#02S

53 147.02 EXAMINATION; LICENSING.

54 Subdivision 1. UNITED STATES OR CANADIAN MEDICAL SCHOOL
 55 GRADUATES. The board shall, with the consent of six of its
 56 members, issue a license to practice medicine to a person who
 57 meets the following requirements:

58 (a) An applicant for a license shall file a written
 59 application on forms provided by the board, showing to the
 60 board's satisfaction that the applicant is of good moral
 61 character and satisfies the requirements of this section.

62 (b) The applicant shall present evidence satisfactory to
 63 the board ~~that-he-or-she-is~~ of being a graduate of a medical or
 64 osteopathic school located in the United States, its territories
 65 or Canada, and approved by the board based upon its faculty,
 66 curriculum, facilities, accreditation by a recognized national
 67 accrediting organization approved by the board, and other
 68 relevant data, or is currently enrolled in the final year of
 69 study at the school.

70 (c) The applicant must have passed an examination prepared
 71 and graded by the national board of medical examiners or the
 72 federation of state medical boards. The board shall by rule

1 determine what constitutes a passing score in the examination.

2 (d) The applicant shall present evidence satisfactory to
3 the board of the completion of one year of graduate, clinical
4 medical training in a program accredited by a national
5 accrediting organization approved by the board or other graduate
6 training approved in advance by the board as meeting standards
7 similar to those of a national accrediting organization.

8 (e) The applicant shall make arrangements with the
9 executive director to appear in person before the board or its
10 designated representative to show that ~~he-or-she~~ the applicant *
11 satisfies the requirements of this section. The board may
12 establish as internal operating procedures the procedures or
13 requirements for the applicant's personal presentation.

14 (f) The applicant shall pay a fee established by the board
15 by rule. The fee may not be refunded.

16 (g) The applicant must not have engaged in conduct
17 warranting disciplinary action against a licensee. If the
18 applicant does not satisfy the requirements of this paragraph,
19 the board may refuse to issue a license unless it determines
20 that the public will be protected through issuance of a license
21 with conditions and limitations the board considers appropriate.

22 Subd. 2. Repealed, 1985 c 247 s 26

23 Subd. 3. Repealed, 1971 c 485 s 6

24 Subd. 4. Repealed, 1984 c 432 art 2 s 55

25 No change for subd 5 to 6

147*#021S

26 147.021 GROUNDS FOR DISCIPLINARY ACTION.

27 Subdivision 1. GROUNDS LISTED. The board may refuse
28 to grant a license or may impose disciplinary action as
29 described in section 147.141 against any physician. The
30 following conduct is prohibited and is grounds for disciplinary
31 action:

32 (a) Failure to demonstrate the qualifications or satisfy
33 the requirements for a license contained in this chapter or
34 rules of the board. The burden of proof shall be upon the
35 applicant to demonstrate such qualifications or satisfaction of
36 such requirements.

37 (b) Obtaining a license by fraud or cheating, or attempting
38 to subvert the licensing examination process. Conduct which
39 subverts or attempts to subvert the licensing examination
40 process includes, but is not limited to: (1) conduct which
41 violates the security of the examination materials, such as
42 removing examination materials from the examination room or
43 having unauthorized possession of any portion of a future,
44 current, or previously administered licensing examination; (2)
45 conduct which violates the standard of test administration, such
46 as communicating with another examinee during administration of
47 the examination, copying another examinee's answers, permitting
48 another examinee to copy one's answers, or possessing
49 unauthorized materials; or (3) impersonating an examinee or
50 permitting an impersonator to take the examination on one's own
51 behalf.

52 (c) Conviction, during the previous five years, of a felony
53 reasonably related to the practice of medicine or osteopathy.
54 Conviction as used in this subdivision shall include a
55 conviction of an offense which if committed in this state would
56 be deemed a felony without regard to its designation elsewhere,
57 or a criminal proceeding where a finding or verdict of guilt is
58 made or returned but the adjudication of guilt is either
59 withheld or not entered thereon.

60 (d) Revocation, suspension, restriction, limitation, or
61 other disciplinary action against the person's medical license
62 in another state or jurisdiction, failure to report to the board
63 that charges regarding the person's license have been brought in
64 another state or jurisdiction, or having been refused a license
65 by any other state or jurisdiction.

66 (e) Advertising which is false or misleading, which
67 violates any rule of the board, or which claims without
68 substantiation the positive cure of any disease, or professional
69 superiority to or greater skill than that possessed by another
70 physician.

71 (f) Violating a rule promulgated by the board or an order
72 of the board, a state, or federal law which relates to the
73 practice of medicine, or in part regulates the practice of
74 medicine, or a state or federal narcotics or controlled
75 substance law.

1 (g) Engaging in any unethical conduct; conduct likely to
2 deceive, defraud, or harm the public, or demonstrating a willful
3 or careless disregard for the health, welfare or safety of a
4 patient; or medical practice which is professionally
5 incompetent, in that it may create unnecessary danger to any
6 patient's life, health, or safety, in any of which cases, proof
7 of actual injury need not be established.

8 (h) Failure to supervise a physician's assistant or failure
9 to supervise a physician under any agreement with the board.

10 (i) Aiding or abetting an unlicensed person in the practice
11 of medicine, except that it is not a violation of this paragraph
12 for a physician to employ, supervise, or delegate functions to a
13 qualified person who may or may not be required to obtain a
14 license or registration to provide health services if that
15 person is practicing within the scope of ~~his-or-her~~ that
16 person's license or registration or delegated authority. *
*

17 (j) Adjudication as mentally incompetent, mentally ill or
18 mentally retarded, or as a chemically dependent person, a person
19 dangerous to the public, or a person who has a psychopathic
20 personality by a court of competent jurisdiction, within or
21 without this state. Such adjudication shall automatically
22 suspend a license for the duration thereof unless the board
23 orders otherwise.

24 (k) Engaging in unprofessional conduct. Unprofessional
25 conduct shall include any departure from or the failure to
26 conform to the minimal standards of acceptable and prevailing
27 medical practice in which proceeding actual injury to a patient
28 need not be established.

29 (l) Inability to practice medicine with reasonable skill
30 and safety to patients by reason of illness, drunkenness, use of
31 drugs, narcotics, chemicals or any other type of material or as
32 a result of any mental or physical condition, including
33 deterioration through the aging process or loss of motor skills.

34 (m) Revealing a privileged communication from or relating
35 to a patient except when otherwise required or permitted by law.

36 (n) Failure by a doctor of osteopathy to identify ~~his~~ the
37 school of healing in the professional use of ~~his~~ the doctor's
38 name by one of the following terms: osteopathic physician and
39 surgeon, doctor of osteopathy, or D.O. *

40 (o) Improper management of medical records, including
41 failure to maintain adequate medical records, to comply with a
42 patient's request made pursuant to section 144.335 or to furnish
43 a medical record or report required by law.

44 (p) Splitting fees, or promising to pay a portion of a fee
45 or a commission, or accepting a rebate.

46 (q) Engaging in abusive or fraudulent billing practices,
47 including violations of the federal Medicare and Medicaid laws
48 or state medical assistance laws.

49 (r) Becoming addicted or habituated to a drug or intoxicant.

50 (s) Prescribing a drug for other than medically accepted
51 therapeutic or experimental or investigative purposes authorized
52 by a state or federal agency.

53 (t) Engaging in conduct with a patient which is sexual or
54 may reasonably be interpreted by the patient as sexual, or in
55 any verbal behavior which is seductive or sexually demeaning to
56 a patient.

57 (u) Failure to make reports as required by section 147.111
58 or to cooperate with an investigation of the board as required
59 by section 147.131.

60 No change for subd 2 to 5

61 Subd. 6. MENTAL EXAMINATION; ACCESS TO MEDICAL DATA.

62 (a) If the board has probable cause to believe that a physician
63 comes under subdivision 1, paragraph (1), it may direct the
64 physician to submit to a mental or physical examination. For
65 the purpose of this subdivision every physician licensed under
66 this chapter is deemed to have consented to submit to a mental
67 or physical examination when directed in writing by the board
68 and further to have waived all objections to the admissibility
69 of the examining physicians' testimony or examination reports on
70 the ground that the same constitute a privileged communication.
71 Failure of a physician to submit to an examination when directed
72 constitutes an admission of the allegations against the
73 physician, unless the failure was due to circumstance beyond the
74 physician's control, in which case a default and final order may
75 be entered without the taking of testimony or presentation of
76 evidence. A physician affected under this paragraph shall at

1 reasonable intervals be given an opportunity to demonstrate that
2 ~~he-or-she~~ the physician can resume the competent practice of
3 medicine with reasonable skill and safety to patients.

*

4 In any proceeding under this paragraph, neither the record
5 of proceedings nor the orders entered by the board shall be used
6 against a physician in any other proceeding.

7 (b) In addition to ordering a physical or mental
8 examination, the board may, notwithstanding section 13.42,
9 144.651, or any other law limiting access to medical or other
10 health data, obtain medical data and health records relating to
11 a licensee or applicant without the licensee's or applicant's
12 consent if the board has probable cause to believe that a
13 physician comes under subdivision 1, paragraph (1). The medical
14 data may be requested from a provider, as defined in section
15 144.335, subdivision 1, paragraph (b), an insurance company, or
16 a government agency, including the department of human
17 services. A provider, insurance company, or government agency
18 shall comply with any written request of the board under this
19 subdivision and is not liable in any action for damages for
20 releasing the data requested by the board if the data are
21 released pursuant to a written request under this subdivision,
22 unless the information is false and the provider giving the
23 information knew, or had reason to believe, the information was
24 false. Information obtained under this subdivision is
25 classified as private under sections 13.01 to 13.87.

147*#03S

26 147.03 LICENSURE BY ENDORSEMENT; RECIPROCITY.

27 The board, with the consent of six of its members, may
28 issue a license to practice medicine to any person who satisfies
29 the following requirements:

30 (a) The applicant shall satisfy all the requirements
31 established in section 147.02, subdivision 1, paragraphs (a),
32 (b), (d), (e), and (f).

33 (b) The applicant shall present evidence satisfactory to
34 the board that ~~he-or-she~~ the applicant has a valid license to
35 practice medicine issued by the proper agency in another state
36 or by a province of Canada; or is a diplomate of the national
37 board of medical examiners, the national board of examiners for
38 osteopathic physicians and surgeons, or the licensure medical
39 council of Canada.

*

40 (c) The applicant shall present evidence satisfactory to
41 the board that ~~he-or-she~~ the applicant passed an examination as
42 determined by the endorsing examining board or licensing
43 agency. The board, at its discretion, may establish by rule
44 passing grade levels higher than those determined by an
45 examining board or agency or may require the applicant to be
46 examined in subjects not previously covered in an examination.

*

47 (d) The applicant shall pay a fee established by the board
48 by rule. The fee may not be refunded.

49 (e) The applicant must not have engaged in conduct
50 warranting disciplinary action against a licensee, or have been
51 subject to disciplinary action in another state. If an
52 applicant does not satisfy the requirements stated in this
53 clause, the board may refuse to issue a license unless it
54 determines that the public will be protected through issuance of
55 a license with conditions or limitations the board considers
56 appropriate.

57 The board may issue a temporary permit to practice medicine
58 to a physician eligible for licensure under this section upon
59 payment of a fee set by the board. The permit remains valid
60 only until the next meeting of the board.

147*#031S

61 147.031 EXAMINATIONS AND LICENSES OF OSTEOPATHS.

62 Subdivision 1. Any doctor of osteopathy licensed by the
63 state board of osteopathy under Minnesota Statutes 1961,
64 Sections 148.11 to 148.16, desiring to obtain a license to
65 practice medicine shall apply to the secretary of the board and
66 pay a fee of \$50 for the use of the board, which in no case
67 shall be refunded. The applicant shall be examined in the
68 subjects that the board then examines applicants under section
69 147.02 in which ~~he~~ the applicant was not examined by the state
70 board of osteopathy prior to the issuance ~~to-him~~ of a license
71 under Minnesota Statutes 1961, Sections 148.11 to 148.16, prior
72 to May 1, 1963. All applicants shall be known to the board
73 members or examiners only by number, without names, or other
74 methods of identification on examination papers by which board

*

*

1 members or examiners may be able to identify such applicants,
 2 until the final grades of all the examination papers have been
 3 determined, and the licenses granted or refused. After such
 4 examination, the board, if eight members thereof consent, shall
 5 grant such doctor of osteopathy a license to practice medicine.
 6 The board may refuse to grant such a license to any person
 7 guilty of immoral, dishonorable, or unprofessional conduct, as
 8 defined in Minnesota Statutes 1961, Chapter 147, but subject to
 9 the right of the applicant to appeal to the district court in
 10 the county in which the principal office of the board is located
 11 on the questions of law and fact.

12 No change for subd 2

13 Subd. 3. No person who is not on May 1, 1963, licensed by
 14 the state board of osteopathy under Minnesota Statutes 1961,
 15 Sections 148.11 to 148.16, shall engage in the practice of
 16 osteopathy or by use of titles or initials indicating degrees,
 17 or in any other way, hold himself out as being so engaged. *

18 No change for subd 4 to 5

147*#035S

19 147.035 MALPRACTICE HISTORY.

20 Subdivision 1. SUBMISSION. A person desiring to
 21 practice medicine in this state who has previously practiced in
 22 another state shall submit the following additional information
 23 with ~~his~~ the license application for the five year period of
 24 active practice preceding the date of filing such application: *

25 (a) The name and address of ~~his~~ the person's professional
 26 liability insurer in the other state. *

27 (b) The number, date, and disposition of any medical
 28 malpractice settlement or award made to the plaintiff relating
 29 to the quality of medical treatment.

30 No change for subd 2

147*#037S

31 147.037 LICENSING OF FOREIGN MEDICAL SCHOOL GRADUATES.

32 Subdivision 1. REQUIREMENTS. The board shall, with
 33 the consent of six of its members, issue a license to practice
 34 medicine to any person who satisfies the following requirements:

35 (a) The applicant shall satisfy all the requirements
 36 established in section 147.02, subdivision 1, paragraphs (a),
 37 (e), (f), and (g).

38 (b) The applicant shall present evidence satisfactory to
 39 the board that ~~he-or-she~~ the applicant is a graduate of a
 40 medical or osteopathic school approved by the board as
 41 equivalent to accredited United States or Canadian schools based
 42 upon its faculty, curriculum, facilities, accreditation, or
 43 other relevant data. *

44 (c) The applicant shall present evidence satisfactory to
 45 the board that ~~he-or-she~~ the applicant has been awarded a
 46 certificate by the educational council for foreign medical
 47 graduates, and ~~that-he-or-she~~ the applicant has a working
 48 ability in the English language sufficient to communicate with
 49 patients and physicians and to engage in the practice of
 50 medicine. *

51 (d) The applicant shall present evidence satisfactory to
 52 the board of the completion of two years of graduate, clinical
 53 medical training in a program located in the United States, its
 54 territories, or Canada and accredited by a national accrediting
 55 organization approved by the board or other graduate training
 56 approved in advance by the board as meeting standards similar to
 57 those of a national accrediting organization. This requirement
 58 shall not apply to an applicant who is admitted as a permanent
 59 immigrant to the United States as a person of exceptional
 60 ability in the sciences pursuant to rules of the United States
 61 Department of Labor and who has completed one year of the
 62 graduate, clinical medical training required by this paragraph.

63 (e) The applicant must have passed an examination prepared
 64 and graded by the federation of state medical boards, the
 65 licensure medical council of Canada, or shall establish
 66 eligibility through reciprocity with another state using an
 67 examination equivalent to Minnesota's at the time the applicant
 68 was licensed in that state.

69 No change for subd ,2

147*#074S

70 147.074 MEDICAL CARE FACILITIES; EXCLUSION.

71 Each physician shall file with the board a list of the
 72 in-patient and out-patient medical care facilities at which ~~he~~
 73 ~~or-she~~ the physician has medical privileges. The list shall be *

1 updated when the physician applies for license renewal. Nothing
2 in this chapter grants to any person the right to be admitted to
3 the medical staff of a health care facility.

147*#09S

4 147.09 EXEMPTIONS.

5 Section 147.10 does not apply to, control, prevent or
6 restrict the practice, service, or activities of:

7 (1) A person who is a commissioned medical officer of, a
8 member of, or employed by, the armed forces of the United
9 States, the United States Public Health Service, the Veterans
10 Administration, any federal institution or any federal agency
11 while engaged in the performance of official duties within this
12 state, if the person is licensed elsewhere.

13 (2) A licensed physician from a state or country who is in
14 actual consultation here.

15 (3) A licensed or registered physician who treats ~~his or~~ *
16 ~~her~~ the physician's homestate patients or other participating *
17 patients while the physicians and those patients are
18 participating together in outdoor recreation in this state as
19 defined by section 86A.03, subdivision 3. A physician shall
20 first register with the board on a form developed by the board
21 for that purpose. The board shall not be required to promulgate
22 the contents of that form by rule. No fee shall be charged for
23 this registration.

24 (4) A student practicing under the direct supervision of a
25 preceptor while ~~he or she~~ the student is enrolled in and *
26 regularly attending a recognized medical school.

27 (5) A student who is in continuing training and performing
28 the duties of an intern or resident or engaged in postgraduate
29 work considered by the board to be the equivalent of an
30 internship or residency in any hospital or institution approved
31 for training by the board.

32 (6) A person employed in a scientific, sanitary or teaching
33 capacity by the state university, the state department of
34 education, or by any public or private school, college, or other
35 bona fide educational institution, or the state department of
36 health, whose duties are entirely of a public health or
37 educational character, while engaged in such duties.

38 (7) Physician's assistants registered in this state.

39 (8) A doctor of osteopathy duly licensed by the state board
40 of osteopathy under Minnesota Statutes 1961, sections 148.11 to
41 148.16, prior to May 1, 1963, who has not been granted a license
42 to practice medicine in accordance with this chapter provided
43 that ~~he or she~~ the doctor confines activities within the scope *
44 of the license.

45 (9) Any person licensed by a health related licensing
46 board, as defined in section 214.01, subdivision 2, or
47 registered by the commissioner of health pursuant to section
48 214.13, including licensed psychologists with respect to the use
49 of hypnosis; provided that the person confines activities within
50 the scope of ~~his or her~~ the license. *

51 (10) A Christian Scientist or other person who endeavors to
52 prevent or cure disease or suffering exclusively by mental or
53 spiritual means or by prayer, or who practices ritual
54 circumcision pursuant to the requirements or tenets of any
55 established religion.

147*#10S

56 147.10 PRACTICING WITHOUT LICENSE; PENALTY.

57 No change for subd 1 to 2

58 Subd. 3. PRACTICE OF MEDICINE DEFINED. For purposes
59 of this chapter, a person not exempted under section 147.09 is
60 "practicing medicine" or engaged in the "practice of medicine"
61 if the person does any of the following:

62 (1) advertises, holds out to the public, or represents in *
63 any manner that ~~he or she~~ the person is authorized to practice
64 medicine in this state;

65 (2) offers or undertakes to prescribe, give, or administer
66 any drug or medicine for the use of another;

67 (3) offers or undertakes to prevent or to diagnose,
68 correct, or treat in any manner or by any means, methods,
69 devices, or instrumentalities, any disease, illness, pain,
70 wound, fracture, infirmity, deformity or defect of any person;

71 (4) offers or undertakes to perform any surgical operation
72 upon any person;

73 (5) offers to undertake to use hypnosis for the treatment
74 or relief of any wound, fracture, or bodily injury, infirmity,

1 or disease; or
 2 (6) uses in the conduct of any occupation or profession
 3 pertaining to the diagnosis of human disease or conditions, the
 4 designation "doctor of medicine," "medical doctor," "doctor of
 5 osteopathy," "osteopath," "osteopathic physician," "physician,"
 6 "surgeon," "M.D.," "D.O.," or any combination of these
 7 designations.

147*#111S

8 147.111 REPORTING OBLIGATIONS.

9 No change for subd 1

10 Subd. 2. INSTITUTIONS. Any hospital, clinic, prepaid
 11 medical plan, or other health care institution or organization
 12 located in this state shall report to the board any action taken
 13 by the institution or organization or any of its administrators
 14 or medical or other committees to revoke, suspend, restrict, or
 15 condition a physician's privilege to practice or treat patients
 16 in the institution, or as part of the organization, any denial
 17 of privileges, or any other disciplinary action. The
 18 institution or organization shall also report the resignation of
 19 any physicians prior to the conclusion of any disciplinary
 20 proceeding, or prior to the commencement of formal charges but
 21 after the physician had knowledge that formal charges were
 22 contemplated or in preparation. No report shall be required of
 23 a physician voluntarily limiting ~~his-or-her~~ the practice of the
 24 physician at a hospital provided that the physician notifies all
 25 hospitals at which ~~he-or-she~~ the physician has privileges of the
 26 voluntary limitation and the reasons for it. *

27 No change for subd 3

28 Subd. 4. LICENSED PROFESSIONALS. A licensed health
 29 professional shall report to the board personal knowledge of any
 30 conduct which ~~he-or-she~~ the professional reasonably believes
 31 constitutes grounds for disciplinary action under sections
 32 147.01 to 147.33 by any physician, including any conduct
 33 indicating that the physician may be medically incompetent, or
 34 may have engaged in unprofessional conduct or may be medically
 35 or physically unable to engage safely in the practice of
 36 medicine. No report shall be required if the information was
 37 obtained in the course of a physician-patient relationship if
 38 the patient is another physician and the treating physician
 39 successfully counsels the other physician to limit or withdraw
 40 from practice to the extent required by the impairment. *

41 No change for subd 5 to 6

42 Subd. 7. SELF-REPORTING. A physician shall report to
 43 the board any personal action concerning-himself-or-herself
 44 which would require that a report be filed with the board by any
 45 person, health care facility, business, or organization pursuant
 46 to subdivisions 2 to 6. *

47 No change for subd 8 to 9

147*#131S

48 147.131 PHYSICIAN COOPERATION.

49 A physician who is the subject of an investigation by or on
 50 behalf of the board shall cooperate fully with the investigation.
 51 Cooperation includes responding fully and promptly to any
 52 question raised by or on behalf of the board relating to the
 53 subject of the investigation and providing copies of patient
 54 medical records, as reasonably requested by the board, to assist
 55 the board in its investigation. The board shall pay for copies
 56 requested. If the board does not have a written consent from a
 57 patient permitting access to ~~his-or-her~~ the patient's records,
 58 the physician shall delete any data in the record which
 59 identifies the patient before providing it to the board. The
 60 board shall maintain any records obtained pursuant to this
 61 section as investigative data pursuant to chapter 13. *

147*#25S

62 147.25 APPLICATION FOR LOANS; INVESTIGATION; EXAMINATION.

63 The board shall receive and pass upon, allow or disallow,
 64 all applications for loans made by students who are citizens of
 65 the United States or resident aliens who desire to practice
 66 medicine, and who are acceptable for enrollment in any
 67 accredited medical school. The purpose of the loans is to
 68 enable the applicants to obtain a standard four year medical
 69 education that will qualify them to become licensed to practice
 70 medicine within the state of Minnesota. The board shall make a
 71 careful and full investigation of the ability, character, and
 72 qualifications of each applicant and determine ~~his~~ the
 73 applicant's fitness to become the recipient of the loan. For *

1 that purpose the board may propound to each applicant an
 2 examination that it deems proper, and the board may prescribe in
 3 the manner provided by law the rules it deems necessary and
 4 proper to carry out the purpose and intention of sections 147.24
 5 to 147.29. The investigation of the applicant shall include an
 6 investigation of the ability of the applicant, or of the parents
 7 of the applicant, to pay ~~his-own~~ tuition at the medical school. *

8 The board, in granting the loans, shall give preference to
 9 qualified applicants who, or whose parents, are unable to pay
 10 the applicant's tuition at the medical school and who are in
 11 their third or fourth year in medical school.

12 The board may grant to each applicant deemed by the board
 13 to be qualified to receive it, a loan for the purpose of
 14 acquiring a medical education, upon terms and conditions that
 15 the board imposes in accordance with the provisions of sections
 16 147.24 to 147.29.

147*#26S

17 147.26 AMOUNT OF LOAN; CONTRACT; REPAYMENT.

18 Subdivision 1. Applicants who are granted loans by the
 19 board shall receive a loan not to exceed \$10,000 to any one
 20 applicant to be paid in annual installments not exceeding \$2,500
 21 per year, with which to defray ~~his-or-her~~ tuition and other *
 22 expenses at any medical school accredited by the American
 23 Medical Association which shall be paid at such time and in such
 24 manner as may be determined by the board. The loans to be
 25 granted to each applicant shall be granted upon the condition
 26 that the full amount thereof shall be repaid to the state of
 27 Minnesota as provided in this section with eight percent
 28 interest from the date of each payment by the state on such
 29 loan. The loan shall be repaid:

30 (1) In installments of 25 percent of the principal of the
 31 loan, annually, together with interest, the first such
 32 installment to be due on or before two years after the date the
 33 applicant completes ~~his~~ an internship or residency in family
 34 practice. *

35 (2) The interest on the loan may be repaid to the state of
 36 Minnesota by services to be rendered by the applicant by
 37 practicing ~~his~~ the profession in a municipality within the state *
 38 having a population of 3,000 or less according to the 1960
 39 federal census. One year's interest on the loan shall be
 40 forgiven to the applicant for each year of practicing ~~his~~ the *
 41 profession within the state of Minnesota as herein provided.

42 (3) The last quarterly installment due on the principal
 43 balance shall be forgiven if the applicant has practiced
 44 medicine in a municipality having a population of 3,000 or less
 45 for a period of five years.

46 Subd. 2. Each applicant before being granted a loan shall
 47 enter into a contract with the board, which shall be deemed a
 48 contract with the state of Minnesota, agreeing to the terms and
 49 conditions upon which the loan is granted ~~to-him~~. *
 50 The contract shall include such terms and provisions as will carry out the
 51 purposes of sections 147.24 to 147.29, and the form thereof
 52 shall be prepared and approved by the attorney general of this
 53 state. The contract shall be signed by the president of the
 54 board, countersigned by the secretary-treasurer, and shall be
 55 signed by the applicant. For the purposes of sections 147.24 to
 56 147.29 the disabilities of minority of all applicants granted
 57 loans hereunder shall be and the same are hereby removed and the
 58 applicants are declared to be of full lawful age for the purpose
 59 of entering into the contract hereinabove provided for, and the
 60 contract so executed by any applicant is hereby declared to be a
 61 valid and binding contract the same as though the applicant had
 62 attained the age of 18 years. The board may sue, in the name of
 63 the state, any applicant for any balance due on any such
 64 contract.

148*#05S

65 148.05 LICENSE AND FEE.

