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Revising
Minnesota Statutes
Chapters 241 – 299I

241*#01S

1 241.01 CREATION OF DEPARTMENT.

2 No change for subd 1

3 Subd. 2. DIVISIONS; DEPUTIES. The commissioner of
4 corrections may appoint and employ no more than two deputy
5 commissioners. The commissioner may also appoint a personal
6 secretary, who shall serve at ~~his~~ the commissioner's pleasure in
7 the unclassified civil service. *

8 Subd. 3. Repealed, 1975 c 304 s 15

9 Subd. 3a. COMMISSIONER, POWERS AND DUTIES. The
10 commissioner of corrections has the following powers and duties:

11 (a) To accept persons committed to ~~him~~ the commissioner by
12 the courts of this state for care, custody, and rehabilitation. *

13 (b) To determine the place of confinement of committed
14 persons in a correctional facility or other facility of the
15 department of corrections and to prescribe reasonable conditions
16 and rules for their employment, conduct, instruction, and
17 discipline within or outside the facility. Inmates shall not
18 exercise custodial functions or have authority over other
19 inmates. Inmates may serve on the board of directors or hold an
20 executive position subordinate to correctional staff in any
21 corporation, private industry or educational program located on
22 the grounds of, or conducted within, a state correctional
23 facility with written permission from the chief executive
24 officer of the facility.

25 (c) To administer the money and property of the department.

26 (d) To administer, maintain, and inspect all state
27 correctional facilities.

28 (e) To transfer authorized positions and personnel between
29 state correctional facilities as necessary to properly staff
30 facilities and programs.

31 (f) To utilize state correctional facilities in the manner
32 deemed to be most efficient and beneficial to accomplish the
33 purposes of this section, but not to close the Minnesota
34 correctional facility-Stillwater or the Minnesota correctional
35 facility-St. Cloud without legislative approval. The
36 commissioner may place juveniles and adults at the same state
37 minimum security correctional facilities, if there is total
38 separation of and no regular contact between juveniles and
39 adults, except contact incidental to admission, classification,
40 and mental and physical health care.

41 (g) To organize the department and employ personnel ~~he~~ the *
42 commissioner deems necessary to discharge the functions of the *
43 department, including a chief executive officer for each *
44 facility under ~~his~~ the commissioner's control who shall serve in
45 the unclassified civil service and may, under the provisions of
46 section 43A.33, be removed only for cause, and two internal
47 affairs officers for security who shall be in the unclassified
48 civil service.

49 (h) To define the duties of these employees and to delegate
50 to them any of ~~his~~ the commissioner's powers, duties and *
51 responsibilities, subject to ~~his~~ the commissioner's control and *
52 the conditions ~~he~~ the commissioner prescribes. *

53 (i) To annually develop a comprehensive set of goals and
54 objectives designed to clearly establish the priorities of the
55 department of corrections. This report shall be submitted to
56 the governor and the state legislature commencing January 1,
57 1976. The commissioner may establish ad hoc advisory committees.

58 Subd. 4. BOND AND OATH OF COMMISSIONER. Before
59 entering upon the duties of ~~his~~ office, the commissioner of
60 corrections shall take and subscribe an oath and give ~~his~~ a bond *
61 to the state of Minnesota, to be approved by the governor and *
62 filed with the secretary of state, in the sum of \$25,000,
63 conditioned for the faithful performance of ~~his~~ the *
64 commissioner's duties. *

65 No change for subd 5

66 Subd. 5a. ACCEPTANCE OF GIFTS, GRANTS AND SUBSIDIES;
67 PURPOSES. For the purposes of subdivision 5 and to discharge
68 the functions of the department through the establishment of
69 additional facilities and services to persons committed to ~~his~~ *
70 the commissioner's care the commissioner may, subject to the *
71 provisions of section 15.43, accept and expend on behalf of the
72 state, gifts, grants and subsidies from any lawful source; all
73 moneys and securities so received shall be deposited in the
74 state treasury subject to the order of the commissioner. From

1 the fund to which such receipts are credited there is hereby
2 appropriated annually to the commissioner of corrections such
3 gifts, grants and subsidies as are received under the provisions
4 of this subdivision.

5 Subd. 6. CORRECTIONS; UNCOMPENSATED AND VOLUNTARY
6 SERVICES; EXPENSES. To assist in the discharge of the
7 functions of ~~his~~ the corrections department the commissioner of
8 corrections shall have authority to accept uncompensated and
9 voluntary services and to enter into contracts or agreements
10 with private or public agencies or persons for such
11 uncompensated and voluntary services as ~~he~~ the commissioner may
12 deem practicable. Persons rendering voluntary uncompensated
13 services as herein authorized may be reimbursed for travel
14 expenses paid or incurred in the performance of such official
15 duties as may be assigned them at the same rate per mile as
16 state employees. It is the purpose of this subdivision to
17 provide travel expenses only to those volunteers who would
18 otherwise be unable to afford to perform volunteer services.

19 Subd. 7. USE OF FACILITIES BY OUTSIDE AGENCIES. The
20 commissioner of corrections may authorize and permit public or
21 private social service, educational, or rehabilitation agencies
22 or organizations, and their clients; or lawyers, insurance
23 companies, or others; to use the facilities, staff, and other
24 resources of correctional facilities under ~~his~~ the
25 commissioner's control and may require the participating
26 agencies or organizations to pay all or part of the costs
27 thereof. All sums of money received pursuant to the agreements
28 herein authorized shall not cancel until the end of the fiscal
29 year immediately following the fiscal year in which the funds
30 were received. The funds are available for use by the
31 commissioner during that period, and are hereby appropriated
32 annually to the commissioner of corrections for the purposes of
33 this subdivision.

34 Subd. 8. Repealed, 1981 c 192 s 21

241*#021S

35 241.021 LICENSING AND SUPERVISION OF INSTITUTIONS AND
36 FACILITIES.

37 Subdivision 1. SUPERVISION OVER CORRECTIONAL
38 INSTITUTIONS. (1) The commissioner of corrections shall
39 inspect and license all correctional facilities throughout the
40 state, whether public or private, established and operated for
41 the detention and confinement of persons detained or confined
42 therein according to law except to the extent that they are
43 inspected or licensed by other state regulating agencies. He
44 The commissioner shall promulgate pursuant to chapter 14, rules
45 establishing minimum standards for these facilities with respect
46 to their management, operation, physical condition, and the
47 security, safety, health, treatment and discipline of persons
48 detained or confined therein. Commencing September 1, 1980, no
49 individual, corporation, partnership, voluntary association or
50 other private organization legally responsible for the operation
51 of a correctional facility may operate the facility unless
52 licensed by the commissioner of corrections. The commissioner
53 shall annually review the correctional facilities described in
54 this subdivision, except as otherwise provided herein, to
55 determine compliance with the minimum standards established
56 pursuant to this subdivision. The commissioner shall grant a
57 license to any facility found to conform to minimum standards or
58 to any facility which, in ~~his~~ the commissioner's judgment, is
59 making satisfactory progress toward substantial conformity and
60 the interests and well-being of the persons detained or confined
61 therein are protected. The commissioner shall have access to
62 the buildings, grounds, books, records, staff and to persons
63 detained or confined in these facilities. He The commissioner
64 may require the officers in charge of these facilities to
65 furnish all information and statistics ~~he~~ the commissioner deems
66 necessary, upon forms furnished by ~~him~~ the commissioner.

67 (2) Any state agency which regulates, inspects, or licenses
68 certain aspects of correctional facilities shall, insofar as is
69 possible, ensure that the minimum standards it requires are
70 substantially the same as those required by other state agencies
71 which regulate, inspect, or license the same aspects of similar
72 types of correctional facilities, although at different
73 correctional facilities.

74 (3) Nothing in this section shall be construed to limit
75 the commissioner of corrections' authority to promulgate rules

1 establishing standards of eligibility for counties to receive
 2 funds under sections 401.01 to 401.16, or to require counties to
 3 comply with operating standards the commissioner establishes as
 4 a condition precedent for counties to receive that funding.

5 (4) When the commissioner finds that any facility
 6 described in clause (1) of this subdivision, except foster care
 7 facilities for delinquent children and youth as provided in
 8 subdivision 2, does not substantially conform to the minimum
 9 standards established by the commissioner and is not making
 10 satisfactory progress toward substantial conformance, he the *
 11 commissioner shall promptly notify the chief executive officer *
 12 and the governing board of the facility of the deficiencies and
 13 order that they be remedied within a reasonable period of time.
 14 The commissioner may by written order restrict the use of any
 15 facility which does not substantially conform to minimum
 16 standards to prohibit the detention of any person therein for
 17 more than 72 hours at one time. When, after due notice and
 18 hearing, the commissioner finds that any facility described in
 19 this subdivision, except county jails and lockups as provided in
 20 sections 641.26, 642.10, and 642.11, does not conform to minimum
 21 standards, or is not making satisfactory progress toward
 22 substantial compliance therewith, he the commissioner may issue *
 23 his an order revoking the license of that facility. After *
 24 revocation of its license, that facility shall not be used until
 25 its license is renewed. When the commissioner is satisfied that
 26 satisfactory progress towards substantial compliance with
 27 minimum standard is being made, he the commissioner may, at the *
 28 request of the appropriate officials of the affected facility
 29 supported by a written schedule for compliance, grant an
 30 extension of time for a period not to exceed one year.

31 (5) As used in this subdivision, "correctional facility"
 32 means any facility, including a group home, having a residential
 33 component, the primary purpose of which is to serve persons
 34 placed therein by a court, court services department, parole
 35 authority, or other correctional agency having dispositional
 36 power over persons charged with, convicted or adjudicated to be
 37 guilty or delinquent.

38 Subd. 2. FOSTER CARE FACILITIES FOR DELINQUENT CHILDREN
 39 AND YOUTH; LICENSES; SUPERVISION. Notwithstanding any
 40 provisions in sections 256.01, subdivision 2, clause (2), and
 41 245.783 to 245.791 to the contrary, the commissioner of
 42 corrections shall pass annually on the adequacy and suitability
 43 of all county, municipal or other publicly established and
 44 operated facilities for the detention, care and training of
 45 delinquent children and youth, if such facility conforms to
 46 reasonable standards established by the commissioner or in his *
 47 the commissioner's judgment is making satisfactory progress *
 48 toward substantial conformity therewith, and he the commissioner *
 49 is satisfied that the interests and well-being of children and *
 50 youth received therein are protected, he the commissioner shall *
 51 grant a license to the county, municipality or agency thereof
 52 operating such facility. This license shall remain in force one
 53 year unless sooner revoked. Each such facility shall cooperate
 54 with the commissioner to make available all facts regarding its
 55 operation and services as he the commissioner requires to *
 56 determine its conformance to standards and its competence to
 57 give the services needed and which purports to give. Every such
 58 facility as herein described is subject to visitation and
 59 supervision by the commissioner and shall receive from him the *
 60 commissioner consultation as needed to strengthen services to *
 61 the children and youth received therein.

62 Subd. 3. REVOCATION OF LICENSE. When after due
 63 notice and hearing the commissioner of corrections determines
 64 that any facility described in subdivision 2 does not
 65 substantially conform to the reasonable standards therein
 66 provided or is not making satisfactory progress toward
 67 substantial compliance therewith, he the commissioner may, with *
 68 the consent of the judge of the district court, issue his an *
 69 order revoking the license of that facility. After revocation
 70 of its license, that facility shall not be used for the care and
 71 training of delinquent children, or for their detention until
 72 its license is renewed.

73 No change for subd 4 to 6

241*#022S

74 241.022 GRANTS-IN-AID TO COUNTIES FOR DETENTION
 75 FACILITIES.

1 No change for subd 1 to 2

2 Subd. 3. APPLICATION FOR GRANTS. Any county or
3 group of counties operating any of the facilities described in
4 subdivision 1 or desiring to construct and operate or to
5 rehabilitate existing facilities may apply for assistance under
6 this section by submitting to the commissioner of corrections
7 for ~~his~~ approval its plans, specifications, budget, program for *
8 training and treatment, and staffing pattern, including
9 personnel qualifications. The commissioner may recommend such *
10 changes or modifications as ~~he~~ the commissioner deems necessary
11 to effect substantial compliance with the standards provided in
12 subdivision 2. When the commissioner has determined that any
13 county or group of counties has substantially complied with the
14 minimum standards, or is making satisfactory progress toward *
15 such compliance ~~he~~ the commissioner may pay to such counties an
16 amount not to exceed 50 percent of the cost of construction or
17 rehabilitation of the facilities described in this section, and,
18 in the case of improvement of program and continued operation of
19 any program in a regional facility as described in subdivision
20 1, ~~he~~ the commissioner may pay to the governing board of such *
21 facility a sum not to exceed \$1,800 per year for each adult bed
22 and \$3,200 per year for each juvenile bed as approved in the
23 submitted plans and specifications.

24 No change for subd 4 to 5

241*#05S

25 241.05 RELIGIOUS INSTRUCTION.

26 The commissioner of corrections shall provide at least one
27 hour, on the first day of each week, between nine o'clock a.m.
28 and five o'clock p.m., for religious instruction to inmates of *
29 all prisons and reformatories under ~~his~~ the commissioner's
30 control, during which ~~clergy~~ members of the clergy of good *
31 standing in any church or denomination may freely administer and
32 impart religious rites and instruction to those desiring the
33 same. ~~He~~ The commissioner shall provide a private room where *
34 such instruction can be given by ~~clergy~~ members of the clergy
35 of the denomination desired by the inmate, or, in case of *
36 minors, by the parents or guardian, and, in case of sickness,
37 some other day or hour may be designated; but all sectarian
38 practices are prohibited, and no officer or employee of the
39 institution shall attempt to influence the religious belief of
40 any inmate, and none shall be required to attend religious
41 services against ~~his~~ the inmate's will. *

241*#06S

42 241.06 RECORD OF INMATES; DEPARTMENT OF CORRECTIONS.

43 The commissioner of corrections shall keep in ~~his~~ the *
44 commissioner's office, accessible only by ~~his~~ the commissioner's *
45 consent or on the order of a judge or court of record, a record
46 showing the residence, sex, age, nativity, occupation, civil
47 condition, and date of entrance or commitment of every person,
48 inmate, or convict in the facilities under ~~his~~ the *
49 commissioner's exclusive control, the date of discharge and *
50 whether such discharge was final, the condition of such person
51 when ~~he~~ the person left the facility, and the date and cause of *
52 all deaths. The records shall state every transfer from one
53 facility to another, naming each. This information shall be
54 furnished to the commissioner of corrections by each facility,
55 with such other obtainable facts as ~~he~~ the commissioner may from *
56 time to time require. The chief executive officer of each such
57 facility, within ten days after the commitment or entrance
58 thereto of a person, inmate, or convict, shall cause a true copy
59 of ~~his~~ the entrance record to be forwarded to the commissioner *
60 of corrections. When a person, inmate, or convict leaves, is
61 discharged or transferred, or dies in any facility, the chief
62 executive officer, or other person in charge shall inform the
63 commissioner of corrections within ten days thereafter on
64 forms ~~by him~~ furnished by the commissioner. *

65 The commissioner of corrections may authorize the chief
66 executive officer of any facility under ~~his~~ the commissioner's *
67 control to release to probation officers, county welfare boards
68 or other specifically designated interested persons or agencies
69 any information regarding any person, inmate, or convict
70 thereat, if, in the opinion of the commissioner, it will be for
71 the benefit of the person, inmate, or convict.

241*#07S

72 241.07 TRANSFER OF INMATES TO OTHER STATE INSTITUTIONS.

73 The commissioner of corrections may transfer an inmate of

1 any state correctional facility to a state institution under the
 2 control of the commissioner of human services or to a private
 3 medical facility for diagnosis, treatment, or care which is not
 4 available at any state correctional facility and shall cause a
 5 proper record to be made at the institutions or facility to
 6 which a transfer has been made and at ~~his~~ the commissioner's
 7 office. No transfer shall be made by the commissioner of
 8 corrections without the approval of the commissioner of human
 9 services or the chief executive officer of the private
 10 facility. An inmate of any state correctional facility so
 11 transferred shall be returned to the correctional facility from
 12 which transferred by order of the commissioner of corrections
 13 upon conclusion of treatment, or, if the inmate becomes eligible
 14 for release from custody pursuant to the terms of the sentence
 15 prior to conclusion of treatment, the inmate shall be released
 16 unless, before conclusion of treatment, the inmate has been
 17 committed to a medical institution by competent authority as
 18 provided by law. The superintendent of any state institution or
 19 the chief executive officer of any private facility shall at
 20 once notify the commissioner of corrections if there is any
 21 question as to the propriety of the commitment or detention of
 22 any inmate admitted to their institution or facility and the
 23 commissioner shall immediately take action on the question.

241*#08S

24 241.08 MONEY OF INMATES OF CORRECTIONAL INSTITUTIONS.

25 Subdivision 1. The chief executive officer of each
 26 institution under the jurisdiction of the commissioner of
 27 corrections shall have the care and custody of all moneys
 28 belonging to inmates thereof which may come into ~~his~~ the chief
 29 executive officer's hands, keep accurate accounts thereof, and
 30 pay them out under rules and regulations prescribed by law or by
 31 the commissioner of corrections, taking vouchers therefor. He
 32 The chief executive officer shall give such additional bond as
 33 the commissioner may require, conditioned to safely keep and
 34 account for such funds. All such moneys received by any officer
 35 or employee shall be paid to the chief executive officer
 36 forthwith. Every such executive officer, at the close of each
 37 month, or oftener if required by the commissioner, shall forward
 38 to the commissioner a statement of the amount of all moneys so
 39 received and the names of the inmates from whom received,
 40 accompanied by ~~his~~ a check for the amount, payable to the state
 41 treasurer. On receipt of such statement, the commissioner shall
 42 transmit the same to the commissioner of finance, together with
 43 such check, who shall deliver the same to the state treasurer.
 44 Upon the payment of such check, the amount shall be credited to
 45 a fund to be known as "Correctional Inmates Fund", for the
 46 institution from which the same was received. All such funds
 47 shall be paid out by the state treasurer upon vouchers duly
 48 approved by the commissioner of corrections as in other cases.
 49 The commissioner may permit a contingent fund to remain in the
 50 hands of the executive officer of any such institution from
 51 which necessary expenditure may from time to time be made.

52 Subd. 2. Notwithstanding the provisions of subdivision 1
 53 or other law to the contrary, the commissioner of corrections
 54 may permit the inmates of the institutions under ~~his~~ the
 55 commissioner's control to deposit money in a bank or other
 56 financial institution. The commissioner shall establish rules
 57 governing the deposits and shall require each inmate to maintain
 58 at the institution in which confined an amount adequate for ~~his~~
 59 the inmate's needs during the period of ~~his~~ confinement and to
 60 assist ~~him~~ the inmate upon ~~his~~ release therefrom on parole or by
 61 discharge.

241*#09S

62 241.09 UNCLAIMED MONEY OR PERSONAL PROPERTY OF INMATES
63 OF CORRECTIONAL FACILITIES.

64 No change for subd 1

65 Subd. 2. UNCLAIMED PERSONAL PROPERTY. When any
 66 inmate of a state correctional facility under the jurisdiction
 67 of the commissioner of corrections has died, been released or
 68 escaped therefrom leaving in the custody of the chief executive
 69 officer thereof personal property, other than money, which
 70 remains unclaimed for a period of two years, and the chief
 71 executive officer knows no person entitled to it, the chief
 72 executive officer or ~~his~~ the chief executive officer's agent may
 73 sell or otherwise dispose of the property in the manner provided
 74 by law for the sale or disposition of state property. The

1 proceeds of any sale, after deduction of the costs shall be
 2 deposited in the inmate social welfare fund for expenditure as
 3 provided in subdivision 1. Any inmate whose property has been
 4 sold under this subdivision, or heirs of the inmate, may file
 5 with, and make proof of ownership to, the chief executive
 6 officer of the institution who caused the sale of the property
 7 within two years after the sale, and, upon satisfactory proof to
 8 the chief executive officer, the chief executive officer shall
 9 certify to the state treasurer the amount received by the sale
 10 of such property for payment to the inmate or heirs. No suit
 11 shall be brought for damages consequent to the disposal of
 12 personal property or use of money in accordance with this
 13 section against the state or any official, employee, or agent
 14 thereof.

241*#10S

15 241.10 DISPOSAL OF FUNDS; CORRECTIONAL INSTITUTIONS.

16 Every officer and employee of the several institutions
 17 under the jurisdiction of the commissioner of corrections shall
 18 pay to the accounting officer thereof any funds in ~~his~~ the *
 19 officer's or employee's hands belonging to the institution. *
 20 Every accounting officer, at the close of each month or oftener,
 21 shall forward to the commissioner of corrections a statement of
 22 the amount and sources of all moneys received. On receipt of
 23 such statement, the commissioner shall transmit the same to the
 24 commissioner of finance, who shall deliver to the state
 25 treasurer a draft upon the accounting officer for the same,
 26 specifying the funds to which it is to be credited. Upon
 27 payment of such draft, the amount shall be so credited.

241*#13S

28 241.13 CONTINGENT ACCOUNT; DAMAGE DEPOSITS; CORRECTIONAL
 29 INSTITUTIONS.

30 Subdivision 1. CONTINGENT ACCOUNT. The commissioner
 31 of corrections may permit a contingent account to remain in the
 32 hands of the accounting officer of any such institution from
 33 which expenditures may be made in case of actual emergency
 34 requiring immediate payment to prevent loss or danger to the
 35 institution or its inmates and for the purpose of paying
 36 freight, purchasing produce, livestock and other commodities
 37 requiring a cash settlement, and for the purpose of discounting
 38 bills incurred, but in all cases subject to revision by the
 39 commissioner of corrections. An itemized statement of every
 40 expenditure made during the month from such account shall be
 41 submitted to the commissioner under rules established by ~~him~~ the *
 42 commissioner. If necessary, the commissioner shall make proper *
 43 requisition upon the commissioner of finance for a warrant upon
 44 the state treasurer to secure the contingent account for each
 45 institution.

46 No change for subd 2

241*#16S

47 241.16 CEMETERY AT CORRECTIONAL FACILITIES.

48 Subdivision 1. The commissioner of corrections may
 49 establish, maintain, or continue in existence, a cemetery for
 50 the burial of any patient, inmate or person admitted to any
 51 state facility under ~~his~~ the commissioner's control upon the *
 52 public grounds of such facility in the manner set forth in the
 53 following subdivisions.

54 No change for subd 2 to 4

55 Subd. 5. The surveyor shall certify as to the correctness
 56 of the plat by ~~his~~ an endorsement thereon. *

57 No change for subd 6

241*#17S

58 241.17 REBURIAL.

59 No change for subd 1

60 Subd. 2. The commissioner shall petition the district
 61 court of the county wherein the present cemetery is situated
 62 setting forth the reasons for such removal, the place to which
 63 the body is to be removed, and praying for an order of the court
 64 authorizing such removal. Upon the presentation of such
 65 petition, the court shall make its order setting the time, which
 66 shall not be less than 60 days from the date of the order, and
 67 the place for hearing the same. The commissioner shall serve
 68 the nearest relative or, if the commissioner cannot locate any
 69 relative, some friend of the person whose body is to be removed
 70 by mailing to ~~him~~ the friend or relative a copy of the petition *
 71 and court's order 30 days before the date of hearing and *
 72 file ~~his~~ the commissioner's affidavit of mailing with the clerk *

1 of district court. If the commissioner is unable to locate a
2 relative or friend, he the commissioner shall make his an
3 affidavit to that effect and file the same with the clerk of
4 district court.

5 No change for subd 3

241*#18S

6 241.18 ABANDONMENT OF CEMETERY; COURT ORDER.

7 If the court makes its order under the provisions of
8 section 241.17 authorizing the removal of bodies from a cemetery
9 and the same is accomplished in accordance with such order and
10 the commissioner files affidavits of such removal as
11 hereinbefore provided, together with his the commissioner's
12 affidavit that he the commissioner has caused a thorough search
13 to be made, and there are no more dead bodies remaining in such
14 cemetery to the best of his the commissioner's knowledge,
15 information and belief, the court may make its order authorizing
16 the abandonment of such cemetery and thereby discontinue its use
17 as such.

241*#19S

18 241.19 FOOD PRODUCTS, PRODUCTION AND PRESERVATION.

19 The commissioner of corrections may contract with
20 corporations or individuals engaged in the commercial canning or
21 freezing of food products, under such terms as he the
22 commissioner believes are for the best interests of the state,
23 for the seeding, fertilizing, harvesting, and preserving of food
24 products for consumption by institution inmates. The contract
25 may provide for the payment of the processor's services by a
26 fractional share of the food processed. The commissioner shall
27 not be required to advertise for or secure bids.

241*#20S

28 241.20 INMATES TO DO CONSERVATION WORK.

29 Whenever he the commissioner of corrections deems it
30 conducive to the rehabilitation of inmates of correctional
31 institutions under his the commissioner's control the
32 commissioner ~~of corrections~~ may use selected inmates in the
33 general improvement, maintenance, conservation, reforestation,
34 soil erosion control, soil rehabilitation, and cultivation of
35 any land within the control of the commissioner and, pursuant to
36 agreement with the head of any other state department or agency,
37 of lands under control of such department or agency.

241*#25S

38 241.25 AID TO PERSONS ON LEAVE, PAROLE OR PROBATION.

39 No change for subd 1 to 2

40 Subd. 3. The commissioner of corrections is hereby
41 authorized and empowered to make emergency loans to those
42 persons on parole or probation from state correctional
43 institutions under his the commissioner's control who are found
44 to be in need of emergency financial assistance. Such loans may
45 be in such amounts as the commissioner shall determine to be
46 reasonably necessary for subsistence of the parolee or
47 probationer and his family until ~~he has become~~ gainfully
48 employed or the parolee or probationer has made other suitable
49 arrangements for the personal and family support of himself and
50 family through other public agencies. The commissioner shall
51 determine the terms and conditions of such loans and the manner
52 of their repayment, including resort to legal action to effect
53 collection of same in the event of refusal or neglect by the
54 recipient to make repayment when able to do so.

55 No change for subd 4 to 5

56 Subd. 6. The commissioner of corrections may use the money
57 in the imprest fund of his the department to make emergency
58 loans as provided in subdivision 3 and to meet other emergencies.

241*#251S

59 241.251 PRESS ACCESS FOR INMATES.

60 Subdivision 1. Any inmate of a state correctional facility
61 shall be permitted to speak in person or by phone at his the
62 inmate's own expense to any representative of the public news
63 media, as defined in subdivision 4, on a daily basis between the
64 hours of 8:00 a.m. and 9:00 p.m. except in emergency situations
65 as defined in subdivision 5; provided that it does not interfere
66 with the inmate's regularly assigned duties. The right to speak
67 in person with a representative of the news media shall not
68 constitute a regular facility visit.

69 Correctional authorities may limit the exercise of
70 privileges conferred by this section by any individual inmate to
71 one telephone call or interview per week.

1 No change for subd 2

2 Subd. 3. Subject to the provisions of section 243.55 and
3 the duty of the chief executive officer to take reasonable
4 precautions to prevent the introduction of contraband into a
5 correctional facility, representatives of the public news media
6 shall, upon their own request, be permitted to interview any
7 consenting inmate or representatives of a consenting group of
8 inmates of the state at the times and under the circumstances
9 described in subdivision 1. Any representative of the public
10 news media who is denied access to a correctional facility must
11 be given the reasons therefor in writing, and he the
12 representative may appeal such denial to the commissioner of
13 corrections.

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14 No change for subd 4 to 5

241*#26S

15 241.26 PRIVATE EMPLOYMENT OF INMATES OF STATE
16 CORRECTIONAL INSTITUTIONS IN COMMUNITY.

17 Subdivision 1. COMMISSIONER. When consistent with
18 the public interest and the public safety, the commissioner of
19 corrections may conditionally release an inmate who is eligible
20 and being considered for release under section 243.05, to work
21 at paid employment, seek employment, or participate in a
22 vocational training or educational program. Release under this
23 subdivision is an extension of the limits of confinement and
24 each inmate so released shall be confined in the correctional
25 facility from which released or in some other suitable place of
26 confinement designated by the commissioner of corrections during
27 the hours he the inmate is not employed, seeking employment, or
28 engaged in a vocational training or educational program, or, if
29 employed, seeking employment, or engaged in a vocational
30 training or educational program, between the hours of such
31 activity. A reasonable allowance for travel time and meals
32 shall be permitted.

*

33 Subd. 2. USE OF LOCAL DETENTION FACILITIES. The
34 commissioner of corrections shall designate state correctional
35 institutions for participation in the program authorized in
36 subdivision 1 and shall adapt facilities of such institutions to
37 provide housing and supervision of inmates participating in such
38 program. He The commissioner of corrections may also enter into
39 contractual agreements with appropriate city and county
40 authorities for the confinement of and provision of other
41 correctional services to such inmates whose employment,
42 educational or vocational training programs so require, and such
43 city and county authorities are hereby authorized to make and
44 enter such contracts and agreements. When determined-by the
45 commissioner determines that the circumstances of a participant
46 in the program authorized by subdivision 1 do not require the
47 security of a public detention facility, he the commissioner may
48 contract with public and private agencies for the custody and
49 separate care of such participant or house him the participant
50 in a community correction center.

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*

51 No change for subd 3

52 Subd. 4. REVOCATION. The willful failure of an
53 inmate to report to or return from planned employment, seeking
54 employment, educational or vocational training, or furlough as
55 provided in subdivision 3 shall be considered an escape under
56 section 609.485. If an inmate violates any of the rules
57 provided for in subdivision 3, his the inmate's work placement,
58 educational, or vocational training privileges may be withdrawn
59 by the commissioner.

*

60 Subd. 5. EARNINGS; WORK RELEASE ACCOUNT. The net
61 earnings of each inmate participating in the work release
62 program provided by this section may be collected by or
63 forwarded to the commissioner of corrections for deposit to the
64 account of the inmate in the work release account in the state
65 treasury, or the inmate may be permitted to collect, retain, and
66 expend the net earnings from his-or-her the inmate's employment
67 under rules established by the commissioner of corrections. The
68 money collected by or forwarded to the commissioner under his-or
69 her the rules shall remain under the control of the commissioner
70 for the sole benefit of the inmate. Wages under the control of
71 the commissioner and wages retained by the inmate may be
72 disbursed by the commissioner or expended by the inmate for the
73 following purposes and in the following order:

*
*
*

74 (1) The cost of the inmate's keep as determined by
75 subdivision 7, which money shall be deposited in the general

1 fund of the state treasury if the inmate is housed in a state
 2 correctional facility, or shall be paid directly to the place of
 3 confinement as designated by the commissioner pursuant to
 4 subdivision 1;

5 (2) Necessary travel expense to and from work and other
 6 incidental expenses of the inmate;

7 (3) Support of inmate's dependents, if any;

8 (4) Court-ordered restitution, if any;

9 (5) Contribution to any programs established by law to aid
 10 victims of crime, provided that the contribution must not be
 11 more than 20 percent of the inmate's gross wages;

12 (6) After the above expenditures, the inmate shall have
 13 discretion to direct payment of the balance, if any, upon proper
 14 proof of personal legal debts;

15 (7) The balance, if any, shall be disbursed to the inmate
 16 as provided in section 243.24, subdivision 1.

17 All money in the work release account are appropriated
 18 annually to the commissioner of corrections for the purposes of
 19 the work release program.

20 No change for subd 6 to 7

21 *#27S

22 241.27 VOCATIONAL TRAINING OF INMATES; MINNESOTA
 23 CORRECTIONAL INDUSTRIES; REVOLVING ACCOUNTS.

24 Subdivision 1. ESTABLISHMENT OF MINNESOTA CORRECTIONAL
 25 INDUSTRIES. For the purpose of providing adequate, regular
 26 and suitable employment, vocational training, and to aid the
 27 inmates of state correctional facilities, the commissioner of
 28 corrections may establish, equip, maintain and operate at any
 29 correctional facility under ~~his~~ the commissioner's control such
 30 industrial and commercial activities as may be deemed necessary
 31 and suitable to the profitable employment, vocational training
 32 and development of proper work habits of the inmates of state
 33 correctional facilities. The industrial and commercial
 34 activities authorized by this section shall be for the primary
 35 purpose of providing vocational training, meaningful employment
 36 and the teaching of proper work habits to the inmates of
 37 correctional facilities under the control of the commissioner of
 38 corrections, and not as competitive business ventures. Prior to
 39 the establishment of any industrial and commercial activity, the
 40 commissioner of corrections may consult with representatives of
 41 business, industry, organized labor, the state department of
 42 education, the state apprenticeship council, the state
 43 department of labor and industry, the department of employment
 44 security, the department of administration, and such other
 45 persons and bodies as ~~he~~ the commissioner may feel are qualified
 46 to determine the quantity and nature of the goods, wares,
 47 merchandise and services to be made or provided, and the types
 48 of processes to be used in their manufacture, processing,
 49 repair, and production consistent with the greatest opportunity
 50 for the reform and vocational training of the inmates, and with
 51 the best interests of the state, business, industry and labor.

52 The commissioner of corrections shall, at all times in the
 53 conduct of any industrial or commercial activity authorized by
 54 this section, utilize inmate labor to the greatest extent
 55 feasible, provided, however, that the commissioner may employ
 56 all administrative, supervisory and other skilled ~~craftsmen~~
 57 workers necessary to the proper instruction of the inmates and
 58 the profitable and efficient operation of the industrial and
 59 commercial activities authorized by this section.

60 Additionally, the commissioner of corrections may authorize
 61 the director of any correctional facility under ~~his~~ the
 62 commissioner's control to accept work projects from outside
 63 sources for processing, fabrication or repair, provided that
 64 preference shall be given to the performance of such work
 65 projects for state departments and agencies.

65 No change for subd 2

66 Subd. 3. DISBURSEMENT FROM FUND. The correctional
 67 industries revolving fund shall be deposited in the state
 68 treasury and paid out only on proper vouchers as may be
 69 authorized and approved by the commissioner of corrections, and
 70 in the same manner and under the same restrictions as are now
 71 provided by law for the disbursement of funds by the
 72 commissioner. The commissioner of corrections is authorized to
 73 keep and maintain at any correctional facility under ~~his~~ the
 74 commissioner's control a contingent fund, as provided in section
 75 241.13; but the contingent fund shall at all times be covered

1 and protected by a proper and sufficient bond to be duly
2 approved as by law now provided.

3 Subd. 4. REVOLVING FUND; BORROWING. The commissioner
4 of corrections is authorized, when in ~~his~~ the commissioner's *
5 judgment it becomes necessary in order to meet current demands
6 on the correctional industries revolving fund, to borrow sums of
7 money as may be necessary. The sums so borrowed shall not
8 exceed, in any one year, 50 percent of the total of the net
9 worth of correctional industries.

10 When the commissioner of corrections shall certify to the
11 commissioner of finance and the state treasurer that, in ~~his~~ the *
12 commissioner's judgment, it is necessary to borrow a specified *
13 sum of money in order to meet the current demands on the
14 correctional industries revolving fund, the state treasurer and
15 the commissioner of finance may, in their discretion, transfer
16 and credit to the correctional industries revolving fund, from
17 any moneys in the state treasury not required for immediate
18 disbursement, the whole or such part of the amount so certified
19 as they deem advisable, which sum so transferred shall be repaid
20 by the commissioner from the revolving fund to the fund from
21 which transferred, at such time as shall be specified by the
22 state treasurer and the commissioner of finance, together with
23 interest thereon at such rate as shall be specified by the
24 commissioner of finance and the state treasurer, not exceeding
25 four percent per annum. When any transfer shall so have been
26 made to the correctional industries revolving fund, the state
27 treasurer and the commissioner of finance shall notify the
28 commissioner of corrections of the amount so transferred to the
29 credit of the correctional industries revolving fund, the date
30 when the same is to be repaid, and the rate of interest so to be
31 paid.

32 No change for subd 5

241*#30S

33 241.30 POWERS WITH RELATION TO COMPACT.

34 The commissioner of corrections or ~~his~~ a designee is hereby *
35 authorized and directed to do all things necessary or incidental
36 to the carrying out of the compact in every particular.

241*#31S

37 241.31 ESTABLISHMENT AND OPERATION BY MUNICIPALITY.

38 No change for subd 1 to 4

39 Subd. 5. The commissioner of corrections shall establish
40 minimum standards for the size, area to be served,
41 qualifications of staff, ratio of staff to client population,
42 and treatment programs for community corrections programs
43 established pursuant to this section. Plans and specifications
44 for such programs, including proposed budgets must first be
45 submitted to the commissioner for ~~his~~ approval prior to the *
46 establishment.

47 No change for subd 6 to 7

241*#32S

48 241.32 ESTABLISHMENT AND OPERATION BY STATE.

49 Subdivision 1. The commissioner of corrections may
50 establish and operate community correctional programs or
51 contract with existing public and private agencies for separate
52 custody or specialized care and treatment of persons under ~~his~~ *
53 the commissioner's custody and control or under the custody and *
54 control of the commissioner of corrections or on conditional
55 release under section 241.26.

56 No change for subd 2 to 3

241*#42S

57 241.42 DEFINITIONS.

58 No change for subd 1

59 Subd. 2. "Administrative agency" or "agency" means any
60 division, official, or employee of the Minnesota department of
61 corrections, the commissioner of corrections, the board of
62 pardons and regional correction or detention facilities or
63 agencies for correction or detention programs including those
64 programs or facilities operating under chapter 401, but does not
65 include:

- 66 (a) any court or judge;
- 67 (b) any member of the senate or house of representatives of
68 the state of Minnesota;
- 69 (c) the governor or ~~his~~ the governor's personal staff; *
- 70 (d) any instrumentality of the federal government of the
71 United States;
- 72 (e) any political subdivision of the state of Minnesota;

1 (f) any interstate compact.

2 No change for subd 3

241*#43S

3 241.43 ORGANIZATION OF OFFICE OF OMBUDSMAN.

4 Subdivision 1. The ombudsman may select, appoint, and
5 compensate out of available funds such assistants and employees
6 as ~~he-may-deem~~ deemed necessary to discharge ~~his~~ *
7 responsibilities. All employees, except the secretarial and
8 clerical staff, shall serve at the pleasure of the ombudsman in
9 the unclassified service. The ombudsman and ~~his~~ full-time staff *
10 shall be members of the Minnesota state retirement association.

11 Subd. 2. The ombudsman shall designate ~~one-of-his~~ *
12 assistants an assistant to be the deputy ombudsman. *

13 Subd. 3. The ombudsman may delegate to staff members of *
14 ~~his-staff~~ any of ~~his~~ the ombudsman's authority or duties except *
15 the duty of formally making recommendations to an administrative
16 agency or reports to the office of the governor, or to the
17 legislature. *

241*#44S

18 241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTION ON
19 COMPLAINTS; RECOMMENDATIONS.

20 Subdivision 1. POWERS. The ombudsman ~~shall-have-the~~ *
21 following-powers may: *

22 (a) ~~He-may~~ prescribe the methods by which complaints are to *
23 be made, reviewed, and acted upon; provided, however, that ~~he~~ *
24 the ombudsman may not levy a complaint fee; *

25 (b) ~~He-may~~ determine the scope and manner of investigations *
26 to be made; *

27 (c) Except as otherwise provided, ~~he-may~~ determine the *
28 form, frequency, and distribution of ~~his~~ conclusions, *
29 recommendations, and proposals; provided, however, that the
30 governor or ~~his~~ a representative may, at any time the governor *
31 deems it necessary, request and receive information from the
32 ombudsman. Neither the ombudsman nor any staff member ~~of-his~~ *
33 staff shall be compelled to testify in any court with respect to *
34 any matter involving the exercise of ~~his~~ the ombudsman's *
35 official duties except as may be necessary to enforce the
36 provisions of sections 241.41 to 241.45; *

37 (d) ~~He-may~~ investigate, upon a complaint or upon ~~his-own~~ *
38 personal initiative, any action of an administrative agency; *

39 (e) ~~He-may~~ request and shall be given access to information *
40 in the possession of an administrative agency ~~which-he-deems~~ *
41 deemed necessary for the discharge of ~~his~~ responsibilities; *

42 (f) ~~He-may~~ examine the records and documents of an *
43 administrative agency; *

44 (g) ~~He-may~~ enter and inspect, at any time, premises within *
45 the control of an administrative agency; *

46 (h) ~~He-may~~ subpoena any person to appear, give testimony, *
47 or produce documentary or other evidence which the ombudsman *
48 deems relevant to a matter under ~~his~~ inquiry, and may petition *
49 the appropriate state court to seek enforcement with the
50 subpoena; provided, however, that any witness at a hearing or
51 before an investigation as herein provided, shall possess the
52 same privileges reserved to such a witness in the courts or
53 under the laws of this state; *

54 (i) ~~The-ombudsman-may~~ bring an action in an appropriate *
55 state court to provide the operation of the powers provided in
56 this subdivision. The ombudsman may use the services of legal
57 assistance to Minnesota prisoners for legal counsel. The
58 provisions of sections 241.41 to 241.45 are in addition to other
59 provisions of law under which any remedy or right of appeal or
60 objection is provided for any person, or any procedure provided
61 for inquiry or investigation concerning any matter. Nothing in
62 sections 241.41 to 241.45 shall be construed to limit or affect
63 any other remedy or right of appeal or objection nor shall it be
64 deemed part of an exclusionary process; and *

65 (j) ~~He-may~~ be present at commissioner of corrections parole *
66 and parole revocation hearings and deliberations. *

67 No change for subd 1a

68 Subd. 2. MATTERS APPROPRIATE FOR INVESTIGATION. (a)

69 In selecting matters for ~~his~~ attention, the ombudsman should *
70 address ~~himself~~ particularly to actions of an administrative *
71 agency which might be:

72 (1) contrary to law or regulation;

73 (2) unreasonable, unfair, oppressive, or inconsistent with *
74 any policy or judgment of an administrative agency; *

1 (3) mistaken in law or arbitrary in the ascertainment of
 2 facts;
 3 (4) unclear or inadequately explained when reasons should
 4 have been revealed;

5 (5) inefficiently performed;
 6 (b) The ombudsman may also ~~concern-himself~~ be concerned
 7 with strengthening procedures and practices which lessen the
 8 risk that objectionable actions of the administrative agency
 9 will occur.

10 Subd. 3. COMPLAINTS. The ombudsman may receive a
 11 complaint from any source concerning an action of an
 12 administrative agency. ~~He~~ The ombudsman may, on ~~his-own~~
 13 personal motion or at the request of another, investigate any
 14 action of an administrative agency.

15 The ombudsman may exercise ~~his~~ powers without regard to the
 16 finality of any action of an administrative agency; however, ~~he~~
 17 the ombudsman may require a complainant to pursue other remedies
 18 or channels of complaint open to the complainant before
 19 accepting or investigating the complaint.

20 After completing ~~his~~ investigation of a complaint, the
 21 ombudsman shall inform the complainant, the administrative
 22 agency, and the official or employee, of the action taken.

23 A letter to the ombudsman from a person in an institution
 24 under the control of an administrative agency shall be forwarded
 25 immediately and unopened to the ombudsman's office. A reply
 26 from the ombudsman to the person shall be delivered unopened to
 27 the person, promptly after its receipt by the institution.

28 No complainant shall be punished nor shall the general
 29 condition of ~~his~~ the complainant's confinement or treatment be
 30 unfavorably altered as a result of ~~his~~ the complainant having
 31 made a complaint to the ombudsman.

32 Subd. 4. RECOMMENDATIONS. (a) If, after duly
 33 considering a complaint and whatever material ~~he~~ the ombudsman
 34 deems pertinent, the ombudsman is of the opinion that the
 35 complaint is valid, ~~he~~ the ombudsman may recommend that an
 36 administrative agency should:

- 37 (1) consider the matter further;
- 38 (2) modify or cancel its actions;
- 39 (3) alter a regulation or ruling;
- 40 (4) explain more fully the action in question; or
- 41 (5) take any other step which the ombudsman ~~states-as-his~~
 42 recommendation recommends to the administrative agency involved.

43 If the ombudsman so requests, the agency shall within the
 44 time ~~he~~ the ombudsman specifies, inform the ombudsman about the
 45 action taken on ~~his~~ the ombudsman's recommendation or the
 46 reasons for not complying with it.

47 (b) If the ombudsman has reason to believe that any public
 48 official or employee has acted in a manner warranting criminal
 49 or disciplinary proceedings, ~~he~~ the ombudsman may refer the
 50 matter to the appropriate authorities.

51 (c) If the ombudsman believes that an action upon which a
 52 valid complaint is founded has been dictated by a statute, and
 53 that the statute produces results or effects which are unfair or
 54 otherwise objectionable, the ombudsman shall bring to the
 55 attention of the governor and the legislature ~~his~~ the
 56 ombudsman's view concerning desirable statutory change.

241*#45S

57 241.45 PUBLICATION OF RECOMMENDATIONS; REPORTS.

58 Subdivision 1. The ombudsman may publish ~~his~~ conclusions
 59 and suggestions by transmitting them to the office of the
 60 governor. Before announcing a conclusion or recommendation that
 61 expressly or impliedly criticizes an administrative agency, or
 62 any person, the ombudsman shall consult with that agency or
 63 person. When publishing an opinion adverse to an administrative
 64 agency, or any person, the ombudsman shall include in such
 65 publication any statement of reasonable length made to ~~him~~ the
 66 ombudsman by that agency or person in defense or mitigation of
 67 the action.

68 Subd. 2. In addition to whatever reports the ombudsman may
 69 make on an ad hoc basis, the ombudsman shall at the end of each
 70 year report to the governor concerning the exercise of ~~his~~ the
 71 ombudsman's functions during the preceding year.

241*#69S

72 241.69 PSYCHIATRIC UNIT; ESTABLISHMENT.