66 At its first meeting the state board of chiropractic
 67 examiners shall issue to each member a license to practice
 68 chiropractic, for which ~~he~~ the member shall pay a fee set by the *
 69 board. The board shall have a common seal and promulgate rules
 70 to govern its actions.

148*#06S

71 148.06 APPLICATION; EXAMINATION; LICENSE; FEE.

72 Subdivision 1. LICENSE REQUIRED; QUALIFICATIONS. No
 73 person shall practice chiropractic in this state without first

1 being licensed by the state board of chiropractic examiners.
 2 The applicant shall have earned at least one-half of all
 3 academic credits required for awarding of a baccalaureate degree
 4 from the University of Minnesota, or other university, college
 5 or community college of equal standing, in subject matter
 6 determined by the board, and taken a four-year resident course
 7 of at least eight months each in a school or college of
 8 chiropractic that is fully accredited by the council on
 9 chiropractic education or fully accredited by an agency approved
 10 by the United States office of education or their successors.
 11 The board may recommend a two-year prechiropractic course of
 12 instruction to any university, college or community college
 13 which in its judgment would satisfy the academic prerequisite
 14 for licensure as established by this section.

15 An examination for a license shall be in writing and shall
 16 include testing in:

17 (a) The basic sciences including but not limited to
 18 anatomy, physiology, bacteriology, pathology, hygiene, and
 19 chemistry as related to the human body or mind;

20 (b) The clinical sciences including but not limited to the
 21 science and art of chiropractic, chiropractic physiotherapy,
 22 diagnosis, roentgenology and nutrition; and

23 (c) Professional ethics and any other subjects that the
 24 board may deem advisable.

25 The board may consider a valid certificate of examination
 26 from the National Board of Chiropractic Examiners as evidence of
 27 compliance with the written examination requirements of this
 28 subdivision. The applicant shall be required to give practical
 29 demonstration in vertebral palpation, nerve tracing, adjusting
 30 and any other subject that the board may deem advisable. A
 31 license, counter-signed by the members of the board and
 32 authenticated by the seal thereof, shall be granted to each
 33 applicant who correctly answers 75 percent of the questions
 34 propounded in each of the subjects required by this subdivision
 35 and meets the standards of practical demonstration established
 36 by the board. Each application shall be accompanied by a fee
 37 set by the board. The fee shall not be returned in the event of
 38 failure to pass, but the applicant may, within one year, ~~present~~
 39 ~~himself~~ apply for examination without the payment of an
 40 additional fee. The board may grant a license to an applicant
 41 who holds a valid license to practice chiropractic issued by the
 42 appropriate licensing board of another state or country,
 43 provided the applicant meets the other requirements of this
 44 section and satisfactorily passes the practical examination
 45 before the board.

46 Subd. 2. Repealed, 1976 c 222 s 209

148*#10S

47 148.10 LICENSES REVOKED; NEW LICENSES.

48 Subdivision 1. GROUNDS. The state board of
 49 chiropractic examiners may refuse to grant, or may revoke,
 50 suspend, condition, limit, restrict or qualify a license to
 51 practice chiropractic, or may cause the name of a person
 52 licensed to be removed from the records in the office of the
 53 clerk of the district court for:

54 (1) the publishing or distributing, or causing to be
 55 published or distributed, in newspapers, magazines, directories,
 56 pamphlets, posters, cards, or in any other manner by
 57 advertisement, wherein the term "cure" or "guarantee to cure" or
 58 similar terms are used; which is hereby declared to be
 59 fraudulent and misleading to the general public;

60 (2) the employment of fraud or deception in applying for a
 61 license or in passing the examination provided for in section
 62 148.06;

63 (3) the practice of chiropractic under a false or assumed
 64 name or the impersonation of another practitioner of like or
 65 different name;

66 (4) the conviction of a crime involving moral turpitude;

67 (5) habitual intemperance in the use of alcohol or drugs;

68 (6) failure to pay the annual renewal license fee;

69 (7) Advanced physical or mental disability;

70 (8) The revocation or suspension of a license to practice
 71 chiropractic; or other disciplinary action against the licensee;
 72 or the denial of an application for a license by the proper
 73 licensing authority of another state, territory or country;

74 (9) The violation of, or failure to comply with, the
 75 provisions of sections 148.01 to 148.101, the rules of the state

1 board of chiropractic examiners, or a lawful order of the board;
 2 (10) Unprofessional conduct; or
 3 (11) Being unable to practice chiropractic with reasonable
 4 skill and safety to patients by reason of illness, professional
 5 incompetence, senility, drunkenness, use of drugs, narcotics,
 6 chemicals or any other type of material, or as a result of any
 7 mental or physical condition. If the board has probable cause
 8 to believe that a person comes within this clause, it shall
 9 direct the person to submit to a mental or physical
 10 examination. For the purpose of this clause, every person
 11 licensed under this chapter shall be deemed to have given his *
 12 consent to submit to a mental or physical examination when
 13 directed in writing by the board and further to have waived all
 14 objections to the admissibility of the examining physicians'
 15 testimony or examination reports on the ground that the same
 16 constitute a privileged communication. Failure of a person to
 17 submit to such examination when directed shall constitute an
 18 admission of the allegations ~~against-him~~, unless the failure was *
 19 due to circumstances beyond ~~his~~ the person's control, in which *
 20 case a default and final order may be entered without the taking
 21 of testimony or presentation of evidence. A person affected
 22 under this clause shall at reasonable intervals be afforded an
 23 opportunity to demonstrate that ~~he~~ the person can resume the *
 24 competent practice of chiropractic with reasonable skill and
 25 safety to patients.

26 In any proceeding under this clause, neither the record of
 27 proceedings nor the orders entered by the board shall be used
 28 against a person in any other proceeding.

29 For the purposes of clause (4), conviction shall be deemed
 30 to include a criminal proceeding in which a finding or verdict
 31 of guilt is made or returned but the adjudication of guilt is
 32 either withheld or not entered.

33 For the purposes of clauses (4) and (5), a copy of the
 34 judgment or proceeding under seal of the clerk of the court or
 35 of the administrative agency which entered the same shall be
 36 admissible into evidence without further authentication and
 37 shall constitute prima facie evidence of its contents.

38 For the purposes of clause (10), unprofessional conduct
 39 means any unethical, deceptive or deleterious conduct or
 40 practice harmful to the public, any departure from or the
 41 failure to conform to the minimal standards of acceptable
 42 chiropractic practice, or a willful or careless disregard for
 43 the health, welfare or safety of patients, in any of which cases
 44 proof of actual injury need not be established. Unprofessional
 45 conduct shall include, but not be limited to, the following acts
 46 of a chiropractor:

- 47 (a) Gross ignorance of, or incompetence in, the practice of
- 48 chiropractic;
- 49 (b) Making suggestive, lewd, lascivious or improper
- 50 advances to a patient;
- 51 (c) Performing unnecessary services;
- 52 (d) Charging a patient an unconscionable fee or charging
- 53 for services not rendered;
- 54 (e) Directly or indirectly engaging in threatening,
- 55 dishonest, or misleading fee collection techniques;
- 56 (f) Perpetrating fraud upon patients, third party payers,
- 57 or others, relating to the practice of chiropractic; and
- 58 (g) Any other act that the board by rule may define.

59 Subd. 2. ISSUANCE FOLLOWING REFUSAL, REVOCATION OR
 60 CANCELATION. The state board of chiropractic examiners may,
 61 at any time within two years of the refusal or revocation or
 62 cancelation of a license under this section, by a majority vote,
 63 issue a new license or grant a license to the person affected,
 64 restoring ~~him~~ to, or conferring upon ~~him~~ the person, all the *
 65 rights and privileges of, and pertaining to, the practice of
 66 chiropractic, as defined and regulated by sections 148.01 to
 67 148.10. Any person to whom such have been restored shall pay a
 68 fee set by the board upon issuance of a new license.

69 No change for subd 3 to 4

148*#181S

70 148.181 BOARD OF NURSING; MEMBERSHIP, APPOINTMENTS,
 71 VACANCIES, REMOVALS.

72 Subdivision 1. The board of nursing shall consist of 11
 73 members appointed by the governor, each of whom shall be a
 74 resident of this state. Five members shall be registered
 75 nurses, each of whom shall have graduated from an approved

1 school of nursing, shall be licensed as a registered nurse in
2 this state, and shall have had at least five years experience in
3 nursing practice, nursing administration, or nursing education
4 immediately preceding appointment. Two of the five shall have
5 had at least two years executive or teaching experience in
6 professional nursing education during the five years immediately
7 preceding appointment, and one of the five shall have had at
8 least two years executive or teaching experience in practical
9 nursing education during the five years immediately preceding
10 appointment. Three members shall be licensed practical nurses
11 each of whom shall have graduated from an approved school of
12 nursing, shall be licensed as a licensed practical nurse in this
13 state, and shall have had at least five years experience in
14 nursing practice immediately preceding appointment. The
15 remaining three members shall be public members as defined by
16 section 214.02. Membership terms, compensation of members,
17 removal of members, the filling of membership vacancies, and
18 fiscal year and reporting requirements shall be as provided in
19 sections 214.07 to 214.09. The provision of staff,
20 administrative services and office space; the review and
21 processing of complaints; the setting of board fees; and other
22 provisions relating to board operations shall be as provided in
23 chapter 214 and Laws 1976, Chapter 222, Sections 2 to 7. Each
24 member of the board shall file with the secretary of state the
25 constitutional oath of office before beginning ~~his-or-her~~ the
26 term of office. *

27 No change for subd 2

148*#191S

28 148.191 OFFICERS; RULES; EXECUTIVE DIRECTOR.

29 Subdivision 1. The board shall elect from its members a
30 president, a vice-president and a secretary-treasurer who shall
31 each serve for one year or until ~~his~~ a successor is elected and
32 qualifies. The board shall appoint and employ an executive
33 secretary. A majority of the board, including one officer,
34 shall constitute a quorum at any meeting. *

35 No change for subd 2 to 3

148*#211S

36 148.211 LICENSING.

37 Subdivision 1. An applicant for a license to practice as a
38 registered nurse shall apply to the board for license by
39 examination on forms prescribed by the board and pay a fee in an
40 amount determined by rule. An applicant applying for
41 re-examination shall pay a fee in an amount determined by rule.
42 In no case shall fees be refunded.

43 Before being scheduled for examination the applicant shall
44 provide written evidence verified by oath that ~~he~~ the
45 applicant (a) is of good moral character, (b) is in good mental
46 health, (c) meets secondary education requirements as determined
47 by the board and other preliminary qualification requirements
48 the board may prescribe by rule, and (d) either has completed a
49 course of study in a professional nursing program approved by
50 the board or is enrolled in the final term of study in such
51 program. The board shall annually publish and distribute to
52 secondary school counselors the requirements for licensure for
53 practice in Minnesota. *

54 The applicant shall be required to pass a written
55 examination in the subjects the board may determine. Each
56 written examination may be supplemented by an oral or practical
57 examination. An applicant failing to pass any portion of the
58 examination shall be deemed to have failed the examination and
59 may apply for re-examination in the subjects or sections failed.

60 Refusal to supply information necessary to determine the
61 qualifications of an applicant may result in denial of the
62 application.

63 Upon submission by the applicant of an affidavit of
64 graduation from an approved nursing program as well as proof
65 that the applicant has passed the examination, paid the required
66 fees and met all other requirements stated in this subdivision,
67 the board shall issue a license to the applicant.

68 No change for subd 2

148*#231S

69 148.231 TASK FORCE; REGISTRATION; NON-PRACTICING LIST.

70 Subdivision 1. REGISTRATION. Every person licensed
71 to practice professional nursing must also maintain with the
72 board, a current registration for practice as a registered nurse
73 which must be renewed at regular intervals stipulated by the

1 board by rule. Upon adoption by the board of rules establishing
 2 procedures and minimum requirements for successful completion of
 3 specified continuing education as hereinafter provided, no
 4 certificate of registration shall be issued by the board to a
 5 nurse until ~~he-or-she~~ the nurse has submitted satisfactory
 6 evidence of compliance with the procedures and minimum
 7 requirements established by the board.

*

8 The fee for periodic registration for practice as a
 9 registered nurse shall be determined by the board by rule. A
 10 penalty fee shall be added for any application received after
 11 the required date as specified by the board by rule. Upon
 12 receipt of the application and the required fees, the board
 13 shall verify the application and the evidence of completion of
 14 continuing education requirements in effect, and thereupon issue
 15 to the applicant a certificate of registration for the next
 16 renewal period.

17 Subd. 2. Repealed, 1981 c 94 s 12

18 Subd. 3. Repealed, 1976 c 222 s 209

19 No change for subd 4

20 Subd. 5. RE-REGISTRATION. When a person ~~desires-to~~
 21 on desiring to resume practice ~~he-or-she~~ the person shall make
 22 application for re-registration, and submit satisfactory
 23 evidence of compliance with the procedures and minimum
 24 requirements established by the board for continuing education,
 25 and pay the registration fee for the current period to the
 26 board. Thereupon, the registration certificate shall be issued
 27 to such applicant, and such person shall immediately be placed
 28 on the practicing list as a registered nurse.

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*

29 No change for subd 6

148*#261S

30 148.261 REVOCATION OF LICENSE.

31 Subdivision 1. The board shall have power to deny,
 32 suspend, revoke, or restrict the license and registration of any
 33 person to practice professional nursing pursuant to sections
 34 148.171 to 148.285, or to otherwise discipline a licensee or
 35 applicant upon proof that the person:

36 (1) Has employed fraud or deceit in procuring or attempting
 37 to procure a license to practice nursing as a registered nurse
 38 or annual registration for the practice of professional nursing;

39 (2) Has been convicted of a felony or gross misdemeanor;

40 (3) Is unfit or incompetent by reason of negligence, habits
 41 or other causes;

42 (4) Is habitually intemperate or is addicted to the use of
 43 habit-forming drugs;

44 (5) Has, in ~~his-or-her~~ a professional capacity, exhibited
 45 behavior which creates an undue risk of harm to others;

*

46 (6) Is guilty of unethical practice of nursing;

47 (7) Has wilfully or repeatedly violated any of the
 48 provisions of sections 148.171 to 148.285.

49 Subd. 2. Repealed, 1976 c 222 s 209

50 Subd. 3. Any registered nurse whose license or
 51 registration has been suspended, restricted or revoked, may have
 52 ~~his~~ the license reinstated and a new registration issued when in
 53 the discretion of the board the action is warranted, provided
 54 that such nurse may be required by the board to pay 50 percent
 55 of the costs of the proceedings resulting in the suspension or
 56 revocation of the license or registration certificate and
 57 reinstatement of the license or renewal certificate, and in
 58 addition thereto, pay the fee for the current year's
 59 registration.

*

148*#271S

60 148.271 ALLOWABLE UNLICENSED PRACTICES.

61 The provisions of sections 148.171 to 148.285 shall not
 62 prohibit:

63 (1) The furnishing of nursing assistance in an emergency.

64 (2) The practice of nursing by any legally qualified nurse
 65 of another state who is employed by the United States government
 66 or any bureau, division or agency thereof while in the discharge
 67 of ~~his-or-her~~ official duties.

*

68 (3) Under the direct supervision of a registered nurse, the
 69 practice of nursing by a graduate of a school of professional
 70 nursing approved by the board between the date of graduation and
 71 the date of notification to the graduate of the board action
 72 upon ~~his-or-her~~ application for licensure hereunder, provided
 73 that the graduate will take the first examination for licensure
 74 hereunder following graduation given by the board and will be

*

1 issued a permit by the board to engage in supervised practice of
2 professional nursing while awaiting notification of the results
3 of such examination. The board is authorized to issue permits
4 to such graduates which shall permit the practice of
5 professional nursing under direct supervision from the date of
6 graduation until the date that the board shall notify the
7 graduates of the results of their applications for registration
8 conditioned upon the graduates making prompt application for
9 registration and taking the first examination given by the board
10 which they are eligible to take following graduation. These
11 permits shall not be renewable.

12 (4) The practice of any profession or occupation licensed
13 by the state, other than professional nursing, by any person
14 duly licensed to practice the profession or occupation, or the
15 performance by a person of any acts properly coming within the
16 scope of the profession, occupation or license.

17 (5) The performance of any act in the nursing care of the
18 sick by a nurse's aide under the direction of a registered nurse.

19 (6) The practice of nursing by a person licensed as a
20 professional nurse in another jurisdiction and qualified for
21 licensure in the state of Minnesota pursuant to a temporary
22 permit issued by the board of nursing which permit shall be
23 issued by the board pursuant to rules as it may promulgate, for
24 the period between the submission of a proper application for
25 licensure by the person and the date of action upon the
26 application by the board.

27 (7) The care of the sick, injured or infirm in a private
28 home by any person who does not assume or represent to be a
29 registered or professional nurse.

30 (8) Care of the sick with or without compensation when done
31 in a nursing home covered by the provisions of section 144A.09,
32 subdivision 1.

33 (9) The practice of nursing by a graduate of an approved
34 professional nursing program in another jurisdiction provided
35 the graduate has applied for licensure in the state of Minnesota
36 by interstate endorsement and has written the first examination
37 for licensure following graduation. Practice under this clause
38 is allowable only under a temporary permit issued by the board
39 which shall be issued pursuant to rules as the board may
40 promulgate, and which shall be valid only for the period between
41 submission of a proper application and completion of the
42 examination by the person and the date of action upon the
43 application by the board. The examination must be the same
44 examination required of applicants for licensure by examination
45 in Minnesota. The permit shall authorize the practice of
46 nursing only under the direct supervision of a licensed
47 professional nurse. The permit shall not be renewable.

148*#281S

48 148.281 VIOLATIONS.

49 Subdivision 1. It shall be unlawful for any person,
50 corporation, or association, to:

51 (1) Sell or fraudulently obtain or furnish any nursing
52 diploma, license or record, or aid or abet therein;

53 (2) Practice professional nursing under cover of any
54 diploma, license, or record illegally or fraudulently obtained
55 or signed or issued unlawfully or under fraudulent
56 representation;

57 (3) Practice professional nursing unless duly licensed and
58 currently registered to do so under the provisions of sections
59 148.171 to 148.285;

60 (4) Use any abbreviation or other designation tending to
61 imply licensure as a registered nurse unless duly registered and
62 licensed so to practice professional nursing under the
63 provisions of sections 148.171 to 148.285;

64 (5) Practice professional nursing in a manner prohibited by
65 the board in any restriction of a license or registration issued
66 under the provisions of sections 148.171 to 148.285;

67 (6) Practice professional nursing during the time ~~his-or~~ *
68 ~~her a~~ license or current registration issued under the *
69 provisions of sections 148.171 to 148.285 shall be suspended or
70 revoked;

71 (7) Conduct a school of nursing for the training of persons
72 to become registered nurses or professional nurses unless the
73 school or course has been approved by the board.

74 No change for subd 1a to 2

148*#286S

148.286 NURSING GRANTS-IN-AID.

Subdivision 1. ENTITLEMENT, USE, AMOUNT. The Minnesota board of nursing may award grants-in-aid to students attending a school of nursing in this state approved in accordance with the laws pertaining to registered nurses and licensed practical nurses. Such grants shall be awarded to those students who are residents of this state and who are in need of economic assistance in securing such nursing education, and shall be awarded on the basis of need and ability. These grants shall be used solely to defray tuition and other fees and expenses incidental to such nursing education. No student shall receive a grant of more than \$3,500. Two-thirds of the grant shall be available to the student in the first year of ~~her~~ the course, and the remainder thereof shall be divided equally between the remaining years of the course, provided, however, that the practical nurse grant shall not exceed \$600 and shall be available to the student in the first year of ~~her~~ the course.

No change for subd 2 to 3

148*#29S

148.29 DEFINITIONS.

No change for subd 1 to 3

Subd. 4. Practical nursing shall mean the performance for compensation of any of those services in observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering treatment prescribed by a licensed health professional, or treatment and medication prescribed by a licensed doctor of medicine, osteopathy, or dentistry, or a licensed podiatrist, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge and skill of a registered nurse. This shall not be construed to prevent the care of any ill, injured or infirm person by any ~~member-of-his~~ family member or ~~any~~ friend, or ~~his~~ the care by any person employed primarily as a companion, housekeeper, domestic servant, ~~nursemaid~~ child-care provider or home health aide.

148*#291S

148.291 EXAMINATION; LICENSING.

Subdivision 1. QUALIFICATIONS. An applicant for a license to practice nursing as a licensed practical nurse shall apply to the board for examination on forms provided by the board and pay a fee in an amount determined by rule. An applicant applying for re-examination shall pay a fee in an amount determined by rule. In no case shall fees be refunded.

Before being scheduled for examination the applicant shall provide written evidence, verified by oath that ~~he~~ the applicant (a) is of good moral character, (b) is in good mental health, (c) meets secondary education requirements as determined by the board and any other preliminary qualification requirements the board may prescribe by rule, and (d) either has completed an approved course for the training of licensed practical nurses or is enrolled in the final term of study in such program. The board shall annually publish and distribute to secondary counselors the requirements for licensure for practice in Minnesota.

Refusal to supply information necessary to determine the qualifications of an applicant may result in denial of the application.

Upon submission by the applicant of an affidavit of graduation from an approved nursing program as well as proof that the applicant has passed the examination, paid the required fees and met all other requirements stated in this subdivision, the board shall issue a license to such applicant.

Subd. 2. Repealed, 1976 c 222 s 209

No change for subd 3

148*#293S

148.293 VIOLATIONS, EXEMPTIONS.

Subdivision 1. It is unlawful for any person, corporation, or association to:

(1) Conduct a school of nursing for the training of persons to become licensed practical nurses unless the school is approved by the board.

(2) Use in connection with ~~his-or-her~~ the person's name the words practical nurse, licensed practical nurse, or the letters

1 "PN", "LPN", or any designation tending to imply that ~~he-or-she~~ *
2 the person is a practical nurse, or licensed practical nurse *
3 unless such person is licensed by the board.

4 (3) Practice practical nursing unless duly licensed and
5 currently registered to do so under the provisions of sections
6 148.29 to 148.297 and 148.299.

7 (4) Sell or fraudulently obtain or furnish any nursing
8 diploma, license or record, or aid or abet therein.

9 (5) Practice practical nursing under cover of any diploma,
10 license or record illegally or fraudulently obtained or signed
11 or issued unlawfully or under fraudulent representation.

12 (6) Practice practical nursing in a manner prohibited by
13 the board in any restriction of a license or registration issued
14 under the provisions of sections 148.29 to 148.297 and 148.299.

15 (7) Practice practical nursing during the time his a *
16 license or current registration issued under the provisions of
17 sections 148.29 to 148.297 and 148.299 shall be suspended or
18 revoked.

19 No change for subd 2

148*#294S

20 148.294 REGISTRATION; FEE FOR LICENSE VERIFICATION.

21 No change for subd 1 to 2

22 Subd. 3. RE-REGISTRATION. When a person desires to
23 resume practice ~~he-or-she~~ that person shall make application for *
24 re-registration and pay the registration fee for the current
25 period to the board, and the registration certificate shall be
26 issued to the applicant, and the person shall immediately be
27 placed on the practicing list as a licensed practical nurse.

28 No change for subd 4

148*#295S

29 148.295 ALLOWABLE UNLICENSED PRACTICES.

30 The provisions of sections 148.29 to 148.297 shall not
31 prohibit:

32 (1) The practice of practical nursing by any legally
33 qualified licensed practical nurse of another state who is
34 employed by the United States government or any bureau, division
35 or agency thereof while in the discharge of ~~his-or-her~~ official *
36 duties;

37 (2) Under the direct supervision of a registered nurse, the
38 practice of practical nursing by a graduate of a school of
39 practical nursing approved by the board between the date of
40 graduation and the date of notification to the graduate of the
41 board action upon ~~his-or-her~~ application for licensure *
42 hereunder, provided that the graduate will take the first
43 licensure examination following graduation and will be issued a
44 permit by the board to engage in supervised practice. The
45 permits shall not be renewable;

46 (3) The practice of practical nursing by a graduate of an
47 approved practical nursing program in another jurisdiction
48 provided the graduate has applied for licensure in the state of
49 Minnesota by interstate endorsement and has written the first
50 examination for licensure following graduation. Practice under
51 this clause is allowable only under a temporary permit issued by
52 the board which shall be issued pursuant to rules as the board
53 may promulgate, and which shall be valid only for the period
54 between submission of a proper application and completion of the
55 examination by the person and the date of action upon the
56 application by the board. The examination must be the same
57 examination required of applicants for licensure by examination
58 in Minnesota. The permit shall authorize the practice of
59 nursing only under the direct supervision of a licensed
60 professional nurse. The permit shall not be renewable; or

61 (4) The practice of practical nursing by a person licensed
62 as a licensed practical nurse in another jurisdiction and
63 qualified for licensure in the state of Minnesota. Practice
64 under this clause is allowable only under a temporary permit
65 issued by the board which shall be issued by the board pursuant
66 to rules as the board may promulgate, and which shall be valid
67 only for the period between the submission of a proper
68 application for licensure by the person and the date of action
69 upon the application by the board.

148*#297S

70 148.297 REVOCATION OR SUSPENSION OF LICENSE.

71 Subdivision 1. The board shall have power pursuant to
72 procedures specified in the administrative procedure act, unless
73 otherwise permitted in this section, to deny, revoke, restrict

1 or suspend the license and registration of any person to
2 practice practical nursing issued by the board or applied for in
3 accordance with the provisions of sections 148.29 to 148.294, or
4 to otherwise discipline a licensee or applicant upon proof that
5 the person:

6 (1) Has employed fraud or deceit in procuring or attempting
7 to procure a license or annual registration for the practice of
8 practical nursing;

9 (2) Has been convicted of a felony or gross misdemeanor;

10 (3) Is unfit or incompetent by reason of negligence, habits
11 or other causes;

12 (4) Is habitually intemperate or is addicted to the use of
13 habit-forming drugs;

14 (5) Has, in ~~his-or-her~~ an occupational capacity, exhibited *
15 behavior which creates an undue risk of harm to others;

16 (6) Is guilty of unethical practice of practical nursing;

17 (7) Has wilfully or repeatedly violated any of the
18 provisions of sections 148.29 to 148.294.

19 Subd. 2. Repealed, 1976 c 222 s 209

20 Subd. 3. Any practical nurse whose license or registration
21 has been suspended, restricted or revoked may have ~~his~~ the *
22 license reinstated and a new registration issued when in the
23 discretion of the board such action is warranted. The nurse may
24 be required by the board to pay 50 percent of the costs of the
25 proceedings resulting in the suspension or revocation of the
26 license or registration certificate and reinstatement of the
27 license or renewal certificate, and the fee for the current
28 year's registration.