73 Subdivision 1. AUTHORITY; RULES. The commissioner
 74 of corrections shall, in accordance with applicable rules and

1 standards prescribed by the departments of health and welfare,
 2 establish, staff, equip, maintain and operate at one of the
 3 adult correctional institutions under his the commissioner's *
 4 control a psychiatric unit for the care and treatment of those
 5 inmates of state correctional institutions who become mentally
 6 ill.

7 Subd. 2. EXAMINATION. When any person confined in
 8 an adult correctional institution under the control of the
 9 commissioner of corrections is alleged to be a mentally ill
 10 person, the chief executive officer or other person in charge of
 11 the institution shall cause him the person to be examined by a *
 12 licensed physician especially qualified in the diagnosis of
 13 mental illness, or, if none is available, by any licensed
 14 physician or licensed certified psychologist available to the
 15 institution.

16 Subd. 3. TRANSFER. If the examining physician or
 17 psychologist finds the person to be mentally ill and in need of
 18 short term care, he the examining physician may recommend *
 19 transfer by the commissioner of corrections to the psychiatric
 20 unit established pursuant to subdivision 1.

21 No change for subd 4

22 Subd. 5. DISCHARGE. The chief medical officer of
 23 the psychiatric unit established under this section may, subject
 24 to the provisions of chapter 253B, provisionally discharge any
 25 inmate patient admitted as mentally ill without discharging the
 26 commitment and order his the inmate patient's release into the *
 27 general population of the institution from which admitted,
 28 subject to return to the facility for further treatment.

29 When ~~certified-by-him~~ the chief medical officer of the *
 30 facility certifies that a patient is no longer in need of *
 31 institutional care for his mental illness the chief medical *
 32 officer ~~of-the-facility~~ shall discharge the patient to the *
 33 institution from which committed, and the discharge shall also
 34 discharge the mental illness commitment.

35 A copy of the certification that the inmate is no longer in
 36 need of care for his mental illness shall be transmitted to the *
 37 commissioner of corrections. The commissioner of corrections
 38 shall give serious consideration to the aforementioned
 39 certification for purposes of their supervision over the inmate
 40 upon his the inmate's release. *

41 Subd. 6. TRANSFER UPON EXPIRATION OF SENTENCE. If
 42 the sentence of a person who has been adjudicated to be mentally
 43 ill and committed to the psychiatric unit established under this
 44 section should expire before he the person recovers and is *
 45 discharged therefrom, and, in the judgment of the chief medical
 46 officer of the unit, he the person requires further *
 47 hospitalization for his mental illness, he the person shall be *
 48 transferred by the commissioner of corrections to a state
 49 hospital designated by the commissioner of welfare, there to be
 50 detained as in the case of other mentally ill persons under
 51 judicial commitment.

52 No change for subd 7 to 8

242*#10S

53 242.10 HEARING OFFICERS, POWERS; PROBATION, COMMITMENT,
 54 PAROLE.

55 The commissioner of corrections may designate from among
 56 the members of his the commissioner's staff, one or more hearing *
 57 officers and delegate to them the authority to grant or revoke
 58 probation, commit to an institution, grant or revoke parole, or
 59 issue final discharge to any person under the control of the
 60 commissioner pursuant to a commitment to him the commissioner by *
 61 a juvenile court of this state. Any person aggrieved by an
 62 order issued by a hearing officer may appeal to the commissioner
 63 or to a review panel established by the commissioner within his *
 64 the department pursuant to rules issued by the commissioner. *

242*#14S

65 242.14 PLACEMENT IN PENAL INSTITUTION PROHIBITED.

66 The commissioner of corrections shall not have power by
 67 virtue of any commitment to him the commissioner by a juvenile *
 68 court, as authorized by section 260.185, to place a committed
 69 child ~~committed-to-him~~ in a penal institution. *

242*#18S

70 242.18 STUDY OF OFFENDER'S BACKGROUND; REHABILITATION
 71 POLICY.

72 When a person has been committed to the commissioner of
 73 corrections, the commissioner under his rules shall forthwith *

1 cause ~~him~~ the person to be examined and studied, and investigate *
 2 all of the pertinent circumstances of ~~his~~ the person's life and *
 3 the antecedents of the crime or other delinquent conduct because
 4 of which ~~he~~ the person has been committed to the commissioner, *
 5 and thereupon order the treatment ~~he~~ the commissioner determines *
 6 to be most conducive to rehabilitation. Persons convicted of
 7 crimes shall not be detained in institutions for adjudicated
 8 delinquents, nor shall delinquent children be detained in
 9 institutions for persons convicted of crimes. The court and the
 10 prosecuting and police authorities and other public officials
 11 shall make available to the commissioner of corrections all
 12 pertinent data in their possession in respect to the case.

242*#19S

13 242.19 METHODS OF CONTROL.

14 Subd. 2. DISPOSITIONS. When a child has been
 15 committed to the commissioner of corrections by a juvenile
 16 court, upon a finding of delinquency, the commissioner may for
 17 the purposes of treatment and rehabilitation:

18 (a) order the child's confinement to the Minnesota
 19 correctional facility-Red Wing or the Minnesota correctional
 20 facility-Sauk Centre, which shall accept the child, or to a
 21 group foster home under the control of the commissioner of
 22 corrections, or to private facilities or facilities established
 23 by law or incorporated under the laws of this state that may
 24 care for delinquent children;

25 (b) order the child's release on parole under such
 26 supervisions and conditions as the commissioner believes
 27 conducive to law-abiding conduct, treatment and rehabilitation;

28 (c) order reconfinement or renewed parole as often as the
 29 commissioner believes to be desirable;

30 (d) revoke or modify any order, except an order of
 31 discharge, as often as the commissioner believes to be desirable;

32 (e) discharge the child ~~from his or her control~~ when ~~he or~~ *
 33 ~~she~~ the commissioner is satisfied that the child has been *
 34 rehabilitated and that such discharge is consistent with the
 35 protection of the public;

36 (f) if the commissioner finds that the child is eligible
 37 for probation or parole and it appears from the commissioner's
 38 investigation that conditions in the child's or the guardian's
 39 home are not conducive to the child's treatment, rehabilitation,
 40 or law-abiding conduct, refer the child, together with ~~his or~~ *
 41 ~~her~~ the commissioner's findings, to a county welfare board or a *
 42 licensed child placing agency for placement in a foster care or,
 43 when appropriate, for initiation of dependency or neglect
 44 proceedings as provided in sections 260.011 to 260.301. The
 45 commissioner of corrections shall reimburse county welfare
 46 boards for foster care costs they incur for the child while on
 47 probation or parole to the extent that funds for this purpose
 48 are made available to the commissioner by the legislature. The
 49 juvenile court shall order the parents of a child on probation
 50 or parole to pay the costs of foster care under section 260.251,
 51 subdivision 1, according to their ability to pay, and to the
 52 extent that the commissioner of corrections has not reimbursed
 53 the county welfare board.

54 No change for subd 3

242*#21S

55 242.21 COOPERATION; STATE INSTITUTIONS, LOCAL POLICE
 56 OFFICERS.

57 The commissioner of corrections may enter into agreement
 58 with the commissioner of human services, with local probation
 59 officers or other public officials and with public or private
 60 agencies, schools or institutions, for custody, separate care,
 61 special treatment, training, or diagnostic services of persons
 62 committed to ~~his~~ the care or subject to the control of the *
 63 commissioner of corrections. The commissioner of corrections
 64 may pay any costs incurred by such agreements to the extent that
 65 funds for such purposes are made available to the commissioner
 66 by the legislature.

242*#31S

67 242.31 RESTORATION OF CIVIL RIGHTS.

68 Subdivision 1. Whenever a person who has been committed to
 69 the custody of the commissioner of corrections upon conviction
 70 of a crime following reference for prosecution under the
 71 provisions of section 260.125 is finally discharged ~~from his~~ *
 72 ~~control~~ by order of the commissioner, that discharge shall *
 73 restore the person to all civil rights and, if so ordered by the

1 commissioner of corrections, also shall have the effect of
 2 setting aside the conviction, nullifying the same and of purging
 3 that person thereof. The commissioner shall file a copy of the
 4 order with the district court of the county in which the
 5 conviction occurred; upon receipt, the court shall order the
 6 conviction set aside.

7 Subd. 2. Whenever a person described in subdivision 1 has
 8 been placed on probation by the court pursuant to section
 9 609.135 and, after satisfactory fulfillment thereof, is
 10 discharged from probation, the court shall issue an order of
 11 discharge pursuant to section 609.165. On application of the
 12 defendant or on its own motion and after notice to the county
 13 attorney, the court in its discretion may also order that the
 14 defendant's conviction be set aside with the same effect as such
 15 an order under subdivision 1.

16 These orders restore the defendant to ~~his~~ civil rights and *
 17 purge and free the defendant from all penalties and disabilities *
 18 arising from ~~his~~ the defendant's conviction and it shall not *
 19 thereafter be used against ~~him~~ the defendant, except in a *
 20 criminal prosecution for a subsequent offense if otherwise
 21 admissible therein.

22 No change for subd 3

242*#37S

23 242.37 CONSERVATION CAMPS.

24 (1) The commissioner of corrections may establish and
 25 operate conservation camps in which persons committed to the
 26 commissioner of corrections may be placed. Such camps may be
 27 established independently or in cooperation with any other
 28 public agency or any governmental subdivision, subject to the
 29 approval of such agency or subdivision as to any camp or project
 30 to the extent that its premises or operations are affected.

31 (2) Every able-bodied person committed as provided in
 32 clause (1) may be confined to a conservation camp established
 33 pursuant to this section or to any other institution under the
 34 control of the commissioner, subject to the limitations of
 35 section 242.19. Any person committed to a conservation camp as
 36 herein provided may be required by order of the commissioner to
 37 labor during the whole or some part of the time for which ~~he-is~~ *
 38 so committed and confined, but not more than eight hours per *
 39 day. The commissioner is authorized and empowered to provide *
 40 for determine the payment of such compensation as-he-may *
 41 determine to persons so confined who perform labor as *
 42 hereinabove provided. Any money arising hereunder shall be and
 43 remain under control of the commissioner and shall be for the
 44 sole benefit of the person performing the labor unless it shall
 45 be used for rendering assistance to ~~his~~ the laborer's family or *
 46 dependents or in making restitution to persons determined by the
 47 commissioner to be entitled thereto, in either event payments
 48 shall be made only in such amount, at such time and to such
 49 persons as the commissioner may order in writing.

242*#44S

50 242.44 PUPILS.

51 The commissioner of corrections, so far as the
 52 accommodations of the correctional facilities and other means at
 53 the commissioner's disposal will permit, shall receive and keep
 54 until they reach 19 years of age, or until placed in homes, or
 55 discharged, all persons committed to ~~his~~ the commissioner's care *
 56 and custody by a juvenile court. The commissioner may place
 57 these youths at employment, may provide education suitable to
 58 their years and capacity, and may place them in suitable homes.
 59 Under rules prescribed by the commissioner, when deemed best for
 60 these youths, they may be paroled or discharged from the
 61 facility by the commissioner. All pupils in the facility shall
 62 be clothed, instructed, and maintained at the expense of the
 63 state.

242*#46S

64 242.46 PROBATION SERVICES; JUVENILE COURTS.

65 Subd. 3. The commissioner shall provide probation services
 66 to juvenile courts in counties that request it or as required by
 67 section 260.311. ~~He~~ The commissioner shall cooperate with the *
 68 judges to provide supervision to probation officers in all
 69 counties of not more than 200,000 population, in order to insure
 70 high uniform standards of operation. The costs of
 71 administrative and supervisory services shall be borne by the
 72 state. The commissioner shall give newly employed probation and
 73 parole agents appropriate orientation training and shall provide

1 systematic inservice training to all agents thereafter, and for
2 that purpose may assign agents to appropriate short courses at
3 the University of Minnesota and necessary conferences and
4 meetings held within the state.

243*#05S

5 243.05 COMMISSIONER OF CORRECTIONS; POWERS, LIMITATIONS.

6 Subdivision 1. CONDITIONAL RELEASE. The commissioner
7 of corrections may parole any person sentenced to confinement in
8 any state correctional facility for adults under the control of
9 the commissioner of corrections, provided that:

10 (a) no inmate serving a life sentence for murder other than
11 murder committed in violation of clause (1) of section 609.185
12 who has not been previously convicted of a felony shall be
13 paroled ~~until-he-has~~ without having served 20 years, less the
14 diminution ~~which-he~~ that would have been allowed for good
15 conduct had ~~his~~ the sentence been for 20 years; *
*
*

16 (b) no inmate serving a life sentence for murder who has
17 been previously convicted of a felony or though not previously
18 convicted of a felony is serving a life sentence for murder in
19 the first degree committed in violation of clause (1) of section
20 609.185 shall be paroled ~~until-he-has~~ without having served 25
21 years, less the diminution which would have been allowed for
22 good conduct had ~~his~~ the sentence been for 25 years; *
*

23 (c) any inmate sentenced prior to September 1, 1963 who
24 would be eligible for parole had ~~he~~ the inmate been sentenced
25 after September 1, 1963, shall be eligible for parole; and *

26 (d) any new rule or policy or change of rule or policy
27 adopted by the commissioner of corrections which has the effect
28 of postponing eligibility for parole has prospective effect only
29 and applies only with respect to persons committing offenses
30 after the effective date of the new rule or policy or change.
31 Upon being paroled and released, an inmate is and remains in the
32 legal custody and under the control of the commissioner, subject
33 at any time to be returned to a facility of the department of
34 corrections established by law for the confinement or treatment
35 of convicted persons and the parole rescinded by the
36 commissioner. The written order of the commissioner of
37 corrections, is sufficient authority for any peace officer or
38 state parole and probation agent to retake and place in actual
39 custody any person on parole or supervised release, but any
40 state parole and probation agent may, without order of warrant,
41 when it appears necessary in order to prevent escape or enforce
42 discipline, take and detain a parolee or person on supervised
43 release or work release to the commissioner for ~~his~~ action. *
44 The written order of the commissioner of corrections is sufficient
45 authority for any peace officer or state parole and probation
46 agent to retake and place in actual custody any person on
47 probation under the supervision of the commissioner pursuant to
48 section 609.135, but any state parole and probation agent may,
49 without an order, when it appears necessary in order to prevent
50 escape or enforce discipline, retake and detain a probationer
51 and bring the probationer before the court for further
52 proceedings under section 609.14. Persons conditionally
53 released, and those on probation under the supervision of the
54 commissioner of corrections pursuant to section 609.135 may be
55 placed within or outside the boundaries of the state at the
56 discretion of the commissioner of corrections or the court, and
57 the limits fixed for these persons may be enlarged or reduced
58 according to their conduct.

59 In considering applications for conditional release or
60 discharge, the commissioner is not required to hear oral
61 argument from any attorney or other person not connected with an
62 adult correctional facility of the department of corrections in
63 favor of or against the parole or release of any inmates, but
64 the commissioner may institute inquiries by correspondence,
65 taking testimony or otherwise, as to the previous history,
66 physical or mental condition, and character of the inmate, and
67 to that end shall have authority to require the attendance of
68 the chief executive officer of any state adult correctional
69 facility and the production of the records of these facilities,
70 and to compel the attendance of witnesses. The commissioner is
71 authorized to administer oaths to witnesses for these purposes.

72 No change for subd 2

73 Subd. 3. DUTY OF COMMISSIONER; FINAL DISCHARGE. It
74 is the duty of the commissioner of corrections to keep in
75 communication, as far as possible, with all persons who are on

1 parole and with their employers. The commissioner may grant a
2 person on parole a final discharge from any sentence when:

3 (a) the person on parole has complied with the conditions
4 of parole for a period of time sufficient to satisfy the
5 commissioner that ~~he-or-she~~ the parolee is reliable and
6 trustworthy; *

7 (b) the commissioner is satisfied the person on parole will
8 remain at liberty without violating the law; and

9 (c) final discharge is not incompatible with the welfare of
10 society.

11 Upon the granting of a final discharge, the commissioner
12 shall issue a certificate of final discharge to the person
13 discharged and also cause a record of the acts of the inmate to
14 be made. The record shall show the date of the inmate's
15 confinement, the inmates's record while in prison, the date of
16 ~~his~~ parole, the inmate's record while on parole, reasons
17 underlying the decision for final discharge, and other facts
18 which the commissioner regards as appropriate. Nothing in
19 sections 243.05 or 244.05 shall be construed as impairing the
20 power of the board of pardons to grant a pardon or commutation
21 in any case. *

22 Subd. 4. HEARING OFFICERS; POWERS; DUTIES. To carry
23 out the powers and duties conferred ~~upon-him~~ by this section,
24 the commissioner of corrections may designate from among ~~the~~
25 staff members ~~of-his-staff~~, one or more hearing officers and
26 delegate to them any of the powers and duties conferred by this
27 section. In the exercise of their delegated powers and duties
28 the hearing officers shall be subject to the rules prescribed by
29 the commissioner of corrections. *

30 Subd. 5. DEPUTIZATION OF OUT-OF-STATE AGENTS. The
31 commissioner of corrections may deputize any person regularly
32 employed by another state to act as an officer and agent of this
33 state in effecting the return of any person who has violated the
34 terms and conditions of parole or probation as granted by this
35 state. In any matter relating to the return of that person, any
36 agent so deputized has all the powers of a police officer of
37 this state. Any deputization pursuant to this subdivision shall
38 be in writing and carried by the agent as formal evidence of ~~his~~
39 deputization and must be produced upon demand. Subject to the
40 approval of the commissioner of finance, the commissioner of
41 corrections may enter into contracts with similar officials of
42 any other state for the purpose of sharing an equitable portion
43 of the cost of effecting the return of any person who has
44 violated the terms and conditions of release or probation as
45 granted by this state. *

46 Subd. 6. SUPERVISION BY COMMISSIONER OF CORRECTIONS;
47 AGENTS. (a) The commissioner of corrections, as far as
48 possible, shall exercise supervision over persons released on
49 parole or probation pursuant to this section and section 242.19.

50 (b) The commissioner of corrections shall exercise
51 supervision over probationers as provided in section 609.135,
52 and over persons conditionally released pursuant to section
53 241.26.

54 (c) For the purposes of clauses (a) and (b), and sections
55 609.115 and 609.135, subdivision 1, the commissioner shall
56 appoint state agents who shall be in the classified service of
57 the state civil service. ~~He~~ The commissioner may also appoint
58 suitable persons in any part of the state or enter into
59 agreements with individuals and public or private agencies, for
60 the same purposes, and pay the costs incurred under the
61 agreements. Parole agents shall reside in the various districts
62 of the state in which they are employed. Each agent or person
63 shall perform the duties the commissioner may prescribe in
64 behalf of or in the supervision of those persons described in
65 clause (b). In addition, each agent or person shall act under
66 the orders of the commissioner in the supervision of those
67 persons conditionally released as provided in clause (a).
68 Agents shall provide assistance to conditionally released
69 persons in obtaining employment, and shall conduct relevant
70 investigations and studies of persons under supervision upon the
71 request of the commissioner. Regional supervisors may also
72 supervise state parole agents as directed by the commissioner of
73 corrections. This duty shall not interfere with the supervisor's
74 responsibility under the County Probation Act, Laws 1959,
75 chapter 698. *

1 243.15 FEMALE PRISONERS; PREGNANT.

2 When it shall be made to appear by the properly verified
3 petition of any woman, who has been sentenced to imprisonment in
4 a penal institution in this state and is in prison thereunder,
5 that she is about to give birth to a child, the commissioner of
6 corrections, if satisfied of the truth of the petition, shall
7 order the transfer of such woman to a public hospital to be
8 designated in ~~his~~ the order, there to be detained under such *
9 guard and under such rules and regulations as the commissioner
10 shall make in the order of transfer until the birth of the child
11 and the recovery of the mother to such an extent that the
12 imprisonment may be resumed without danger of serious impairment
13 of her health.

14 The commissioner of corrections shall adopt such proper
15 rules and regulations as may be necessary to carry out the
16 purposes of this section.

243*#18S

17 243.18 DIMINUTION OF SENTENCE.

18 Every inmate sentenced for any term other than life,
19 confined in a state adult correctional facility or on parole
20 therefrom, may diminish the term of ~~his~~ sentence one day for *
21 each two days during which ~~he~~ the inmate has not violated any *
22 facility rule or discipline.

23 The commissioner of corrections, in view of the aggravated
24 nature and frequency of offenses, may take away any or all of
25 the good time previously gained, and, in consideration of
26 mitigating circumstances or ignorance on the part of the inmate,
27 may afterwards restore ~~him~~ the inmate, in whole or in part, to *
28 the standing ~~he~~ the inmate possessed before such good time was *
29 taken away.

243*#21S

30 243.21 TRESPASSING UPON INSTITUTION GROUNDS; DETENTION.

31 No change for subd 1

32 Subd. 2. Any person found to be trespassing or loitering
33 upon the grounds of a state correctional facility in violation
34 of subdivision 1 or who, being lawfully upon the grounds,
35 introduces or attempts to introduce contraband prohibited by
36 section 243.55 or anything usable in making an escape, or
37 assaults or attempts to assault an officer or employee of the
38 facility, may be taken into custody by the chief executive
39 officer or ~~his~~ a designated agent and detained for no more than *
40 two hours, pending surrender to any peace officer having the
41 power of arrest.

243*#23S

42 243.23 COMPENSATION PAID TO INMATES.

43 Subdivision 1. Notwithstanding any law to the contrary,
44 the commissioner of corrections may provide for the payment to
45 inmates of correctional facilities under ~~his~~ the commissioner's
46 management and control any pecuniary compensation ~~he~~ the *
47 commissioner deems proper, the amount of compensation to depend *
48 upon the quality and character of the work performed as *
49 determined by the commissioner of corrections and the chief
50 executive officer. Inmates who because of illness or physical
51 disability cannot work may be paid a minimal amount per day as
52 determined by the commissioner. These earnings shall be paid
53 out of the fund provided for the carrying on of the work in
54 which the inmate is engaged when employed on state account, or
55 from the current expense fund of the facility as the
56 commissioner of corrections determines.

57 Subd. 2. The commissioner may promulgate rules requiring
58 the inmates of adult correctional facilities under ~~his~~ the *
59 commissioner's control to pay all or a part of the cost of their *
60 board, room, clothing, medical, dental and other correctional
61 services. These costs are payable from any earnings of the
62 inmate, including earnings from private industry established at
63 state correctional facilities pursuant to section 243.88.

64 Subd. 3. EXCEPTIONS. Notwithstanding sections
65 241.26, subdivision 5, and 243.24, subdivision 1, the
66 commissioner may promulgate rules for the disbursement of funds
67 earned under subdivision 1 and section 243.88, subdivision 2 for
68 the support of families and dependent relatives of the
69 respective inmates, for the payment of court-ordered
70 restitution, contribution to any programs established by law to
71 aid victims of crime, provided that the contribution shall not
72 be more than 20 percent of an inmate's gross wages, and for the
73 discharge of any legal obligations arising out of litigation

1 under this subdivision. An inmate of an adult correctional
 2 facility under the control of the commissioner is subject to
 3 actions for the enforcement of support obligations and
 4 reimbursement of any public assistance rendered the dependent
 5 family and relatives. The commissioner may conditionally
 6 release an inmate who is a party to an action under this
 7 subdivision and provide for ~~his~~ the inmate's detention in a
 8 local detention facility convenient to the place of the hearing
 9 when ~~he~~ the inmate is not engaged in preparation and defense.

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243*#24S

10 243.24 MONEYS, HOW USED; FORFEITURE.

11 Subdivision 1. SOLE BENEFIT OF INMATE. Any money
 12 arising under section 243.23 shall be and remain under the
 13 control of the commissioner of corrections and shall be for the
 14 sole benefit of the inmate, unless by special order of the
 15 commissioner of corrections it shall be used for rendering
 16 assistance to ~~his~~ the inmate's family or dependent relatives,
 17 under such regulations as to time, manner and amount of
 18 disbursements as the commissioner of corrections may prescribe.
 19 Unless ordered disbursed as hereinbefore prescribed or for an
 20 urgency determined in each case by the chief executive officer
 21 of the facility, a portion of such earnings in an amount to be
 22 determined by the commissioner shall be set aside and kept by
 23 the facility in the public welfare fund of the state for the
 24 benefit of the inmate and for the purpose of assisting ~~him~~ the
 25 inmate when ~~he-leaves~~ leaving the facility and if released on
 26 parole said sum to be disbursed to the inmate in such amounts
 27 and at such times as the commissioner of corrections may
 28 authorize and on final discharge, if any portion remains
 29 undisbursed, it shall be transmitted to the inmate.

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30 Subd. 2. CHIEF EXECUTIVE OFFICER TO INCREASE FUND TO

31 \$100. If the fund standing to the credit of the prisoner on
 32 ~~his~~ the prisoner's leaving the facility by discharge or on
 33 parole be less than \$100, the warden or chief executive officer
 34 is directed to pay out of the current expense fund of the
 35 facility sufficient funds to make the total of said earnings the
 36 sum of \$100, except that when a prisoner is released under
 37 section 243.14, the commissioner of corrections may authorize a
 38 lesser amount.

*

243*#465S

39 243.465 DIVERSIFIED LABOR ACCOUNTS.

40 Money received in payment for the services of inmate labor
 41 employed in the industries carried on at any state correctional
 42 facility under the control of the commissioner of corrections is
 43 appropriated to the commissioner of corrections to be added to
 44 the revolving funds of these facilities. The commissioner of
 45 corrections may set aside a portion of the revolving fund of any
 46 correctional facility to be used as a diversified labor account
 47 for the introduction and encouragement of industries that in ~~his~~
 48 the commissioner's judgment may be beneficial to the inmates of
 49 the facilities.

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*

243*#49S

50 243.49 COMMITMENT PAPERS; DUTY OF CLERK.

51 Upon a plea of guilty or finding of guilty after trial, the
 52 clerk of every court which sentences a defendant for a felony or
 53 gross misdemeanor to the custody of the commissioner of
 54 corrections or to the superintendent of the work house or work
 55 farm, shall provide the officer or person having custody of the
 56 defendant a certified record for commitment, including (1) a
 57 copy of the indictment and plea, (2) a transcript of the
 58 sentencing proceedings, with the date thereof, together with the
 59 defendant's statement under oath, if obtained, as to ~~his~~ the
 60 defendant's true name, ~~his~~ residence, if any, the date and place
 61 of ~~his~~ birth, the names and addresses of ~~his~~ parents and other
 62 relatives and of employers and others who know ~~him~~ the defendant
 63 well, ~~his~~ social and other affiliations, ~~his~~ past occupations
 64 and employments, ~~his~~ former places of residence and the period
 65 of time and the dates ~~he~~ the defendant has resided in each, ~~his~~
 66 citizenship, the number, dates, places and causes of any prior
 67 convictions, and (3) if the person pleaded guilty, a transcript
 68 of the sentencing proceedings. The record shall also include
 69 the trial judge's impressions of the defendant's mental and
 70 physical condition ~~of-the-defendant~~, ~~his~~ general character,
 71 capacity, disposition, habits and special needs. The court
 72 reporter shall provide the required transcripts. The certified
 73 record for commitment may be used as evidence in any

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1 post-conviction proceeding brought by the defendant. The clerk
 2 shall also deliver to the sheriff or other officer or person
 3 conveying the defendant to the correctional facility, work
 4 house, or work farm designated by the commissioner of
 5 corrections or the judge a warrant of commitment together with a
 6 certified copy of the warrant directing ~~him~~ the conveyer to *
 7 deliver the person and the certified record for commitment to
 8 the principal officer in charge of the correctional facility,
 9 work house, or work farm. Upon the delivery of any person, the
 10 principal officer in charge of the correctional facility, work
 11 house, or work farm shall keep the certified copy of the warrant
 12 of commitment and endorse ~~his~~ the principal officer's receipt *
 13 upon the original, which shall be filed with the sentencing
 14 court. The clerk shall retain one copy of the required
 15 transcripts, and a tape recording and the court reporter's notes
 16 of all other proceedings.

243*#50S

17 243.50 PAYMENT OF COURT REPORTER.

18 Such transcripts and tapes shall be furnished by the court
 19 reporter ~~and he who~~ shall be paid therefor by the county, on *
 20 certificates duly certified to by the judge presiding at the
 21 sentence, and filed with the county auditor, the same fee per
 22 folio provided by statute for transcripts of testimony furnished
 23 to parties ordering the same in civil proceedings and for tapes
 24 on a costs basis.

243*#51S

25 243.51 UNITED STATES PRISONERS; PRISONERS FROM OTHER
 26 STATES.

27 Subdivision 1. The commissioner of corrections is hereby
 28 authorized to contract with the United States attorney general
 29 and with the proper officials of other states for the custody,
 30 care, subsistence, education, treatment and training of persons
 31 convicted of criminal offenses constituting felonies in the
 32 courts of the United States or other states of the United
 33 States. Such contracts shall provide for reimbursing the state
 34 of Minnesota for all costs or other expenses involved. Funds
 35 received under such contracts shall be deposited in the state
 36 treasury to the credit of the facility in which such persons may
 37 be confined. Any prisoner transferred to the state of Minnesota
 38 pursuant to this subdivision shall be subject to the terms and
 39 conditions of ~~his~~ the prisoner's original sentence as if ~~he~~ the *
 40 prisoner were serving the same within the confines of the state *
 41 in which the conviction and sentence was had or in the custody
 42 of the United States attorney general. Nothing herein shall
 43 deprive such inmate of ~~his~~ the right to parole or ~~his~~ the rights *
 44 to legal process in the courts of this state.

45 Subd. 2. The commissioner of corrections may transfer to
 46 the custody of the United States attorney general any inmate of
 47 the Minnesota correctional facility-Stillwater or the Minnesota
 48 correctional facility-Shakopee whose presence is seriously
 49 detrimental to the internal discipline and well-being of the
 50 facility, or whose personal safety cannot be reasonably secured
 51 therein or in any other state facility, provided the attorney
 52 general of the United States accept such transfer. Such
 53 transfer shall be accomplished in the manner prescribed by Title
 54 18, Section 5003 of the United States code and acts amendatory
 55 thereof, and the commissioner of corrections may execute such
 56 contracts as therein provided. The reimbursement of the federal
 57 government for all costs and expenses incurred for the care,
 58 custody, subsistence, education, treatment and training of such
 59 transferee shall be paid from the appropriation for the
 60 operation of the Minnesota correctional facility-Stillwater or
 61 the Minnesota correctional facility-Shakopee.

62 The chief executive officer of the transferring facility
 63 shall attach to such contract a duly certified copy of the
 64 warrant of commitment under which such inmate is held, together
 65 with copies of such other commitment papers as are required by
 66 section 243.49, and such other data relating to the character
 67 and condition of such inmates as ~~he~~ the officer may deem *
 68 necessary or may be required by the federal prison authorities.
 69 Such copy of the warrant of commitment and accompanying papers
 70 shall constitute sufficient authority for the United States to
 71 hold such inmate on behalf of the state of Minnesota.

72 Any inmate so transferred under this subdivision shall be
 73 subject to the terms and conditions of ~~his~~ the inmate's original *
 74 sentence as if ~~he~~ the inmate were serving the same within the *

1 confines of the facility from which transferred. Nothing herein
 2 contained shall deprive such inmate of ~~his~~ the right to parole *
 3 or ~~his~~ the rights to legal process in the courts of this state. *
 4 No change for subd 3

243*#52S

5 243.52 DISCIPLINE; PREVENTION OF ESCAPE.

6 If any inmate of any state adult correctional facility
 7 assaults any officer, guard, or any other person or inmate, the
 8 assaulted person may ~~defend-himself-by-the~~ use of force in *
 9 defense of the assault. If any inmate attempts to damage the *
 10 buildings or appurtenances, resists the lawful authority of any
 11 officer or guard, refuses to obey ~~his~~ the officer's or guard's *
 12 reasonable demands, or attempts to escape, the officer or guard
 13 may enforce obedience and discipline or prevent escape by the
 14 use of force. If any inmate resisting lawful authority is
 15 wounded or killed by the use of force by the officer, guard, or
 16 assistants, that conduct is authorized under this section.

17 As used in this section, "use of force" means conduct which
 18 is defined by sections 609.06 to 609.066.

243*#61S

19 243.61 CONTRACT LABOR; TOOLS AND MACHINERY.

20 No contracts for leasing the labor of prisoners confined in
 21 any such institution, at a certain rate per diem, giving the
 22 contractor full control of the labor of the prisoners, shall be
 23 made; but such prisoners shall be employed, under regulations
 24 established by the commissioner of corrections, in such
 25 industries as shall, from time to time, be fixed upon by the
 26 officers in charge and the commissioner, or in the manufacture
 27 of articles by the piece, under the so-called "piece price
 28 system," by contracts with persons furnishing the materials.
 29 The chief officer, under the direction of the commissioner,
 30 shall purchase such tools, implements, and machinery as ~~he~~ the *
 31 officer shall deem necessary for the work. *

243*#88S

32 243.88 PRIVATE INDUSTRY ON GROUNDS OF CORRECTIONAL
 33 INSTITUTIONS.

34 No change for subd 1

35 Subd. 2. Any corporation operating a factory or other
 36 business or commercial enterprise under this section may employ
 37 selected inmates of the correctional institution upon whose
 38 grounds it operates and persons conditionally released subject
 39 to the provisions of section 241.26. Persons conditionally
 40 released as provided in this subdivision shall be deemed to be
 41 parolees within the purview of 49 United States Code, Section 60.

42 Except as prohibited by applicable provisions of the United
 43 States Code, inmates of state correctional institutions may be
 44 employed in the manufacture and processing of goods, wares and
 45 merchandise for introduction into interstate commerce, provided
 46 that they are paid no less than the prevailing minimum wages for
 47 work of a similar nature performed by employees with similar
 48 skills in the locality in which the work is being performed.

49 Under rules prescribed by the commissioner of corrections a
 50 portion of the wages of each inmate employed as authorized by
 51 this subdivision, in an amount to be determined by the
 52 commissioner, shall be set aside and kept by the chief executive
 53 officer of the facility in the public welfare fund of the state
 54 for the benefit of the inmate and for the purpose of assisting
 55 ~~him~~ the inmate when ~~he-leaves~~ leaving the facility on *
 56 conditional release or by final discharge. Any portion
 57 remaining undisbursed at the time of the inmate's final
 58 discharge shall be given to ~~him~~ the inmate upon final discharge. *

59 No change for subd 3 to 4

243*#91S

60 243.91 TRANSFER OF WOMEN CONVICTS.

61 When special circumstances warrant, or when the chief
 62 executive officer of any county jail, workhouse or workfarm
 63 shall determine that any female inmate of such facility over the
 64 age of 18 years cannot be safely maintained therein or whose
 65 presence is detrimental to the internal discipline and
 66 well-being of such institution or that such inmate can benefit
 67 from the treatment, care and training available at the Minnesota
 68 correctional facility-Shakopee, ~~he~~ the officer may, with the *
 69 consent of the commissioner of corrections and the sentencing
 70 court, transfer such female inmate to the facility for
 71 confinement, care, treatment and training therein according to
 72 the sentence imposed by the court. Such transfer shall be made

1 in accordance with rules prescribed by the commissioner.
 2 The commissioner of corrections may contract with the
 3 political subdivisions operating and maintaining the jails,
 4 workhouses or workfarms from which such selected female inmates
 5 are transferred to the state facility for reimbursement to the
 6 state for all costs and expenses incurred for the care, custody,
 7 subsistence, treatment, and training of such transferees.
 8 The chief executive officer of the transferring institution
 9 shall send with such transferee a duly certified copy of the
 10 warrant or order of commitment under which such inmate is held,
 11 together with such other data as the commissioner of corrections
 12 may require, and such warrant or order of commitment shall
 13 constitute sufficient authority for the commissioner to hold
 14 such inmate on behalf of the sending institution.

244*#01S

15 244.01 DEFINITIONS.
 16 No change for subd 1 to 2
 17 Subd. 3. "Commissioner" means the commissioner of
 18 corrections or ~~his~~ a designee. *
 19 No change for subd 4 to 8

244*#02S

20 244.02 MUTUAL AGREEMENT PROGRAMS.
 21 Subdivision 1. Within seven days after the commissioner
 22 assumes custody of an inmate, ~~he~~ the commissioner shall inform *
 23 the inmate of the availability and scope of mutual agreement
 24 programs and of the fact that participation by the inmate is
 25 optional and has no effect on the length of ~~his~~ the inmate's *
 26 sentence. If the inmate decides to enter into a mutual agreement
 27 program, the commissioner shall draft one for the inmate within
 28 90 days after receiving a request to do so from the inmate. The
 29 mutual agreement program shall be drafted after a classification
 30 study of the inmate has been made by the commissioner. In
 31 drafting a mutual agreement program, the commissioner shall also
 32 refer to the presentence investigation which has been made of
 33 the inmate. The agreement shall provide the following:
 34 (a) A program of vocational or educational training with
 35 specific chronological and achievement objectives, including
 36 completion of specified educational and vocational programs;
 37 (b) Frequent and regular evaluation of the inmate by the
 38 commissioner; and
 39 (c) A consideration of any educational qualifications or
 40 skills of the inmate when specifying certain types of work
 41 expectations.
 42 The participation of inmates in the mutual agreement
 43 program shall be limited by the appropriations made for that
 44 purpose.
 45 No change for subd 2

244*#03S

46 244.03 VOLUNTARY PROGRAMS.
 47 The commissioner shall provide appropriate mental health
 48 programs and vocational and educational programs with
 49 employment-related goals for inmates who desire to voluntarily
 50 participate in such programs. The selection, design and
 51 implementation of programs under this section shall be the sole
 52 responsibility of the commissioner, acting within the
 53 limitations imposed ~~on him~~ by the funds appropriated for such *
 54 programs.

55 No action challenging the level of expenditures for
 56 programs authorized under this section, nor any action
 57 challenging the selection, design or implementation of these
 58 programs, may be maintained by an inmate in any court in this
 59 state.

244*#04S

60 244.04 GOOD TIME.
 61 Subdivision 1. REDUCTION OF SENTENCE.
 62 Notwithstanding the provisions of section 609.11, subdivision 6,
 63 and section 609.346, subdivision 1, the term of imprisonment of
 64 any inmate sentenced to a presumptive fixed sentence after May
 65 1, 1980, shall be reduced in duration by one day for each two
 66 days during which the inmate violates none of the disciplinary
 67 offense rules promulgated by the commissioner. The reduction
 68 shall accrue to the period of supervised release to be served by
 69 the inmate.
 70 Except as otherwise provided in subdivision 2, if an inmate
 71 violates a disciplinary offense rule promulgated by the
 72 commissioner, good time earned prior to the violation may not be

1 taken away, but the inmate may be required to serve an
2 appropriate portion of ~~his~~ the term of imprisonment after the *
3 violation without earning good time.

4 Subd. 2. LOSS OF GOOD TIME. By May 1, 1980, the
5 commissioner shall promulgate rules specifying disciplinary
6 offenses which may result in the loss of good time and the
7 amount of good time which may be lost as a result of each
8 disciplinary offense, including provision for restoration of
9 good time. In no case shall an individual disciplinary offense
10 result in the loss of more than 90 days of good time; except
11 that no inmate confined in segregation for violation of a
12 disciplinary rule shall be placed on supervised release until
13 discharged or released from punitive segregation confinement,
14 nor shall an inmate in segregation for violation of a
15 disciplinary rule for which ~~he~~ the inmate could also be *
16 prosecuted under the criminal laws earn good time while in
17 segregation. The loss of good time shall be considered to be a
18 disciplinary sanction imposed upon an inmate, and the procedure
19 for the loss of good time and the rights of the inmate in the
20 procedure shall be those in effect for the imposition of other
21 disciplinary sanctions at each state correctional institution.

22 No change for subd 3

244*#05S

23 244.05 SUPERVISED RELEASE TERM.

24 Subdivision 1. SUPERVISED RELEASE REQUIRED. Except
25 as provided in subdivisions 4 and 5, every inmate shall serve a
26 supervised release term upon completion of ~~his~~ the inmate's term *
27 of imprisonment as reduced by any good time earned by the inmate
28 or extended by confinement in punitive segregation pursuant to
29 section 244.04, subdivision 2. The supervised release term
30 shall be equal to the period of good time the inmate has earned,
31 and shall not exceed the length of time remaining in the
32 inmate's sentence.

33 No change for subd 2

34 Subd. 3. SANCTIONS FOR VIOLATION. If an inmate
35 violates the conditions of ~~his~~ the inmate's supervised release *
36 imposed by the commissioner, the commissioner may:

37 (1) continue the inmate's supervised release term, with or
38 without modifying or enlarging the conditions imposed on the
39 inmate; or

40 (2) revoke the inmate's supervised release and reimprison
41 ~~him~~ the inmate for the appropriate period of time. *

42 The period of time for which a supervised release may be
43 revoked may not exceed the period of time remaining in the
44 inmate's sentence.

45 Subd. 4. MINIMUM IMPRISONMENT, LIFE SENTENCE. An
46 inmate serving a mandatory life sentence shall not be given
47 supervised release under this section ~~unless he has~~ without *
48 having served a minimum term of imprisonment of 17 years. *

49 Subd. 5. SUPERVISED RELEASE, LIFE SENTENCE. The
50 commissioner of corrections may, under rules promulgated by ~~him~~ *
51 the commissioner, give supervised release to an inmate serving a *
52 mandatory life sentence after ~~he~~ the inmate has served the *
53 minimum term of imprisonment specified in subdivision 4. *

244*#065S

54 244.065 PRIVATE EMPLOYMENT OF INMATES OF STATE
55 CORRECTIONAL INSTITUTIONS IN COMMUNITY.

56 When consistent with the public interest and the public
57 safety, the commissioner of corrections may conditionally
58 release an inmate to work at paid employment, seek employment,
59 or participate in a vocational training or educational program,
60 as provided in section 241.26, if the inmate has served at least
61 one half of ~~his~~ the term of imprisonment as reduced by good time *
62 earned by the inmate. *

244*#07S

63 244.07 FURLOUGHS.

64 No change for subd 1

65 Subd. 2. Notwithstanding the provisions of subdivision 1,
66 if the commissioner determines that the inmate requires health
67 care not available at the state correctional institution, ~~he~~ the *
68 commissioner may grant the inmate the furloughs necessary to *
69 provide appropriate noninstitutional or extra-institutional
70 health care.

244*#08S

71 244.08 COMMISSIONER OF CORRECTIONS.

72 Subdivision 1. Effective May 1, 1980, the commissioner of

1 corrections shall have only those powers and duties ~~vested in~~ *
 2 ~~and imposed upon him~~ in sections 244.01 to 244.11, 609.10, *
 3 609.145, subdivision 1, 609.165, subdivision 2, and 609.346,
 4 subdivision 1, with relation to persons sentenced for crimes
 5 committed on or after May 1, 1980.

6 The commissioner of corrections shall retain all powers and
 7 duties presently vested in and imposed upon ~~him~~ the commissioner *
 8 with relation to persons sentenced for crimes committed on or
 9 before April 30, 1980.

10 The commissioner of corrections shall take into
 11 consideration, but not be bound by, the sentence terms embodied
 12 in the sentencing guidelines promulgated by the Minnesota
 13 sentencing guidelines commission and the penal philosophy
 14 embodied in sections 244.01 to 244.11, 609.10, 609.145,
 15 subdivision 1, 609.165, subdivision 2, and 609.346, subdivision
 16 1, in its deliberations relative to parole, probation, release,
 17 or other disposition of inmates who commit the crimes giving
 18 rise to their sentences on or before April 30, 1980.

19 No change for subd 2

244*#09S

20 244.09 MINNESOTA SENTENCING GUIDELINES COMMISSION.

21 No change for subd 1

22 Subd. 2. The sentencing guidelines commission shall
 23 consist of the following:

24 (1) The chief justice of the supreme court or ~~his~~ a *
 25 designee;

26 (2) Two district court judges appointed by the chief
 27 justice of the supreme court;

28 (3) One public defender appointed by the governor upon
 29 recommendation of the state public defender;

30 (4) One county attorney appointed by the governor upon
 31 recommendation of the board of governors of the county attorneys
 32 council;

33 (5) The commissioner of corrections or ~~his~~ a designee; *

34 (6) The ~~chairman~~ chair of the board of supervised release *
 35 or ~~his~~ a designee; *

36 (7) One peace officer as defined in section 626.84
 37 appointed by the governor;

38 (8) One probation officer or parole officer appointed by
 39 the governor; and

40 (9) Two public members appointed by the governor.

41 One of the members shall be designated by the governor as
 42 ~~chairman~~ chair of the commission. *

43 Subd. 3. Each appointed member shall be appointed for four *
 44 years and shall continue to serve during that time as long as ~~he~~ *
 45 the member occupies the position which made ~~him~~ the member *
 46 eligible for the appointment. Each member shall continue in *
 47 office until ~~his~~ a successor is duly appointed. Members shall *
 48 be eligible for reappointment, and appointment may be made to *
 49 fill an unexpired term. The members of the commission shall
 50 elect any additional officers necessary for the efficient
 51 discharge of their duties.

52 Subd. 4. Each member of the commission shall be reimbursed *
 53 for all reasonable expenses actually paid or incurred by ~~him~~ *
 54 that member in the performance of ~~his~~ official duties in the *
 55 same manner as other employees of the state. The public members
 56 of the commission shall be compensated at the rate of \$50 for
 57 each day or part thereof spent on commission activities.

58 No change for subd 5 to 8

59 Subd. 9. When any person, corporation, the United States
 60 government, or any other entity offers funds to the sentencing
 61 guidelines commission to carry out its purposes and duties, the
 62 commission may accept the offer by majority vote and upon
 63 acceptance the ~~chairman~~ chair shall receive the funds subject to *
 64 the terms of the offer, but no money shall be accepted or
 65 received as a loan nor shall any indebtedness be incurred except
 66 in the manner and under the limitations otherwise provided by
 67 law.

68 No change for subd 10 to 13

244*#10S

69 244.10 SENTENCING HEARING; DEVIATION FROM GUIDELINES.