148*#56S

29 148.56 OPTOMETRISTS.

30 Subdivision 1. OPTOMETRY DEFINED. Any person shall
31 be deemed to be practicing optometry within the meaning of
32 sections 148.52 to 148.62 who shall display a sign, such as an
33 eye, a pair of eyes, a pair of glasses or spectacles, or who
34 shall in any way advertise ~~himself~~ as an optometrist, or who *
35 shall employ any means for the measurement of the powers of
36 vision or the adaptation of lenses or prisms for the aid *
37 thereof, or ~~have-in-his-possession~~ possess testing appliances *
38 for the purpose of the measurement of the powers of vision, or
39 diagnose any optical deficiency or deformity, visual or muscular
40 anomaly of the human eye, or prescribe lenses, prisms, or ocular
41 exercises for the correction or the relief of same, or who holds
42 ~~himself~~ oneself out as being able to do so. *

43 No change for subd 2 to 4

148*#57S

44 148.57 LICENSE.

45 Subdivision 1. EXAMINATION. A person not authorized
46 to practice optometry in the state and desiring to do so shall
47 apply to the secretary of the state board of optometry for
48 examination and pay to the board a fee in an amount set by the
49 board. The candidate desiring to apply for examination by the
50 board shall complete a form furnished by the board and shall
51 file the same with the secretary of the board at least two weeks
52 prior to the date of the examination. With the submission of
53 the application form, the candidate shall prove that the *
54 candidate (a) ~~that-he~~ is of good moral character, and (b) ~~that~~ *
55 ~~he~~ is a graduate of an optometry school requiring at least two *
56 academic years of preprofessional training for admittance to *
57 such school and which has been approved by the board, or ~~that-he~~ *
58 is currently enrolled in the final year of study at such a
59 school. The examination shall include both a written test and a
60 practical demonstration and shall thoroughly test the fitness of
61 the candidate to practice in this state. In regard to the
62 written examination, the board (a) may prepare, administer, and
63 grade the examination itself or (b) may recognize and approve in
64 whole or in part a similar examination prepared, administered
65 and graded by the national board of examiners in optometry or
66 (c) may administer a recognized and approved examination
67 prepared and graded by or under the direction of the national
68 board of examiners in optometry. The board shall issue a
69 license to each applicant who satisfactorily passes the
70 examination and fulfills the other requirements stated in this
71 section. The applicant shall pay to the board a fee as set by
72 the board upon issuance of the license. In the event the
73 candidate fails to pass a part of the examination, upon the
74 payment of an additional fee as set by the board, ~~he~~ the *

1 candidate may retake the examination at the time the board next *
2 schedules such examinations. The fees mentioned in this section
3 are for the use of the board and in no case shall be refunded.
4 No change for subd 2

5 Subd. 3. REVOCATION, SUSPENSION. The board may
6 revoke the license or suspend the right to practice of any
7 person who has been convicted of any violation of sections
8 148.52 to 148.62 or of any other criminal offense, or who
9 violates any provision of sections 148.571 to 148.574 or who is
10 found by the board to be incompetent or guilty of unprofessional
11 conduct. "Unprofessional conduct" means any conduct of a
12 character likely to deceive or defraud the public, including,
13 among other things, free examination advertising, the loaning of
14 ~~his~~ a license by any licensed optometrist to any person; the *
15 employment of "cappers" or "steerers" to obtain business;
16 splitting or dividing a fee with any person; the obtaining of
17 any fee or compensation by fraud or misrepresentation; employing
18 directly or indirectly any suspended or unlicensed optometrist
19 to perform any work covered by sections 148.52 to 148.62; the
20 advertising by any means of optometric practice or treatment or
21 advice in which untruthful, improbable, misleading, or
22 impossible statements are made. After one year, upon
23 application and proof that the disqualification has ceased, the
24 board may reinstate such person.

25 Subd. 4. PEDDLING OR CANVASSING FORBIDDEN. Every
26 licensed optometrist who shall temporarily practice optometry
27 outside or away from ~~his~~ the regular registered place of *
28 business shall display ~~his~~ the license and deliver to each *
29 customer or person there fitted or supplied with glasses a
30 receipt or record which shall contain ~~his~~ the signature ~~and show~~ *
31 ~~his~~, permanent registered place of business or post-office *
32 address, and number of ~~his~~ license of the optometrist, together *
33 with the amount charged therefor, but nothing contained in this *
34 section shall be construed as to permit peddling or canvassing
35 by licensed optometrists.

148*#571S

36 148.571 USE OF TOPICAL OCULAR DRUGS.
37 Subdivision 1. AUTHORITY. Subject to the provisions
38 of sections 148.57, subdivision 3, and 148.571 to 148.574, a *
39 licensed ~~optometrist~~ optometrists may administer topical ocular *
40 drugs to the anterior segment of the human eye during an eye
41 examination in the course of ~~his-or-her~~ practice in ~~his-or-her~~ *
42 their normal practice setting, solely for the purposes of *
43 determining the refractive, muscular, or functional origin of
44 sources of visual discomfort or difficulty, and detecting
45 abnormalities which may be evidence of disease.

46 No change for subd 2

148*#59S

47 148.59 LICENSE RENEWAL; FEE.
48 A licensed optometrist shall pay to the state board of
49 optometry a fee as set by the board in order to renew ~~his~~ a *
50 license as provided by board rule.

148*#70S

51 148.70 APPLICANTS, QUALIFICATIONS.
52 It shall be the duty of the board of medical examiners with
53 the advice and assistance of the physical therapy council to
54 pass upon the qualifications of applicants for registration,
55 provide for and conduct all examinations following satisfactory
56 completion of all didactic requirements, determine the
57 applicants who successfully pass the examination, and duly
58 register such applicants after the applicant has presented
59 evidence satisfactory to the board that ~~he~~ the applicant has *
60 completed a program of education approved by the board.

148*#706S

61 148.706 SUPERVISION OF ASSISTANTS AND AIDES.
62 Every physical therapist who uses the services of an
63 assistant or aide for the purpose of assisting in the practice
64 of physical therapy is responsible for functions performed by
65 the assistant or aide while engaged in such assistance. The
66 physical therapist shall permit the assistant or aide to perform
67 only those functions which ~~he~~ the therapist is authorized by *
68 rule to delegate to a physical therapist assistant or assign to
69 a physical therapy aide and shall provide supervision as
70 specified.

148*#72S

71 148.72 EXAMINATIONS.

1 Subdivision 1. ISSUANCE OF REGISTRATION WITHOUT
2 EXAMINATION. On payment to the board of a fee in the amount
3 set by the board and on submission of a written application on
4 forms provided by the board, the board shall issue registration
5 without examination to a person who is licensed or otherwise
6 registered as a physical therapist by another state of the
7 United States of America, its possessions, or the District of
8 Columbia, if the requirements for licensure or registration in
9 the state, possession, or District were at the date of his *
10 license or registration by the state substantially equal to the
11 requirements set forth in sections 148.65 to 148.78.

12 No change for subd 2 to 4

148*#73S

13 148.73 RENEWALS.

14 Every registered physical therapist shall, during each
15 January, apply to the board for an extension of his registration *
16 and pay a fee in the amount set by the board. Registration that
17 is not so extended on or before January 31 each year, shall
18 automatically lapse on said date. The board, in its discretion,
19 may revive and extend a lapsed registration on the payment of
20 the required fees. Registrants shall likewise pay the annual
21 registration fee for the balance of the first year of their
22 registration.

148*#75S

23 148.75 CERTIFICATES; DENIAL, SUSPENSION, REVOCATION.

24 The state board of medical examiners may refuse to grant
25 registration to any physical therapist, or may suspend or revoke
26 the registration of any physical therapist for any of the
27 following grounds:

28 (a) using drugs or intoxicating liquors to an extent which
29 affects professional competence;

30 (b) been convicted of a felony;

31 (c) conviction for violating any state or federal narcotic
32 law;

33 (d) procuring, aiding or abetting a criminal abortion;

34 (e) registration or attempted registration by fraud or
35 deception;

36 (f) conduct unbecoming a person registered as a physical
37 therapist or conduct detrimental to the best interests of the
38 public;

39 (g) gross negligence in the practice of physical therapy as
40 a physical therapist;

41 (h) treating human ailments by physical therapy treatment
42 except by the order or referral of a person licensed in this
43 state to practice medicine and whose license is in good
44 standing; or when a previous diagnosis exists indicating an
45 ongoing condition warranting physical therapy treatment, subject
46 to periodic review defined by board of medical examiners rule;

47 (i) treating human ailments other than by physical therapy
48 unless duly licensed or registered to do so under the laws of
49 this state;

50 (j) inappropriate delegation to a physical therapist
51 assistant or inappropriate task assignment to an aide or
52 inadequate supervision of either level of supportive personnel;

53 (k) treating human ailments other than by performing
54 physical therapy procedures unless duly licensed or registered
55 to do so under the laws of this state;

56 (l) practicing as a physical therapist performing medical
57 diagnosis, the practice of medicine as defined in section
58 147.10, or the practice of chiropractic as defined in section
59 148.01;

60 (m) failure to comply with a reasonable request to obtain
61 appropriate clearance for mental or physical conditions which
62 would interfere with the ability to practice physical therapy,
63 and which may be potentially harmful to patients; and

64 (n) dividing fees with, or paying or promising to pay a *
65 commission or part of his-or-her the fee to, any person who
66 contacts the physical therapist for consultation or sends
67 patients to the physical therapist for treatment.

68 A certificate of registration to practice as a physical
69 therapist is suspended, if (1) a guardian of the person of the
70 physical therapist is appointed by order of a probate court
71 pursuant to sections 525.54 to 525.612, for reasons other than
72 the minority of the physical therapist; or (2) the physical
73 therapist is committed by order of a probate court pursuant to
74 253B or sections 526.09 to 526.11. The certificate of

1 registration remains suspended until the physical therapist is
 2 restored to capacity by a court and, upon petition by the
 3 physical therapist, the suspension is terminated by the board of
 4 medical examiners after a hearing.

148*#76S

5 148.76 PROHIBITED CONDUCT.

6 Subdivision 1. No person shall

7 (a) use the title of physical therapist without a
 8 certificate of registration as a physical therapist issued to *
 9 him pursuant to the provisions of sections 148.65 to 148.78; *

10 (b) in any manner ~~represent-himself~~ hold out as a physical *
 11 therapist, or use in connection with ~~his~~ the person's name the *
 12 words or letters Physical Therapist, Physiotherapist, Physical *
 13 Therapy Technician, Registered Physical Therapist, Licensed *
 14 Physical Therapist, P.T., P.T.T., R.P.T., L.P.T., or any
 15 letters, words, abbreviations or insignia indicating or implying
 16 that ~~he~~ the person is a physical therapist, without a *
 17 certificate of registration as a physical therapist issued to *
 18 him pursuant to the provisions of sections 148.65 to 148.78. To *
 19 do so is a gross misdemeanor;

20 (c) employ fraud or deception in applying for or securing a
 21 certificate of registration as a physical therapist.

22 Nothing contained in sections 148.65 to 148.78 shall
 23 prohibit any person licensed or registered in this state under
 24 another law from carrying out the therapy or practice for which
 25 ~~he~~ the person is duly licensed or registered. *

26 No change for subd 2

148*#91S

27 148.91 REQUIREMENTS OF LICENSES.

28 No change for subd 1 to 3

29 Subd. 4. To become a licensed consulting psychologist a
 30 person must fulfill and comply with the requirements of
 31 subdivision 2 and satisfy the board that ~~he~~ the person: *

32 (1) Has attained the age of majority;

33 (2) Is of good moral character and is not found to be
 34 engaging in unethical practices as defined within the code of
 35 ethics adopted pursuant to section 148.98;

36 (3) Has received a doctorate degree with a major in
 37 psychology, which may include educational and child psychology,
 38 from an educational institution meeting standards which may be
 39 prescribed by regulation of the board; and

40 (4) Has had at least two full years or their equivalent of
 41 post doctoral employment as a psychologist.

42 No change for subd 5

148*#92S

43 148.92 WAIVERS.

44 No change for subd 1

45 Subd. 2. The board may grant a license without an
 46 examination to any person who at the time of application is
 47 licensed or certified by a similar board of another state whose
 48 standards, in the judgment of the board, are not lower than
 49 those required by Laws 1973, Chapter 685 at the time ~~he~~ the *
 50 person was licensed or certified in said state; or who is a *
 51 diplomate of the American board of professional psychology.

52 No change for subd 3

148*#93S

53 148.93 LIMITATION.

54 A licensed psychologist may engage in private practice only
 55 in collaboration with at least one licensed consulting
 56 psychologist in ~~his~~ the licensed psychologist field of *
 57 practice. In addition, a licensed psychologist so collaborating *
 58 may form any other working relationships with ~~members-of-his-own~~ *
 59 psychologists or other professions professionals insofar as *
 60 these do not violate other sections of this or other Minnesota
 61 Statutes. It shall be unlawful for any licensed psychologist or
 62 licensed consulting psychologist to divide fees with, or to pay
 63 a commission to, or to pay a referral fee to any other person
 64 who calls ~~him-in~~ for consultation or sends clients ~~to-him~~ *
 65 for psychological services as defined in Laws 1973, Chapter 685,
 66 provided that payment of a fee for collaborative services
 67 performed is not prohibited by this section.

148*#95S

68 148.95 SUSPENSION AND REVOCATION.

69 The license of any consulting psychologist or psychologist
 70 may be suspended or revoked by the board upon proof ~~that-he-has~~ *
 71 been-guilty of guilt of unprofessional conduct as defined by the *

1 rules established by the board or ~~has-violated~~ violation of the *
2 code of ethics adopted by the board.

3 For reasons it deems sufficient and upon a vote of six of *
4 its members, the board may restore a license which has been *
5 revoked, reduce a period of suspension or withdraw a reprimand.

148*#96S

6 148.96 PRESENTATION TO PUBLIC.

7 No individual shall present ~~himself~~ or permit ~~himself-to-be~~ *
8 presented presentation of that individual to the public by any *
9 title incorporating the word "psychological," "psychologist," or
10 "psychology" other than those so licensed by Laws 1973, Chapter
11 685; except that:

12 (1) Any psychologically trained individual employed by
13 educational institutions recognized by a regional accrediting
14 organization, federal, state, county, or local governmental
15 institutions, agencies, research facilities, or agencies
16 providing services on a contracting basis may ~~represent-himself~~ *
17 be represented by the academic or research title designated by *
18 that organization;

19 (2) Any psychologically trained individual from such
20 recognized institutions, as given in clause (1), may offer
21 lecture services and be exempt from the provisions of this
22 section; and

23 (3) Persons preparing for the profession of psychologist
24 under qualified supervision in recognized training institutions
25 or facilities may be designated by such titles as "psychological
26 intern," "psychological trainee," or others clearly indicating
27 such training status.

148*#97S

28 148.97 PENALTIES.

29 No change for subd 1

30 Subd. 3. (1) Nothing in Laws 1973, Chapter 685 shall be
31 construed to limit the professional pursuits consistent with
32 their training and code of ethics of professions such as
33 teachers in recognized public and private schools, ~~clergymen~~ *
34 members of the clergy, physicians, social workers, alcohol or *
35 drug counselors, or optometrists or attorneys. However, in such
36 performance any title used must be in accord with section 148.96.

37 (2) Persons preparing for the profession of psychology may
38 perform as a part of their training any functions specified in
39 section 148.89, but only under qualified supervision.

40 (3) Use of psychological techniques by business and
41 industrial organizations for their own personnel purposes or by
42 employment agencies or state vocational rehabilitation agencies
43 for the evaluation of their own clients prior to recommendation
44 for employment is also specifically allowed. However, no
45 representative of an industrial or business firm or corporation
46 may sell or offer for sale any psychological services as
47 specified in section 148.89 unless such services are performed
48 or supervised by individuals licensed under Laws 1973, Chapter
49 685.

50 Subd. 4. Nothing in Laws 1973, Chapter 685 is to be
51 construed as restricting a sociologist who holds a doctoral
52 degree in sociology or social psychology awarded by an
53 accredited institution, and who elects to ~~represent-himself~~ be *
54 represented to the public by the title "social psychologist" and *
55 who has notified the board of ~~his~~ the intention to ~~represent~~ *
56 himself be represented as such. *

57 Subd. 5. A psychological consultant who is not a resident
58 of the state of Minnesota, but is licensed or certified by a
59 similar board of another state whose standards, in the judgment
60 of the board, are not lower than those required by Laws 1973,
61 Chapter 685 at the time ~~he-was-licensed-or-certified~~ of that *
62 person's licensure and certification in said state or who meets *
63 the requirements of section 148.91, subdivision 4, and resides
64 in a state which does not grant certification or licenses to
65 psychologists may offer professional services in this state for
66 no more than 60 days in any calendar year without holding a
67 license under Laws 1973, Chapter 685, provided that such persons
68 shall report to the board the nature and extent of their
69 practice in this state if it exceeds 12 days in any calendar
70 year.

71 Subd. 6. Nothing in Laws 1973, Chapter 685 shall be
72 construed to authorize a person licensed under Laws 1973,
73 Chapter 685 to engage in the practice of any other profession
74 regulated under Minnesota law unless ~~he-is~~ the person is duly *

1 licensed or registered in that profession.

148*#98S

2 148.98 CODE OF ETHICS.

3 The board shall adopt a code of ethics to govern
4 appropriate practices or behavior, as referred to in section
5 148.89. The board shall file such code with the secretary of
6 state at least 30 days prior to the effective date of such
7 code. This code of ethics shall include, but not be limited to,
8 the following principles:

9 (1) The psychologist recognizes the personal boundaries of *
10 his competence and the limitation of his techniques and does not *
11 offer services or use techniques that fail to meet professional
12 standards established in particular fields.

13 (2) The psychologist who engages in practice assists his *
14 the client in obtaining professional help for all important *
15 aspects of his the client's problem that fall outside the *
16 boundaries of the psychologist's competence.

17 (3) A psychologist does not claim either directly or by
18 implication professional qualifications that differ from actual
19 qualifications, nor does he the psychologist misrepresent his *
20 affiliation with any institution, organization, or individual,
21 nor lead others to assume he the psychologist has false *
22 affiliations ~~that-he-does-not-have~~. *

149*#01S

23 149.01 EMBALMING, FUNERAL DIRECTING; DEFINITIONS.

24 No person shall embalm any dead human body or practice
25 embalming, or direct or supervise funerals, in the state of
26 Minnesota, without being licensed by the state commissioner of
27 health, except as hereinafter provided.

28 For the purposes of this chapter, the following definitions
29 shall be adopted and understood to be included within the
30 meaning of this chapter:

31 (1) Any person who shall embalm dead human bodies, or who
32 shall take charge of the remains of those dead of any
33 communicable disease, or prepare dead human bodies for shipment,
34 or hold himself out to do any of the above acts by advertising *
35 or any other means, shall be defined as and construed to be
36 practicing mortuary science;

37 (2) Any person who engages for compensation in the
38 following practices: directing or supervising funerals, or the
39 business or practice of preparing dead human bodies for burial
40 by means other than embalming, or the disposition of dead human
41 bodies, or the provision or maintenance of a place for the
42 preparation for disposition or for the care or disposition of
43 dead human bodies, or the use in connection with such business
44 of the word or term "funeral director," "undertaker,"
45 "mortician," "mortuary service," "mortuary science," or any
46 other word or term from which can be implied the business of
47 funeral directing, or the holding out to the public that one is
48 a funeral director or mortician, shall be defined as and
49 construed to be practicing funeral directing or mortuary
50 science; provided, however, that the word "person," as used
51 herein, shall apply only to a natural person;

52 (3) A "funeral director" is any person who has secured a
53 license to engage in the practice of funeral directing as
54 hereinbefore set forth;

55 (4) Any person who shall be licensed to practice both
56 embalming and funeral directing as hereinbefore set forth in
57 definitions (1) and (2) shall be said to be practicing "mortuary
58 science";

59 (5) A "mortician" is any person who has secured a license
60 to engage in the practice of mortuary science;

61 (6) A "resident trainee in mortuary science" is any person
62 engaged in the learning of the practice of mortuary science
63 under a mortician duly licensed and registered under the
64 provisions of this chapter; provided, that no person shall serve
65 or attempt to serve as such trainee under any such mortician or
66 funeral director until he the person has filed a registration *
67 with the commissioner of health.

149*#02S

68 149.02 EXAMINATION; LICENSING.

69 The state commissioner of health is hereby authorized and
70 empowered to examine, upon submission of an application therefor
71 and fee as prescribed by the commissioner pursuant to section
72 144.122, all applicants for license to practice mortuary science
73 or funeral directing and to determine whether or not the

1 applicants possess the necessary qualifications to practice
 2 mortuary science or funeral directing. If upon examination the
 3 commissioner shall determine that an applicant is properly
 4 qualified to practice mortuary science or funeral directing, he *
 5 the commissioner shall grant a license to the person to practice *
 6 mortuary science or funeral directing. Licenses shall expire
 7 and be renewed as prescribed by the commissioner pursuant to
 8 section 144.122.

9 On or after the thirty-first day of December, 1955,
 10 separate licenses as embalmer or funeral director shall not be
 11 issued, except that a license as funeral director shall be
 12 issued to those apprentices who have been registered under
 13 regulations of the commissioner as apprentice funeral directors
 14 on the first day of July, 1955, qualify by examination for
 15 licensure under such regulations as funeral directors before the
 16 first day of August, 1957. Such applicants shall file an
 17 application for license as a funeral director in the manner as
 18 is required in section 149.03 for a license in mortuary
 19 science. It shall be accompanied by a fee in an amount
 20 prescribed by the commissioner pursuant to section 144.122.
 21 However, a single license as a funeral director shall be issued
 22 to those persons whose custom, rites, or religious beliefs
 23 forbid the practice of embalming. An applicant for a single
 24 license as a funeral director under this exception shall submit
 25 to the commissioner of health two affidavits substantiating the
 26 beliefs and convictions of the applicant and shall meet any
 27 other standards for licensure as are required by law or by
 28 regulation of the commissioner. Such a funeral director shall
 29 only direct funerals for persons of ~~his~~ the same customs, rites *
 30 or religious beliefs as those of the funeral director. In the *
 31 case of a funeral conducted for persons of such customs, rites
 32 or religious beliefs where embalming and funeral directing is
 33 necessary according to law, such embalming and funeral directing
 34 shall be performed only by a person licensed to do so in this
 35 state.

36 All licensees who on the thirty-first day of December,
 37 1955, hold licenses as embalmers only shall be granted licenses
 38 to practice mortuary science and may renew their licenses at the
 39 times and in the manner specified by the commissioner pursuant
 40 to section 144.122.

41 All licensees who on the thirty-first day of December,
 42 1955, hold licenses as funeral director only may continue to
 43 renew their licenses at the times and in the manner specified by
 44 the commissioner pursuant to section 144.122. If a licensee
 45 fails to renew, as in this chapter required, his that person's *
 46 license as a funeral director shall not thereafter be reinstated.

47 To assist in the holding of the examination and enforcement
 48 of the provisions of this chapter, the commissioner shall
 49 establish a mortuary sciences advisory council ~~to which he and~~ *
 50 shall appoint four members to it. Two members shall be licensed *
 51 in mortuary science and shall have had at least five years
 52 experience immediately preceding their appointment in the
 53 preparation and disposition of dead human bodies and in the
 54 practice of mortuary science. A third member shall be a
 55 representative of the commissioner, and the fourth member shall
 56 be a full-time academic staff member of the course in mortuary
 57 science of the university of Minnesota. The terms, compensation
 58 and removal of members and expiration of the council shall be as
 59 provided in section 15.059.

149*#03S

60 149.03 APPLICANTS, QUALIFICATIONS; LICENSEES FROM OTHER
 61 STATES; APPRENTICES AND TRAINEES.

62 Subdivision 1. The applicant for an examination for
 63 license in mortuary science shall make application therefor in
 64 writing verified on a form prescribed as to details and
 65 furnished by the state commissioner of health. Each application
 66 shall be accompanied by a fee in an amount prescribed by the
 67 commissioner pursuant to section 144.122 and be supported by
 68 affidavits from at least two reputable residents of the county
 69 in which the applicant resides or proposes to carry on the
 70 practice of mortuary science certifying that the applicant is of
 71 good moral character. No person shall be granted a license in
 72 mortuary science unless he that person shall be at least 18 *
 73 years of age and of good moral character and temperate habits.
 74 Before the study of embalming or funeral directing in mortuary
 75 science was commenced, he the applicant shall have *

1 satisfactorily completed at least two scholastic years at an
 2 accredited college or university in any subjects the
 3 commissioner may prescribe by regulation as suitable and
 4 desirable preparation for the study of mortuary science. The
 5 applicant for license in mortuary science, after having secured
 6 a certificate of graduation from the course in mortuary science
 7 conducted by the University of Minnesota or from a school or
 8 college of mortuary science duly accredited, shall serve at
 9 least one year of apprenticeship experience in mortuary science.
 10 Previous registered apprenticeship experience in Minnesota may
 11 be accepted by the commissioner for a period not exceeding three
 12 months in partial fulfillment of this apprenticeship
 13 requirement. The applicant shall have sufficient knowledge,
 14 experience, and training as the commissioner may determine to
 15 properly qualify for a license in mortuary science.

16 ~~When the applicant has~~ On successfully completed completing *
 17 the examination and requirements for ~~his~~ an original license, ~~he~~ *
 18 the applicant shall submit to the commissioner a license *
 19 application and a fee in an amount prescribed by the
 20 commissioner pursuant to section 144.122, upon receipt of which
 21 the commissioner may issue a license. The license shall expire
 22 and be renewed as prescribed by the commissioner pursuant to
 23 section 144.122.

24 Subd. 2. Any holder of a license issued by state authority
 25 in any other state maintaining a system and standard of
 26 examination for license to engage in the business or practice of
 27 mortuary science, which, in the judgment of the commissioner,
 28 shall be substantially the equivalent to that required in this
 29 state for the issuance of a license therefor, may obtain a
 30 license from the commissioner without examination in the
 31 discretion of the commissioner upon payment of an application
 32 fee in an amount prescribed by the commissioner pursuant to
 33 section 144.122 and upon proof of good moral character,
 34 temperate habits, and practical experience. The license shall
 35 expire and be renewed as prescribed by the state commissioner of
 36 health pursuant to section 144.122.