70 Subdivision 1. SENTENCING HEARING. Whenever a person
 71 is convicted of a felony, the court, upon motion of either the
 72 defendant or the state, shall hold a sentencing hearing. The
 73 hearing shall be scheduled so that the parties have adequate
 74 time to prepare and present arguments regarding the issue of

1 sentencing. The parties may submit written arguments to the
 2 court prior to the date of the hearing and may make oral
 3 arguments before the court at the sentencing hearing. Prior to
 4 the hearing, the court shall transmit to the defendant or ~~his~~ *
 5 the defendant's attorney and the prosecuting attorney copies of *
 6 the presentence investigation report.

7 At the conclusion of the sentencing hearing or within 20
 8 days thereafter, the court shall issue written findings of fact
 9 and conclusions of law regarding the issues submitted by the
 10 parties, and shall enter an appropriate order.

11 No change for subd 2

245*#0311S

12 245.0311 TRANSFER OF PERSONNEL.

13 (a) Notwithstanding any other law to the contrary, the
 14 commissioner of human services shall transfer authorized
 15 positions between institutions under ~~his~~ the commissioner's *
 16 control in order to properly staff the institutions, taking into *
 17 account the differences between programs in each institution.

18 (b) Notwithstanding any other law to the contrary, the
 19 commissioner of corrections may transfer authorized positions
 20 between institutions under ~~his~~ the commissioner's control in *
 21 order to more properly staff the institutions. *

245*#0312S

22 245.0312 DESIGNATING SPECIAL UNITS AND REGIONAL CENTERS.

23 Notwithstanding any provision of law to the contrary,
 24 during the biennium, the commissioner of human services, upon
 25 the approval of the governor after consulting with the
 26 legislative advisory commission, may designate portions of
 27 hospitals for the mentally ill under ~~his~~ the commissioner's *
 28 control as special care units for mentally retarded or inebriate *
 29 persons, or as nursing homes for persons over the age of 65,
 30 and ~~he likewise~~ may designate portions of the hospitals *
 31 designated in Minnesota Statutes 1969, Section 252.025,
 32 Subdivision 1, as special care units for mentally ill or *
 33 inebriate persons, and ~~he~~ may plan to develop all hospitals for *
 34 mentally ill, mentally retarded, or inebriate persons under ~~his~~ *
 35 the commissioner's control as multi-purpose regional centers for *
 36 programs related to all of the said problems.

37 If approved by the governor, the commissioner may rename
 38 the state hospital as a state regional center and appoint the
 39 hospital administrator as administrator of the center, in
 40 accordance with section 246.0251.

41 The directors of the separate program units of regional
 42 centers shall be responsible directly to the commissioner ~~in his~~ *
 43 at the discretion of the commissioner. *

245*#52S

44 245.52 COMMISSIONER OF HUMAN SERVICES AS COMPACT
 45 ADMINISTRATOR.

46 The commissioner of human services is hereby designated as
 47 "compact administrator." ~~He~~ The commissioner shall have the *
 48 powers and duties specified in the compact, and ~~he~~ may, in the *
 49 name of the state of Minnesota, subject to the approval of the
 50 attorney general as to form and legality, enter into such
 51 agreements authorized by the compact as ~~he~~ the commissioner *
 52 deems appropriate to effecting the purpose of the compact. ~~He~~ *
 53 The commissioner shall, within the limits of the appropriations *
 54 for the care of persons with mental illness or mental
 55 retardation, authorize such payments as are necessary to
 56 discharge any financial obligations imposed upon this state by
 57 the compact or any agreement entered into under the compact.

58 If the patient has no established residence in a Minnesota
 59 county, the commissioner shall designate the county of financial
 60 responsibility for the purposes of carrying out the provisions
 61 of the Interstate Compact on Mental Health as it pertains to
 62 patients being transferred to Minnesota. The commissioner shall
 63 designate the county which is the residence of the person in
 64 Minnesota who initiates the earliest written request for the
 65 patient's transfer.

245*#69S

66 245.69 ADDITIONAL DUTIES OF COMMISSIONER.

67 Subdivision 1. In addition to the powers and duties
 68 already conferred ~~upon him~~ by law the commissioner of human *
 69 services shall:

70 (a) Promulgate rules prescribing standards for
 71 qualification of personnel and quality of professional service
 72 and for in-service training and educational leave programs for

1 personnel, governing eligibility for service so that no person
2 will be denied service on the basis of race, color or creed, or
3 inability to pay, providing for establishment, subject to the
4 approval of the commissioner, of fee schedules which shall be
5 based upon ability to pay, and such other rules and regulations
6 as ~~he~~ the commissioner deems necessary to carry out the purposes *
7 of sections 245.61 to 245.69.

8 (b) Review and evaluate local programs and the performance
9 of administrative and psychiatric personnel and make
10 recommendations thereon to county boards and program
11 administrators;

12 (c) Provide consultative staff service to communities to
13 assist in ascertaining local needs and in planning and
14 establishing community mental health programs; and

15 (d) Employ qualified personnel to implement sections 245.61
16 to 245.69.

17 Subd. 2. The commissioner of human services has the
18 authority to approve or disapprove public and private mental
19 health centers and public and private mental health clinics for
20 the purposes of section 62A.152, subdivision 2. For the
21 purposes of this subdivision the commissioner shall promulgate
22 both emergency and permanent rules in accordance with sections
23 14.01 to 14.70. The rules shall require each applicant to pay a
24 fee to cover costs of processing applications and determining
25 compliance with the rules and this subdivision. The
26 commissioner may contract with any state agency, individual,
27 corporation or association to which ~~he~~ the commissioner shall *
28 delegate all but final approval and disapproval authority to
29 determine compliance or noncompliance.

30 (a) Each approved mental health center and each approved
31 mental health clinic shall have a multidisciplinary team of
32 professional staff persons as required by rule. A mental health
33 center or mental health clinic may provide the staffing required
34 by rule by means of written contracts with professional persons
35 or with other health care providers. Any personnel
36 qualifications developed by rule shall be consistent with any
37 personnel standards developed pursuant to chapter 214.

38 (b) Each approved mental health clinic and each approved
39 mental health center shall establish a written treatment plan
40 for each outpatient for whom services are reimbursable through
41 insurance or public assistance. The treatment plan shall be
42 developed in accordance with the rules and shall include a
43 patient history, treatment goals, a statement of diagnosis and a
44 treatment strategy. The clinic or center shall provide access
45 to hospital admission as a bed patient as needed by any
46 outpatient. The clinic or center shall ensure ongoing
47 consultation among and availability of all members of the
48 multidisciplinary team.

49 (c) As part of the required consultation, members of the
50 multidisciplinary team shall meet at least twice monthly to
51 conduct case reviews, peer consultations, treatment plan
52 development and in-depth case discussion. Written minutes of
53 these meetings shall be kept at the clinic or center for three
54 years.

55 (d) Each approved center or clinic shall establish
56 mechanisms for quality assurance and submit documentation
57 concerning the mechanisms to the commissioner as required by
58 rule, including:

59 (1) Continuing education of each professional staff person;

60 (2) An ongoing internal utilization and peer review plan
61 and procedures;

62 (3) Mechanisms of staff supervision; and

63 (4) Procedures for review by the commissioner or ~~his~~ a *
64 delegate.

65 (e) The commissioner shall disapprove an applicant, or
66 withdraw approval of a clinic or center, which the commissioner
67 finds does not comply with the requirements of the rules or this
68 subdivision. A clinic or center which is disapproved or whose
69 approval is withdrawn is entitled to a contested case hearing
70 and judicial review pursuant to sections 14.01 to 14.70.

71 (f) Data on individuals collected by approved clinics and
72 centers, including written minutes of team meetings, is private
73 data on individuals within the welfare system as provided in
74 chapter 13.

75 (g) Each center or clinic that is approved and in
76 compliance with the commissioner's existing rule on July 1, 1980

1 is approved for purposes of section 62A.152, subdivision 2,
2 until rules are promulgated to implement this section.

245*#717S

3 245.717 WITHHOLDING OF FUNDS.

4 Beginning in federal fiscal year 1983, the distribution of
5 funds to counties provided in section 245.713 shall be reduced
6 by an amount equal to the federal block grant funds allotted
7 pursuant to section 245.713 in the immediately preceding year
8 which have been spent for some purpose other than qualified
9 community mental health centers. If it is determined that the
10 state is legally liable for any repayment of federal block funds
11 which were not properly used by the counties, the repayment
12 liability shall be assessed against the counties which did not
13 properly use the funds. The commissioner may withhold future
14 block grant funds to those counties until the obligation is
15 met. The commissioner shall not award additional block grant
16 funds to those counties until ~~he~~ the commissioner is assured
17 that no future violations will occur. *

245*#76S

18 245.76 INDIAN RELIEF; REIMBURSEMENT OF COSTS.

19 No change for subd 1

20 Subd. 2. For the purposes of this section: (a) An Indian
21 is a person who has at least one-quarter Indian blood or a
22 person listed on the rolls of the United States bureau of Indian
23 affairs as an Indian and who is not residing on the Red Lake
24 Indian Reservation; (b) The term "relief" includes but is not
25 limited to direct relief to persons in their own homes, medical
26 care, hospital care, burial, maintenance of children not under
27 state guardianship and state wards not otherwise provided for.
28 It shall not include university hospital care, sanatorium care,
29 or state institutional charges; (c) The commissioner of human
30 services shall promulgate rules and regulations for the
31 administration of relief including standards of assistance and
32 the manner and form of assistance grants. ~~He~~ The commissioner
33 shall have the authority to negotiate for and accept grants from
34 the government of the United States. *

35 No change for subd 3

245*#765S

36 245.765 REIMBURSEMENT OF COUNTY FOR CERTAIN INDIAN
37 WELFARE COSTS.

38 No change for subd 1

39 Subd. 2. The commissioner may promulgate rules for the
40 carrying out of the provisions of subdivision 1. ~~He,~~ and may
41 negotiate for and accept grants from the United States for the
42 purposes of this section. *

245*#782S

43 245.782 DEFINITIONS.

44 No change for subd 1 to 2

45 Subd. 3. "Child" means anyone who has not reached ~~his~~
46 eighteenth-birthday the age of 18 years. *

47 No change for subd 4 to 14

245*#783S

48 245.783 APPLICATIONS; INSPECTION.

49 Subdivision 1. No individual, corporation, partnership,
50 voluntary association, or other organization may operate a day
51 care or residential facility or agency unless licensed to do so
52 by the commissioner. No unlicensed individual or agency shall
53 receive a child for care or placement, place a child in foster
54 care, assist with plans for ~~his~~ placement in foster care, or
55 solicit money in behalf of the agency. Application for license
56 and renewal of license shall be made on forms supplied by the
57 commissioner and in the manner ~~he-prescribes~~ prescribed by the
58 commissioner. The commissioner shall offer consultation,
59 assistance and information to all applicants for licensure under
60 sections 245.781 to 245.812 and 252.28, subdivision 2. This
61 shall include information regarding regulations and requirements
62 of other state agencies and departments which affect the
63 applicant, and shall assist applicants and operators to meet and
64 maintain requirements for licensure.

65 No change for subd 2

66 Subd. 3. STUDY OF APPLICANT. Before issuing a
67 license or renewing a license, the commissioner shall conduct a
68 study of the applicant and the agency or the day care or
69 residential facility. The bureau of criminal apprehension, a
70 county attorney, a county sheriff, and a chief of a local police
71 department, after notice to the subject of the data, shall

1 assist in this study by providing to the commissioner, the
 2 director of any local agency responsible for licensing, or their
 3 representatives all criminal conviction data, arrest
 4 information, reports regarding abuse or neglect of children, and
 5 investigation results available from local, state, and national
 6 criminal history record repositories, including the criminal
 7 justice data communications network, pertaining to the following
 8 individuals connected with the application for or renewal of a
 9 license: applicants, operators, all persons living in the
 10 household, all staff of any day care or residential facility and
 11 all staff of agencies placing children for care. If the
 12 commissioner is satisfied that the provisions of sections
 13 245.781 to 245.812 and 252.28, subdivision 2 and the applicable
 14 rules promulgated by ~~him~~ are substantially met, a license shall
 15 be issued. If the results of the study indicate that all of the
 16 applicable laws and rules cannot be met immediately, but can and
 17 will be met within one year or less, and the deviations do not
 18 threaten the health, rights, or safety of persons to be served,
 19 a provisional license may be issued for a period not to exceed
 20 one year from the date of issuance.

21 The commissioner may request advice from persons using the
 22 facility, agency, or service, operators of a similar facility,
 23 agency, or service, and relevant professionals as part of the
 24 evaluation of an applicant.

25 No change for subd 4 to 7

245*#791S

26 245.791 EXCLUSIONS.

27 Sections 245.781 to 245.812 shall not apply to:

- 28 (1) Day care or residential care provided by a relative to
 29 related persons;
- 30 (2) Day care or residential care provided for a cumulative
 31 total of less than 30 days in any 12-month period;
- 32 (3) Day care provided for persons from a single unrelated
 33 family for any length of time;
- 34 (4) A home caring for a person placed there by a licensed
 35 agency for legal adoption, unless the adoption is not completed
 36 within two years after placement;
- 37 (5) A licensed hospital whose psychiatric or chemical
 38 dependency program is located within the hospital;
- 39 (6) A nursing home, hospital, or boarding care home,
 40 licensed by the state commissioner of health, except that an
 41 identifiable unit of such a facility which regularly provides
 42 care for more than five adults defined as persons in Minnesota
 43 Statutes, section 245.782, subdivision 2, who are not residents
 44 or patients of the nursing home, hospital, or boarding care
 45 home, must be licensed under sections 245.781 to 245.812;
- 46 (7) A day care or residential program serving any number of
 47 adults who are not defined as persons under Minnesota Statutes,
 48 section 245.782, subdivision 2;
- 49 (8) A sheltered workshop day program, certified by the
 50 state board of education;
- 51 (9) A work activity day program, certified by the state
 52 board of education;
- 53 (10) A work-wage home providing care for one nonrelated
 54 child who has reached his-sixteenth-birthday age 16 and who has
 55 been independently placed for purposes of education or
 56 employment;
- 57 (11) A school under the general supervision of the
 58 commissioner of education or a local education agency;
- 59 (12) A residential or day care facility under the direct
 60 control and supervision of a local education agency or a state
 61 agency other than the commissioner;
- 62 (13) Day care provided for periods of no more than three
 63 hours per day for any person while ~~his~~ relatives are in the same
 64 building, or can be present in the same building within 30
 65 minutes;
- 66 (14) Facilities which in the judgment of the commissioner
 67 of education are operated for the primary purpose of educating
 68 children shall be exempt from these rules and regulations except
 69 insofar as the regulations affect the health and safety of the
 70 children therein. The classrooms shall meet the applicable
 71 standards of the commissioner of public safety and state
 72 commissioner of health.

245*#801S

73 245.801 REVOCATION OF LICENSE; DENIAL.

74 Subdivision 1. An applicant who has been denied a license

1 by the department shall be given prompt written notice thereof,
 2 by certified mail to the address shown in the application. The
 3 notice shall contain a statement of the reasons for the denial
 4 and shall inform the applicant of ~~his~~ the right to appeal the *
 5 decision to the commissioner. Written notice of appeal must be
 6 mailed within 20 days after receipt of the notice of denial.
 7 Upon receiving a timely written appeal, the commissioner shall
 8 give the applicant reasonable notice and an opportunity for a
 9 prompt hearing before an impartial administrative law judge.
 10 The administrative law judge shall make a recommendation to the
 11 commissioner of whether the application shall be denied or
 12 granted either for a license or a provisional license. The
 13 commissioner shall not be bound by the recommendation of the
 14 administrative law judge. The final decision of the commissioner
 15 shall be sent to the applicant by certified mail, and shall
 16 inform the applicant of ~~his~~ rights under chapter 14. *

17 No change for subd 2 to 3

18 Subd. 4. SUSPENSION; APPEAL. An operator whose
 19 license the commissioner proposes to suspend, revoke, or make
 20 probationary shall be given notice by certified mail addressed
 21 to the location shown on the license. The notice shall contain
 22 a statement of, and the reasons for, the proposed action and
 23 shall inform the operator of ~~his~~ the right to appeal the *
 24 decision to the commissioner, in writing, within ten days after
 25 receipt of the notice of the proposed action. Upon receiving a
 26 timely written appeal, the commissioner shall give the operator
 27 reasonable notice and an opportunity for a prompt hearing before
 28 an impartial administrative law judge. The local welfare agency
 29 may demonstrate reasonable cause to revoke, suspend, not renew,
 30 or make probationary a family foster care or family day care
 31 license by submitting reports, statements, affidavits, or other
 32 reliable hearsay to substantiate the allegations of
 33 noncompliance with rules promulgated by the commissioner
 34 pursuant to section 245.802 governing family foster care
 35 licensing and family day care licensing. Upon demonstration by
 36 the agency that reasonable cause exists to take the proposed
 37 action with respect to a family foster care or family day care
 38 license, the burden of proof shifts to the licensee to
 39 demonstrate compliance with the rule by a preponderance of the
 40 evidence. The administrative law judge shall make a
 41 recommendation to the commissioner as to whether the license
 42 shall be suspended, revoked, or made probationary. However, if
 43 the commissioner finds that the health, safety or rights of the
 44 persons served by the facility or agency are in imminent
 45 danger, ~~he~~ the commissioner shall order the immediate suspension *
 46 of the license. The operator shall be given written notice of
 47 the order by personal service. The notice shall contain a
 48 statement of the reasons for the suspension and shall inform the
 49 operator of ~~his~~ the right to petition the commissioner for *
 50 reconsideration of the order. The petition shall be in writing
 51 and shall be made within five days after the personal service of
 52 the order. Upon receiving a timely written petition, the
 53 commissioner shall give the operator reasonable notice and an
 54 opportunity for a prompt hearing before an impartial
 55 administrative law judge with respect to the order of suspension
 56 of the license. The administrative law judge shall make a
 57 recommendation to the commissioner as to whether the order of
 58 suspension should be affirmed or reversed. The commissioner
 59 shall not be bound by the recommendation of the administrative
 60 law judge. The final decision of the commissioner shall be
 61 served on the operator by personal service, and shall inform the
 62 applicant of ~~his~~ rights under chapter 14 and as stated in this *
 63 section.

64 No change for subd 5 to 6

245*#802S

65 245.802 RULES; REGULATIONS.

66 Subdivision 1. The commissioner shall develop and
 67 promulgate rules and regulations pursuant to chapter 14 for the
 68 operation and maintenance of day care and residential facilities
 69 and agencies, and for granting, suspending, revoking, and making
 70 licenses probationary. ' In developing rules and regulations, ~~he~~ *
 71 the commissioner shall consult with: *

72 (1) Other appropriate state agencies including, but not
 73 limited to, the state commissioner of health, the state board of
 74 education, and the fire marshal. Any agency consulted is
 75 directed to cooperate with and assist the commissioner in

- 1 developing appropriate rules and regulations for the licensing
 2 of day care and residential facilities and agencies;
 3 (2) Persons and the relatives of the persons who use the
 4 service;
 5 (3) Advocacy groups;
 6 (4) Representatives of those who operate day care or
 7 residential facilities or agencies;
 8 (5) Experts in relevant professional fields.

9 Rules promulgated under this section establishing the
 10 maximum number of children permitted to reside in group foster
 11 homes shall require that children in the group foster parents'
 12 natural family be counted in the number of children actually
 13 residing in the group foster home, and the application of the
 14 rules providing the maximum number and manner of counting
 15 residents shall not be waived.

16 No change for subd 1a to 4

245*#812S

17 245.812 LOCATION AND ZONING.

18 No change for subd 1 to 6

19 Subd. 7. (a) Residential facilities for adult mentally ill
 20 persons established on or before July 1, 1980, are exempt from
 21 the requirements of this section until July 1, 1985.

22 (b) Before January 1, 1985, each county having one or more
 23 group residential facilities within 1,320 feet of any existing
 24 group residential facility shall submit to the department of
 25 human services a plan to promote dispersal of group residential
 26 facilities. In formulating its plan, the county shall solicit
 27 the participation of affected persons, facilities,
 28 municipalities having highly concentrated residential facility
 29 populations, and advocacy groups. For purposes of this
 30 subdivision, "highly concentrated" means having a population in
 31 residential facilities serving seven or more persons that
 32 exceeds one-half of one percent of the population of a
 33 recognized planning district or other administrative subdivision.

34 (c) Within 45 days after submission of the plan by the
 35 county, the commissioner shall certify whether the plan fulfills
 36 the purposes and requirements of this subdivision including the
 37 following requirements.

38 (1) No new facility serving seven or more persons shall be
 39 located in any recognized planning district or other
 40 administrative subdivision where the population in residential
 41 facilities is highly concentrated.

42 (2) The county plan shall promote dispersal of highly
 43 concentrated residential facility populations.

44 (3) The county plan shall promote the development of
 45 residential facilities in areas that are not highly concentrated.

46 (4) No person in a residential facility shall be displaced
 47 as a result of this section until a relocation plan has been
 48 implemented that provides for an acceptable alternative
 49 placement.

50 (5) If the plan provides for the relocation of residential
 51 facilities, the relocation shall be completed by January 1, 1990.

52 ~~If the commissioner certifies~~ On certifying that the plan
 53 does not do so, ~~he~~ the commissioner shall state the reasons, and
 54 the county shall have 30 days to submit a plan amended to comply
 55 with the requirements of the commissioner. *

56 (d) After July 1, 1985, the commissioner may reduce grants
 57 pursuant to section 245.73 to a county required to have an
 58 approved plan under clause (b) if the county does not have a
 59 plan approved by the commissioner. The county board has the
 60 right to be provided with advance notice and to appeal the
 61 commissioner's decision. If the county requests a hearing
 62 within 30 days of the notification of intent to reduce grants,
 63 the commissioner shall not certify any reduction in grants until
 64 a hearing is conducted and a decision rendered in accordance
 65 with the contested case provisions of chapter 14.

246*#01S

66 246.01 POWERS AND DUTIES.