37 A licensee of any bordering state or province, the
 38 proximity of whose establishment makes possible the provision of
 39 service to Minnesota, may upon application be granted a mortuary
 40 science courtesy card at the discretion of the commissioner. An
 41 application shall be made upon forms provided by the
 42 commissioner, shall contain proof of good moral character,
 43 temperate habits, and practice, and shall bear the endorsement
 44 of the applicant's licensing authority. A fee in an amount
 45 prescribed by the commissioner pursuant to section 144.122 shall
 46 accompany the application. The mortuary science courtesy card
 47 will permit the licensee to exercise the privileges granted by
 48 the license in mortuary science except that ~~he~~ the licensee may *
 49 not operate a funeral establishment in Minnesota. The courtesy
 50 card shall expire and be renewed as prescribed by the
 51 commissioner pursuant to section 144.122. The commissioner may
 52 cancel a mortuary science courtesy card for abuse of the
 53 privileges it confers.

54 No change for subd 3

149*#06S

55 149.06 VIOLATIONS, PENALTIES.

56 Any person who shall embalm a dead human body, or who shall *
 57 hold ~~himself~~ out as a mortician, embalmer, funeral director, or
 58 trainee, without being licensed or registered, shall be guilty
 59 of a misdemeanor and punished accordingly. This chapter shall
 60 not apply to or in any way interfere with the duties of any
 61 officer of any public institution, or with the duties of any
 62 officer of a medical college, county medical society, anatomical
 63 association, accredited college of mortuary science, or to any
 64 person engaged in the performance of duties prescribed by law
 65 relating to the conditions under which the indigent dead human
 66 bodies are held subject to anatomical study, or to the custom or
 67 rites of any religious sect in the burial of their dead.

68 ~~No person~~ The name of a person registered as a trainee *
 69 ~~shall use his name;~~ must not be used or cause caused or permit *
 70 it permitted to be used by the person, in any way, in the name, *
 71 designation, or title, or in the advertising of the funeral
 72 establishment with which ~~he~~ the person is associated or in which *
 73 ~~he~~ the person may have acquired a proprietary or financial *
 74 interest.

75 Nothing in this chapter shall in any way affect the

1 operation of corporations or burial associations, providing all
2 work of embalming or funeral directing is done by licensed
3 morticians or funeral directors, as provided by this chapter.
4 It shall be unlawful for any such corporation or burial
5 association to:

6 (1) Violate any of the laws of this state relative to the
7 burial or disposal of dead human bodies, or any of the rules and
8 regulations of the state commissioner of health in relation to
9 the care, custody, or disposition of dead human bodies, or the
10 disinfecting of premises where contagion exists;

11 (2) Publish or disseminate misleading advertising;

12 (3) Directly or indirectly pay or cause to be paid any sum
13 of money or other valuable consideration for the securing of
14 business, other than by advertising, or for obtaining authority
15 to dispose of any dead human bodies;

16 (4) Permit unlicensed persons to render or perform any of
17 the services required to be performed by persons licensed under
18 the provisions of this chapter.

19 Any corporation or burial association violating any of the
20 provisions of this chapter shall be deemed guilty of a
21 misdemeanor.

22 Nothing in this chapter shall be construed as repealing any
23 of the laws of this state in regard to the organizing or
24 incorporating of cooperative associations.

149*#08S

25 149.08 FUNERAL ESTABLISHMENT PERMIT.

26 No person shall conduct, maintain, manage, or operate a
27 funeral establishment unless a permit for each establishment has
28 been issued by the state commissioner of health and is
29 conspicuously displayed in the funeral establishment. Each
30 permit shall be valid only for one specific location, and
31 separate permits shall be required of two or more firms
32 operating from the same funeral establishment.

33 "Funeral establishment" means every place or premise
34 devoted to or used in the care and preparation for the funeral
35 and burial of human dead, or as the office or place for carrying
36 on the profession of funeral service, or for any combination of
37 the foregoing purposes.

38 A permit to operate a funeral establishment shall be issued
39 by the state commissioner of health upon application made on
40 blanks furnished by the state commissioner of health and filed
41 with the commissioner and payment of a fee in an amount
42 prescribed by the commissioner pursuant to section 144.122. A
43 permit shall expire and be renewed as prescribed by the
44 commissioner pursuant to section 144.122.

45 Violation of any provision of Laws 1969, Chapter 109 or any
46 rules or regulations of the state commissioner of health
47 committed by any person operating a funeral establishment or
48 with ~~his~~ the person's knowledge and consent by ~~his~~ the person's
49 officer, agent or employee, shall be considered sufficient cause
50 for suspension or revocation of a funeral establishment permit.

149*#12S

51 149.12 DEPOSIT OF TRUST FUNDS.

52 Within 15 days after its receipt, any person holding money
53 in trust under section 149.11 shall deposit all of the money in
54 a banking institution, savings, building and loan association,
55 or credit union, organized under the laws of this state or of
56 the United States of America, the accounts of which are insured
57 by an instrumentality of the federal government. The money
58 shall be carried in a separate account in the name of the
59 depositor as trustee for the person who will receive the benefit
60 of the property and services upon ~~his~~ the depositor's death.
61 Sections 345.31 to 345.60 shall not apply to money deposited or
62 received and held in trust pursuant to sections 149.11 to
63 149.14. All money not used for the purpose intended upon the
64 death of the cestui que trust shall revert to and become a part
65 of ~~his~~ the estate.

150A#02S

66 150A.02 BOARD OF DENTISTRY.

67 Subdivision 1. There is hereby created a board of
68 dentistry whose duty it shall be to carry out the purposes and
69 enforce the provisions of sections 150A.01 to 150A.12. The
70 board shall consist of two public members as defined by section
71 214.02, five qualified resident dentists, one qualified resident
72 registered dental assistant, and one qualified resident dental
73 hygienist appointed by the governor. Membership terms,

1 compensation of members, removal of members, the filling of
 2 membership vacancies, and fiscal year and reporting requirements
 3 shall be as provided in sections 214.07 to 214.09. The
 4 provision of staff, administrative services and office space;
 5 the review and processing of board complaints; the setting of
 6 board fees; and other provisions relating to board operations
 7 shall be as provided in chapter 214 and Laws 1976, Chapter 222,
 8 Sections 2 to 7. Each board member who is a dentist, registered
 9 dental assistant, or dental hygienist shall have been lawfully
 10 in active practice in this state for five years immediately
 11 preceding ~~his~~ appointment; and no board member shall be eligible *
 12 for appointment to more than two consecutive four year terms,
 13 and members serving on the board at the time of the enactment
 14 hereof shall be eligible to reappointment provided they shall
 15 not have served more than nine consecutive years at the
 16 expiration of the term to which they are to be appointed. At
 17 least 90 days prior to the expiration of the terms of dentists,
 18 registered dental assistants, or dental hygienists, the
 19 Minnesota dental association, Minnesota dental assistants
 20 association, or the Minnesota state dental hygiene association
 21 shall recommend to the governor for each term expiring not less
 22 than two dentists, two registered dental assistants, or two
 23 dental hygienists, respectively, who are qualified to serve on
 24 the board, and from the list so recommended the governor may
 25 appoint members to the board for the term of four years, the
 26 appointments to be made within 30 days after the expiration of
 27 the terms. Within 60 days after the occurrence of a dentist,
 28 registered dental assistant or dental hygienist vacancy, prior
 29 to the expiration of the term, in the board, the Minnesota
 30 dental association, the Minnesota dental assistants association,
 31 or the Minnesota state dental hygiene association shall
 32 recommend to the governor not less than two dentists, two
 33 registered dental assistants, or two dental hygienists, who are
 34 qualified to serve on the board and from the list so recommended
 35 the governor, within 30 days after receiving such list of
 36 dentists, may appoint one member to the board for the unexpired
 37 term occasioned by such vacancy. Any appointment to fill a
 38 vacancy shall be made within 90 days after the occurrence of
 39 such vacancy. The first four year term of the dental hygienist
 40 and of the registered dental assistant shall commence on the
 41 first Monday in January, 1977.

42 Subd. 2. Repealed, 1975 c 136 s 77

150A#05S

43 150A.05 PRACTICE OF DENTISTRY.

44 Subdivision 1. DEFINITION. A person shall be deemed
 45 to be practicing dentistry within the meaning of sections
 46 150A.01 to 150A.12:

47 (1) Who uses a dental degree, or designation, or card,
 48 device, directory, sign, or other media whereby he the person
 49 represents ~~himself-as-being-able~~ an ability to diagnose, treat, *
 50 prescribe, or operate for any disease, pain, deformity, *
 51 deficiency, injury, or physical condition of the human tooth,
 52 teeth, alveolar process, gums or jaw, or adjacent or associated
 53 structures; or

54 (2) Who is a manager, proprietor, operator or conductor of
 55 a place where dental operations are performed; or

56 (3) Who performs dental operations of any kind
 57 gratuitously, or for a fee, gift, compensation or reward, paid
 58 or to be paid, ~~either-to-himself-or-to-another~~ to any person or *
 59 agency; or

60 (4) Who uses a roentgen or x-ray machine for dental
 61 treatment, roentgenograms or for dental diagnostic purposes; or

62 (5) Who extracts a human tooth or teeth, or corrects or
 63 attempts to correct malpositions of the human teeth or jaws; or

64 (6) Who offers and undertakes, by any means or method, to
 65 diagnose, treat or remove stains or accretions from human teeth
 66 or jaws; or

67 (7) Who takes impressions of the human tooth, teeth, or
 68 jaws or performs any phase of any operation incident to the
 69 replacement of a part of a tooth, a tooth, teeth or associated
 70 tissues by means of a filling, a crown, a bridge, a denture or
 71 other appliance; or

72 (8) Who furnishes, supplies, constructs, reproduces, or
 73 repairs, or offers to furnish, supply, construct, reproduce or
 74 repair prosthetic dentures or plates, bridges or other
 75 substitutes for natural teeth, to the user or prospective user

1 thereof; or

2 (9) Who performs any clinical operation included in the
3 curricula of recognized dental schools and colleges.

4 Subd. 2. EXEMPTIONS AND EXCEPTIONS OF CERTAIN PRACTICES
5 AND OPERATIONS. Sections 150A.01 to 150A.12 do not apply to:

6 (1) A duly licensed physician and surgeon unless he the *
7 licensee practices dentistry as a specialty; *

8 (2) The practice of dentistry in any branch of the armed
9 services of the United States, the United States public health
10 service, or the United States veterans administration;

11 (3) Dental schools, colleges or schools of dental hygiene,
12 or schools of dental assisting approved by the board of
13 dentistry, and the practice of dentistry, dental hygiene, or
14 dental assisting by students in dental schools or colleges,
15 graduate dental programs of the University of Minnesota or the
16 Mayo Foundation, schools of dental hygiene, or schools of dental
17 assisting approved by the board, when acting under the direction
18 and supervision of licensed dentists acting as instructors;

19 (4) The practice of dentistry by licensed dentists of other
20 states or countries while appearing as clinicians under the
21 auspices of a duly approved dental school or college, or a
22 reputable dental society, or a reputable dental study club
23 composed of dentists;

24 (5) The actions of persons while they are taking
25 examinations for licensure or registration administered or
26 approved by the board pursuant to section 150A.03, subdivision
27 1, and section 150A.06, subdivisions 1, 2, and 2a;

28 (6) The practice of dentistry by dentists and dental
29 hygienists licensed by other states during their functioning as
30 examiners responsible for conducting licensure or registration
31 examinations administered by regional and national testing
32 agencies with whom the board is authorized to affiliate and
33 participate under section 150A.03, subdivision 1, and the
34 practice of dentistry by the regional and national testing
35 agencies during their administering examinations pursuant to
36 section 150A.03, subdivision 1;

37 (7) The use of roentgens or other rays for making
38 roentgenograms or similar records of dental or oral tissues in a
39 hospital under the supervision of a physician or dentist; or

40 (8) The service, other than service performed directly upon
41 the person of a patient, of constructing, altering, repairing,
42 or duplicating any denture, partial denture, crown, bridge,
43 splint, orthodontic, prosthetic, or other dental appliance, when
44 performed according to a written work order from a licensed
45 dentist in accordance with section 150A.10, subdivision 3.

150A#06S

46 150A.06 LICENSURE.

47 Subdivision 1. DENTISTS. A person of good moral
48 character not already a licensed dentist of the state, having
49 submitted an application and fee as prescribed by the board and
50 ~~his~~ the diploma or equivalent ~~from~~ awarded to the person by a *
51 dental college approved by the board may be examined by the
52 board or by an agency pursuant to section 150A.03, subdivision
53 1, in a manner to test the applicant's fitness to practice
54 dentistry. In the case of examinations conducted pursuant to
55 section 150A.03, subdivision 1, applicants may take the
56 examination prior to applying to the board for licensure. The
57 examination shall include an examination of the applicant's
58 knowledge of the laws of Minnesota relating to dentistry and the
59 rules of the board. An applicant is ineligible to retake the
60 clinical examination required by the board after failing it
61 twice until ~~he obtains~~ further education and training are *
62 obtained as specified by the board by rule. A separate, *
63 nonrefundable fee may be charged for each time a person
64 applies. An applicant who passes the examination in compliance
65 with subdivision 2b and meets all other requirements of the
66 board shall be licensed to practice dentistry and supplied with
67 a license by the board.

68 Subd. 2. DENTAL HYGIENISTS. A person of good moral
69 character not already a licensed dental hygienist of this state,
70 who has graduated from an accredited high school or its
71 equivalent, and has submitted an application and fee as
72 prescribed by the board and ~~his~~ the diploma or equivalent ~~from~~ *
73 awarded to the person by a training school for dental hygienists *
74 or its equivalent approved by the board, may be examined by the
75 board or by an agency pursuant to section 150A.03, subdivision

1 1, in a manner to test the applicant's fitness to practice
 2 dental hygiene. In the case of examinations conducted pursuant
 3 to section 150A.03, subdivision 1, applicants may take the
 4 examination before applying to the board for licensure. Each
 5 applicant shall also be examined on the applicant's knowledge of
 6 the laws of Minnesota relating to dentistry and of the rules of
 7 the board. An applicant is ineligible to retake the clinical
 8 examination required by the board after failing it twice
 9 until ~~he obtains~~ further education and training are obtained as
 10 specified by the board by rule. A separate, nonrefundable fee
 11 may be charged for each time a person applies. An applicant who
 12 passes the examination in compliance with subdivision 2b and
 13 meets all the other requirements of the board shall be licensed
 14 as a dental hygienist and supplied with a license by the board.

15 Subd. 2a. REGISTERED DENTAL ASSISTANT. A person of
 16 good moral character, who has submitted an application and fee
 17 as prescribed by the board and ~~his~~ the diploma or equivalent
 18 from awarded to the person by a training school for dental
 19 assistants or its equivalent approved by the board, may be
 20 examined by the board or by an agency pursuant to section
 21 150A.03, subdivision 1, in a manner to test the applicant's
 22 fitness to perform as a registered dental assistant. The
 23 diploma or its equivalent must evidence compliance with the time
 24 limit requirement of subdivision 7. In the case of examinations
 25 conducted pursuant to section 150A.03, subdivision 1, applicants
 26 may take the examination before applying to the board for
 27 registration. The examination shall include an examination of
 28 the applicant's knowledge of the laws of Minnesota relating to
 29 dentistry and the rules of the board. An applicant is
 30 ineligible to retake the clinical examination required by the
 31 board after failing it twice until ~~he obtains~~ further education
 32 and training are obtained as specified by the board by rule. A
 33 separate, nonrefundable fee may be charged for each time a
 34 person applies. An applicant who passes the examination in
 35 compliance with subdivision 2b and meets all the other
 36 requirements of the board shall be registered as a dental
 37 assistant. The examination fee set by the board in rule is the
 38 application fee until the board amends, repeals, or otherwise
 39 changes the rules pursuant to chapter 14.

40 No change for subd 2b to 3

41 Subd. 4. LICENSURE BY CREDENTIALS. Any person who is
 42 lawfully practicing dentistry or dental hygiene in another state
 43 or Canadian province having and maintaining a standard of
 44 examination for licensure and of laws regulating the practice
 45 within that state or Canadian province, substantially equivalent
 46 to Minnesota's, as determined by the board, who is a reputable
 47 dentist or dental hygienist of good moral character, and who
 48 deposits, in person, with the board of dentistry a certificate
 49 from the board of dentistry of the state or Canadian province in
 50 which ~~he~~ the applicant is licensed, certifying to the fact of
 51 ~~his~~ licensure and that ~~he~~ the applicant is of good moral
 52 character and professional attainments, shall, upon payment of
 53 the fee established by the board, be interviewed by the board.
 54 The interview shall consist of assessing the applicant's
 55 knowledge of dental subjects. If the applicant does not
 56 demonstrate the minimum knowledge in dental subjects required
 57 for licensure under subdivisions 1 and 2, the application shall
 58 be denied. When denying a license, the board may notify the
 59 applicant of any specific course that the applicant could take
 60 which, if passed, would qualify the applicant for licensure.
 61 The denial shall not prohibit the applicant from applying for
 62 licensure under subdivisions 1 and 2. If the applicant
 63 demonstrates the minimum knowledge in dental subjects required
 64 for licensure under subdivisions 1 and 2 and meets the other
 65 requirements of this subdivision, ~~he~~ a license shall be
 66 granted ~~a license~~ to practice in this state, if ~~he~~ the applicant
 67 passes an examination on the laws of Minnesota relating to
 68 dentistry and the rules of the board of dentistry.

69 No change for subd 5

70 Subd. 6. DISPLAY OF NAME AND CERTIFICATES. The name,
 71 license certificate, and annual registration certificate of
 72 every licensed dentist, dental hygienist, or registered dental
 73 assistant shall ~~keep be~~ conspicuously displayed ~~his name,~~
 74 ~~license-certificate-and-annual-registration-certificate~~ in every
 75 office in which ~~he~~ that person practices, in plain sight of ~~his~~
 76 patients. If there is more than one dentist, dental hygienist,

1 or registered dental assistant practicing or employed in any
 2 office, the manager or proprietor of the office shall display in
 3 plain sight the name, license certificate and annual
 4 registration certificate of each dentist, dental hygienist, or
 5 registered dental assistant practicing or employed there. Near
 6 or on the entrance door to every office where dentistry is
 7 practiced, the name of each dentist practicing there, as
 8 inscribed on the license certificate and annual registration
 9 certificate of each dentist, shall be displayed in plain sight.

10 Subd. 7. SPECIFIC GRADUATION REQUIREMENT. An
 11 applicant shall not be initially registered as a dental
 12 assistant if ~~his~~ graduation from a school of professional
 13 training occurred more than five years before the date the
 14 application is received by the board, unless the applicant for
 15 registration has been registered or otherwise credentialed to
 16 perform the duties, for which registration is sought, by another
 17 state or country or by the United States government. The board
 18 may, by rule, establish additional educational requirements for
 19 licensure of an applicant governed by this subdivision.

*

150A#08S

20 150A.08 SUSPENSION, REVOCATION, LIMITATION, MODIFICATION
 21 OR DENIAL OF LICENSE.

22 No change for subd 1

23 Subd. 3. REINSTATEMENT. Any licensee or registrant
 24 whose license or registration has been suspended or revoked may
 25 have ~~his~~ the license or registration reinstated or a new license
 26 or registration issued, as the case may be, when the board deems
 27 the action is warranted. The board may require the licensee or
 28 registrant to pay all costs of proceedings resulting in ~~his~~ the
 29 suspension or revocation of license or registration and
 30 reinstatement or new license and the fee for reinstatement
 31 established by the board. Any licensee or registrant who has
 32 been disciplined by the board in a manner other than by
 33 suspension or revocation may be required by the board to pay all
 34 costs of proceedings resulting in the disciplinary action.

*

*

35 No change for subd 4

36 Subd. 5. MEDICAL EXAMINATIONS. If the board has
 37 probable cause to believe that a dentist, dental hygienist,
 38 registered dental assistant, or applicant engages in acts
 39 described in subdivision 1, clause (4) or (5), or has a
 40 condition described in subdivision 1, clause (8), it shall
 41 direct the dentist, dental hygienist, assistant, or applicant to
 42 submit to a mental or physical examination or a chemical
 43 dependency assessment. For the purpose of this subdivision,
 44 every dentist, hygienist, or assistant licensed or registered
 45 under this chapter or person submitting an application for a
 46 license or registration is deemed to have given consent to
 47 submit to a mental or physical examination when directed in
 48 writing by the board and to have waived all objections in any
 49 proceeding under this section to the admissibility of the
 50 examining physician's testimony or examination reports on the
 51 ground that they constitute a privileged communication. Failure
 52 to submit to an examination without just cause may result in an
 53 application being denied or a default and final order being
 54 entered without the taking of testimony or presentation of
 55 evidence, other than evidence which may be submitted by
 56 affidavit, that the licensee, registrant, or applicant did not
 57 submit to the examination. A dentist, dental hygienist,
 58 registered dental assistant, or applicant affected under this
 59 section shall at reasonable intervals be afforded an opportunity
 60 to demonstrate ~~that-he-can~~ ability to start or resume the
 61 competent practice of dentistry or perform the duties of a
 62 dental hygienist or registered dental assistant with reasonable
 63 skill and safety to patients. In any proceeding under this
 64 subdivision, neither the record of proceedings nor the orders
 65 entered by the board is admissible, is subject to subpoena, or
 66 may be used against the dentist, dental hygienist, registered
 67 dental assistant, or applicant in any proceeding not commenced
 68 by the board. Information obtained under this subdivision shall
 69 be classified as private pursuant to the Minnesota Government
 70 Data Practices Act.

*

71 No change for subd 6

72 Subd. 7. SELF-INCRIMINATION. No person is excused
 73 from attending and testifying at any proceeding initiated by the
 74 board or from producing any document before the board on the
 75 ground that the testimony or evidence required may tend to

1 incriminate ~~him-or-her~~ the person; but no person may be *
 2 prosecuted for any crime related to the matter about which the
 3 person testifies or produces evidence required or requested by
 4 the board if the person first claims a privilege against
 5 self-incrimination. This immunity from criminal prosecution
 6 does not apply to prosecution for perjury or contempt committed
 7 in testifying or producing the evidence.

8 Subd. 8. SUSPENSION OF LICENSE. In addition to any
 9 other remedy provided by law, the board may, through its
 10 designated board members pursuant to section 214.10, subdivision
 11 2, temporarily suspend a license or registration without a
 12 hearing if the board finds that the licensee or registrant has
 13 violated a statute or rule which the board is empowered to
 14 enforce and continued practice by the licensee or registrant
 15 would create an imminent risk of harm to others. The suspension
 16 shall take effect upon written notice to the licensee or
 17 registrant served by first class mail specifying the statute or
 18 rule violated, and the time, date, and place of the hearing
 19 before the board. If the notice is returned by the post office,
 20 the notice shall be effective upon reasonable attempts to locate
 21 and serve the licensee or registrant. Within ten days of
 22 service of the notice, the board shall hold a hearing before its
 23 own members on the sole issue of whether there is a reasonable
 24 basis to continue, modify, or lift the suspension. Evidence
 25 presented by the board, licensee, or registrant, shall be in
 26 affidavit form only. The licensee or registrant or ~~his~~ *
 27 counsel of the licensee or registrant may appear for oral *
 28 argument. Within five working days after the hearing, the board
 29 shall issue its order and, if the suspension is continued, the
 30 board shall schedule a disciplinary hearing to be held pursuant
 31 to the Administrative Procedure Act within 45 days of issuance
 32 of the order. The administrative law judge shall issue a report
 33 within 30 days of the closing of the contested case hearing
 34 record. The board shall issue a final order within 30 days of
 35 receiving that report. The board may allow a person who was
 36 licensed by any state to practice dentistry and whose license
 37 has been suspended to practice dentistry under the supervision
 38 of a licensed dentist for the purpose of demonstrating ~~his-or~~ *
 39 ~~her~~ competence and eligibility for reinstatement. *

150A#10S

40 150A.10 DENTAL AUXILIARIES.

41 No change for subd 1

42 Subd. 2. DENTAL ASSISTANTS. Every licensed dentist
 43 who uses the services of any unlicensed person for the purpose
 44 of ~~assisting-him~~ assistance in the practice of dentistry shall *
 45 be responsible for the acts of such unlicensed person while
 46 engaged in such assistance. Such dentist shall permit such
 47 unlicensed assistant to perform only those acts which ~~he-is~~ are *
 48 authorized to ~~delegate~~ be delegated to unlicensed assistants by *
 49 the board of dentistry. Such acts shall be performed under
 50 supervision of a licensed dentist. The board may permit
 51 differing levels of dental assistance based upon recognized
 52 educational standards, approved by the board, for the training
 53 of dental assistants. The board may also define by rule the
 54 scope of practice of registered and non-registered dental
 55 assistants. The board by rule may require continuing education
 56 for differing levels of dental assistants, as a condition to
 57 their registration or authority to perform their authorized
 58 duties. Any licensed dentist who shall permit such unlicensed
 59 assistant to perform any dental service other than that
 60 authorized by the board shall be deemed to be enabling an
 61 unlicensed person to practice dentistry, and commission of such
 62 an act by such unlicensed assistant shall constitute a violation
 63 of sections 150A.01 to 150A.12.

64 Subd. 3. DENTAL TECHNICIANS. Every licensed dentist
 65 who uses the services of any unlicensed person, other than under
 66 the dentist's supervision and within such dentist's own office,
 67 for the purpose of constructing, altering, repairing or
 68 duplicating any denture, partial denture, crown, bridge, splint,
 69 orthodontic, prosthetic or other dental appliance, shall be
 70 required to furnish such unlicensed person with a written work
 71 order in such form as shall be prescribed by the rules of the
 72 board; said work order shall be made in duplicate form, a
 73 duplicate copy to be retained in a permanent file in the
 74 dentist's office for a period of two years, and the original to
 75 be retained in a permanent file for a period of two years by

1 such unlicensed person in ~~his~~ that person's place of business. *

2 Such permanent file of work orders to be kept by such dentist or

3 by such unlicensed person shall be open to inspection at any

4 reasonable time by the board or its duly constituted agent.

150A#11S

5 150A.11 UNLAWFUL ACTS.

6 Subdivision 1. UNLAWFUL PRACTICE. It is unlawful for

7 any person to: enable an unlicensed person to practice

8 dentistry; to practice or attempt to practice dentistry without

9 a license; to practice dentistry under the name of a

10 corporation or company; or to practice under any name that may

11 tend to deceive the public or imply professional superiority to

12 or greater skill than that possessed by another dentist. If a

13 dentist practices under ~~his~~ the dentist's own name, any public *
 14 display or cards shall include the initials of ~~his~~ the dentist's *
 15 dental degree, such as D.D.S. or D.M.D., following the name. If

16 a dentist practices under ~~a~~ another name ~~other-than-his-own~~, the *
 17 name shall include some designation which makes clear that the

18 person is practicing dentistry or a specialty of dentistry; and

19 that the names of all of the participating dentists practicing

20 under the name be clearly identified on letterheads and building

21 or office signs that display a name other than the dentist's own

22 name. Any communication between dentist and patient shall

23 clearly indicate the name of the dentist treating the patient.

24 The board may promulgate rules regarding the name under which a

25 dentist may practice. No corporation shall practice dentistry

26 or engage in it, or hold itself out as being entitled to

27 practice dentistry, or furnish dental services or dentists, or

28 advertise under or assume the title of dentists or dental

29 surgeons or equivalent title. No corporation shall furnish

30 dental advice, or advertise or hold itself out with any other

31 person or alone, that it has or owns a dental office or can

32 furnish dental service, dentists, or dental surgeons, or

33 solicit, through itself, or its agents, officers, employees,

34 directors or trustees, dental patronage for any dentist or

35 dental surgeon. This section:

36 (1) Does not apply to any licensee while acting as an

37 instructor in or under the University of Minnesota, the Mayo

38 Foundation, or any other school in the state recognized by the

39 state board of dentistry;

40 (2) Does not prohibit ~~any-dentist~~ dentists from *
 41 incorporating ~~his~~ their practice of dentistry for business *
 42 purposes under the special provisions of a corporate practice
 43 act for dentistry;

44 (3) Shall not be construed to change or amend the right of

45 licensed dentists to provide dental care under any form of

46 organization that is lawful under the laws of this state, or to

47 contract to sell their services in any manner that is lawful

48 under the laws of this state.

49 No change for subd 2

50 Subd. 3. ADVERTISING OR USE OF DENTAL SERVICES AND

51 APPLIANCES. No person shall advertise in any manner ~~that-he~~ *
 52 ~~can-or-will-sell~~ the sale, supply, ~~furnish~~ furnishing, *
 53 ~~construct~~ construction, ~~reproduce~~ reproduction, ~~refine~~ *
 54 relining, or repair without a written work order by a licensed *
 55 dentist, of prosthetic dentures, bridges, plates or other *
 56 appliances to be used or worn as substitutes for natural teeth,
 57 or for the regulation thereof. All such advertisements shall

58 contain the words "A written work order from a licensed dentist

59 is required" in at least 10-point type size. Except for

60 advertising permitted under this subdivision, a person not

61 licensed to practice dentistry in this state shall not sell or

62 offer any such service or products to other than the dental

63 profession or its ancillary trades, provided, however that the

64 mere delivery of such products to an ultimate consumer or person

65 acting in ~~his~~ the consumer's behalf for the purpose of *
 66 transporting such products to the licensed dentist who provided
 67 the work order shall not violate this subdivision. This
 68 subdivision shall not apply to mailings, displays, and
 69 advertisements the primary distribution of which is to the
 70 dental profession or its ancillary trades.

71 Subd. 4. DIVIDING FEES. It shall be unlawful for

72 any dentist to divide fees with or promise to pay a part of ~~his~~ *
 73 the dentist's fee to, or to pay a commission to, any dentist or *
 74 other person who calls ~~him~~ the dentist in consultation or who *
 75 sends patients to ~~him~~ the dentist for treatment, or operation, *

1 but nothing herein shall prevent licensed dentists from forming
 2 a bona fide partnership for the practice of dentistry, nor to
 3 the actual employment by a licensed dentist of a licensed dental
 4 hygienist or another licensed dentist.

150A#21S

5 150A.21 REMOVABLE DENTAL PROSTHESES; OWNER
 6 IDENTIFICATION.

7 Subdivision 1. Every complete upper and lower denture and
 8 removable dental prosthesis fabricated by a dentist licensed
 9 under section 150A.06, or fabricated pursuant to ~~his~~ the
 10 dentist's work order, shall be marked with the name and social
 11 security number of the patient for whom the prosthesis is
 12 intended. The markings shall be done during fabrication and
 13 shall be permanent, legible and cosmetically acceptable. The
 14 exact location of the markings and the methods used to apply or
 15 implant them shall be determined by the dentist or dental
 16 laboratory fabricating the prosthesis. If in the professional
 17 judgment of the dentist or dental laboratory, this
 18 identification is not practicable, identification shall be
 19 provided as follows:

20 (a) The social security number of the patient may be
 21 omitted if the name of the patient is shown;

22 (b) The initials of the patient may be shown alone, if use
 23 of the name of the patient is impracticable;

24 (c) The identification marks may be omitted in their
 25 entirety if none of the forms of identification specified in
 26 clauses (a) and (b) are practicable or clinically safe.

27 No change for subd 2 to 3

28 Subd. 4. Failure of any dentist to comply with this
 29 section shall be deemed to be a violation for which the dentist
 30 may be subject to proceedings pursuant to section 150A.08,
 31 provided ~~that he~~ the dentist is charged with the violation
 32 within two years of initial insertion of the dental prosthetic
 33 device.

151*#01S

34 151.01 DEFINITIONS.

35 No change for subd 1 to 4

36 Subd. 5. DRUG. The term "drug" means all medicinal
 37 substances and preparations recognized by the United States
 38 pharmacopoeia and national formulary, or any revision thereof,
 39 and all substances and preparations intended for external and
 40 internal use in the diagnosis, cure, mitigation, treatment, or
 41 prevention of disease in ~~man~~ humans or other ~~animal~~ animals, and
 42 all substances and preparations, other than food, intended to
 43 affect the structure or any function of the ~~body~~ bodies of ~~man~~
 44 humans or other ~~animal~~ animals.

45 No change for subd 6 to 15

46 Subd. 16. PRESCRIPTION. The term "prescription"
 47 means a signed written order, or an oral order reduced to
 48 writing, given by a practitioner licensed to prescribe drugs for
 49 patients in the course of ~~his~~ the practitioner's practice,
 50 issued for an individual patient and containing the following:
 51 the date of issue, name and address of the patient, name and
 52 quantity of the drug prescribed, directions for use, and the
 53 name and address of the prescriber.

54 No change for subd 17 to 26

151*#02S

55 151.02 STATE BOARD OF PHARMACY.

56 The Minnesota state board of pharmacy shall consist of two
 57 public members as defined by section 214.02 and five pharmacists
 58 actively engaged in the practice of pharmacy in this state.
 59 Each of said pharmacists shall have had at least five
 60 consecutive years of practical experience as a pharmacist
 61 immediately preceding ~~his~~ appointment.

151*#03S

62 151.03 MEMBERSHIP.

63 Members of the board shall be appointed by the governor.
 64 Membership terms, compensation of members, removal of members,
 65 the filling of membership vacancies, and fiscal year and
 66 reporting requirements shall be as provided in sections 214.07
 67 to 214.09. The provision of staff, administrative services and
 68 office space; the review and processing of complaints; the
 69 setting of board fees; and other provisions relating to board
 70 operations shall be as provided in chapter 214 and Laws 1976,
 71 Chapter 222, Sections 2 to 7. Any pharmacist on the board who,
 72 during ~~his~~ incumbency, ceases to be actively engaged in the

1 practice of pharmacy in this state shall be automatically
2 disqualified from membership.

151*#10S

3 151.10 QUALIFICATIONS OF APPLICANTS.

4 No change for subd 1

5 Subd. 2. GRADUATES OF SCHOOLS OUTSIDE THE UNITED

6 STATES. An applicant who is a graduate of a school or college
7 of pharmacy located outside the United States, when that school
8 or college of pharmacy has not been recognized by the board as a
9 school in good standing, may be entitled to examination for
10 licensure by the board if the applicant is of good moral
11 character, at least 18 years of age, has completed the
12 internship requirements prescribed by the board, has provided
13 verification of ~~his~~ the applicant's academic record and ~~his~~ *
14 graduation, and has successfully passed examinations approved by
15 the board to establish proficiency in English and equivalency of
16 education with graduates of schools or colleges of pharmacy
17 which the board has determined to be in good standing.

151*#101S

18 151.101 INTERNSHIP.

19 The board may license as an intern any natural person *
20 persons who ~~has~~ have satisfied the board that ~~he-is~~ they are *
21 of good moral character, not physically or mentally unfit, and *
22 who ~~has~~ have successfully completed the educational requirements *
23 for intern licensure prescribed by the board. The board shall
24 prescribe standards and requirements for internship training but
25 may not require more than one year of such training.

26 The board in its discretion may accept internship
27 experience obtained in another state provided the internship
28 requirements in such other state are in the opinion of the board
29 equivalent to those herein provided.

151*#15S

30 151.15 COMPOUNDING DRUGS UNLAWFUL UNDER CERTAIN
31 CONDITIONS.

32 It shall be unlawful for any person to compound, dispense,
33 vend, or sell at retail, drugs, medicines, chemicals, or poisons
34 in any place other than a pharmacy, except as provided in this
35 chapter.

36 No proprietor of a pharmacy shall permit the compounding or
37 dispensing of prescriptions except by a pharmacist, or by an
38 assistant pharmacist, or by a pharmacist intern under the
39 personal supervision of a pharmacist; or the vending or selling
40 at retail of drugs, medicines, chemicals, or poisons in ~~his~~ the *
41 proprietor's pharmacy except under the personal supervision of a *
42 pharmacist or of an assistant pharmacist in the temporary
43 absence of the pharmacist.

151*#19S

44 151.19 REGISTRATION OF PHARMACIES; LICENSE, FEE.

45 The board shall require and provide for the annual
46 registration of every pharmacy now or hereafter doing business
47 within this state. Upon the payment of a fee to be set by the
48 board, the board shall issue a license in such form as it may
49 prescribe to such persons as may be qualified by law to conduct
50 a pharmacy. Such license shall be exposed in a conspicuous
51 place in the pharmacy for which it is issued and expire on the
52 thirtieth day of June following the date of issue. It shall be
53 unlawful for any person to conduct a pharmacy unless such
54 license has been issued to ~~him~~ the person by the board. *

151*#21S

55 151.21 SUBSTITUTION.

56 No change for subd 1

57 Subd. 2. A pharmacist who receives a prescription for a
58 brand name legend drug may, with the written or verbal consent
59 of the purchaser, dispense any drug having the same generic name
60 as the brand name drug prescribed if the prescriber has not
61 personally written in ~~his-own~~ handwriting "dispense as written" *
62 or "D.A.W." on the prescription or, when an oral prescription
63 is given, has not expressly indicated the prescription is to be
64 dispensed as communicated. A pharmacist who receives a
65 prescription marked "D.A.W." or "dispense as written", or an
66 oral prescription indicating that the prescription is to be
67 dispensed as communicated, may substitute for the prescribed
68 brand name drug a generically equivalent drug product which is
69 manufactured in the same finished dosage form having the same
70 active ingredients and strength by the same manufacturer as the
71 prescribed brand name drug. A pharmacist may also substitute

1 pursuant to the oral instructions of the prescriber. A
 2 pharmacist may not substitute a generically equivalent drug
 3 product unless, in the pharmacist's professional judgment, the
 4 substituted drug is therapeutically equivalent and
 5 interchangeable to the prescribed drug. A pharmacist shall
 6 notify the purchaser if ~~he~~ the pharmacist is dispensing a drug
 7 other than the brand name drug prescribed. *

8 No change for subd 3

151*#211S

9 151.211 RECORDS OF PRESCRIPTIONS.

10 All prescriptions dispensed shall be kept on file in the
 11 pharmacy in which such dispensing occurred for a period of at
 12 least two years. No prescription shall be refilled except with
 13 the written or verbal consent of the prescriber; provided that
 14 the date of such refill must be recorded and initialed upon the
 15 original prescription by the pharmacist, assistant pharmacist or
 16 pharmacist intern who refills the prescription ~~and-initialed-by~~
 17 him. *

151*#213S

18 151.213 COPIES OF PRESCRIPTIONS.

19 Prescriptions on file in a pharmacy are not a public
 20 record. A person having custody of or access to such
 21 prescription orders shall not divulge the contents thereof or
 22 provide a copy thereof to anyone except to:

23 (1) The patient for whom the prescription was issued, ~~his~~
 24 the patient's agent, or another pharmacist acting on behalf of
 25 the patient or ~~his~~ the patient's agent; *

26 (2) The licensed practitioner who issued the prescription; *

27 (3) The licensed practitioner who is then treating the
 28 patient; *

29 (4) A member, inspector, or investigator of the board or
 30 any federal, state, county, or municipal officer whose duty it
 31 is to enforce the laws of this state or the United States
 32 relating to drugs and who is engaged in a specific investigation
 33 involving a designated person or drug;

34 (5) An agency of government charged with the responsibility
 35 of providing medical care for the patient;

36 (6) An insurance carrier or attorney on receipt of written
 37 authorization signed by the patient or ~~his~~ the patient's legal
 38 representative, authorizing the release of such information; *

39 (7) Any person duly authorized by a court order.

40 Such copies furnished shall bear on the face thereof the
 41 statement "Copy for information only," and may be filed to
 42 account for the dispensing of a drug only if such dispensing is
 43 authorized in writing or orally by the prescriber and
 44 communicated to the pharmacist dispensing and filing such copy.

151*#23S

45 151.23 POISONS MUST BE LABELED.

46 It shall be unlawful for any person to sell at retail any
 47 poison without affixing to the package or receptacle containing
 48 the same a label conspicuously bearing the word "poison," and
 49 the name and the business address of the seller, and ~~satisfying~~
 50 himself being satisfied that such poison is to be legitimately
 51 used. This section shall not apply to the sale of poison on a
 52 physician's written prescription or in the original package of
 53 the manufacturer. *

151*#24S

54 151.24 SALE OF POISONS MUST BE RECORDED.

55 It shall be unlawful:

56 (1) For any person, either ~~on-his-own-behalf~~ acting
 57 independently or while in the employ of another, to sell or give
 58 away any poison, as designated by the board, without first
 59 recording in a book to be kept for that purpose with an
 60 indelible pencil or ink the date, the name and address of the
 61 person to whom, and the amount and kind of poison, delivered,
 62 except when such poison is sold on the written prescription of a
 63 physician; *

64 (2) To give a false name to be recorded;

65 (3) For any person having custody of any such record book
 66 to refuse to produce it on demand for the inspection of any
 67 authorized agent of the board or other duly authorized officer. *

151*#25S

68 151.25 LICENSURE OF MANUFACTURERS OR WHOLESALERS; FEE;
 69 PROHIBITIONS.

70 The board shall require and provide for the annual
 71 licensure of every person engaged in manufacturing or selling at

1 wholesale drugs, medicines, chemicals or poisons for medicinal
 2 purposes, now or hereafter doing business within this state.
 3 Upon a payment of a fee as set by the board, the board shall
 4 issue a license in such form as it may prescribe to such
 5 manufacturer or wholesaler. Such license shall be exposed in a
 6 conspicuous place in such manufacturer's or wholesaler's place
 7 of business for which it is issued and expire on the 13th day of
 8 June following the date of issue. It shall be unlawful for any
 9 person to manufacture or sell at wholesale drugs, medicines,
 10 chemicals or poisons for medicinal purposes unless such a
 11 license has been issued to ~~him~~ the person by the board. It *
 12 shall be unlawful for any person engaged in the manufacture or *
 13 selling at wholesale, or ~~his~~ the person's agent, to sell legend *
 14 drugs to other than a pharmacy, except as provided in this
 15 chapter.

151*#26S

16 151.26 EXCEPTIONS.

17 Subdivision 1. Nothing in this chapter shall subject a
 18 person duly licensed in this state to practice medicine,
 19 dentistry, or veterinary medicine, to inspection by the state
 20 board of pharmacy, nor ~~to~~ prevent ~~him~~ such a person from *
 21 compounding or using drugs, medicines, chemicals, or poisons *
 22 in ~~his~~ the person's practice, nor prevent one duly licensed to *
 23 practice medicine from furnishing to a patient such drugs,
 24 medicines, chemicals, or poisons ~~as he~~ the licensed person deems *
 25 proper in the treatment of such patient.

26 Nothing in this chapter shall prevent the sale of drugs,
 27 medicines, chemicals, or poisons at wholesale to licensed
 28 physicians, dentists and veterinarians for use in their
 29 practice, nor to hospitals for use therein.

30 Nothing in this chapter shall prevent the sale of drugs,
 31 chemicals, or poisons either at wholesale or retail for use for
 32 commercial purposes, or in the arts, nor interfere with the sale
 33 of insecticides, as defined in Minnesota Statutes 1974, Section
 34 24.069, and nothing in this chapter shall prevent the sale of
 35 common household preparations and other drugs, chemicals, and
 36 poisons sold exclusively for use for non-medicinal purposes.

37 Nothing in this chapter shall apply to or interfere with
 38 the vending or retailing of any non-prescription medicine or
 39 drug not otherwise prohibited by statute which is prepackaged,
 40 fully prepared by the manufacturer or producer for use by the
 41 consumer, and labeled in accordance with the requirements of the
 42 state or federal food and drug act; nor to the manufacture,
 43 wholesaling, vending, or retailing of flavoring extracts, toilet
 44 articles, cosmetics, perfumes, spices, and other commonly used
 45 household articles of a chemical nature, for use for
 46 non-medicinal purposes. Nothing in this chapter shall prevent
 47 the sale of drugs or medicines by licensed pharmacists at a
 48 discount to persons over 65 years of age.

49 Subd. 2. Repealed, 1973 c 639 s 11

151*#28S

50 151.28 BOARD MAY TURN OVER FUNDS FOR ADVANCEMENT OF
51 SCIENCE OF PHARMACY.

52 The board may each year turn over to the Minnesota state
 53 pharmaceutical association for the advancement of the science
 54 and art of pharmacy, out of the annual fees collected by it,
 55 such sum as it may deem advisable, not to exceed \$1 for each
 56 pharmacist and assistant pharmacist who shall have paid ~~his~~ the *
 57 renewal fee during such year. The association shall annually
 58 report to the board on the conditions of pharmacy in the state.

151*#37S

59 151.37 LEGEND DRUGS, WHO MAY PRESCRIBE, POSSESS.

60 Subdivision 1. Except as otherwise provided in this
 61 chapter, it shall be unlawful for any person to have in ~~his-or~~ *
 62 ~~its~~ possession, or to sell, give away, barter, exchange, or *
 63 distribute a legend drug.

64 Subd. 2. A licensed practitioner in the course of ~~his~~ *
 65 professional practice only, may prescribe, administer, and
 66 dispense a legend drug, or ~~he~~ may cause the same to be *
 67 administered by a nurse or intern under ~~his~~ the practitioner's *
 68 direction and supervision.

69 Subd. 3. A licensed doctor of veterinary medicine, in the *
 70 course of ~~his~~ professional practice only and not for use by a *
 71 human being, may prescribe, administer, and dispense a legend *
 72 drug, and ~~he~~ may cause the same to be administered by an *
 73 assistant under ~~his~~ the doctor's direction and supervision. *

1 No change for subd 4 to 5

2 Subd. 6. Nothing in this chapter shall prohibit the
3 possession of a legend drug by an employee or agent of a
4 licensed manufacturer, licensed drug wholesaler, or registered
5 pharmacy, while acting in the course of ~~his~~ employment. *

6 Subd. 7. Nothing in this chapter shall prohibit the
7 possession of a legend drug by a person for ~~his-own~~ that
8 person's use when it has been dispensed to ~~him~~ the person
9 pursuant to a written or oral prescription by a practitioner. *

10 Subd. 8. It shall be unlawful for any person to procure,
11 attempt to procure, possess or ~~have-in-his~~ control a legend drug
12 by any of the following means: *

13 (a) deceit, misrepresentation, or subterfuge;

14 (b) using a false name;

15 (c) falsely assuming the title of, or falsely representing
16 any person to be a manufacturer, wholesaler, pharmacist,
17 practitioner, or other authorized person for the purpose of
18 obtaining a legend drug.

19 Subd. 9. Nothing in this chapter shall prohibit the
20 possession of a legend drug by an employee or agent of a
21 registered analytical laboratory while acting in the course of
22 ~~his-or-her~~ laboratory employment. *

151*#38S

23 151.38 EMBARGOES.

24 (1) Whenever a duly authorized agent of the board finds or
25 has probable cause to believe that any drug or medicine is
26 adulterated, or so misbranded as to be dangerous or fraudulent,
27 or is being sold, delivered, or offered for sale in violation of
28 section 151.361, ~~he~~ the agent shall affix thereto an appropriate
29 marking, giving notice that the article is, or is suspected of
30 being, adulterated, misbranded or sold, delivered, or offered
31 for sale in violation of section 151.361 and has been embargoed,
32 and warning that it is unlawful for any person to remove or
33 dispose of the embargoed article by sale or otherwise without
34 permission from the agent or the court.

35 (2) When an embargoed article has been found by the agent
36 to be adulterated or misbranded, or is being sold, delivered, or
37 offered for sale in violation of section 151.361, the board
38 shall, within 30 days, petition the district court in whose
39 jurisdiction the article is embargoed for an order of
40 condemnation. When an embargoed article is not so found by the
41 agent ~~he~~, the agent shall remove the marking. *

42 (3) If the court finds that an embargoed article is
43 adulterated or misbranded, or is being sold, delivered, or
44 offered for sale in violation of section 151.361, the article
45 shall be destroyed at the expense of the claimant thereof, who
46 shall also pay all court costs and fees, storage and other
47 proper expenses. If the adulteration or misbranding, or lack of
48 manufacturer disclosure as required by section 151.361 can be
49 corrected by proper labeling or processing of the article, or by
50 filing the proper documents with the court, the court, after the
51 costs, fees, and expenses have been paid and a sufficient bond
52 has been executed, may order that the article be delivered to
53 the claimant for labeling, processing or filing under
54 supervision of an agent of the board. The expense of the
55 supervision shall be paid by claimant. The bond shall be
56 returned to the claimant on the representation to the court by
57 the board that the article is no longer in violation of this
58 chapter and that the expenses of supervision have been paid.

151*#39S

59 151.39 DISTRESSED DRUGS.

60 No change for subd 1 to 2

61 Subd. 3. Every person who owns or ~~has-under-his-control~~
62 controls distressed drugs shall immediately notify the board of
63 the existence of such drugs and the location thereof and the
64 board shall promptly cause an inspection and examination to be
65 made of such drugs. *

66 No change for subd 3a to 4

151*#40S

67 151.40 POSSESSION AND SALE OF HYPODERMIC SYRINGES AND
68 NEEDLES.

69 It shall be unlawful for any person to possess, ~~have-under~~
70 ~~his~~ control, manufacture, sell, furnish, dispense, or otherwise
71 dispose of hypodermic syringes or needles or any instrument or
72 implement which can be adapted for subcutaneous injections,
73 except by the following persons when acting in the course of *

1 their practice or employment: licensed practitioners, registered
 2 pharmacies and their employees or agents, licensed pharmacists,
 3 licensed doctors of veterinary medicine or their assistants,
 4 registered nurses, registered medical technologists, medical
 5 interns, licensed drug wholesalers, their employees or agents,
 6 licensed hospitals, licensed nursing homes, bona fide hospitals
 7 where animals are treated, licensed morticians, syringe and
 8 needle manufacturers, their dealers and agents, persons engaged
 9 in animal husbandry, clinical laboratories, persons engaged in
 10 bona fide research or education or industrial use of hypodermic
 11 syringes and needles provided such persons cannot use hypodermic
 12 syringes and needles for the administration of drugs to human
 13 beings unless such drugs are prescribed, dispensed, and
 14 administered by a person lawfully authorized to do so, persons
 15 who administer drugs pursuant to an order or direction of a
 16 licensed doctor of medicine or of a licensed doctor of
 17 osteopathy duly licensed to practice medicine.

152*#01S

18 152.01 DEFINITIONS.

19 No change for subd 1

20 Subd. 2. DRUG. The term "drug" includes all
 21 medicines and preparations recognized in the United States
 22 pharmacopoeia or national formulary and any substance or mixture
 23 of substances intended to be used for the cure, mitigation, or
 24 prevention of disease of either ~~man~~ humans or other animals. *

25 Subd. 3. MS 1967 Repealed, 1969 c 933 s 22

26 No change for subd 3 to 18

152*#09S

27 152.09 PROHIBITED ACTS.

28 Subdivision 1. UNLAWFUL ACTS. Except as otherwise
 29 provided in this chapter, it shall be unlawful for any person,
 30 firm, or corporation to

31 (1) Manufacture, sell, give away, barter, deliver, exchange
 32 or distribute; or possess with intent to manufacture, sell, give
 33 away, barter, deliver, exchange or distribute, a controlled
 34 substance.

35 (2) Possess a controlled substance, except when the
 36 possession is for ~~his~~ that person's own use and is authorized by
 37 law. *

38 (3) Manufacture, sell, transfer, or deliver or attempt to
 39 sell, transfer or deliver a noncontrolled substance in violation
 40 of section 152.097.

41 Subd. 2. It shall be unlawful for any person to procure,
 42 attempt to procure, possess or have ~~in-his~~ control over a
 43 controlled substance by any of the following means: *

44 (1) fraud, deceit, misrepresentation or subterfuge;

45 (2) using a false name or giving false credit;

46 (3) falsely assuming the title of, or falsely representing
 47 any person to be, a manufacturer, wholesaler, pharmacist,
 48 physician, doctor of osteopathy licensed to practice medicine,
 49 dentist, podiatrist, veterinarian, or other authorized person
 50 for the purpose of obtaining a controlled substance.

152*#094S

51 152.094 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR
52 PROHIBITED.

53 Any person 18 years of age or older who violates section
 54 152.093 by knowingly or intentionally delivering drug
 55 paraphernalia to a person under 18 years of age who is at least
 56 three years ~~his-junior~~ younger is guilty of a gross misdemeanor. *

152*#096S

57 152.096 CONSPIRACIES PROHIBITED.

58 No change for subd 1

59 Subd. 2. CONVICTION OF CO-CONSPIRATOR NOT REQUIRED.

60 A person liable under this section may be charged with and
 61 convicted of conspiracy although the person or persons with whom
 62 ~~he~~ that person conspired have not been convicted or have been
 63 convicted of some other crime based on the same act. *

152*#101S

64 152.101 MANUFACTURERS, RECORDS.

65 No change for subd 1

66 Subd. 2. This section shall not apply to a licensed doctor
 67 of medicine, a doctor of osteopathy duly licensed to practice
 68 medicine, a licensed doctor of dentistry, a licensed doctor of
 69 podiatry, or licensed doctor of veterinary medicine in the
 70 course of ~~his~~ that doctor's professional practice, unless such
 71 practitioner regularly engages in dispensing any such drugs *

1 to ~~his~~ the practitioner's patients for which the patients are *
 2 charged, either separately or together with charges for other
 3 professional services.