67 The commissioner of human services is hereby specifically
 68 constituted the guardian of both the estate and person of all
 69 persons with mental retardation, the guardianship of whom has
 70 heretofore been vested in the state board of control or in the
 71 director of social welfare whether by operation of law or by an
 72 order of court without any further act or proceeding, and all
 73 the powers and duties vested in or imposed upon the state board
 74 of control or the director of social welfare, with reference to

1 mental testing of persons with mental retardation, and with
 2 reference to the institutions of the state of Minnesota except
 3 correctional facilities administered and managed by the
 4 commissioner of corrections, are hereby transferred to, vested
 5 in, and imposed upon the commissioner of human services, and in
 6 relation thereto ~~he~~ is hereby charged with and shall have the
 7 exclusive power of administration and management of all of the
 8 following state institutions: state hospitals for persons with
 9 mental retardation, mental illness, or chemical dependency. ~~He~~
 10 The commissioner shall have power and authority to determine all
 11 matters relating to the unified and continuous development of
 12 all of the foregoing institutions and of such other
 13 institutions, the supervision of which may, from time to time,
 14 be vested in ~~him~~ the commissioner. It is intended that there be
 15 vested in ~~him~~ the commissioner all of the powers, functions, and
 16 authority heretofore vested in the state board of control
 17 relative to such state institutions. ~~He~~ The commissioner shall
 18 have the power and authority to accept, in behalf of the state,
 19 contributions and gifts of money and personal property for the
 20 use and benefit of the residents of the public institutions
 21 under ~~his~~ the commissioner's control, and all money and
 22 securities so received shall be deposited in the state treasury
 23 subject to the order of the commissioner of human services. If
 24 the gift or contribution is designated by the donor for a
 25 certain institution or purpose, the commissioner of human
 26 services shall expend or use the same as nearly as may be in
 27 accordance with the conditions of the gift or contribution,
 28 compatible with the best interests of the inmates and the
 29 state. The commissioner of human services is hereby constituted
 30 the "state agency" as defined by the social security act of the
 31 United States and the laws of this state for all purposes
 32 relating to mental health and mental hygiene.

33 For the purpose of carrying out ~~his~~ these duties, the
 34 commissioner of human services shall accept from wards with
 35 mental retardation for whom ~~he~~ the commissioner is specifically
 36 appointed guardian a signed application for ~~his~~ consent to the
 37 marriage of said ward. Upon receipt of such application ~~he~~ the
 38 commissioner shall promptly conduct such investigation as ~~he~~ the
 39 commissioner deems proper and determine if the contemplated
 40 marriage is for the best interest of the ward and the public. A
 41 signed copy of the commissioner's determination shall be mailed
 42 to the ward and to the clerk of the district court of the county
 43 where the application for such marriage license was made.

44 There is hereby appropriated to such persons or
 45 institutions as are entitled to such sums as are provided for in
 46 this section, from the fund or account in the state treasury to
 47 which the money was credited, an amount sufficient to make such
 48 payment.

246*#013S

49 246.013 PERSONS WITH MENTAL ILLNESS; CARE, TREATMENT.

50 Within the limits of the appropriations for the
 51 commissioner of human services, ~~he~~ the commissioner is directed,
 52 in the performance of the duties imposed ~~upon him~~ by the laws of
 53 this state, to bring to the measure prescribed by section
 54 246.012, the care and treatment of persons with mental illness
 55 as speedily as is possible, and to thereafter, subject to the
 56 paramount authority of the legislature with respect to
 57 appropriations, maintain said standards in the care and
 58 treatment of persons with mental illness.

246*#014S

59 246.014 SERVICES.

60 The measure of services established and prescribed by
 61 section 246.012, are:

62 (1) There shall be served in state hospitals a single
 63 standard of food for patients and employees alike, which is
 64 nutritious and palatable together with special diets as
 65 prescribed by the medical staff thereof. There shall be a chief
 66 dietitian in the department of human services and at least one
 67 dietitian at each state hospital. There shall be adequate staff
 68 and equipment for processing, preparation, distribution and
 69 serving of food.

70 (2) There shall be a staff of persons, professional and
 71 lay, sufficient in number, trained in the diagnosis, care and
 72 treatment of persons with mental illness, physical illness, and
 73 including religious and spiritual counsel through qualified
 74 chaplains (who shall be in the unclassified service) adequate to

1 take advantage of and put into practice modern methods of
2 psychiatry, medicine and related field.

3 (3) There shall be a staff and facilities to provide
4 occupational and recreational therapy, entertainment and other
5 creative activities as are consistent with modern methods of
6 treatment and well being.

7 (4) There shall be in each state hospital for the care and
8 treatment of persons with mental illness facilities for the
9 segregation and treatment of patients and residents who have
10 communicable disease.

11 (5) The commissioner of human services shall provide modern
12 and adequate psychiatric social case work service.

13 (6) The commissioner of human services shall make every
14 effort to improve the accommodations for patients and residents
15 so that the same shall be comfortable and attractive with
16 adequate furnishings, clothing, and supplies.

17 (7) The commissioner of human services shall establish
18 training programs for the training of personnel and may require
19 the participation of personnel in such programs. Within the
20 limits of the appropriations available ~~he~~ the commissioner may *
21 establish professional training programs in the forms of
22 educational stipends for positions for which there is a scarcity
23 of applicants.

24 (8) The standards herein established shall be adapted and
25 applied to the diagnosis, care and treatment of persons with
26 chemical dependency or mental retardation who come within those
27 terms as defined in the laws relating to the hospitalization and
28 commitment of such persons, and of persons who are psychopathic
29 personalities within the definition thereof in Minnesota
30 Statutes 1945, section 526.09.

31 (9) The commissioner of human services shall establish a
32 program of detection, diagnosis and treatment of persons with
33 mental illness and persons described in clause (8), and within
34 the limits of appropriations may establish clinics and staff the
35 same with persons specially trained in psychiatry and related
36 fields.

37 (10) The commissioner of employee relations may reclassify
38 employees of the state hospitals from time to time, and assign
39 classifications to such salary brackets as will adequately
40 compensate personnel and reasonably assure a continuity of
41 adequate staff.

42 (11) In addition to the chaplaincy services, provided in
43 clause (2), the commissioner of human services shall open said
44 state hospitals to members of the clergy and other spiritual
45 leaders to the end that religious and spiritual counsel and
46 services are made available to the patients and residents
47 therein, and shall cooperate with all members of the clergy and
48 other spiritual leaders in making said patients and residents
49 available for religious and spiritual counsel, and shall provide
50 such members of the clergy and other spiritual leaders with
51 meals and accommodations.

52 (12) Within the limits of the appropriations therefor, the
53 commissioner of human services shall establish and provide
54 facilities and equipment for research and study in the field of
55 modern hospital management, the causes of mental and related
56 illness and the treatment, diagnosis and care of persons with
57 mental illness and funds provided therefor may be used to make
58 available services, abilities and advice of leaders in these and
59 related fields, and may provide them with meals and
60 accommodations and compensate them for traveling expenses and
61 services.

246*#015S

62 246.015 CONSULTATIVE SERVICES; AFTER-CARE OF PATIENTS;
63 PUBLIC INFORMATION; FUNDS.

64 Subd. 3. Within the limits of the appropriations
65 available, the commissioner of human services may provide
66 consultative services for courts, and state welfare agencies,
67 supervise the placement and after-care of patients provisionally
68 or otherwise discharged from a state hospital or institution,
69 promote and conduct programs of education for the people of the
70 state relating to the problem of mental health and mental
71 hygiene. ~~He~~ The commissioner shall administer, expend and *
72 distribute federal funds which may be made available to the
73 state and funds other than those appropriated by the
74 legislature, which may be made available to the state for mental
75 health and mental hygiene purposes.

246*#017S

1 246.017 MEDICAL POLICY DIRECTIONAL COMMITTEE ON MENTAL
2 HEALTH.

3 No change for subd 1

4 Subd. 2. MEMBERSHIP, DUTIES, MEETINGS. The
5 commissioner of human services may appoint a medical policy
6 directional task force on mental health including members who
7 are experts in their fields of medicine, mental health, mental
8 retardation, or related sciences. Members shall also be
9 selected from social service, rehabilitation, volunteer
10 services, nursing, hospital administration or related fields.
11 Not more than one member shall be selected from any one field of
12 medicine or related sciences which shall include the field of
13 psychiatry, neurology, physiology, biochemistry, internal
14 medicine, pediatrics, pharmacology, and psychology. The task
15 force shall expire, and the terms, compensation, and removal of
16 members shall be as provided in section 15.059.

17 The commissioner of human services shall appoint, and unless
18 otherwise established by law, set the salary of a licensed
19 physician to serve as medical director to assist ~~him~~ in *
20 establishing and maintaining the medical policies of the
21 department of human services. The commissioner may place the
22 medical director's position in the unclassified service if the
23 position meets the criteria of section 43A.08, subdivision 1a.

246*#02S

24 246.02 EXECUTIVE OFFICERS.

25 Subdivision 1. The commissioner of human services shall
26 appoint a chief executive officer for each institution under ~~his~~ *
27 exclusive control of the commissioner and may remove ~~him~~ a chief *
28 executive officer for misconduct, incompetency, or neglect of *
29 official duty. No such removal shall be made except upon
30 written charges and opportunity to be heard. Every such
31 executive officer shall have the qualifications and perform the
32 duties now or hereafter required by law, or by rules prescribed
33 by the commissioner of human services. ~~He~~ The commissioner may *
34 appoint an acting chief executive officer during such interim
35 period as is necessary to select and appoint a chief executive
36 officer. In case of an apparent conflict between the powers
37 conferred by law upon any executive officer of a state
38 institution and those conferred by this chapter upon the
39 commissioner of human services, it shall be conclusively
40 presumed that the power belongs to the latter. When a chief
41 executive officer is required to live on the institution
42 grounds, ~~he~~ the chief executive officer is entitled to residence *
43 and maintenance in addition to ~~his~~ salary. *

44 No change for subd 2

45 Subd. 4. Within the limits of appropriations available and
46 with the advice of the medical policy directional committee, the
47 commissioner shall set the salary of the individual officers
48 named in subdivision 2 according to standards of training and
49 experience established by ~~him~~ the commissioner. ~~He~~ The *
50 commissioner may not reduce the salary of any officers incumbent *
51 at the time of the passage of this subdivision. In addition
52 to ~~his~~ salary, each officer named in subdivision 2 is entitled *
53 to reimbursement for all expenses necessarily incurred ~~by-him~~ in *
54 the performance of ~~his~~ duties. *

246*#0251S

55 246.0251 HOSPITAL ADMINISTRATOR.

56 Notwithstanding any provision of law to the contrary, the
57 commissioner of human services may appoint a hospital
58 administrator at any state hospital. Such hospital
59 administrator shall be a graduate of an accredited college
60 giving a course leading to a degree in hospital administration
61 and the commissioner of human services, by rule or regulation,
62 shall designate such colleges which in ~~his~~ the opinion of the *
63 commissioner give an accredited course in hospital *
64 administration. The provisions of this section shall not apply
65 to any chief executive officer now appointed to that position
66 who on the effective date of this section is neither a physician
67 and surgeon nor a graduate of a college giving a degree in
68 hospital administration. In addition to a hospital
69 administrator, the commissioner of human services may appoint a
70 licensed doctor of medicine as chief of the medical staff ~~and-he~~ *
71 who shall be in charge of all medical care, treatment, *
72 rehabilitation and research.

246*#03S

1 246.03 OFFICIAL BONDS.

2 The commissioner of human services shall require ~~his~~ the *
 3 commissioner's officers and employees, and those of the several *
 4 institutions under his control of the commissioner, who may be *
 5 charged with any money or property belonging to the state, to
 6 give bond to the state, properly conditioned, in such sum and
 7 with such sureties as ~~he~~ the commissioner shall approve. *

246*#04S

8 246.04 BOOKS AND ACCOUNTS.

9 The commissioner of human services shall keep at ~~his~~ the *
 10 commissioner's office a proper and complete system of books and *
 11 accounts with each institution, showing every expenditure
 12 authorized and made therefor. Such books shall contain a
 13 separate account of each extraordinary or special appropriation
 14 made by the legislature, with every item of expenditure
 15 therefrom.

246*#06S

16 246.06 REPORTS.

17 On or before November 15 in each even-numbered year, the
 18 commissioner of human services shall make a report to the
 19 governor and legislature covering the biennial period ending
 20 June 30th preceding, therein giving ~~his~~ observations and *
 21 conclusions respecting each institution under ~~his~~ control of the *
 22 commissioner. This report shall contain the reports of the *
 23 executive officers of the institutions, a statement of the
 24 visitations thereto, and when and by whom made, the name and
 25 salary of every employee of the commissioner, and of every
 26 officer and employee of the several institutions. Such report
 27 shall be published under the direction of the commissioner of
 28 administration and paid for out of the appropriation for public
 29 printing. The commissioner of human services shall make such
 30 other reports to the governor as ~~he~~ the commissioner may from *
 31 time to time require, or as the commissioner may deem necessary,
 32 relating to the condition and wants of the several institutions.

246*#08S

33 246.08 INSPECTIONS; INVESTIGATIONS; WITNESSES; CONTEMPT.

34 At least once each year and in addition as frequently as ~~he~~ *
 35 the commissioner deems necessary, the commissioner of ~~human~~ *
 36 ~~services~~, or ~~his~~ a designated representative, shall visit and *
 37 inspect each institution, and investigate its financial
 38 condition and management, and the care being provided for the
 39 inmates thereof. ~~He~~ The commissioner shall have power to summon *
 40 and compel the attendance of witnesses; to examine them under
 41 oath, and order the production of all books, property, and
 42 papers material to such investigation. Witnesses other than
 43 those in the employ of the state shall receive the same fees as
 44 in civil cases in the district court. The claim that any
 45 testimony or evidence sought to be elicited or produced may tend *
 46 to criminate the ~~persons~~ person giving or producing it, or to *
 47 expose ~~him~~ the person to public ignominy, shall not excuse ~~him~~ *
 48 the person, but no person shall be prosecuted or subjected to *
 49 any penalty or forfeiture for or on account of any matter or
 50 thing concerning which ~~he~~ the person may be so required to *
 51 testify or produce evidence; provided, that ~~he~~ the person shall *
 52 not be exempted from prosecution and punishment for perjury
 53 committed in so testifying. The commissioner of human services
 54 shall cause the testimony so taken to be transcribed and filed
 55 with ~~him~~ the commissioner as soon as practicable and when so *
 56 filed it shall be open to public inspection. Every person
 57 failing or refusing to obey any order of the commissioner of
 58 human services issued under this section, or to give or produce
 59 evidence when so requested, shall be reported by ~~him~~ the *
 60 commissioner to the district court and dealt with as for a *
 61 contempt of court.

246*#11S

62 246.11 INSPECTION.

63 The commissioner of human services, upon stated visits to
 64 any institution, shall inspect every part thereof, the general
 65 and special dietary, and the stores and methods of supply; and,
 66 so far as practicable, shall see all inmates of the charitable
 67 institutions, especially those admitted since the preceding
 68 visit, and shall give such as desire it suitable opportunity to
 69 converse with ~~him~~ the commissioner privately. ~~He~~ The *
 70 commissioner may examine under oath the officers, attendants, *
 71 guards, and other employees in order to determine their fitness
 72 for their duties.

246*#12S

1 246.12 BIENNIAL ESTIMATES; SUGGESTIONS FOR LEGISLATION.
 2 The commissioner of human services shall prepare, for the
 3 use of the legislature, biennial estimates of appropriations
 4 necessary or expedient to be made for the support of the several
 5 institutions and for extraordinary and special expenditures for
 6 buildings and other improvements. ~~He~~ The commissioner shall, in *
 7 connection therewith, make suggestions relative to legislation
 8 for the benefit of the institutions, or for improving the *
 9 condition of the dependent, defective, or criminal classes. ~~He~~ *
 10 The commissioner shall report the estimates and suggestions to *
 11 the legislature on or before November 15 in each even numbered
 12 year. The commissioner of human services on request shall
 13 appear before any legislative committee and furnish any required
 14 information in regard to the condition of any such institution.

246*#13S

15 246.13 RECORD OF PATIENTS AND RESIDENTS; DEPARTMENT OF
 16 HUMAN SERVICES.

17 The commissioner of human ~~services-shall-keep-in-his-office~~ *
 18 services' office shall have, accessible only by ~~his~~ his consent of *
 19 the commissioner or on the order of a judge or court of record, *
 20 a record showing the residence, sex, age, nativity, occupation,
 21 civil condition, and date of entrance or commitment of every *
 22 person, in the state hospitals under ~~his~~ his exclusive control of *
 23 the commissioner, the date of discharge and whether such *
 24 discharge was final, the condition of such person when ~~he~~ the *
 25 person left the state hospital, and the date and cause of all *
 26 deaths. The record shall state every transfer from one state
 27 hospital to another, naming each. This information shall be
 28 furnished to the commissioner of human services by each public
 29 and private agency, with such other obtainable facts as ~~he~~ the *
 30 commissioner may from time to time require. The chief executive *
 31 officer of each such state hospital, within ten days after the
 32 commitment or entrance thereto of a patient or resident, shall
 33 cause a true copy of ~~his~~ an entrance record to be forwarded to *
 34 the commissioner of human services. When a patient or resident
 35 leaves, is discharged or transferred, or dies in any state
 36 hospital, the chief executive officer, or other person in charge
 37 shall inform the commissioner of human services within ten days
 38 thereafter on forms ~~by-him~~ furnished by the commissioner. *

39 The commissioner of human services may authorize the chief
 40 executive officer of any state hospital for persons with mental
 41 illness or mental retardation, to release to public or private
 42 medical personnel, hospitals, clinics, county welfare boards or
 43 other specifically designated interested persons or agencies any
 44 information regarding any patient or resident thereat, if, in
 45 the opinion of the commissioner, it will be for the benefit of
 46 the patient or resident.

246*#14S

47 246.14 USE OF SPACE IN INSTITUTIONS.

48 The commissioner of human services may use available space
 49 in any institution under ~~his~~ of the commissioner, *
 50 or in any institution under the jurisdiction of another
 51 department or agency of the state in which space is
 52 proffered ~~him~~ the commissioner, by executive or legislative *
 53 action, for the care and custody of persons, patients, or
 54 inmates of the institutions under ~~his~~ of the *
 55 commissioner for whom other, more suitable, space is not *
 56 available. All laws relating to the commitment and care of such
 57 persons who may be so committed and institutionalized shall be
 58 applicable to such persons.

246*#15S

59 246.15 MONEY OF INMATES OF PUBLIC WELFARE INSTITUTIONS.

60 Subdivision 1. The chief executive officer of each
 61 institution under the jurisdiction of the commissioner of human
 62 services shall have the care and custody of all moneys belonging
 63 to inmates thereof which may come into ~~his~~ the chief executive *
 64 officer's hands, keep accurate accounts thereof, and pay them *
 65 out under rules and regulations prescribed by law or by the
 66 commissioner of human services, taking vouchers therefor. ~~He~~ *
 67 The chief executive officer shall give such additional bond as *
 68 the commissioner may require, conditioned to safely keep and
 69 account for such funds. All such moneys received by any officer
 70 or employee shall be paid to the chief executive officer
 71 forthwith. Every such executive officer, at the close of each
 72 month, or oftener if required by the commissioner, shall forward

1 to the commissioner a statement of the amount of all moneys so
 2 received and the names of the inmates from whom received,
 3 accompanied by ~~his~~ a check for the amount, payable to the state
 4 treasurer. On receipt of such statement, the commissioner shall
 5 transmit the same to the commissioner of finance, together with
 6 such check, who shall deliver the same to the state treasurer.
 7 Upon the payment of such check, the amount shall be credited to
 8 a fund to be known as "Inmates Fund," for the institution from
 9 which the same was received. All such funds shall be paid out
 10 by the state treasurer upon vouchers duly approved by the
 11 commissioner of human services as in other cases. The
 12 commissioner may permit a contingent fund to remain in the hands
 13 of the executive officer of any such institution from which
 14 necessary expenditure may from time to time be made.

15 No change for subd 2

246*#151S

16 246.151 COMPENSATION PAID TO PATIENT.
 17 Subdivision 1. COMPENSATION. Notwithstanding any law
 18 to the contrary, the commissioner of human services is
 19 authorized to provide for the payment to patients or residents
 20 of state institutions under ~~his~~ the commissioner's management
 21 and control of such pecuniary compensation as ~~he may deem~~ deemed
 22 proper by the commissioner, the amount of compensation to depend
 23 upon the quality and character of the work performed as
 24 determined by the commissioner and the chief executive officer,
 25 but in no case less than 25 percent of the minimum wage
 26 established pursuant to section 177.24.

27 No change for subd 2

246*#16S

28 246.16 UNCLAIMED MONEY OR PERSONAL PROPERTY OF INMATES.
 29 Subdivision 1. UNCLAIMED MONEY. When there has
 30 heretofore accumulated or shall hereafter accumulate in the
 31 hands of the superintendent of any state institution under the
 32 jurisdiction of the commissioner of human services money
 33 belonging to inmates of such institution who have died therein,
 34 or disappeared therefrom, and for which money there is no
 35 claimant or person entitled thereto known to the superintendent,
 36 such money may, at the discretion of such superintendent, to be
 37 expended under ~~his~~ direction of the superintendent for the
 38 amusement, entertainment, and general benefit of the inmates of
 39 such institution. No money shall be so used until it shall have
 40 remained unclaimed for at least five years. If, at any time
 41 after the expiration of the five years, the legal heirs of the
 42 inmate shall appear and make proper proof of such heirship, they
 43 shall be entitled to receive from the state treasurer such sum
 44 of money as shall have been expended by the superintendent
 45 belonging to the inmate.

46 Subd. 2. UNCLAIMED PERSONAL PROPERTY. When any
 47 inmate of a state institution under the jurisdiction of the
 48 commissioner of human services has died or disappeared
 49 therefrom, or hereafter shall die or disappear therefrom leaving
 50 in the custody of the superintendent thereof personal property,
 51 exclusive of money, which remains unclaimed for a period of two
 52 years, and there is no person entitled thereto known to the
 53 superintendent, the superintendent or ~~his~~ an agent may sell such
 54 property at public auction. Notice of such sale shall be
 55 published for two consecutive weeks in a legal newspaper in the
 56 county wherein the institution is located and shall state the
 57 time and place of such sale. The proceeds of the sale, after
 58 deduction of the costs of publication and auction, may be
 59 expended, at the discretion of the superintendent, for the
 60 entertainment and benefit of the inmates of such institution.
 61 Any inmate, ~~his heirs or heir~~ or his representatives
 62 representative of the inmate, may file with, and make proof of
 63 ownership to, the superintendent of the institution disposing of
 64 such personal property within four years after such sale, and,
 65 upon proof satisfactory to such superintendent, ~~he~~ shall certify
 66 for payment to the state treasurer the amount received by the
 67 sale of such property. No suit shall be brought for damages
 68 consequent to the disposal of personal property or use of money
 69 in accordance with this section against the state or any
 70 official, employee, or agent thereof.

246*#18S

71 246.18 DISPOSAL OF FUNDS.
 72 Every officer and employee of the several institutions
 73 under the jurisdiction of the commissioner of human services who

1 has money belonging to an institution shall pay the money to the *
 2 accounting officer thereof ~~any funds in his hands belonging to~~ *
 3 ~~the institution~~. Every accounting officer, at the close of each *
 4 month or oftener, shall forward to the commissioner of human
 5 services a statement of the amount and sources of all moneys
 6 received. On receipt of such statement, the commissioner shall
 7 transmit the same to the commissioner of finance, who shall
 8 deliver to the state treasurer a draft upon the accounting
 9 officer for the same specifying the funds to which it is to be
 10 credited. Upon payment of such draft, the amount shall be so
 11 credited.