4 No change for subd 3

152*#11S

5 152.11 WRITTEN OR ORAL PRESCRIPTIONS, REQUISITES.
 6 Subdivision 1. No person may dispense a controlled
 7 substance included in Schedule II of section 152.02 without a
 8 prescription written by a doctor of medicine, a doctor of
 9 osteopathy licensed to practice medicine, a doctor of dental
 10 surgery, a doctor of dental medicine, a doctor of podiatry, or a
 11 doctor of veterinary medicine, lawfully practicing ~~his~~ the *
 12 profession in this state. Provided that in emergency
 13 situations, as authorized by federal law, such drug may be
 14 dispensed upon oral prescription reduced promptly to writing and
 15 filed by the pharmacist. Such prescriptions shall be retained
 16 in conformity with section 152.101. No prescription for a
 17 Schedule II substance may be refilled.

18 For the purposes of Laws 1971, Chapter 937, a written
 19 prescription or oral prescription, which shall be reduced to
 20 writing, for a controlled substance in Schedules II, III, IV or
 21 V is void unless (1) it is written in ink and contains the name
 22 and address of the person for whose use it is intended; (2) it
 23 states the amount of the controlled substance to be compounded
 24 or dispensed, with directions for its use; (3) if a written
 25 prescription, it contains the signature, address and federal
 26 registry number of the prescriber and a designation of the
 27 branch of the healing art pursued by the prescriber; and if an
 28 oral prescription, the name and address of the prescriber and a
 29 designation of ~~his~~ the prescriber's branch of the healing art; *
 30 and (4) it shows the date when signed by the prescriber, or the
 31 date of acceptance in the pharmacy if an oral prescription.
 32 Every licensed pharmacist who compounds any such prescription
 33 shall retain such prescription in a file for a period of not
 34 less than two years, open to inspection by any officer of the
 35 state, county, or municipal government, whose duty it is to aid
 36 and assist with the enforcement of this chapter. Every such
 37 pharmacist shall distinctly label the container with the
 38 directions contained in the prescription for the use thereof.

39 Subd. 2. No person may dispense a controlled substance
 40 included in Schedules III or IV of section 152.02 without a
 41 written or oral prescription from a doctor of medicine, a doctor
 42 of osteopathy licensed to practice medicine, a doctor of dental
 43 surgery, a doctor of dental medicine, a doctor of podiatry, or a
 44 doctor of veterinary medicine, lawfully practicing ~~his~~ the *
 45 profession in this state. Such prescription may not be
 46 dispensed or refilled except with the written or verbal consent
 47 of the prescriber, and in no event more than six months after
 48 the date on which such prescription was issued and no such
 49 prescription may be refilled more than five times.

152*#12S

50 152.12 DOCTORS MAY PRESCRIBE.
 51 Subdivision 1. A licensed doctor of medicine, a doctor of
 52 osteopathy, duly licensed to practice medicine, a doctor of
 53 dental surgery, or a doctor of dental medicine, or a licensed
 54 doctor of podiatry, and in the course of ~~his~~ professional *
 55 practice only, may prescribe, administer, and dispense a
 56 controlled substance included in Schedules II through V of
 57 section 152.02, or ~~he~~ may cause the same to be administered by a *
 58 nurse, an intern or an assistant under ~~his~~ the direction and *
 59 supervision of the doctor. *

60 Subd. 2. A licensed doctor of veterinary medicine, in good
 61 faith, and in the course of ~~his~~ professional practice only, and *
 62 not for use by a human being, may prescribe, administer, and
 63 dispense a controlled substance included in Schedules II through
 64 V of section 152.02, and ~~he~~ may cause the same to be *
 65 administered by an assistant under ~~his~~ the direction and *
 66 supervision of the doctor. *

67 No change for subd 3

68 Subd. 4. Nothing in this chapter shall prohibit the sale
 69 to, or the possession of, a controlled substance in Schedules
 70 II, III, IV or V by: Registered drug wholesalers, registered
 71 manufacturers, registered pharmacies, or any licensed hospital
 72 or other licensed institutions wherein sick and injured persons
 73 are cared for or treated, or bona fide hospitals wherein animals
 74 are treated; or by licensed pharmacists, licensed doctors of

1 medicine, doctors of osteopathy duly licensed to practice
 2 medicine, licensed doctors of dental surgery, licensed doctors
 3 of dental medicine, licensed doctors of podiatry, or licensed
 4 doctors of veterinary medicine when such practitioners use
 5 controlled substances within the course of their professional
 6 practice only.

7 Nothing in this chapter shall prohibit the possession of a
 8 controlled substance in Schedules II, III, IV or V by an
 9 employee or agent of a registered drug wholesaler, registered
 10 manufacturer, or registered pharmacy, while acting in the course
 11 of his employment, or by a patient of a licensed doctor of *
 12 medicine, a doctor of osteopathy duly licensed to practice
 13 medicine, or a licensed doctor of dental surgery, a licensed
 14 doctor of dental medicine, or by the owner of an animal for
 15 which a controlled substance has been prescribed by a licensed
 16 doctor of veterinary medicine, when such controlled substances
 17 are dispensed according to law.

18 Subd. 5. Nothing in this chapter shall prohibit an
 19 analytical laboratory from conducting an anonymous analysis
 20 service when such laboratory is registered by the Federal Drug
 21 Enforcement Administration, nor prohibit the possession of a
 22 controlled substance by an employee or agent of such analytical *
 23 laboratory while acting in the course of his-or-her employment.

152*#15S

24 152.15 VIOLATIONS; PENALTIES.

25 No change for subd 1

26 Subd. 2. Any person who violates section 152.09,
 27 subdivision 1, clause (2), with respect to:

28 (1) A controlled substance classified in Schedule I or II
 29 which is a narcotic drug, is guilty of a crime and upon
 30 conviction may be imprisoned for not more than five years or
 31 fined not more than \$10,000, or both;

32 (2) Any other controlled substance classified in Schedule
 33 I, II, or III, except small amounts of marijuana, is guilty of a
 34 crime and upon conviction may be imprisoned for not more than
 35 three years, fined not more than \$5,000, or both;

36 (3) A substance classified in Schedule IV, is guilty of a
 37 crime and upon conviction may be imprisoned for not more than
 38 three years, fined not more than \$5,000, or both;

39 (4) A substance classified in Schedule V, is guilty of a
 40 crime and upon conviction may be imprisoned for not more than
 41 one year, fined not more than \$3,000, or both; provided,
 42 however, that any person convicted under this section of
 43 possessing a substance classified under Schedule V, and placed
 44 on probation may be required to take part in a drug education
 45 program as specified by the court;

46 (5) A small amount of marijuana is guilty of a petty
 47 misdemeanor punishable by a fine of up to \$100 and participation
 48 in a drug education program unless the court enters a written
 49 finding that such a program is inappropriate, said program being
 50 approved by an area mental health board with a curriculum
 51 approved by the state alcohol and drug abuse authority. A
 52 subsequent violation of this clause within two years is a
 53 misdemeanor, and a person so convicted shall be required to
 54 participate in a chemical dependency evaluation and treatment if
 55 so indicated by the evaluation. Upon a first conviction under
 56 this section the courts shall forward a report of said
 57 conviction to the department of public safety which shall make
 58 and maintain a private, nonpublic, record for a period not to
 59 exceed two years from the date of conviction. The private,
 60 nonpublic record shall be solely for use by the courts in
 61 determining the penalties which attach upon conviction under
 62 this section.

63 Additionally a person who is the owner of a private motor
 64 vehicle, or the driver of the motor vehicle if the owner is not
 65 present, and who possesses on his the person or knowingly keeps *
 66 or allows to be kept in a motor vehicle within the area of the
 67 vehicle normally occupied by the driver or passengers more than
 68 .05 ounce of marijuana is guilty of a misdemeanor. This area of
 69 the vehicle shall not include the trunk of the motor vehicle
 70 when such vehicle is equipped with a trunk or another area of
 71 the vehicle not normally occupied by the driver or passengers if
 72 the vehicle is not equipped with a trunk. A utility or glove
 73 compartment shall be deemed to be within the area occupied by
 74 the driver and passengers.

75 (6) In any case in which a defendant is convicted of a

1 petty misdemeanor under the provisions of clause (5) and
 2 willfully and intentionally fails to comply with the sentence
 3 imposed, said defendant shall be guilty of a misdemeanor.

4 (7) Compliance with the terms of any sentence imposed for
 5 violation of clause (5) before conviction under clause (6) shall
 6 be an absolute defense.

7 No change for subd 2a to 3

8 Subd. 4. Any person 18 years of age or over who violates
 9 section 152.09, subdivision 1, clause (1), by distributing a
 10 controlled substance listed in Schedules I or II which is a
 11 narcotic drug to a person under 18 years of age who is at least
 12 three years ~~his-junior~~ younger is punishable by the fine *
 13 authorized by section 152.15, subdivision 1, clause (1), by a
 14 term of imprisonment of up to twice that authorized by section
 15 152.15, subdivision 1, clause (1), or by both. Any person 18
 16 years of age or over who violates section 152.09, subdivision 1,
 17 by distributing any other controlled substance listed in
 18 Schedules I, II, III, IV, and V, except marijuana, to a person
 19 under 18 years of age who is at least three years ~~his-junior~~ *
 20 younger is punishable by the fine authorized by section 152.15, *
 21 subdivision 1, clauses (2), (3), or (4), by a term of
 22 imprisonment up to twice that authorized by section 152.15,
 23 subdivision 1, clauses (2), (3), or (4), or both.

24 No change for subd 4a to 5

152*#18S

25 152.18 DISCHARGE AND DISMISSAL.

26 Subdivision 1. If any person is found guilty of a
 27 violation of section 152.09, subdivision 1, clause (2) after
 28 trial or upon a plea of guilty, the court may, without entering
 29 a judgment of guilty and with the consent of such person, defer
 30 further proceedings and place ~~him~~ the person on probation upon *
 31 such reasonable conditions as it may require and for a period,
 32 not to exceed the maximum term of imprisonment provided for such
 33 violation. The court may give the person the opportunity to
 34 attend and participate in an appropriate program of education
 35 regarding the nature and effects of alcohol and drug abuse as a
 36 stipulation of probation. Upon violation of a condition of the
 37 probation, the court may enter an adjudication of guilt and
 38 proceed as otherwise provided. The court may, in its
 39 discretion, dismiss the proceedings against such person and
 40 discharge ~~him~~ the person from probation before the expiration of *
 41 the maximum period prescribed for such person's probation. If *
 42 during the period of ~~his~~ probation such person does not violate
 43 any of the conditions of the probation, then upon expiration of
 44 such period the court shall discharge such person and dismiss *
 45 the proceedings against ~~him~~ that person. Discharge and *
 46 dismissal hereunder shall be without court adjudication of
 47 guilt, but a nonpublic record thereof shall be retained by the
 48 department of public safety solely for the purpose of use by the
 49 courts in determining the merits of subsequent proceedings
 50 against such person. The court shall forward a record of any
 51 discharge and dismissal hereunder to the department of public
 52 safety who shall make and maintain the nonpublic record thereof
 53 as hereinbefore provided. Such discharge or dismissal shall not
 54 be deemed a conviction for purposes of disqualifications or
 55 disabilities imposed by law upon conviction of a crime or for
 56 any other purpose.

57 Subd. 2. Upon the dismissal of such person and discharge
 58 of the proceedings against ~~him~~ the person pursuant to *
 59 subdivision 1, such person may apply to the district court in
 60 which the trial was had for an order to expunge from all
 61 official records, other than the nonpublic record retained by
 62 the department of public safety pursuant to subdivision 1, all
 63 recordation relating to arrest, indictment or information, trial
 64 and dismissal and discharge pursuant to subdivision 1. If the
 65 court determines, after hearing, that such person was discharged
 66 and the proceedings ~~against-him~~ dismissed, it shall enter such *
 67 order. The effect of the order shall be to restore the person,
 68 in the contemplation of the law, to the status ~~he~~ the person *
 69 occupied before such arrest or indictment or information. No
 70 person as to whom such an order has been entered shall be held
 71 thereafter under any provision of any law to be guilty of
 72 perjury or otherwise giving a false statement by reason of ~~his~~ *
 73 the person's failure to recite or acknowledge such arrest, or *
 74 indictment or information, or trial in response to any inquiry
 75 made for ~~him~~ the person for any purpose. *

1 Subd. 3. Any person who has been found guilty of a
 2 violation of section 152.09 with respect to a small amount of
 3 marijuana which violation occurred prior to April 11, 1976, and
 4 whose conviction would have been a petty misdemeanor under the
 5 provisions of section 152.15, subdivision 2, clause (5) in
 6 effect on April 11, 1978, but whose conviction was for an
 7 offense more serious than a petty misdemeanor under laws in
 8 effect prior to April 11, 1976, may petition the court in which
 9 he the person was convicted to expunge from all official
 10 records, other than the nonpublic record retained by the
 11 department of public safety pursuant to section 152.15,
 12 subdivision 2, clause (5), all recordation relating to ~~his~~ the
 13 person's arrest, indictment or information, trial and conviction
 14 of an offense more serious than a petty misdemeanor. The court,
 15 upon being satisfied that a small amount was involved in the
 16 conviction, shall order all the recordation expunged. No person
 17 as to whom an order has been entered pursuant to this
 18 subdivision shall be held thereafter under any provision of any
 19 law to be guilty of perjury or otherwise giving a false
 20 statement by reason of ~~his~~ the person's failure to recite or
 21 acknowledge conviction of an offense greater than a petty
 22 misdemeanor, unless possession of marijuana is material to a
 23 proceeding.

152*#19S

24 152.19 FORFEITURES.

25 Subdivision 1. The following are subject to forfeiture:

26 (1) All controlled substances which have been manufactured,
27 distributed, dispensed or acquired in violation of this chapter.

28 (2) All raw materials, moneys, products and equipment of
29 any kind which are used, or intended for use, in manufacturing,
30 compounding, processing, delivering, importing, or exporting any
31 controlled substance in violation of this chapter.

32 (3) All property which is used, or intended for use, as a
33 primary container for property described in clauses (1) or (2).

34 (4) All drug paraphernalia as defined by section 152.01,
35 subdivision 18.

36 (5) All conveyances, including aircraft, vehicles, or
37 vessels which are used, or intended for use, to transport, or in
38 any manner to facilitate the transportation, for the purpose of
39 sale or receipt of property described in clauses (1) or (2)
40 having a retail value of \$100 or more, but:

41 (a) No conveyance used by any person as a common carrier in
42 the transaction of business as a common carrier is subject to
43 forfeiture under this section unless the owner or other person
44 in charge of the conveyance is a consenting party or privy to a
45 violation of this chapter.

46 (b) No conveyance is subject to forfeiture under this
47 section unless the owner thereof is privy to a violation of this
48 chapter, or that the use of the conveyance in such violation
49 otherwise occurred with ~~his~~ the owner's knowledge or consent.

50 (c) A forfeiture of a conveyance encumbered by a bona fide
51 security interest is subject to the interest of the secured
52 party unless he the secured party had knowledge of or consented
53 to the act or omission upon which the forfeiture is based.

54 (6) All property or things of value furnished, or intended
55 to be furnished, in exchange for a controlled substance in
56 violation of the law, all proceeds derived from or traceable to
57 a controlled substance exchange, and all moneys, precious
58 metals, gems, negotiable instruments, and securities used, or
59 intended to be used, to facilitate any violation relating to
60 controlled substances.

61 All moneys, precious metals, and gems found in proximity to
62 controlled substances, forfeitable drug manufacturing or
63 distributing equipment or devices, or to forfeitable records of
64 manufacture or distribution of controlled substances, are
65 presumed to be property subject to forfeiture under this
66 section. Claimants of the property bear the burden to rebut
67 this presumption.

68 Property shall be forfeited under this section, to the
69 extent the owner thereof was privy to the violation upon which
70 the forfeiture action is based.

71 (7) All books, records, and research products and
72 materials, including formulas, microfilm, tapes, and data which
73 are used, or intended for use, in violation of this chapter.

74 No change for subd 2 to 7

75 Subd. 8. The failure, upon demand by the appropriate

1 agency, or its authorized agent, of the person in occupancy or
 2 in control of land or premises upon which the species of plants
 3 are growing or being stored, to produce an appropriate
 4 registration, or proof that he the person is the holder thereof, *
 5 constitutes authority for the seizure and forfeiture of the
 6 plants.

153*#04S

7 153.04 LICENSURE BY EXAMINATION.

8 Any person entitled to licensure, who shall furnish the
 9 board with satisfactory proof ~~that he is 18 years~~ of being 18 *
 10 years of age or over and of good moral character, provide *
 11 documentary evidence of preliminary education received prior to
 12 entering the study of podiatry equal to that required for
 13 completion of four years work in a high school course, and one
 14 year in a college of liberal arts, and present a diploma or
 15 certificate from a school of podiatry recognized by the board
 16 and having a minimum requirement of at least 32 months of course
 17 work shall, upon payment of a fee set by the board, be
 18 examined. If found qualified, the applicant shall be licensed
 19 and receive in testimony thereof a license signed by
 20 the chairman chair and secretary of the board. *

21 An applicant who fails to pass an examination satisfactory
 22 to the board and is therefore refused licensure shall be
 23 entitled, within one year after the refusal, to a
 24 reexamination. Payment of an additional fee set by the board
 25 for each reexamination may be required. No more than two
 26 reexaminations shall be permitted under an original application.

27 Any person to whom a license is granted under the
 28 provisions of this chapter shall ~~designate-himself-as-a~~ use the *
 29 designation of doctor of podiatric medicine. *

30 Upon the payment of a license renewal fee and the
 31 satisfaction of requirements as the board may by rule prescribe,
 32 a licensed podiatrist shall have ~~his~~ the license renewed. The *
 33 board may, by rule, establish penalties for late renewal.

153*#06S

34 153.06 EVIDENCE OF PRACTICING.

35 It shall be deemed prima facie evidence of the practice of
 36 podiatry, or of holding oneself out as a practitioner of
 37 podiatry within the meaning of this chapter, for any person to
 38 diagnose or treat in any manner the human hand or foot by
 39 medical, mechanical or surgical methods, or to use the title
 40 podiatrist or registered podiatrist, or any other words or
 41 letters which designate, or tend to designate, to the public
 42 that the person so treating, or holding ~~himself~~ out to treat, is *
 43 a podiatrist, or who in any manner shall publicly profess to
 44 practice or assume the duties incident to the practice of
 45 podiatry.

153*#13S

46 153.13 RECIPROCITY.

47 The board may accept the certificate of license of the
 48 board of registration and examination of any other state or
 49 territory or any foreign country whose standards of
 50 qualifications and requirements for practice are equivalent to
 51 those of this state, on payment of the required fee set by the
 52 board, with the endorsement of the chairman chair and secretary *
 53 of the board.

153*#15S

54 153.15 OFFENSES; PENALTIES.

55 Any person who shall unlawfully obtain licensure under this
 56 chapter, whether by false or untrue statements contained in ~~his~~ *
 57 the application to the board or by presenting to the board a *
 58 fraudulent diploma, certificate, or license, or one fraudulently
 59 obtained, shall be deemed guilty of a misdemeanor; and any
 60 person not being lawfully authorized to practice podiatry in
 61 this state and licensed as aforesaid, who shall advertise as a
 62 podiatrist in any form, or hold ~~himself~~ out to the public as a *
 63 podiatrist, or who shall attempt to mislead any person or the
 64 public into assuming that ~~he or she~~ the person is licensed, or *
 65 who, not being duly licensed to practice medicine, osteopathy,
 66 or chiropractic in this state, shall offer to diagnose or treat
 67 the ailments of the human foot, or who shall diagnose or treat
 68 the ailments of the human foot by medicinal, mechanical, or
 69 surgical means, shall be guilty of a misdemeanor; provided, that
 70 the simple sale of shoes, appliances or similar devices
 71 including arch supports and the adjustment thereof, or the sale
 72 of heel pads, cushions or other devices shall not be considered

1 the practice of podiatry; however the adjusting of, or the
 2 addition of corrective wedging of said shoes, appliances or
 3 similar devices for correction of feet ailments except as
 4 provided above shall be by prescription of a licensed
 5 practitioner under the terms of this chapter. Provided,
 6 however, that no appliance prescribed by a podiatrist for the
 7 prevention, correction or relief of foot ailments or troubles
 8 shall be in any manner altered, adjusted or readjusted by any
 9 person other than licensed practitioner of podiatry.

10 It shall be unlawful for any person, firm, or corporation
 11 to publish directly or indirectly or circulate any fraudulent,
 12 false, or misleading statements as to the skill or method of
 13 practice of any person or operator in the practice of podiatry,
 14 or in any way to advertise podiatry as to be practiced without
 15 pain, or to advertise in any manner with a view to deceiving the
 16 public, or to claim superiority over other podiatrists, or to
 17 publish reports of cases or certificates of same in any
 18 advertising media, or to advertise as using any anesthetic,
 19 drug, formula, material, medicine, method, or system, or to
 20 advertise free podiatry services or examinations, or to
 21 advertise any amount as a price or fee for the service of any
 22 person engaged in the practice of podiatry. Any licensed
 23 podiatrist may announce by way of a professional card containing
 24 only the name, title, degree, office location, office hours,
 25 telephone number, and residence address and telephone number, if
 26 desired, and ~~if he limits his~~ any limitation of practice to a *
 27 specialty ~~he may announce it~~, but such card shall not be greater *
 28 in size than eight column inches, and such information may be
 29 inserted in public print when not more than two columns in width
 30 and four inches in depth; outdoor or similar signs shall not
 31 exceed 12 by 18 inches and the text limited to the above
 32 qualifications. It shall not be considered unprofessional or
 33 unlawful to conduct an educational campaign to give information
 34 as to the practice of podiatry, providing such campaign is first
 35 approved by the board. Any person violating any of the
 36 provisions of this section as it relates to advertising shall be
 37 guilty of a misdemeanor.

154*#01S

38 154.01 REGISTRATION.

39 No person shall practice, or attempt to practice, barbering
 40 without a certificate of registration as a registered barber,
 41 issued pursuant to provisions of this chapter by the board of
 42 barber examiners hereinafter established.

43 No person shall serve, or attempt to serve, as an
 44 apprentice under a registered barber until ~~he has filed~~ notice *
 45 has been filed with the board of ~~his~~ the person's intention of *
 46 becoming an apprentice under a registered barber.

47 It is unlawful to operate a barber shop unless it is at all
 48 times under the direct supervision and management of a
 49 registered barber.

154*#03S

50 154.03 APPRENTICES MAY BE EMPLOYED.

51 ~~No~~ A registered apprentice may not independently practice *
 52 barbering, but ~~he~~ may as an apprentice do any or all of the acts *
 53 constituting the practice of barbering under the immediate
 54 personal supervision of a registered barber.

154*#05S

55 154.05 WHO MAY RECEIVE CERTIFICATES.

56 A person is qualified to receive a certificate of
 57 registration to practice barbering:

- 58 (1) Who is qualified under the provisions of section 154.06;
- 59 (2) Who is at least 18 years of age;
- 60 (3) Who is of good moral character and temperate habits and
 61 free from any contagious or infectious disease;
- 62 (4) Who has practiced as a registered apprentice for a
 63 period of 15 months under the immediate personal supervision of
 64 a registered barber; and
- 65 (5) Who has passed a satisfactory examination conducted by
 66 the board of barber examiners to determine ~~his~~ fitness to *
 67 practice barbering.

68 An applicant for a certificate of registration to practice
 69 as a registered barber who fails to pass a satisfactory
 70 examination conducted by the board must continue to practice as
 71 an apprentice for an additional six months before ~~he is~~ being *
 72 again entitled to take the examination for a registered barber.

154*#06S

1 154.06 WHO MAY RECEIVE CERTIFICATES AS REGISTERED
2 APPRENTICE.

3 A person is qualified to receive a certificate of
4 registration as a registered apprentice:

5 (1) Who has completed at least ten grades of an approved
6 school;

7 (2) Who is of good moral character and temperate habits and
8 free from any contagious or infectious disease;

9 (3) Who has been graduated from a school of barbering
10 approved by the board of barber examiners; and

11 (4) Who has passed a satisfactory examination conducted by
12 the board to determine his fitness to practice as a registered
13 apprentice. *

14 An applicant for a certificate of registration to practice
15 as an apprentice who fails to pass a satisfactory examination is
16 required to complete a further course of study of not less than
17 500 hours, to be completed in six months, of not more than eight
18 hours in any one working day, in a school of barbering approved
19 by the board.

20 A certificate of registration of an apprentice shall be a
21 temporary certificate and shall be valid for four years from the
22 date of the certificate and shall not be renewed thereafter.
23 During such four year period the certificate shall remain in
24 full force and effect only if the apprentice complies with all
25 the provisions of this chapter, as amended, including the
26 payment of an annual fee, and the rules and regulations of the
27 board of barber examiners.

28 If any registered apprentice shall, during the term in
29 which his the temporary certificate is in effect, enter full
30 time active duty in the armed forces of the United States of
31 America, the expiration date of his the temporary certificate
32 shall be extended by a period of time equal to the period or
33 periods of ~~time-during-which-he-served-on-such~~ active duty. *

154*#065S

34 154.065 BARBER SCHOOLS AND COLLEGES.

35 No change for subd 1

36 Subd. 2. QUALIFICATIONS. No certificate of
37 registration shall be issued to any person under this section
38 unless ~~he-have~~ that person has the following minimum
39 qualifications: *

40 (a) ~~He-must-be~~ is at least 25 years of age; *

41 (b) ~~He-must-be~~ is a graduate from an approved high school,
42 or its equivalent, as determined by examination by the state
43 board of education; *

44 (c) ~~He-shall-have~~ has qualified for a teacher's or
45 instructor's vocational certificate; *

46 (d) ~~He-shall-have~~ has at least five years experience as a
47 licensed barber in this state, or its equivalent; *

48 (e) ~~He-shall-have~~ has passed the examination prescribed and
49 conducted by the board of barber examiners on subjects provided
50 by the laws governing licensing of barbers in Minnesota. *

51 No change for subd 3 to 8

154*#11S

52 154.11 PERMITS TO PRACTICE.

53 A person who is at least 18 years of age and of good moral
54 character and temperate habits and either has a license or
55 certificate of registration as a practicing barber from another
56 state or country which has substantially the same requirements
57 for licensing or registering barbers as required by this chapter
58 or can prove by sworn affidavits ~~that-he-has-practiced~~ practice
59 as a barber in another state or country for at least five years
60 immediately prior to making application in this state, shall,
61 upon payment of the required fee, be called by the board of
62 barber examiners for examination to determine his fitness to
63 receive a certificate of registration to practice barbering. *

154*#12S

64 154.12 PERSONS FROM OTHER STATES; PERMIT TO PRACTICE.

65 A person who is of good moral character and temperate
66 habits who has a certificate of registration as an apprentice in
67 a state or country which has substantially the same requirements
68 for registration as an apprentice as is provided by this chapter
69 shall, upon payment of the required fee, be called by the board
70 of barber examiners for examination to determine his fitness to
71 receive a certificate of registration as an apprentice. Being
72 able to pass the required examination, ~~he~~ the person will be
73 issued a certificate of registration as a registered *

1 apprentice. ~~Should-he-fail~~ A person failing to pass the *
 2 required examination ~~he-shall~~ must conform to the requirements *
 3 of section 154.06 before being permitted to take another
 4 examination.

154*#14S

5 154.14 CERTIFICATES TO BE DISPLAYED.

6 Every holder of a certificate of registration shall display
 7 it in a conspicuous place adjacent to or near ~~his-work~~ the chair *
 8 where work is performed. *

154*#15S

9 154.15 CERTIFICATES MUST BE RENEWED ANNUALLY.

10 All registered barbers and registered apprentices who
 11 continue in active practice or service shall on or before
 12 December thirty-first each year renew their certificates of
 13 registration for the following year and pay the required fee.
 14 Every certificate of registration which has not been renewed
 15 during the month of December in any year shall expire on the
 16 thirty-first day of December in that year. A registered barber
 17 or a registered apprentice who has defaulted in renewing ~~his~~ the *
 18 certificate of registration may be reinstated within one year of
 19 such default without examination upon the payment of the
 20 required restoration fee.

154*#16S

21 154.16 CAUSES FOR REVOCATION.

22 The board of barber examiners may either refuse to issue or
 23 renew, or may suspend or revoke, any certificate of registration
 24 or shop registration card for any one or combination of the
 25 following causes:

- 26 (1) Gross malpractice or gross incompetency;
 27 (2) Continued practice by a person having an infectious or
 28 contagious disease;
 29 (3) Advertising by means of knowingly false or deceptive
 30 statements;
 31 (4) Habitual drunkenness or habitual or excessive
 32 indulgence in the use of drugs, including but not limited to
 33 narcotics as defined in either 26 U.S.C.A., Section 4731, or
 34 Minnesota Statutes, Section 152.01, barbiturates, amphetamine,
 35 benzedrine, dexedrine, or other sedatives, depressants,
 36 stimulants, or tranquilizers;
 37 (5) Immoral or unprofessional conduct or practice and
 38 conduct or practice which violates the provisions of chapter 186;
 39 (6) The commission of any of the offenses described in
 40 section 154.19, clauses (3), (4), (5), (6), (7), or (8);
 41 (7) Violation of the so-called Sunday closing laws, being
 42 sections 624.01 to 624.03;
 43 (8) A registered apprentice working in a barber shop in
 44 which ~~he~~ the apprentice has a financial interest; and *
 45 (9) Failure to comply with the sanitary rules and
 46 regulations of the board of barber examiners.

154*#17S

47 154.17 BOARD MUST GIVE NOTICE IN WRITING.

48 The board of barber examiners may neither refuse to issue
 49 or refuse to renew, nor suspend or revoke, any certificate of
 50 registration, for any of the causes set forth in section 154.16
 51 unless the person accused has been given at least five days'
 52 notice in writing of the charge ~~against-him~~ and a public hearing *
 53 by the board.

54 Upon the hearing of any such proceeding, the board may
 55 administer oaths and procure by its subpoena the attendance of
 56 witnesses and the production of relevant books and papers.

154*#18S

57 154.18 FEES.

58 The fees collected, as required in this chapter, shall be
 59 paid in advance to the secretary of the board of barber
 60 examiners ~~and-deposited-by-him~~. The secretary shall deposit the *
 61 fees in the state treasury, to be disbursed by the secretary on
 62 the order of the ~~chairman~~ chair in payment of expenses lawfully *
 63 incurred by the board. *

64 The fees to be paid the board of barber examiners required
 65 by this chapter, as amended, are:

- 66 (1) For examining applicant and issuing certificate of
 67 registration as a registered barber, \$30;
 68 (2) For renewing certificate of registration as a
 69 registered barber, \$10;
 70 (3) For restoring certificate of registration as a
 71 registered barber within one year of expiration, \$15; provided,

- 1 however, no such restoration fee is required of barbers age 70
 2 or over;
- 3 (4) For examining applicant and issuing a certificate of
 4 registration as a registered apprentice, \$17;
- 5 (5) For renewing a certificate of registration as a
 6 registered apprentice, \$7;
- 7 (6) For restoring a certificate of registration as a
 8 registered apprentice, within one year of expiration, \$10;
- 9 (7) For examining applicant for a teacher's certificate,
 10 \$25;
- 11 (8) For issuing a certificate of registration as a
 12 registered teacher, \$25;
- 13 (9) For renewing a certificate of registration as a
 14 registered teacher, \$25;
- 15 (10) For restoring a certificate of shop registration
 16 within 30 days after expiration date, \$10; provided, however, no
 17 such restoration fee is required of those age 70 or over and who
 18 operates a barbershop as part of the barber's residence;
- 19 (11) For issuing a certificate of registration as an
 20 approved barber school, \$100;
- 21 (12) For renewing a certificate of registration as an
 22 approved barber school, \$100;
- 23 (13) For issuing a student permit, \$5.

24 The fees prescribed above for the renewal of certificates
 25 of registration as a registered barber and registered apprentice
 26 include the assessment made for the Unfair Trade Practice Act
 27 and shall be effective for the renewal of the 1968 licenses.

28 The fee to be paid for issuing an initial certificate of
 29 shop registration shall be \$25 and for renewing a certificate of
 30 shop registration of a shop within a community on or before June
 31 30 of each year, \$5.

32 Every barber shop in business on May 20, 1967 shall have
 33 the right to continue until June 30, 1967, without the payment
 34 of any fees or any other act and shall thereafter apply for
 35 renewal of a certificate of shop registration in accordance with
 36 the provisions of this chapter, as amended.

154*#23S

37 154.23 OFFICERS; COMPENSATION; FEES; EXPENSES.

38 The board of barber examiners shall annually elect a
 39 chairman chair and secretary. It shall adopt and use a common *
 40 seal for the authentication of its orders and records. The
 41 board shall appoint an executive secretary who shall not be a
 42 member of the board and who shall be in the unclassified civil
 43 service.

44 The executive secretary shall keep a record of all
 45 proceedings of the board. The expenses of administering
 46 sections 154.01 to 154.26 shall be paid from the appropriations
 47 made to the board of barber examiners.

48 Each member of the board shall take the oath provided by
 49 law for public officers.

50 A majority of the board, in meeting assembled, may perform
 51 and exercise all the duties and powers devolving upon the board.

52 The members of the board shall receive compensation for
 53 each day spent on board activities, but not to exceed 20 days in
 54 any calendar month nor 100 days in any calendar year.

55 The board shall have authority to employ such inspectors,
 56 clerks, deputies, and other assistants as it may deem necessary
 57 to carry out the provisions of this chapter.

154*#24S

58 154.24 RULES AND REGULATIONS.

59 The board of barber examiners shall have authority to make
 60 reasonable rules and regulations for the administration of the
 61 provisions of this chapter and prescribe sanitary requirements
 62 for barber shops and barber schools, subject to the approval of
 63 the state commissioner of health. Any member of the board, or
 64 its agents or assistants, shall have authority to enter upon and
 65 to inspect any barber shop or barber school at any time during
 66 business hours. A copy of the rules and regulations adopted by
 67 the board shall be furnished by it to the owner or manager of
 68 each barber shop or barber school and such copy shall be posted
 69 in a conspicuous place' in such barber shop or barber school.

70 The board shall keep a record of its proceedings relating
 71 to the issuance, refusal, renewal, suspension, and revocation of
 72 certificates of registration. This record shall contain the
 73 name, place of business and residence of each registered barber
 74 and registered apprentice, and the date and number of his the *

1 certificate of registration. This record shall be open to
2 public inspection at all reasonable times.

155A#11S

3 155A.11 REVOCATION OF LICENSE.

4 Subdivision 1. GROUNDS. The director may, after
5 notice and opportunity for a hearing pursuant to chapter 14,
6 refuse to renew, or revoke or suspend any license for any one,
7 or combination of, the following grounds:

8 (a) Violation of any provision of sections 155A.01 to
9 155A.18 or any other statute or rule promulgated or enforced by
10 the director;

11 (b) Intentionally furnishing false, misleading, or
12 incomplete information;

13 (c) Refusal to allow reasonable inspection or supply
14 reasonable information after a written request by the director
15 or ~~his~~ a designee; *

16 (d) The existence of any circumstance which would be
17 grounds for the refusal of an initial or renewal license.

18 No change for subd 2

155A#12S

19 155A.12 COMPLAINTS; INVESTIGATIONS AND HEARINGS.

20 Subdivision 1. NOTICE TO ATTORNEY GENERAL. The
21 director or ~~person-employed-by-him~~ director's employee who *
22 receives a complaint or other communication, whether oral or
23 written, alleging or implying a violation of a statute or rule
24 which the director is empowered to enforce, which cannot be
25 conciliated or resolved by the director or ~~his~~ a designee shall *
26 promptly forward the substance of the communication on a form
27 prepared by the attorney general to the designee of the attorney
28 general responsible for providing legal services to the director.
29 Before proceeding further with the communication, the director
30 or designee of the attorney general may require the complaining
31 party to state ~~his~~ the complaint in writing on a form prepared *
32 by the attorney general. Complaints which relate to matters
33 within the jurisdiction of another governmental agency shall be
34 forwarded to that agency by the director. An officer of that
35 agency shall advise the director of the disposition of that
36 complaint. A complaint received by another agency which relates
37 to a statute or rule which the director is empowered to enforce
38 shall be forwarded to the director to be processed in accordance
39 with this section.

40 Subd. 2. INVESTIGATIONS BY ATTORNEY GENERAL. The
41 designee of the attorney general providing legal services to the
42 director shall evaluate the communications forwarded to ~~him~~ the
43 designee by the director. If the communication alleges a *
44 violation of statute or rule which the director is to enforce,
45 the designee is empowered to investigate the facts alleged in
46 the communication. In the process of evaluation and
47 investigation, ~~he~~ the designee shall consult with or seek the *
48 assistance of the director--~~He~~ and may also consult with or *
49 seek the assistance of any other qualified person who the
50 designee believes will materially aid in the process of
51 evaluation or investigation. The director may attempt to
52 correct improper activities and redress grievances through
53 education, conference, conciliation and persuasion, and in these
54 attempts ~~he~~ the director may be assisted by the designee of the *
55 attorney general. If the attempts at correction or redress do
56 not produce satisfactory results in the opinion of the director,
57 or if after investigation the designee providing legal services
58 to the director believes that the communication and the
59 investigation suggest illegal or unauthorized activities
60 warranting action, ~~he~~ the designee shall inform the director who *
61 shall schedule a disciplinary hearing in accordance with chapter
62 14. Before scheduling a disciplinary hearing, the basis for the
63 hearing must be stated in writing. The director shall promptly
64 inform the complaining party, if any, of the final disposition
65 of the complaint. Nothing in this section shall preclude the
66 director from scheduling a disciplinary hearing based upon the
67 findings or report of the director's staff or the attorney
68 general.

69 Subd. 3. ISSUANCE OF COMPULSORY PROCESS. In all
70 pending matters ~~pending-before-him~~ relating to ~~his~~ the
71 director's lawful regulation activities, the director may issue *
72 subpoenas and compel the attendance of witnesses and the *
73 production of all necessary papers, books, records, documents,
74 and other evidentiary material. Any person failing or refusing

1 to either appear to testify regarding any matter about which he *
 2 the person may be lawfully questioned, or produce any papers, *
 3 books, records, documents, or other evidentiary materials in the
 4 matter to be heard, after having been required by the order of
 5 the director or by subpoena of the director to do so may, upon
 6 application to the district court where the licensee conducts
 7 business, be ordered to comply therewith. The director may
 8 issue subpoenas and may administer oaths to witnesses, or take
 9 their affirmation. Depositions may be taken within or without
 10 the state in the manner provided by law for the taking of
 11 depositions in civil actions. A subpoena or other process or
 12 paper may be served upon any person named therein, anywhere
 13 within the state by any officer authorized to serve subpoenas or
 14 other process or paper in civil actions, with the same fees and
 15 mileage and in the same manner as prescribed by law for service
 16 of process issued out of the district court of this state. Fees
 17 and mileage and other expenses shall be paid as the director
 18 directs.

155A#13S

19 155A.13 ADDITIONAL REMEDY.

20 In addition to any other remedy provided by law, the
 21 director may in-his-own-name bring an action in the director's *
 22 name in the district court where the licensee conducts business *
 23 for injunctive relief to restrain any unauthorized practice or
 24 violation or threatened violation of any statute or rule which
 25 the director is empowered to regulate or enforce. A temporary
 26 restraining order may be granted in the proceeding if continued
 27 activity by a person would create an imminent risk of harm to
 28 others. Injunctive relief granted pursuant to this section
 29 shall not relieve the person from disciplinary action by the
 30 director in respect to the person's license or application for
 31 license or renewal.

156*#02S

32 156.02 APPLICANTS FOR LICENSE; QUALIFICATIONS.

33 Subdivision 1. Application for a license to practice
 34 veterinary medicine in this state shall be made in writing to
 35 the board of veterinary medicine upon a form furnished by the
 36 board, accompanied by satisfactory evidence that the applicant
 37 is at least 18 years of age, is of good moral character, and has
 38 one of the following:

39 (1) a diploma conferring the degree of doctor of veterinary
 40 medicine, or an equivalent degree, from an accredited or
 41 approved college of veterinary medicine;

42 (2) an ECFVG certificate; or

43 (3) a certificate from the dean of an accredited or
 44 approved college of veterinary medicine stating that the
 45 applicant is a student in good standing expecting to be
 46 graduated at the completion of the next academic term of the
 47 college in which he the applicant is enrolled. *

48 The application shall contain the information and material
 49 required by subdivision 2 and any other information that the
 50 board may, in its sound judgment, require. The application
 51 shall be filed with the secretary of the board at least 30 days
 52 before the date of the examination. If the board deems it
 53 advisable, it may require that such application be verified by
 54 the oath of the applicant.

55 Subd. 2. Every application shall contain the following
 56 information and material: (1) A fee as set by the board in the
 57 form of a check or money order payable to the state treasurer,
 58 which fee shall not be returnable in the event permission to
 59 take the examination is denied upon good cause; (2) A
 60 certificate from the dean or secretary of an approved college of
 61 veterinary medicine showing the time spent in the school, and
 62 the date when the applicant was duly and regularly graduated or
 63 will duly and regularly graduate. If the applicant attended
 64 more than one college of veterinary medicine, he the applicant *
 65 shall furnish transcripts from each as to work done in each; (3)
 66 Affidavits of at least two veterinarians and three adults who
 67 are not related to the applicant setting forth how long a time,
 68 when, and under what circumstances they have known the
 69 applicant, and any other facts as may be proper to enable the
 70 board to determine the qualifications of the applicant; (4) If
 71 the applicant has served in the armed forces, he the applicant *
 72 shall furnish a copy of his discharge papers. *

156*#07S

73 156.07 LICENSE RENEWAL.

1 ~~Every-person~~ Persons licensed under this chapter, shall *
 2 conspicuously display ~~his~~ their license in ~~his~~ their principal *
 3 place of business.

4 ~~Each-person~~ Persons now qualified to practice veterinary *
 5 medicine in this state, or who shall hereafter be licensed by *
 6 the board of veterinary medicine to engage in the practice, *
 7 shall periodically renew ~~his~~ their license in a manner *
 8 prescribed by the board. Renewal fees shall be set by the *
 9 board. The board may assess a charge for delinquent payment of
 10 a renewal fee.

11 Any person who is licensed to practice veterinary medicine
 12 in this state pursuant to this chapter, shall be entitled to
 13 receive a license to continue to practice upon making
 14 application to the board and complying with the terms of this
 15 section.

156*#071S

16 156.071 REINSTATEMENT OF EXPIRED LICENSE.

17 Except as otherwise provided in this chapter, an expired
 18 license, which is suspended by the board pursuant to section
 19 156.07, may be reinstated at any time within five years after
 20 its suspension on filing an application for reinstatement on a
 21 form prescribed by the board and by payment of the renewal fee
 22 in effect on the last preceding regular renewal date, plus all
 23 back fees and the late filing fee.

24 A person who fails to renew ~~his~~ a license within five years *
 25 after its suspension may not renew it, and it shall not be *
 26 restored, reissued, or reinstated thereafter, but such person *
 27 may apply for and obtain a new license ~~if-he-complies on~~ *
 28 complying with the following conditions: (1) ~~He~~ The person is *
 29 of good moral character; (2) No fact, circumstance, or condition *
 30 exists which, if the license were issued, would justify its *
 31 revocation or suspension; (3) ~~He~~ The person takes and passes the *
 32 examination, if any, which would be required ~~of-him~~ if he the *
 33 person were then applying for a license for the first time, or *
 34 otherwise establishes to the satisfaction of the board that, *
 35 with due regard for the public interest ~~he~~ the person is *
 36 qualified to practice veterinary medicine; and (4) ~~He~~ The person *
 37 pays all of the fees that would be required ~~of-him~~ if he the *
 38 person were then applying for the license for the first time. *

156*#072S

39 156.072 NONRESIDENTS; LICENSES.

40 Subdivision 1. A doctor of veterinary medicine duly
 41 admitted to practice in any of the other states or territories
 42 or District of Columbia desiring permission to practice
 43 veterinary medicine in this state shall submit ~~his~~ an *
 44 application to the board upon forms prescribed by the board. *
 45 Upon proof ~~that-he-has-been-duly-licensed of licensure~~ to *
 46 practice in any other state or territory or in the District of *
 47 Columbia and has been actively engaged in practicing veterinary *
 48 medicine therein, for at least five years next preceding ~~his~~ the *
 49 application, or has been engaged in full time teaching of *
 50 veterinary medicine in an approved college for at least five *
 51 years next preceding ~~his~~ the application, or any combination *
 52 thereof, the examination may be waived, upon the recommendation *
 53 of the board, and the applicant be admitted to practice without *
 54 examination. However, the board may impose any other tests as
 55 it considers proper.

56 Subd. 2. Such doctor of veterinary medicine shall
 57 accompany ~~his~~ the application by the following: *

58 (1) A certified copy of ~~his~~ the license registration and *
 59 affidavits of two practicing doctors of veterinary medicine of *
 60 the state, territory or District of Columbia so certifying that *
 61 they are well acquainted with such applicant, that ~~he~~ the *
 62 applicant is a person of good moral character, ~~that-he and~~ and has *
 63 been actively engaged in practicing or teaching as the case may *
 64 be in such state, territory, or District of Columbia for the
 65 period above prescribed;

66 (2) A certificate from the proper body therein having
 67 jurisdiction over the conduct of practice of veterinary medicine
 68 that such applicant is in good standing and not under pending
 69 charges of misconduct; and

70 (3) A fee as set by the board in form of check or money
 71 order payable to the treasurer of the state of Minnesota, no
 72 part of which shall be refunded, should the application be
 73 denied.

74 No change for subd 3 to 5

156*#081S

1 156.081 REVOCATION; SUSPENSION.

2 No change for subd 1

3 Subd. 2. The board may revoke or suspend a license for any
4 of the following causes:

5 (1) The employment of fraud, misrepresentation or deception
6 in obtaining such license.

7 (2) Conviction of a crime involving moral turpitude or
8 conviction of a felony, in which case the record shall be
9 conclusive evidence of such conviction.

10 (3) Chronic inebriety or addiction to the use of habit
11 forming drugs.

12 (4) Existence of professional connection with or the
13 lending of one's name to any illegal practitioner of veterinary
14 medicine and the various branches thereof.

15 (5) Violation or attempt to violate, directly or
16 indirectly, any of the provisions of this chapter.

17 (6) Revocation by ~~a-sister~~ another state or territory of a *
18 license or certificate by virtue of which one is licensed to
19 practice veterinary medicine in that state or territory,
20 notwithstanding that such license or certificate did not support
21 the application for license to practice in this state.

22 (7) Conviction of or cash compromise of a charge or
23 violation of the Harrison Narcotic Act, regulating narcotics, in
24 which case the record of such conviction or compromise, as the
25 case may be, shall be conclusive evidence.

26 (8) Fraud or dishonesty in applying, treating, or reporting
27 on tuberculin or other biological tests.

28 (9) Employment of anyone but a veterinarian licensed in the
29 state of Minnesota to demonstrate the use of biologics in the
30 treatment of animals.

31 (10) False or misleading advertising having for its purpose
32 or intent deception or fraud.

33 (11) Habitual conduct reflecting unfavorably on the
34 profession of veterinary medicine or conduct in violation of law
35 or rules or regulations of the board.

36 (12) Conviction on a charge of cruelty to animals.

37 (13) Failure, after written notification by the board, to
38 keep one's premises and all equipment therein in a clean and
39 sanitary condition, according to reasonable standards adopted by
40 the board.

41 (14) Fraud, deception, or incompetence in the practice of
42 veterinary medicine.

43 (15) Unprofessional conduct as defined in rules adopted by
44 the board.

45 A plea or verdict of guilty to a charge of a felony or of
46 any offense involving moral turpitude is deemed to be a
47 conviction within the meaning of this section. The board may
48 order the license suspended or revoked, or may decline to issue
49 a license, when the time for appeal has elapsed, or the judgment
50 of conviction has been affirmed on appeal.

51 Subd. 3. The adjudication of insanity or mental illness,
52 of any licensee shall operate as a suspension of ~~his~~ the right *
53 to practice under this chapter. Such suspension shall continue
54 until such licensee is restored to capacity by proper
55 authorities, except that any such licensee may practice
56 veterinary medicine while on a provisional discharge.

156*#12S

57 156.12 PRACTICE OF VETERINARY MEDICINE.

58 No change for subd 1

59 Subd. 2. No provision of this chapter shall be construed
60 to prohibit:

61 (a) a person from rendering necessary gratuitous assistance
62 in the treatment of any animal when the assistance does not
63 amount to prescribing, testing for, or diagnosing, operating, or
64 vaccinating and when the attendance of a licensed veterinarian
65 cannot be procured;

66 (b) a person who is a regular student in an accredited or
67 approved college of veterinary medicine from performing duties
68 or actions assigned by ~~his~~ instructors or preceptors or working *
69 under the direct supervision of a licensed veterinarian;

70 (c) a veterinarian regularly licensed in another
71 jurisdiction from consulting with a licensed veterinarian in
72 this state;

73 (d) the owner of an animal and the owner's regular employee
74 from caring for and treating the animal belonging to the owner,

1 except where the ownership of the animal was transferred for
2 purposes of circumventing this chapter;

3 (e) veterinarians employed by the University of Minnesota
4 from performing their duties with the college of veterinary
5 medicine, college of agriculture, agricultural experiment
6 station, agricultural extension service, medical school, school
7 of public health, or other unit within the university; or a
8 person from lecturing or giving instructions or demonstrations
9 at the university or in connection with a continuing education
10 course or seminar to veterinarians;

11 (f) any person from selling or applying any pesticide,
12 insecticide or herbicide;

13 (g) any person from engaging in bona fide scientific
14 research or investigations which reasonably requires
15 experimentation involving animals;

16 (h) any employee of a licensed veterinarian from performing
17 duties other than diagnosis, prescription or surgical correction
18 under the direction and supervision of the veterinarian, who
19 shall be responsible for ~~his-or-her~~ the performance of the
20 employee;

21 (i) a graduate of a foreign college of veterinary medicine
22 from working under the direct personal instruction, control, or
23 supervision of a licensed veterinarian in order to complete the
24 requirements necessary to obtain an ECFVG certificate.

25 No change for subd 3 to 5

156A#02S

26 156A.02 DEFINITIONS; EXCLUSIONS.

27 No change for subd 1

28 Subd. 2. For the purposes of sections 156A.01 to 156A.08,
29 "water well contractor" and "contractor" means any person, firm,
30 copartnership, association or corporation, who shall construct,
31 abandon, or repair a water well upon land other than ~~his~~ its own
32 for compensation. "Water well drilling machine" means any
33 machine or device such as a cable tool, rotary, hollow rod, or
34 auger, used for construction, abandonment, or repair of a water
35 well.

36 Subd. 3. Sections 156A.01 to 156A.08 shall not require
37 licensing of (1) an individual who drills a water well on land
38 which is owned or leased by ~~him~~ the individual and is used by
39 ~~him~~ the individual for farming or agricultural purposes or
40 as ~~his~~ the individual's place of abode, or (2) to an individual
41 who performs labor or services for a water well contractor in
42 connection with the drilling, abandonment, or repair of a water
43 well at the direction and at the personal supervision of a
44 licensed water well contractor; provided, however, that the
45 individual shall comply with all other provisions of sections
46 156A.01 to 156A.08 and with any rule, regulation or well code
47 adopted thereunder.

48 No change for subd 4 to 7

156A#03S

49 156A.03 REGULATION AND LICENSING.

50 No change for subd 1

51 Subd. 2. No contractor shall drill, construct, abandon, or
52 repair a water well within this state unless in possession of a
53 valid license to do so issued annually by the state commissioner,
54 of health. An applicant who is otherwise qualified but who does
55 not have practical field experience in the operation of
56 conventional drilling machines such as a cable tool, rotary,
57 hollow rod, or auger, but who does install unconventional wells
58 such as drive point, or who is in the well repair service which
59 involves modification to the well casing, screen, depth, or
60 diameter below the upper termination of the well casing, shall
61 have ~~his~~ the license limited to such water well contracting work.

62 No change for subd 3

156A#05S

63 156A.05 POWERS AND DUTIES OF THE COMMISSIONER.

64 Subdivision 1. The state commissioner of health shall
65 possess all powers reasonable and necessary ~~to-enable-him~~ to
66 exercise effectively the authority granted ~~to-him~~ by sections
67 156A.01 to 156A.08.

68 No change for subd 2 to 4

156A#07S

69 156A.07 WATER WELL CONTRACTORS' LICENSES.

70 Subdivision 1. Any person not already licensed under
71 sections 156A.01 to 156A.08 who desires to engage in the
72 drilling, making, construction, abandonment, or repair of one or

1 more wells in this state shall first file an application with
 2 the commissioner for a contractor's license, setting out ~~his~~ *
 3 qualifications therefor, the equipment proposed to be used in
 4 the contracting, and other information as may be required by the
 5 commissioner, all upon forms prescribed by the commissioner.
 6 The commissioner shall set and charge a fee ~~in an amount~~ *
 7 ~~prescribed by him~~ pursuant to section 144.122 for the filing of *
 8 the application by any person, and ~~he~~ shall not act upon any *
 9 application until the fee has been paid. When the commissioner
 10 has approved the application, the applicant shall take an
 11 examination given by the commissioner.