246*#21S

12 246.21 CONTINGENT FUND.
 13 The commissioner of human services may permit a contingent
 14 fund to remain in the hands of the accounting officer of any
 15 such institution from which expenditures may be made in case of
 16 actual emergency requiring immediate payment to prevent loss or
 17 danger to the institution or its inmates and for the purpose of
 18 paying freight, purchasing produce, livestock and other
 19 commodities requiring a cash settlement, and for the purpose of
 20 discounting bills incurred, but in all cases subject to revision
 21 by the commissioner of human services. An itemized statement of
 22 every expenditure made during the month from such fund shall be
 23 submitted to the commissioner under rules established by ~~him~~ the *
 24 commissioner. If necessary, the commissioner shall make proper *
 25 requisition upon the commissioner of finance for a warrant upon
 26 the state treasurer to secure the contingent fund for each
 27 institution.

246*#23S

28 246.23 PERSONS ADMISSIBLE TO STATE HOSPITALS.
 29 No person who has not a settlement in a county, as defined
 30 in section 256D.18, shall be admitted to a state hospital for
 31 persons with mental illness, mental retardation, or chemical
 32 dependency, except that the commissioner of human services may
 33 authorize admission thereto when the residence cannot be
 34 ascertained, or when the circumstances in ~~his~~ the judgment of *
 35 the commissioner make it advisable. When application is made to *
 36 a judge of probate for admission to any of the state hospitals
 37 above named for admission thereto, if ~~he~~ the judge finds that *
 38 the person for whom application is made has not such residence,
 39 or that ~~his~~ residence cannot be ascertained, ~~he~~ the judge shall *
 40 so report to the commissioner; and ~~he~~ may recommend that such *
 41 person be admitted notwithstanding, giving ~~his~~ reasons *
 42 therefor. The commissioner of human services shall thereupon
 43 investigate the question of residence and, if ~~he~~ the *
 44 commissioner finds that such person has not such residence and *
 45 has a legal residence in another state or country, ~~he~~ the *
 46 commissioner may cause ~~him~~ the person to be returned thereto at *
 47 the expense of this state.

246*#24S

48 246.24 COMPROMISE OF CLAIMS.
 49 In case of any disagreement between the commissioner of
 50 human services and any person concerning a claim of such person
 51 to any right interest or estate in or lien upon lands occupied
 52 by or used in connection with any state institution under ~~his~~ *
 53 exclusive or partial control of the person, or of any claim *
 54 by ~~him~~ a person for damages to any such land, or the *
 55 improvements thereon, the commissioner, with the approval of the
 56 governor and the commissioner of finance, may compromise and
 57 settle such claim; and in so doing may make any necessary
 58 conveyance of land. All moneys received by the commissioner
 59 upon any such settlement shall be paid into the state treasury
 60 to the credit of the general fund.

246*#27S

61 246.27 PHYSICAL EXAMINATIONS FOR EMPLOYMENT IN CERTAIN
 62 STATE INSTITUTIONS.
 63 No new employee shall be given employment in any state
 64 institution under the direction of the department of human
 65 services, whether certified for such employment by the state
 66 department of employee relations, or otherwise selected, unless
 67 such person presents to the appointing officer of such
 68 institution a certificate showing that ~~he~~ the employee has *
 69 undergone the physical examination hereinafter provided for and
 70 has been found to be free of tuberculosis.

246*#33S

71 246.33 CEMETERY.

1 Subdivision 1. The commissioner of human services may
 2 establish and maintain a cemetery for the burial of any patient,
 3 inmate or person admitted to any state institution under ~~his~~ *
 4 control of the commissioner upon the public grounds of such *
 5 institution in the manner set forth in the following
 6 subdivisions.
 7 No change for subd 2 to 4
 8 Subd. 5. The surveyor shall certify as to the correctness
 9 of the plat by ~~his~~ endorsement ~~thereon~~. *
 10 No change for subd 6
 246*#34S
 11 246.34 REBURIAL.
 12 No change for subd 1
 13 Subd. 2. The commissioner shall petition the district
 14 court of the county wherein the present cemetery is situated
 15 setting forth the reasons for such removal, the place to which
 16 the body is to be removed, and praying for an order of the court
 17 authorizing such removal. Upon the presentation of such
 18 petition, the court shall make its order setting the time, which
 19 shall not be less than 60 days from the date of the order, and
 20 the place for hearing the same. The commissioner shall serve
 21 the nearest relative or, if the commissioner cannot locate any
 22 relative, some friend of the person whose body is to be removed
 23 by mailing ~~to him~~ a copy of the petition and court's order 30 *
 24 days before the date of hearing and file ~~his~~ the affidavit of *
 25 mailing with the clerk of district court. If the commissioner *
 26 is unable to locate a relative or friend, ~~he~~ the commissioner *
 27 shall make ~~his~~ an affidavit to that effect and file the same *
 28 with the clerk of district court.
 29 No change for subd 3
 246*#35S
 30 246.35 ABANDONMENT OF CEMETERY; COURT ORDER.
 31 If the court makes its order under the provisions of
 32 section 246.34 authorizing the removal of bodies from a cemetery
 33 and the same is accomplished in accordance with such order and
 34 the commissioner files affidavits of such removal as
 35 hereinbefore provided, together with ~~his~~ an affidavit that ~~he~~ *
 36 the commissioner has caused a thorough search to be made, and *
 37 there are no more dead bodies remaining in such cemetery to the *
 38 best of ~~his~~ the commissioner's knowledge, information and *
 39 belief, the court may make its order authorizing the abandonment
 40 of such cemetery and thereby discontinue its use as such.
 246*#36S
 41 246.36 ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.
 42 For the purpose of carrying out ~~his duties~~ a duty, the *
 43 commissioner of human services shall have authority to accept *
 44 uncompensated and voluntary services and to enter into contracts *
 45 or agreements with private or public agencies, or persons, for *
 46 uncompensated and voluntary services, as ~~he~~ the commissioner may *
 47 deem practicable. The volunteer agencies, organizations or *
 48 persons who provide services to residents of state hospitals
 49 shall not be subject to the procurement requirements of chapters
 50 16 and 16A. The agencies, organizations or persons may purchase
 51 supplies, services and equipment to be used in providing
 52 services to residents of state hospitals through the department
 53 of administration.
 246*#42S
 54 246.42 FOOD PRODUCTS, PRODUCTION AND PRESERVATION.
 55 The commissioner of human services may contract with
 56 corporations or individuals engaged in the commercial canning or
 57 freezing of food products, under such terms as ~~he~~ the *
 58 commissioner believes are for the best interests of the state, *
 59 for the seeding, fertilizing, harvesting, and preserving of food
 60 products for consumption by institution inmates. The contract
 61 may provide for the payment of the processor's services by a
 62 fractional share of the food processed. The commissioner shall
 63 not be required to advertise for or secure bids.
 246*#50S
 64 246.50 CARE OF PATIENTS AND RESIDENTS AT STATE HOSPITALS;
 65 DEFINITIONS.
 66 No change for subd '1 to 4
 67 Subd. 4a. "Resident" means any mentally retarded person
 68 receiving care or treatment at a state hospital whether ~~he~~ the *
 69 person entered such hospital voluntarily or under commitment. *
 70 No change for subd 5 to 6
 71 Subd. 7. "Patient's or resident's county" means the county

1 of the patient's or resident's legal settlement for poor relief
 2 purposes at the time of commitment or voluntary admission to a
 3 state hospital, or if ~~he~~ the patient or resident has no such *
 4 legal settlement in this state, it means the county of
 5 commitment, except that where a patient or resident with no such
 6 legal settlement is committed while serving a sentence at a
 7 penal institution, it means the county from which ~~he~~ the patient
 8 or resident was sentenced. *

9 Subd. 8. "County welfare board" means the welfare board of
 10 the patient's or resident's county as defined in subdivision 7
 11 and of the county of commitment, and any other county welfare
 12 board possessing information regarding, or requested by the
 13 commissioner to investigate, the financial circumstances of a
 14 patient or resident or ~~his~~ relatives thereof. *

246*#52S

15 246.52 PAYMENT FOR CARE; ORDER; ACTION.

16 The commissioner shall issue an order to the patient or
 17 resident or the guardian of ~~his~~ the estate, if there be one, and *
 18 relatives determined able to pay requiring them to pay monthly
 19 to the state of Minnesota the amounts so determined the total of
 20 which shall not exceed the full cost of care. Such order shall
 21 specifically state the commissioner's determination and shall be
 22 conclusive unless appealed from as herein provided. When a
 23 patient or resident or relative fails to pay the amount due
 24 hereunder the attorney general, upon request of the
 25 commissioner, may institute, or direct the appropriate county
 26 attorney to institute, civil action to recover such amount.

246*#55S

27 246.55 APPEAL FROM ORDER OF COMMISSIONER.

28 ~~Any-patient-or-resident~~ Patients, residents, or relative
 29 relatives aggrieved by an order of the commissioner under *
 30 sections 246.50 to 246.55 may appeal from the order to the
 31 district court of the county in which ~~he-resides~~ they reside by *
 32 serving notice of the appeal on the commissioner and filing the
 33 notice, with proof of service, in the office of the clerk of the
 34 district court of the county within 30 days from the date the
 35 order was mailed, or a later date not exceeding one year from
 36 the date of mailing as permitted by order of the court. The
 37 appeal may be brought on for hearing by the appellant or the
 38 commissioner upon ten days' written notice. It shall be tried
 39 to the court which shall hear evidence it deems necessary and by
 40 order affirm or modify the order of the commissioner. When any
 41 order or determination of the commissioner made under sections
 42 246.50 to 246.55 is brought in question on appeal, the order or
 43 determination shall be determined de novo. Appeal from the
 44 order of the district court may be taken as in other civil cases.

246*#62S

45 246.62 REVENUES; APPROPRIATIONS.

46 Subdivision 1. Receipts from services provided by the
 47 Anoka State Hospital pursuant to section 246.61 shall be placed
 48 in the general fund. The commissioner of human services shall *
 49 include in ~~his~~ the biennial estimate of appropriations, as
 50 prescribed in section 246.12, an amount of money sufficient for
 51 the Anoka State Hospital to provide services pursuant to section
 52 246.61 on an actual cost basis.

53 No change for subd 2

248*#03S

54 248.03 FREE TUITION AT STATE UNIVERSITY.

55 Any resident of the state graduated from the Minnesota
 56 Braille and sight-saving school, upon compliance with all other
 57 requirements, shall be entitled to pursue any course of study in
 58 the state university without expense for tuition; and the board
 59 of regents shall receive ~~him~~ the resident into any department *
 60 thereof.

248*#04S

61 248.04 BLIND STUDENT TO RECEIVE EXPENSES WHILE AT
 62 CERTAIN SCHOOLS.

63 Any blind person who is, and for five years immediately
 64 preceding the making of ~~his~~ an application for aid under this *
 65 chapter has been, a resident of this state, who is a regularly
 66 enrolled student pursuing any course of study, profession, art,
 67 or science in any university, college, or conservatory of music
 68 approved by the board of directors of the Minnesota Braille and
 69 sight-saving school, in the discretion and under direction of
 70 the board, may receive a sum or sums of money, not exceeding
 71 \$300 in any one year, for the purpose of defraying ~~his~~ necessary *

1 expenses, including those of a reader, while in attendance upon
 2 such university, college, or conservatory, such expenditures to
 3 be made from the appropriations for the current expenses of the
 4 Minnesota Braille and sight-saving school. Not more than ten
 5 such blind persons shall receive such aid in any one year.

248*#07S

6 248.07 COMMISSIONER OF JOBS AND TRAINING, DUTIES.

7 No change for subd 1 to 3

8 Subd. 4. VOCATIONAL TRAINING. The commissioner shall
 9 endeavor to secure for the adult blind of the state and youths
 10 of legal working age such vocational training, labor, and
 11 employment as may be adapted to their respective capacity, and
 12 shall so far as may be feasible aid such persons in securing any
 13 provisions which may be made by the school for the blind or
 14 other state agencies for the betterment of their lot. When
 15 vocational training under the division of vocational
 16 rehabilitation is secured, such aid may take the form of
 17 payments for the maintenance of persons in training, under rules
 18 to be adopted by the commissioner. Any person who shall be
 19 entitled to training under this subdivision shall have the right
 20 to choose from available programs such training as in his the
 21 opinion of the person would be suitable and practical ~~for him~~.

*

*

22 No change for subd 5 to 7

23 Subd. 8. USE OF REVOLVING FUND, LICENSES FOR OPERATION
 24 OF VENDING MACHINES. The revolving fund created by Laws 1947,
 25 chapter 535, section 5, is continued as provided in this
 26 subdivision and shall be known as the revolving fund for
 27 vocational rehabilitation of the blind. It shall be used for
 28 the purchase of equipment and supplies for establishing and
 29 operating of vending stands by blind persons. All income,
 30 receipts, earnings, and federal grants due to the operation
 31 thereof shall also be paid into the fund. All equipment,
 32 supplies, and expenses for setting up these stands shall be paid
 33 for from the fund. Authority is hereby given to the
 34 commissioner to use the money available in the revolving fund
 35 for the establishment, operation and supervision of vending
 36 stands by blind persons for the following purposes: (1)
 37 purchase, upkeep and replacement of equipment; (2) purchase of
 38 initial and replacement stock of supplies and merchandise; (3)
 39 expenses incidental to the setting up of new stands and
 40 improvement of old stands; (4) purchase of general liability
 41 insurance as deemed advisable for any vending stand by the
 42 commissioner; (5) reimbursement to individual blind vending
 43 operators for reasonable travel and maintenance expenses
 44 incurred in attending supervisory meetings as called by the
 45 commissioner; (6) purchase of fringe benefits for blind vending
 46 operators and their employees such as group health insurance,
 47 retirement program, vacation or sick leave assistance provided
 48 that the purchase of any fringe benefit is approved by a
 49 majority vote of blind vending operators licensed pursuant to
 50 this subdivision after the commissioner provides to each blind
 51 vending operator information on all matters relevant to the
 52 fringe benefits. Fringe benefits shall be paid only from
 53 assessments of operators for specific benefits, gifts to the
 54 fund for fringe benefit purposes, and vending income which is
 55 not assignable to an individual stand.

56 The commissioner shall issue each license for the operation
 57 of a vending stand or vending machine for an indefinite period
 58 but he may terminate any license in the manner provided. In
 59 granting licenses for new or vacated stands preference on the
 60 basis of seniority of experience in operating stands under the
 61 control of the commissioner shall be given to capable operators
 62 who are deemed competent to handle the enterprise under
 63 consideration. Application of this preference shall not
 64 prohibit the commissioner from selecting an operator from the
 65 community in which the stand is located.

*

66 No change for subd 9 to 12

67 Subd. 13. REHABILITATION FACILITIES. From the funds
 68 appropriated for vocational rehabilitation of the blind and
 69 matching federal funds available for the purpose, the
 70 commissioner may make grants, upon such terms as he the
 71 commissioner may determine, to public or nonprofit organizations
 72 for the establishment, maintenance or improvement of
 73 rehabilitation facilities or sheltered workshops for the blind.

*

*

74 No change for subd 14 to 14a

75 Subd. 15. APPEALS FROM AGENCY ACTION. An applicant

1 for or recipient of rehabilitation service who is dissatisfied
2 with an agency's action with regard to the furnishing or denial
3 of services may:

4 (1) File a request for an administrative review and
5 redetermination of that action to be made by the commissioner.

6 (2) If further appeal is deemed necessary by the applicant
7 or recipient, ~~his~~ the grievance shall be considered and relief *
8 if any recommended by an appeal committee. The committee shall
9 be composed of one person nominated by the applicant or
10 recipient, one person nominated by the agency, and a third
11 person nominated jointly by the applicant or recipient and the
12 agency. If the third person cannot be mutually agreed upon
13 within ten days of the applicant's or recipient's request for a
14 committee hearing, the judge of the district court in the
15 applicant's or recipient's county of residence shall make the
16 third appointment.

250*#05S

17 250.05 CREATION; ADMINISTRATION; POWERS AND DUTIES.

18 No change for subd 1 to 2a

19 Subd. 3. The board shall organize by electing a
20 ~~chairperson~~ chair and other officers as may be required. The *
21 Gillette children's hospital board shall employ an administrator
22 and other professional, technical, and clerical personnel as may
23 be required. The administrator shall serve at the pleasure of
24 the board. The Gillette children's hospital board shall employ
25 a certified public accountant to annually audit and examine its
26 financial records. The report of an examination or audit by a
27 certified public accountant shall be submitted on request to the
28 legislative auditor who shall review the audit report and accept
29 it or make additional examinations as ~~he~~ the legislative auditor *
30 deems to be in the public interest. The working papers of the
31 certified public accountant relating to the Gillette children's
32 hospital board shall be made available to the legislative
33 auditor upon request.

34 The Gillette children's hospital board may contract for the
35 services of individuals who perform medical, technical, or other
36 services of a professional nature, and may contract for the
37 purchase of necessary supplies, services, and equipment. Except
38 as it determines, the Gillette children's hospital board shall
39 not be subject to the provisions of chapter 16, concerning
40 budgeting, payroll, and the purchase of goods or services. Any
41 department of state government is authorized, within the limits
42 of its functions and appropriations, to assist the Gillette
43 children's hospital board upon request.

44 No change for subd 3a to 5

45 Subd. 6. The Gillette children's hospital shall seek
46 reimbursement for costs of care and treatment provided, from
47 parents to the extent of their ability to pay, from insurance
48 policies covering care and treatment, and from other sources,
49 including any federally financed medical aids for which the
50 child is eligible. To the extent of appropriations available
51 therefor, the department of human services shall continue to
52 provide financial assistance to the Gillette children's hospital
53 board to pay for costs of care otherwise unmet which are beyond
54 the ability of parents to provide. Children from other states
55 who can benefit from the services of the hospital may be
56 accepted upon the referral of a medical doctor. Reimbursement
57 for full costs for care provided nonresident patients shall be
58 obtained from parents, from insurance policies covering care and
59 treatment, or from any sources other than the state of Minnesota
60 which may be available to the child and ~~his~~ the child's family. *

251*#011S

61 251.011 RELOCATION OF FACILITIES.

62 No change for subd 1 to 6

63 Subd. 7. STATUS OF EMPLOYEES. Upon execution of the
64 lease referred to herein, the employees of the Glen Lake
65 Sanatorium shall become employees of the state sanatorium or
66 nursing home and blanketed into the classified service of the
67 state, and shall be placed in the proper classifications by the
68 commissioner of employee relations with such compensation as
69 such classifications carry. The seniority rights of such
70 employees which exist at the time of transfer shall be
71 retained. Upon assuming state employment each such employee
72 shall be credited with whatever unused sick leave ~~he still has~~ *
73 ~~to his credit~~ accrued as an employee of Glen Lake Sanatorium *
74 after application of the severance pay plan of the Hennepin

1 county Sanatorium Commission but not to exceed thirty days.

2 No change for subd 8

251*#041S

3 251.041 EMPLOYEES CONTRACTING TUBERCULOSIS TO RECEIVE
4 MEDICAL CARE AND COMPENSATION.

5 Any sanatorium, medical laboratories or institutional
6 employee of the state or of any county or other subdivision of
7 the state, or any duly licensed nurse employed by the state or
8 by any county, city, nursing district or other subdivision of
9 the state, whose duties in connection with such employment bring
10 or have brought ~~him~~ the employee or nurse in contact with *
11 patients or persons who are afflicted with tuberculosis, or with
12 tuberculosis contaminated material, who contracts tuberculosis,
13 shall be entitled to the medical care and compensation provided
14 by sections 251.041 to 251.045. "Contracts tuberculosis" shall
15 be construed to mean the development of demonstrable lesions of
16 tuberculosis or the demonstration of the germs of tuberculosis
17 in that person's secretions or excretions.

251*#042S

18 251.042 REPORT OF ILLNESS OF EMPLOYEE, HEARING ON CLAIM.

19 Whenever the superintendent of any state, county or city
20 sanatorium, medical laboratories or other institution, or the
21 head of any department of the state or of any county, city,
22 nursing district or other subdivision of the state employing
23 licensed nurses, learns that any employee of such institution or
24 department whose duties bring ~~him~~ the employee in contact with *
25 patients or inmates therein or who works in and around any
26 tuberculosis contaminated material, has contracted tuberculosis
27 while employed in such institution or department, such
28 superintendent or department head shall report such illness to
29 the workers' compensation division. Copies of such report shall
30 be sent to the commissioner of human services if a state
31 institution; to the head of the department if a department of
32 the state; to the county board if a county institution or
33 department; or to the governing body of the city or other
34 subdivision of the state which employs the afflicted person.
35 The commissioner of the department of labor and industry upon
36 receiving such report, shall mail to the superintendent of such
37 institution or the head of such department blank forms to be
38 filled out by such employee claiming the medical and sanatorium
39 treatment and compensation hereinafter provided for. The
40 commissioner of the department of labor and industry shall
41 thereupon set the claim on for hearing and determination in the
42 same manner as claims of other public employees under the
43 workers' compensation law are heard and determined.

251*#043S

44 251.043 FINDINGS, PAYMENT OF MEDICAL CARE AND
45 COMPENSATION.

46 No change for subd 1

47 Subd. 2. Whenever it appears that any employee subject to
48 the provisions of sections 251.041 to 251.045 has come into
49 contact with persons who are afflicted with tuberculosis or with
50 tuberculosis contaminated material in connection with ~~his~~ the *
51 employment and has subsequently contracted tuberculosis it shall
52 be presumed that such employee contracted tuberculosis by such
53 contact and while working within the scope of ~~his~~ employment. *

54 No change for subd 3

251*#051S

55 251.051 POLICE OFFICERS CONTRACTING TUBERCULOSIS.

56 Any police officer of the state or of any county or
57 municipal subdivision of the state whose duties within the scope
58 of ~~his~~ employment as a police officer bring ~~him~~ or did bring the *
59 officer in contact ~~or did bring him in contact~~ with persons *
60 afflicted with tuberculosis, which said police officer contracts
61 or becomes ill from tuberculosis, shall be entitled to the
62 medical care and compensation provided for by sections 251.051
63 to 251.053. "Contracts tuberculosis" shall be construed to mean
64 the development of demonstrable tuberculosis in the police
65 officer.

251*#052S

66 251.052 REPORT OF ILLNESS.

67 Whenever the head of any state, county or city police
68 department learns that any police officer employed by such
69 department whose duties bring or did bring ~~him~~ the employee in *
70 contact with any person suffering from tuberculosis while said
71 police officer was in discharge of ~~his~~ duties within the scope *

1 of ~~his~~ employment, has contracted or become ill from *
 2 tuberculosis while employed in such department, such head of the
 3 police department shall report such illness to the workers'
 4 compensation division. Copies of such report shall be sent to
 5 the commissioner of the department of human services if a state
 6 police officer, to the county board if a county police officer,
 7 and to the governing body of the city if a municipal officer.
 8 The commissioner of the department of labor and industry, upon
 9 receiving such report shall mail to the head of the department
 10 blank forms to be filled out by such employee claiming the
 11 medical and sanatorium treatment and compensation hereinafter
 12 provided for. The commissioner of the department of labor and
 13 industry shall thereupon set the claim on for hearing and
 14 determination in the same manner as claims of other public
 15 employees under the workers' compensation law are heard and
 16 determined.