12 No change for subd 2 to 4

13 Subd. 5. ~~When an applicant has~~ On successfully passed *
 14 passing the examination for original license, ~~he~~ the applicant *
 15 shall submit to the commissioner a license application and a fee
 16 in an amount prescribed by the commissioner pursuant to section
 17 144.122, upon the receipt of which the commissioner may issue a
 18 license.

19 Subd. 6. The license issued pursuant to this section is
 20 not transferable. Application to renew the license shall be
 21 submitted on a date specified by the commissioner, accompanied
 22 by a fee in an amount prescribed by the commissioner pursuant to
 23 section 144.122. A penalty fee in an amount prescribed by the
 24 commissioner pursuant to section 144.122 shall also be paid if
 25 the renewal application is submitted after the prescribed
 26 renewal date. If a water well contractor submits ~~his~~ a renewal *
 27 application after the prescribed renewal date, ~~he~~ the contractor *
 28 shall not work as a water well contractor after that date
 29 until ~~he has submitted~~ after submitting an application, fee, and *
 30 penalty fee.

31 No change for subd 7 to 9

156A#071S

32 156A.071 EXPLORATORY BORING; LICENSING AND REGULATION.

33 No change for subd 1 to 8

34 Subd. 9. SUBMISSION OF DATA FROM EXPLORATORY BORINGS.

35 Data obtained from exploratory borings shall be submitted by
 36 the explorer to the commissioner of natural resources as follows:

37 (a) Upon application for a state permit required for
 38 activities relating to mineral deposit evaluation, the explorer
 39 shall submit to the commissioner of natural resources data
 40 relevant to the proposal under consideration. The explorer may
 41 identify portions of the data which, if released, would impair
 42 the competitive position of the explorer submitting the data.
 43 Data so identified shall be considered to be not public data.
 44 If ~~the commissioner is~~ requested to disclose the data, ~~he~~ the *
 45 commissioner shall mail notice of the request to the explorer *
 46 and determine whether release of the data would impair the
 47 competitive position of the explorer submitting the data. If
 48 the commissioner determines that release of the data would
 49 impair the competitive position of the explorer submitting the
 50 data, the commissioner shall not release the data to any person
 51 other than parties to the proceedings relating to the permit
 52 under consideration. Parties to the proceedings shall maintain
 53 the confidentiality of data. Further, data which are classified
 54 as not public shall not be released by the commissioner until 30
 55 days after mailed notice to the explorer of the commissioner's
 56 intention to do so. Under no circumstances shall the
 57 commissioner release data to any person engaged in exploration,
 58 mining, milling, or related industry pertaining to any mineral.
 59 If the commissioner determines to release data, the explorer may
 60 demand a contested case hearing on the commissioner's
 61 determination or may withdraw the permit application and the
 62 data shall not be released. Any person aggrieved by the
 63 decision of the commissioner may appeal the decision in
 64 accordance with chapter 14;

65 (b) Upon application for a state permit required for mine
 66 development, the explorer shall submit to the commissioner of
 67 natural resources data relevant to the proposal under
 68 consideration. This data shall be considered public data and
 69 persons submitting the data shall not be subject to civil or
 70 criminal liability for its use by others;

71 (c) Within six months after termination by the explorer of
 72 its lease or any other type of exploration agreement on a
 73 property all data shall be submitted. The data shall be
 74 considered public data and persons submitting the data shall not
 75 be subject to civil or criminal liability for its use by

1 others. Data submitted to the commissioner of natural resources
2 prior to May 1, 1980 need not be submitted under this section.
3 The commissioner of natural resources shall designate which
4 samples shall be submitted, and shall specify the location to
5 which the sample shall be delivered. In the event that the
6 explorer requires certain samples in their entirety, the
7 commissioner of natural resources may waive the requirement for
8 a one-fourth portion of the samples. Samples submitted become
9 property of the state.

10 (d) As used in this subdivision, "mineral deposit
11 evaluation" means examining an area to determine the quality and
12 quantity of minerals, excluding exploratory boring but including
13 obtaining a bulk sample, by such means as excavating, trenching,
14 constructing shafts, ramps, tunnels, pits and producing refuse
15 and other associated activities. "Mineral deposit evaluation"
16 shall not include activities intended, by themselves, for
17 commercial exploitation of the ore body. "Mine development"
18 means those activities undertaken after mineral deposit
19 evaluation for commercial exploitation of the ore body.

156A#11S

20 156A.11 VERTICAL HEAT EXCHANGER; LICENSING AND
21 REGULATION.

22 No change for subd 1 to 2

23 Subd. 3. No contractor shall install a vertical heat
24 exchanger without first obtaining a permit from the commissioner
25 of health. Application for the permit must be made on forms
26 provided by the commissioner and must be accompanied by a \$50
27 fee. As a condition of the permit, the owner of the property on
28 which the vertical heat exchanger is to be installed shall agree
29 to allow inspection by the commissioner, or ~~his~~ an agent, during
30 regular working hours of department of health inspectors. *

157*#03S

31 157.03 LICENSES REQUIRED; FEES.

32 Each year every person, firm, or corporation engaged in the
33 business of conducting an hotel, motel, restaurant, lodging
34 house, boarding house, or resort, or place of refreshment, or
35 who shall hereafter engage in conducting any such business,
36 except vending machine operators licensed under the license
37 provisions of sections 28A.01 to 28A.16, must procure a license
38 for each hotel, motel, restaurant, lodging house, boarding
39 house, or resort, or place of refreshment so conducted. For any
40 hotel, motel or resort in which food, fountain, or bar service
41 is furnished, one license, in addition to the hotel or resort
42 license, shall be sufficient for all restaurants and places of
43 refreshment conducted on the same premises and under the same
44 management with the hotel, motel or resort. Each license shall
45 expire and be renewed as prescribed by the commissioner pursuant
46 to section 144.122. Any proprietor who operates a place of
47 business after the expiration date without first having made
48 application for a license and without having made payment of the
49 fee thereof shall be deemed to have violated the provisions of
50 this chapter and be subject to prosecution, as provided in this
51 chapter. In addition thereto, a penalty in an amount prescribed
52 by the commissioner pursuant to section 144.122 shall be added
53 to the amount of the license fee and paid by the proprietor, as
54 provided herein, if the application has not reached the office
55 of the state commissioner of health within 30 days following the
56 expiration of license; or, in the case of a new business, 30
57 days after the opening date of the business. The state
58 commissioner of health shall furnish to any person, firm or
59 corporation desiring to conduct an hotel, motel, restaurant,
60 lodging house, boarding house, or resort, or place of
61 refreshment an application blank to be filled out by the person,
62 firm, or corporation, for a license therefor, which shall
63 require the applicant to state the full name and address of the
64 owner of the building, structure, or enclosure, the lessee and
65 manager of the hotel, motel, restaurant, lodging house, boarding
66 house, or resort, or place of refreshment, the location of the
67 same, the name under which the business is to be conducted, and
68 any other information as may be required therein by the state
69 commissioner of health to complete the application for license.
70 The application shall be accompanied by a license fee as
71 hereinafter provided.

72 For hotels, motels, lodging houses, and resorts the license
73 fee may be graduated according to the number of sleeping rooms
74 and the amount of the fees shall be prescribed by the state

1 commissioner of health pursuant to section 144.122.

2 For restaurants, places of refreshment, and boarding houses
3 the license fee may be based on the average number of
4 employees. If the license fee is so computed, the commissioner
5 shall consider each full time employee as one employee and each
6 part time employee as that fraction of one employee as the
7 number of months ~~in-which-he~~ the employee is employed is to the
8 12 months of the year. Employees shall include all persons,
9 except children of the licensee under the age of 18, at work in
10 any capacity, either voluntary or paid, and whether or not
11 reported under the labor laws of this state.

12 If the license fee is based upon the average number of
13 employees, every licensee shall, at the time of application,
14 certify as to the number of ~~his~~ employees on forms provided by
15 the state commissioner of health and the state commissioner of
16 health shall have access, on demand, to any and all employment
17 records for purposes of substantiating or correcting numbers of
18 declared employees.

19 License fees for restaurants, places of refreshment, and
20 boarding houses shall be in an amount prescribed by the state
21 commissioner of health pursuant to section 144.122.

22 No school, as defined in sections 120.05 and 120.10,
23 subdivision 2, may be required to pay a license fee.

157*#04S

24 157.04 ANNUAL INSPECTION.

25 It shall be the duty of the hotel inspector to inspect, or
26 cause to be inspected, at least once annually, every hotel,
27 motel, restaurant, lodging house, boarding house, or resort, or
28 place of refreshment in this state. For this purpose, ~~he~~ the
29 inspector shall have the right to enter and have access thereto
30 at any time during the conduct of business and when, upon
31 inspection, it shall be found that the business and property so
32 inspected is not being conducted, or is not equipped, in the
33 manner required by the provisions of this chapter or the
34 regulations of the state commissioner of health, or is being
35 conducted in violation of any of the laws of this state
36 pertaining to the business, it shall thereupon be the duty of
37 the hotel inspector to notify the owner, proprietor, or agent in
38 charge of the business, or the owner or agent of the buildings
39 so occupied, of the condition so found. Each owner, proprietor,
40 or agent shall forthwith comply with the provisions of this
41 chapter or the regulations of the commissioner, unless otherwise
42 herein provided. A reasonable time may be granted by the hotel
43 inspector for compliance with the provisions of this chapter.

157*#08S

44 157.08 LINENS, OTHER FURNISHINGS; PENALTY.

45 All hotels and motels in this state shall hereafter provide
46 each bedroom with at least two clean towels daily for each guest
47 and provide the main public washroom with clean individual
48 towels. Individual towels shall not be less than nine inches
49 wide and 13 inches long after being washed. This shall not
50 prohibit the use of other acceptable hand drying devices.

51 All hotels, motels, lodging houses and resorts where linen
52 is provided, hereafter shall provide each bed, bunk, cot, or
53 sleeping place for the use of guests with pillow-slips and under
54 and top sheets; each sheet shall be not less than 99 inches long
55 nor less than 24 inches wider than the mattress. A sheet shall
56 not be used which measures less than 90 inches in length after
57 being laundered; these sheets and pillow-slips to be made of
58 materials acceptable to the state commissioner of health, and
59 all sheets and pillow-slips, after being used by one guest, must
60 be laundered in a manner acceptable to the commissioner before
61 they are used by another guest, a clean set being furnished each
62 succeeding guest.

63 All bedding, including mattresses, quilts, blankets,
64 pillows, sheets, and comforts used in any hotel, motel, resort,
65 or lodging house in this state must be kept clean. No bedding,
66 including mattresses, quilts, blankets, pillows, sheets, or
67 comforts, shall be used which are worn out or unfit for further
68 use.

69 Effective measures shall be taken to eliminate any vermin
70 infestation in any establishment licensed under this chapter.
71 All rugs and carpets in all sleeping rooms shall be kept in good
72 repair and maintained in a clean condition.

73 All tables, table linens, chairs, and other furniture, all
74 hangings, draperies, curtains, carpets, and floors in all

1 lodging houses, resorts, hotels, restaurants, boarding houses,
2 or places of refreshment, shall be kept in good repair and in a
3 clean and sanitary condition.

4 All notices to be served by the hotel inspector provided
5 for in this chapter shall be in writing and shall be either
6 delivered personally, or by registered letter, to the owner,
7 agent, lessee, or manager of the hotel, motel, resort,
8 restaurant, lodging house, boarding house, or place of
9 refreshment.

10 Any person, firm, or corporation who shall operate an
11 hotel, motel, resort, restaurant, lodging house, boarding house,
12 or place of refreshment in this state, or who shall let a
13 building used for such business, without having first complied
14 with the provisions of this chapter and regulations of the state
15 commissioner of health, shall be guilty of a misdemeanor.

16 The county attorney of each county in this state shall,
17 upon complaint on oath of the hotel inspector, or ~~his~~ a duly
18 authorized deputy, prosecute to termination before any court of
19 competent jurisdiction, in the name of the state, a proper
20 action or proceeding against any person or persons violating the
21 provisions of this chapter or regulation of the state
22 commissioner of health.

157*#09S

23 157.09 REVOCATION OF LICENSE.

24 It shall be the duty of the state hotel inspector to revoke
25 a license, ~~if-and-when-it-be-found-by-him~~ on the inspector's
26 finding that a place of business is being operated in violation
27 of the provisions of this chapter or regulations of the state
28 commissioner of health, so as to constitute a filthy, unclean,
29 and insanitary condition and dangerous to public health; or, if
30 the owner or proprietor persistently refuses or fails to comply
31 with the provisions of this chapter or regulations of the
32 commissioner. Upon revocation of a license, the place of
33 business shall be immediately closed to public patronage until
34 such time as the owner or proprietor shall have complied with
35 the provisions of this chapter, as certified to by the issuance
36 of a new license.

37 The third revocation of license in any one year and on any
38 one proprietor shall be made permanent for a period of one year
39 from the date of the last revocation.

158*#02S

40 158.02 WHAT PATIENTS MAY BE TREATED; RESEARCH WORK.

41 The University of Minnesota hospitals shall be primarily
42 and principally designed for the care of legal residents of
43 Minnesota who are afflicted with a malady, deformity, or ailment
44 of a nature which can probably be remedied by hospital service
45 and treatment and who are unable, financially, to secure such
46 care; or, in case of a minor, whose parent, guardian, trustee,
47 or other person having lawful custody of ~~his~~ the minor's person,
48 as the case may be, is unable financially to secure such care.
49 The University of Minnesota hospitals are hereby designated as
50 places of treatment for such persons.

51 The hospitals shall be utilized for such instruction and
52 for such scientific research as will promote the welfare of the
53 patients committed to their care and assist in the application
54 of science to the alleviation of human suffering.

158*#03S

55 158.03 OFFICERS TO REPORT CASES NEEDING HOSPITAL CARE.

56 When the existence of a case described in section 158.02
57 shall come to the notice of the sheriff, town clerk, health
58 officer, public health nurse, ~~police~~ police officer, or any
59 other public official, or any physician or surgeon, it shall
60 be ~~his~~ the official's duty to, and any other person may, file
61 with the board of county commissioners of the county of the
62 residence of such person an application for the treatment of
63 such person at the University of Minnesota hospitals.

64 Such application shall be made in duplicate on blanks to be
65 furnished by the University of Minnesota hospitals and contain a
66 full statement of the financial situation of the person sought
67 to be treated and a general statement of ~~his~~ the person's
68 physical condition and shall be verified. Upon the filing of
69 such application, the board of county commissioners shall make
70 investigation in such manner as it shall deem advisable, and it
71 shall be the duty of any public official of any county, city,
72 town, or ward of the residence of the person sought to be
73 treated to supply to the county board, on request thereof, all

1 information within ~~his~~ the supplier's knowledge relative to the *
 2 financial situation of the person sought to be treated. If,
 3 after such investigation, the county board shall be satisfied
 4 that the person on whose behalf the application is made is not
 5 financially able to ~~provide-himself-with~~ pay for such treatment; *
 6 or, in case of a minor, that ~~his~~ a parent, guardian, or trustee, *
 7 in representative capacity, or the person having legal custody
 8 over ~~him~~ the minor or legally responsible for ~~his~~ the minor's *
 9 support or maintenance, is not financially able to provide such
 10 treatment, then the county board shall appoint a physician of
 11 the county whose duty shall be personally to make an examination
 12 of the person on whose behalf the application for treatment has
 13 been filed. The physician shall thereupon make and file with the
 14 county board a verified report in writing setting forth the
 15 nature and history of the case and such other information as
 16 will be likely to aid in the medical or surgical treatment of
 17 the disease, malady, deformity, or ailment affecting the person
 18 and state in the report whether or not in ~~his~~ the physician's *
 19 opinion the condition of such person can probably be remedied at
 20 a hospital. The report of the physician shall be made in
 21 duplicate within such time as the county board may direct upon
 22 blanks to be furnished by the University of Minnesota hospitals
 23 for that purpose. The report shall include any information
 24 within the knowledge of the physician relative to the financial
 25 situation of the person proposed to be treated. The physician
 26 appointed to make the examination, unless ~~he-is~~ already a *
 27 salaried officer of the state or some division thereof, shall
 28 receive \$5 for making the examination and, in any case, ~~his~~ the *
 29 physician's actual and necessary expenses; which fee and *
 30 expenses shall be paid by the county of residence of the
 31 patient; and it shall be the duty of the board of county
 32 commissioners to provide for such payment.

33 If, upon filing of the report, the county board shall be
 34 satisfied that the case is one which should be treated at the
 35 University of Minnesota hospitals and that the person to be
 36 treated, or ~~his~~ a parent, guardian, trustee, or other person *
 37 having legal custody of ~~his~~ the person, in case of a minor, is *
 38 not financially able to provide such person with proper
 39 treatment, the county board shall enter an order finding such
 40 facts. In case the county board is not so satisfied, it may
 41 take additional testimony or make such further investigation as
 42 to it shall seem proper. The county board may reject any
 43 application which is found to be without sufficient merit. Upon
 44 the entry of the order of the county board approving the
 45 application, it shall communicate with the superintendent of the
 46 University of Minnesota hospitals and ascertain whether or not
 47 the applicant can be received as a patient. If the University
 48 of Minnesota hospitals can receive such applicant, the county
 49 board shall thereupon certify its approval of the application to
 50 the hospitals. One copy of the application and the physician's
 51 report shall be sent to the superintendent of the hospitals.

52 If the county board should find that an applicant or the
 53 person legally responsible for ~~him~~ the applicant is able to pay, *
 54 in part but not in full, for care at the University of Minnesota
 55 hospitals at the rate to be charged as determined in section
 56 158.05, the county board may approve the application of the
 57 patient on such terms of division of hospital charges as it may
 58 deem equitable and just.

158*#04S

59 158.04 TRANSPORTATION OF PATIENTS; PAYMENT FOR BY COUNTY.
 60 Upon approval of such application, if the patient is unable
 61 to travel alone, the board of county commissioners may appoint a
 62 suitable official or person to take the patient to the
 63 University of Minnesota hospitals and such person shall receive
 64 ~~his~~ actual and necessary expenses; and, if not a salaried *
 65 officer of the state, or any subdivision thereof, shall receive
 66 in addition \$3 per day for the time actually and necessarily
 67 consumed in transporting the patient to the hospital and
 68 returning. The traveling expenses of the patient, the per diem
 69 and expenses of the person appointed to accompany ~~him~~ the *
 70 patient, and 30 percent of the first \$5,000 of the expense *
 71 charged against the patient while an inmate of the hospital
 72 shall be paid by the county of residence of the patient and it
 73 shall be the duty of the board of county commissioners to
 74 provide for such payment.

75 If the county of residence of the patient is not the county

1 in which the patient has legal settlement for the purposes of
 2 poor relief, then the county of residence may seek reimbursement
 3 from the county in which the patient has settlement for the
 4 purposes of poor relief for all costs it has necessarily
 5 incurred and paid in connection with the hospitalization of said
 6 patient.

158*#05S

7 158.05 ACTUAL COST TO BE CHARGED PATIENTS.

8 The University of Minnesota hospitals shall treat patients
 9 admitted on certificate of the board of county commissioners of
 10 any county at rates based on actual cost, as determined by the
 11 board of regents of the University of Minnesota. Sixty percent
 12 of the first \$11,000 in charges against a patient, and all of
 13 the charges against a patient in excess of \$11,000, will be paid
 14 by the state from appropriations made to the university for this
 15 purpose. Before charges are billed to this program, the
 16 University of Minnesota hospitals and clinics shall seek payment
 17 from any third-party insurance that is liable for coverage of
 18 the patients' care. This program shall be billed for the
 19 balance after the third-party payment according to the formula
 20 noted above. Any resident of the state, upon a proper showing
 21 to the board of regents of the University of Minnesota that he
 22 the resident is unable to pay ordinary physician's fees and
 23 hospital charges, may be received upon paying the same rate as
 24 charged for county patients. It shall be the duty of the board
 25 of regents to investigate applications made for such treatment
 26 under this section; and, if satisfied of the truth of the
 27 allegations made and of the necessity for treatment, the board
 28 of regents shall admit such patients when there is room in the
 29 hospitals.

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30 Students of the University of Minnesota and such other
 31 patients as the board of regents, to an extent that will not
 32 interfere with the primary purpose of the hospitals, as set
 33 forth in section 158.02, may direct, may be received in the
 34 hospitals when there is room and any fees received from such
 35 patients shall be used for the purposes of the hospitals.

158*#07S

36 158.07 QUARTERLY REPORT BY BOARD OF REGENTS; PAYMENT.

37 The board of regents of the University of Minnesota shall
 38 file a verified quarterly report with the commissioner of
 39 finance containing an itemized statement of the expense charged
 40 against each patient received on certification of any board of
 41 county commissioners, together with the name of the county from
 42 which the patient was certified, the amount of the expense
 43 charged against the patient that is to be paid by the county
 44 under section 158.04, and a statement of any sums paid by or for
 45 the patient, or-by-any-person-in-his-behalf. On the date that
 46 the board of regents files the quarterly report, it shall also
 47 submit requests for payment in amounts authorized in section
 48 158.04 to each county from which expense amounts are due.

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158*#08S

49 158.08 EXPENSES PAID BY COUNTIES.

50 Upon receipt of the invoice specified in section 158.07 a
 51 county auditor shall issue ~~his~~ a warrant on the poor fund for
 52 the amount due, except that in any county now or hereafter
 53 caring for the poor under a county poor commission, the notice
 54 shall be given to the county poor commission, which shall issue
 55 its warrant on the poor fund of the county for the amount due.
 56 The warrant shall be delivered to the county treasurer, who
 57 shall, if funds are available, issue ~~his~~ a check payable to the
 58 University of Minnesota for the amount of the warrant. If no
 59 funds are available in the poor fund for the payment of the
 60 warrant, it shall be registered. The check or registered
 61 warrant shall be mailed to the University of Minnesota. All
 62 payments hereunder are appropriated to the University of
 63 Minnesota.

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158*#10S

64 158.10 DISCHARGE FROM HOSPITALS.

65 When, in the opinion of the superintendent of the
 66 University of Minnesota hospitals, any patient should be
 67 discharged therefrom as cured, or as no longer needing
 68 treatment, or for the reason that treatment cannot benefit ~~his~~
 69 the case, the superintendent shall discharge the patient. If
 70 the patient is a county patient and is unable to return ~~to-his~~
 71 place-of-residence home alone, the superintendent shall appoint
 72 some suitable person to accompany the patient home from the

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1 hospital ~~to his place of residence~~. Such person shall receive *
2 ~~his~~ actual and necessary expenses; and, if not a salaried *
3 officer of the state, or any political subdivision thereof,
4 shall receive in addition \$3 per day for the actual time
5 necessarily consumed. The traveling expenses of all county
6 patients and the per diem and expenses of the person appointed
7 to accompany the patient shall be part of the legitimate
8 expenses of caring for such patients in the University of
9 Minnesota hospitals and as such included by the superintendent
10 in ~~his~~ the monthly bill to the commissioner of finance, provided *
11 for in section 158.07.

158*#11S

12 158.11 INMATES OF STATE INSTITUTIONS MAY BE ADMITTED.

13 The commissioner of human services may make application to
14 the board of regents of the University of Minnesota for the
15 admission to the University of Minnesota hospitals of any inmate
16 of any state institution under the commissioner of human
17 services, or any person committed to or applying for admission
18 thereto, who is afflicted with any disease, malady, deformity,
19 or ailment which can probably be remedied, or which can be
20 advantageously treated by proper medical or surgical care at the
21 University of Minnesota hospitals. The application shall be
22 accompanied by the report of the physician of the institution or
23 by a physician appointed by the commissioner of human services
24 in the same form as reports of other physicians for admission of
25 patients to the hospitals. The superintendent of the University
26 of Minnesota hospitals shall decide whether the patient may be
27 received by the hospitals; and, if received, when ~~he~~ the patient *
28 shall be discharged or returned to the institution from which ~~he~~ *
29 the patient came. The commissioner of human services shall pay *
30 the board of regents of the University of Minnesota for the
31 treatment of such patients at the same rate charged for county
32 patients and the expense of such treatment and of transporting
33 the patient to and from the University of Minnesota hospitals
34 shall be paid out of the appropriation for operation of the
35 institution from which the patient is sent. The commissioner of
36 human services may when necessary send an attendant with, or
37 bring back, the patient and pay for traveling expenses in like
38 manner.

158*#12S

39 158.12 COOPERATION WITH OTHER HOSPITALS.

40 The University of Minnesota hospitals shall, upon request
41 of proper authorities, cooperate with any county hospital or
42 sanatorium established under existing statutes or any hospital
43 supported, in whole or in part, by public funds. The
44 superintendent of the University of Minnesota hospitals shall,
45 upon request, advise the county commissioners, or others in
46 control of such existing or proposed county or other hospital or
47 sanatorium, in regard to the survey of the hospital needs of the
48 county and in regard to location, buildings, equipment, or other
49 matters pertaining to hospitals. It shall be the duty of the
50 members of the staff of the hospitals, on request, to assist or
51 advise, so far as circumstances permit, such county or other
52 hospital or sanatorium in the medical or surgical care of
53 patients, in X-ray and laboratory diagnosis or in any other
54 matter contributing to the efficiency of such hospital or
55 sanatorium and, so far as possible, to furnish internes and
56 other personnel.

57 No employee of the University of Minnesota shall receive
58 any compensation for such advice or service other than that paid
59 ~~him~~ by the board of regents, except that actual expenses *
60 incurred in rendering such advice or service may be paid.

158*#18S

61 158.18 WHO MAY BE SENT TO DEPARTMENT.

62 Any defective person may be sent to, committed to, or
63 received by, the psychopathic department in the same manner and
64 form and for the same causes as such person would be sent to,
65 committed to, or received by, any institution under the
66 commissioner of human services. It shall be in the discretion
67 of any court acting in accordance with existing statute, or in
68 the discretion of the commissioner of human services, to send
69 any person to the psychopathic department instead of some other
70 institution to which such person would be sent under existing
71 statute. The psychopathic department is designated as a place
72 of temporary detention to which, under existing statute, any
73 probate judge may send defective persons for temporary

1 detention. The commissioner of human services shall have
2 authority to transfer any patient or inmate from any institution
3 under ~~his~~ the commissioner's control to the psychopathic *
4 department for observation and treatment or for medical and
5 surgical care and treatment under the staff of the University of
6 Minnesota hospitals.

7 Persons not defective but who are afflicted or supposed to
8 be afflicted with any abnormal mental condition may be admitted
9 to the psychopathic department under such rules as the board of
10 regents may adopt.

11 In every case the consent of the superintendent of the
12 University of Minnesota hospitals shall be obtained before any
13 patient is sent to, transferred to, or received by, the
14 psychopathic department.