251*#15S

17 251.15 HOSPITAL EMPLOYEE CONTRACTING TUBERCULOSIS.
 18 Subdivision 1. STUDENT NURSE, MEDICAL STUDENT, OR
 19 PHYSICIAN IN TRAINING CONTRACTING TUBERCULOSIS TO HAVE CARE AT
 20 EXPENSE OF COUNTY. Any student nurse, medical student, or
 21 physician in training, who contracts tuberculosis as a result of
 22 direct contact with tuberculosis patients during the course of
 23 ~~his-or-her~~ training, or internship in a public tax supported *
 24 hospital in this state, may be given care and treatment in a
 25 public tax supported hospital operated and controlled by the
 26 county in which the public tax supported hospital is located,
 27 and at the expense of the county in which the public hospital is
 28 located.

29 No change for subd 2

252*#05S

30 252.05 ABDUCTION OR ENTICING AWAY PROHIBITED; PENALTY.
 31 Every person who shall abduct, entice, or carry away from a
 32 state hospital for persons with mental retardation any resident
 33 thereof, who has not been legally discharged therefrom, shall be
 34 guilty of a felony and punished by a fine of not to exceed
 35 \$3,000 or imprisonment in the Minnesota correctional
 36 facility-Stillwater or the Minnesota correctional facility-St.
 37 Cloud not to exceed three years, or both, in the discretion of
 38 the court; any and every person who shall abduct, entice, or
 39 carry away from any place other than a state hospital, a person
 40 duly committed as mentally retarded to the guardianship of the
 41 commissioner of human services with the intention of wrongfully
 42 removing such person from the direct custody of the commissioner
 43 of human services, such person known by ~~him~~ the removing person *
 44 to be under the supervision of the commissioner of human *
 45 services or ~~his~~ the commissioner's agents, shall be guilty of a
 46 gross misdemeanor.

252*#07S

47 252.07 SHERIFF, EXPENSES.
 48 In any county where the sheriff receives a salary in full
 49 compensation for official services performed for the county, ~~he~~ *
 50 the sheriff shall receive no additional compensation for *
 51 services performed under the provisions of sections 252.06 to *
 52 252.08, but ~~he~~ shall be reimbursed by the county wherein such *
 53 person with mental retardation was committed for the necessary *
 54 expenses incurred by ~~him~~ the sheriff in taking charge of and *
 55 transporting such person to a state hospital and the subsistence *
 56 of ~~himself~~ the sheriff and such person while enroute. *

57 In any county where the sheriff does not receive a salary *
 58 ~~he~~ the sheriff shall be paid \$5 a day for the time necessarily *
 59 employed in performance of the service, together with expenses *
 60 incurred by ~~him~~ in taking charge of and transporting such person *
 61 to such state hospital and the subsistence of ~~himself~~ the *
 62 sheriff and such person while enroute. *

63 When the person with mental retardation is a female, the *
 64 sheriff shall appoint some suitable woman to act ~~in-his stead~~ *
 65 instead. Such woman shall exercise all the powers vested in the *
 66 sheriff and shall be paid \$5 per day for the time necessarily *
 67 employed in the performance of such service, together with *
 68 expenses incurred by her in taking charge of and transporting *
 69 such person to such state hospital and the subsistence of *
 70 herself and such person while enroute.

252*#24S

71 252.24 DUTIES OF COUNTY BOARDS.
 72 No change for subd 1

1 Subd. 2. SUPERVISION OF PROJECTS; PROMULGATION OF
2 RULES. The commissioner of human services shall closely
3 supervise any developmental achievement center receiving a grant
4 under sections 252.21 to 252.26. He The commissioner shall *
5 promulgate rules in the manner provided by law as necessary to
6 carry out the purposes of sections 252.21 to 252.26, including
7 but not limited to rules pertaining to facilities for housing
8 developmental achievement centers, administration of centers,
9 and eligibility requirements for admission and participation in
10 activities of the center.

11 No change for subd 3 to 4

252*#25S

12 252.25 BOARD OF DIRECTORS.

13 Every city, town, or nonprofit corporation, or combination
14 thereof, establishing a developmental achievement center for
15 persons with mental retardation or related conditions shall,
16 before it comes under the terms of sections 252.21 to 252.26,
17 appoint a board of directors for the center program. When any
18 city or town singly establishes such a center, such board shall
19 be appointed by the chief executive officer of the city or the
20 chairman chair of the governing board of the town. When any *
21 combination of cities, towns, or nonprofit corporations,
22 establishes such a center, the chief executive officers of the
23 cities or nonprofit corporations and the chairman chair of the *
24 governing bodies of the towns shall appoint the board of
25 directors. If a nonprofit corporation singly establishes such a
26 center, its chief executive officer shall appoint the board of
27 directors of the center. Membership on a board of directors
28 while not mandatory, should be representative of local health,
29 education and welfare departments, medical societies, mental
30 health centers, associations concerned with mental retardation
31 and related conditions, civic groups and the general public.
32 Nothing in sections 252.21 to 252.26 shall be construed to
33 preclude the appointment of elected or appointed public
34 officials or members of the board of directors of the sponsoring
35 nonprofit corporation to such board of directors.

252*#27S

36 252.27 COST OF BOARDING CARE OUTSIDE OF HOME OR
37 INSTITUTION.

38 Subdivision 1. Whenever any child who has mental
39 retardation or a related condition, or a physical or emotional
40 handicap is in 24 hour care outside the home including respite
41 care, in a facility licensed by the commissioner of human
42 services, the cost of care shall be paid by the county of
43 financial responsibility determined pursuant to section 256E.08,
44 subdivision 7. If the child's parents or guardians do not
45 reside in this state, the cost shall be paid by the county in
46 which the child is found. A person has a "related condition" if
47 that person has a severe, chronic disability that is (a)
48 attributable to cerebral palsy, epilepsy, autism, or any other
49 condition, other than mental illness, found to be closely
50 related to mental retardation because the condition results in
51 impairment of general intellectual functioning or adaptive
52 behavior similar to that of persons with mental retardation or
53 requires treatment or services similar to those required for
54 persons with mental retardation; (b) is likely to continue
55 indefinitely; and (c) results in substantial functional
56 limitations in three or more of the following areas of major
57 life activity: self-care, understanding and use of language,
58 learning, mobility, self-direction, or capacity for independent
59 living. For the purposes of this section, a child has an
60 "emotional handicap" if the child has a psychiatric or other
61 emotional disorder which substantially impairs ~~his~~ the child's *
62 mental health and requires 24 hour treatment or supervision.

63 No change for subd 2 to 4

252*#275S

64 252.275 SEMI-INDEPENDENT LIVING SERVICES FOR PERSONS
65 WITH MENTAL RETARDATION OR RELATED CONDITIONS.

66 No change for subd 1 to 6

67 Subd. 7. REPORTS. The commissioner shall require
68 collection of data and periodic reports necessary to demonstrate
69 the effectiveness of semi-independent living services in helping
70 persons with mental retardation or related conditions achieve
71 self-sufficiency and independence. The commissioner shall
72 report to the legislature no later than January 15, 1984, on the
73 effectiveness of the program, its effect on reducing the number

1 of persons with mental retardation or related conditions in
 2 state hospitals and in intermediate care facilities, and ~~his~~ the
 3 commissioner's recommendations regarding making this program an
 4 integral part of the social services programs administered by
 5 the counties.

*
 *

6 No change for subd 8

252*#30S

7 252.30 AUTHORIZATION TO MAKE GRANTS FOR COMMUNITY
 8 RESIDENTIAL FACILITIES.

9 The commissioner of human services may make grants to
 10 nonprofit organizations, municipalities or local units of
 11 government to provide up to 25 percent of the cost of
 12 constructing, purchasing or remodeling small community
 13 residential facilities for persons with mental retardation or
 14 related conditions allowing such persons to live in a homelike
 15 atmosphere near their families. Operating capital grants may
 16 also be made for up to three months of reimbursable operating
 17 costs after the facility begins processing applications for
 18 admission and prior to reimbursement for services. Repayment of
 19 the operating grants shall be made to the commissioner of human
 20 services at the end of the provider's first fiscal year, or at
 21 the conclusion of the interim rate period, whichever occurs
 22 first. No aid under this section shall be granted to a facility
 23 providing for more than 16 residents in a living unit and with
 24 more than two living units. The advisory council established by
 25 section 252.31 shall recommend to the commissioner appropriate
 26 disbursement of the funds appropriated by Laws 1973, chapter
 27 673, section 3. Prior to any disbursement of funds the
 28 commissioner shall review the plans and location of any proposed
 29 facility to determine whether such a facility is needed. The
 30 commissioner shall promulgate such rules and regulations for the
 31 making of grants and for the administration of this section as
 32 ~~he~~ the commissioner deems proper. The remaining portion of the
 33 cost of constructing, purchasing, remodeling facilities, or of
 34 operating capital shall be borne by nonstate sources including
 35 federal grants, local government funds, funds from charitable
 36 sources, gifts and mortgages.

*

252A#02S

37 252A.02 DEFINITIONS.

38 No change for subd 1

39 Subd. 2. "Mentally retarded person" refers to any person
 40 who has been diagnosed as having significantly subaverage
 41 intellectual functioning existing concurrently with demonstrated
 42 deficits in adaptive behavior such as to require supervision and
 43 protection for ~~his~~ the person's welfare or the public welfare.

*

44 Subd. 3. "Commissioner" means the commissioner of human
 45 services or ~~his~~ the commissioner's designees.

*

46 No change for subd 4

47 Subd. 5. "Licensed physician" means a person licensed
 48 under the laws of Minnesota to practice medicine or a medical
 49 officer of the government of the United States while in
 50 Minnesota in performance of ~~his~~ official duties.

*

51 No change for subd 6 to 12

252A#03S

52 252A.03 NOMINATION OF COMMISSIONER AS GUARDIAN OR
 53 CONSERVATOR.

54 Subdivision 1. The commissioner may be nominated in a
 55 sworn written request by any one of the following to act as
 56 guardian or conservator for any mentally retarded person:

57 (a) An interested person;

58 (b) The guardian or conservator of the person of the
 59 mentally retarded person to act as ~~his~~ successor;

*

60 (c) The mentally retarded person.

61 Subd. 2. The commissioner shall accept or reject the
 62 nomination in writing within 15 days of the receipt of a
 63 comprehensive evaluation provided for in section 252A.04. The
 64 commissioner's acceptance shall be binding upon ~~him~~ the
 65 commissioner and ~~his~~ successors. Acceptance of a nomination
 66 shall confer no authority on the commissioner unless affirmed at
 67 a judicial hearing. Rejection of a nomination by the
 68 commissioner shall not bar the filing of a petition pursuant to
 69 section 252A.06.

*
 *

70 No change for subd 3

252A#04S

71 252A.04 COMPREHENSIVE EVALUATION.

72 No change for subd 1

1 Subd. 2. ~~If~~ A proposed ward who, at the time the *
 2 comprehensive evaluation is to be performed, ~~the proposed ward~~ *
 3 has been under medical care, ~~he~~ shall not be so under the *
 4 influence or so suffer the effects of drugs, medication, or
 5 other treatment as to be hampered in the testing or evaluation
 6 process. When in the opinion of the licensed physician
 7 attending the proposed ward, the discontinuance of medication or
 8 other treatment is not in ~~his~~ the proposed ward's best interest, *
 9 the physician shall record a list of all drugs, medication or
 10 other treatment which the proposed ward received 48 hours
 11 immediately prior to any examination, test or interview
 12 conducted in preparation for the comprehensive evaluation.
 13 No change for subd 3 to 4

252A#05S

14 252A.05 COMMISSIONER'S PETITION FOR APPOINTMENT AS
 15 PUBLIC GUARDIAN OR PUBLIC CONSERVATOR.
 16 In every case ~~in which he agrees~~ on agreeing to accept a *
 17 nomination, the commissioner, within 15 days of such acceptance,
 18 shall petition in the county or probate court of the county of *
 19 residence of the mentally retarded person for ~~his~~ appointment to
 20 act as conservator or guardian of the mentally retarded person.

252A#06S

21 252A.06 CONTENTS OF PETITION FOR APPOINTMENT OF PUBLIC
 22 GUARDIAN OR PUBLIC CONSERVATOR.
 23 Subdivision 1. The commissioner, a mentally retarded
 24 person or any parent, spouse or relative of a mentally retarded
 25 person may file a verified petition alleging that the
 26 appointment of a public conservator or public guardian is
 27 required. If the commissioner ~~is bringing~~ brings the petition *
 28 ~~following acceptance of his~~ after accepting the nomination as *
 29 conservator or guardian, the petition shall so state and shall
 30 set forth the name and address of the nominating person.
 31 No change for subd 2

252A#07S

32 252A.07 FILING OF COMPREHENSIVE EVALUATION.
 33 Subdivision 1. When a petition is brought by the
 34 commissioner following acceptance of ~~his~~ nomination, a copy of *
 35 the comprehensive evaluation shall be filed with the petition.
 36 If a petition is brought by a person other than the commissioner
 37 and a comprehensive evaluation has been prepared within a year
 38 of the filing of the petition, the commissioner shall forward a
 39 copy of the comprehensive evaluation to the court upon notice of
 40 the filing of said petition. If a comprehensive evaluation has
 41 not been prepared within a year of the filing of the petition,
 42 the commissioner, upon notice of the filing of said petition,
 43 shall arrange for a comprehensive evaluation to be prepared and
 44 forwarded to the court within 90 days.
 45 Subd. 2. A copy of the comprehensive evaluation shall be
 46 made available by the court to the proposed ward, ~~his~~ the *
 47 proposed ward's counsel, the county attorney, the attorney *
 48 general and the petitioner.
 49 No change for subd 3

252A#08S

50 252A.08 NOTICE OF PETITION AND HEARING.
 51 Subdivision 1. Notice of the filing of the petition shall
 52 be promptly forwarded by the court to the proposed ward, ~~his~~ the *
 53 proposed ward's counsel, ~~his~~ the proposed ward's spouse or *
 54 nearest relative, the county attorney and attorney general and
 55 such other persons as the court directs. Notice shall be
 56 personally served upon the proposed ward by a nonuniformed
 57 person. The contents of all documents served shall be read to
 58 the proposed ward or served upon ~~his~~ counsel who shall, to the *
 59 extent possible, explain the documents' meaning to the proposed
 60 ward. If the proposed ward is a patient or resident of any
 61 institution, hospital or other residential facility, notice by
 62 mail shall also be given to the chief executive officer or
 63 administrator thereof.
 64 No change for subd 2 to 3
 65 Subd. 4. The proposed ward, ~~his~~ proposed ward's counsel, *
 66 ~~his~~ proposed ward's spouse or nearest relative, the petitioner, *
 67 the county attorney and attorney general, and such other persons
 68 as the court directs shall be given at least seven days' written
 69 notice of the time and date of the hearing.

252A#10S

70 252A.10 HEARING.
 71 No change for subd 1 to 3

1 Subd. 4. If A proposed ward who, at the time of the *
 2 hearing, ~~the-proposed-ward~~ has been under medical care, ~~he~~ shall *
 3 have the same rights regarding limitation on the use of drugs,
 4 medication or other treatment prior to the hearing as are
 5 available under section 252A.04, subdivision 2.

6 No change for subd 5 to 7

7 Subd. 8. The county attorney may appear and represent the
 8 petitioner or shall appear and represent the petitioner upon the
 9 request of the court or the petitioner. The petitioner shall be
 10 notified of ~~his~~ the right to request that the county attorney *
 11 appear. The attorney general may appear and represent the
 12 commissioner in any proceedings brought pursuant to Laws 1975,
 13 Chapter 208.

14 No change for subd 9 to 10

252A#11S

15 252A.11 POWERS OF GUARDIAN AND CONSERVATOR.

16 Subdivision 1. The court may appoint the commissioner
 17 guardian if it determines that a guardian is needed to supervise
 18 and protect the retarded person through the exercise of the
 19 following powers:

20 (a) The power to exercise general supervisory authority
 21 over the ward. This includes choosing or changing the
 22 residence, care, habilitation, education and employment of the
 23 ward and the power to approve or withhold approval for the
 24 ward's request to sell or in any way encumber ~~his~~ the ward's *
 25 personal and real property;

26 (b) The power to take possession of the personal property
 27 of the ward and liquidate or hold it for the ward's benefit as
 28 provided in section 256.93;

29 (c) The power to permit or withhold permission for the ward
 30 to marry;

31 (d) The power to approve or withhold approval of any
 32 contract, except for necessities, which the ward may make or
 33 wish to make;

34 (e) The power to commence judicial action or defend against
 35 judicial action in the name of the ward;

36 (f) The power to consent to the ward's sterilization as
 37 provided in section 252A.13;

38 (g) The power to consent to surgical operations in
 39 non-emergency cases as provided in section 252A.13, subdivision
 40 1;

41 (h) The power to consent to the adoption of a ward as
 42 provided in section 259.24.

43 No change for subd 2

44 Subd. 3. Nothing in sections 252A.01 to 252A.21 shall give
 45 the commissioner authority to place a ward in a state
 46 institution except pursuant to chapter 253B, for outpatient
 47 services, or for the purpose of receiving temporary care for a
 48 specific period of time not to exceed 90 days in any calendar
 49 year with the concurrence of the responsible county welfare
 50 board and the chief executive officer of the hospital or ~~his~~ the *
 51 chief executive officer's designee. *

52 Subd. 4. In any case in which the ward has a personal
 53 estate beyond that which is necessary for ~~his~~ the ward's *
 54 personal and immediate needs, the commissioner shall determine
 55 whether a guardian of the estate has been appointed for the
 56 ward. If no such guardian has been appointed, the commissioner,
 57 after consulting with the parents, spouse or nearest relative of
 58 the ward, may petition the probate court for the appointment of
 59 a private guardian or conservator of the estate of the ward.

60 Subd. 5. The commissioner shall exercise ~~his~~ supervisory *
 61 authority over the ward in a manner which is least restrictive
 62 of the ward's personal freedom consistent with the need for
 63 supervision and protection.

252A#13S

64 252A.13 MEDICAL TREATMENT; STERILIZATION.

65 Subdivision 1. Except as otherwise provided in this
 66 subdivision, the commissioner shall obtain consent from the
 67 proper relatives for a surgical operation necessary to save the
 68 life, health, eyesight, hearing or limb of any ward or
 69 conservatee. If such persons cannot be found after diligent
 70 search, or in the case of an emergency, the commissioner may
 71 give such consent upon the advice of the chief medical officer
 72 of the hospital to which the ward or conservatee has been
 73 admitted. When a conservatee whose right to consent to surgery
 74 has not been restricted pursuant to section 252A.11 is admitted

1 to a hospital for surgery, the chief medical officer shall
 2 determine if the person's medical condition is such that the
 3 person has sufficient capacity to make a responsible decision.
 4 If the person has such capacity, ~~his~~ consent shall be obtained *
 5 before such surgery. In such cases the person's consent shall
 6 be determinative and no other consent is necessary; provided,
 7 however, that in the case of a minor, consent shall also be
 8 obtained from ~~his~~ the minor's parent or near relative. No *
 9 person who consents to the performance of a surgical operation
 10 pursuant to the provisions of this subdivision shall be civilly
 11 or criminally liable for the performance or the manner of
 12 performing such operation. No person who acts within the scope
 13 of the authority conferred by such consent in the course of
 14 discharging ~~his~~ official duties shall be civilly or criminally *
 15 liable for the performance of such operation, but sections
 16 252A.01 to 252A.21 shall not affect any liability which ~~he~~ the *
 17 person may incur as a consequence of the manner in which such *
 18 operation is performed.

19 No change for subd 2

20 Subd. 3. Any conservatee whose right to consent to a
 21 sterilization has not been restricted pursuant to section
 22 252A.11 may be sterilized only if such conservatee consents in
 23 writing or there is a sworn acknowledgment by an interested
 24 person of a non-written consent by such conservatee. The
 25 consent must certify that the conservatee has received a full
 26 explanation from a physician or registered nurse of the nature
 27 and irreversible consequences of the sterilization operation.
 28 No conservatee who is a minor may be sterilized without the
 29 written consent of ~~his~~ the conservatee's parent or near relative. *

30 No change for subd 4

252A#15S

31 252A.15 DUTIES OF COMMISSIONER AS PUBLIC GUARDIAN OR
32 PUBLIC CONSERVATOR.

33 Subdivision 1. When acting as guardian or conservator of a
 34 mentally retarded individual, the commissioner shall maintain
 35 close contact with the mentally retarded person no matter where
 36 such person is living in this state and shall permit and
 37 encourage maximum self-reliance on the part of the mentally
 38 retarded person under ~~his~~ the commissioner's protection. The *
 39 commissioner shall permit and encourage involvement by the
 40 parents and/or spouse of the ward in planning and decision
 41 making on behalf of the ward.

42 Subd. 2. In addition to the supervisory powers vested in
 43 the commissioner by the court pursuant to section 252A.11, the
 44 commissioner shall provide for an individualized program plan,
 45 which shall:

46 (a) Assure that educational services are provided to each
 47 ward who is of school age;

48 (b) Assure that the medical and dental needs of each ward
 49 are met;

50 (c) Arrange for therapeutic and habilitative services,
 51 adult education, vocational rehabilitation or other appropriate
 52 programs for any adult ward who is still in need of training;

53 (d) Arrange for counseling and assistance to the ward so as
 54 to maximize ~~his~~ the ward's potential and opportunities for *
 55 social and financial independence.

56 No change for subd 3

252A#16S

57 252A.16 ANNUAL REVIEW.

58 Subdivision 1. The commissioner shall provide an annual
 59 review of the physical, mental and social adjustment and
 60 progress of every ward and conservatee. A copy of this review
 61 shall be kept on file at the department of human services and
 62 may be inspected by the ward or conservatee, ~~his~~ the ward's or *
 63 conservatee's parents, spouse or relatives and such other *
 64 persons as receive the permission of the commissioner.

65 No change for subd 2

252A#17S

66 252A.17 EFFECT OF SUCCESSION IN OFFICE.

67 The appointment by the court of the commissioner of human
 68 services as conservator or guardian shall be by the title of ~~his~~ *
 69 the commissioner's office. The authority of the commissioner as *
 70 conservator or guardian shall cease upon the termination of ~~his~~ *
 71 the commissioner's term of office and ~~his~~ authority shall vest *
 72 in ~~his~~ a successor or successors in office without further court *
 73 proceedings.

252A#19S

1 252A.19 MODIFICATION OF CONSERVATORSHIP; RESTORATION TO
2 LEGAL CAPACITY.

3 No change for subd 1 to 5

4 Subd. 6. The county attorney may attend the hearing and
5 may oppose the petition in the probate or county court and in
6 the appellate courts if he the county attorney deems it for the
7 best interest of the public. *

8 Subd. 7. The attorney general may appear and represent the
9 commissioner in such proceedings. The commissioner shall
10 support or oppose the petition if he the commissioner deems such
11 action necessary for the protection and supervision of the ward
12 or conservatee. *

13 No change for subd 8

252A#20S

14 252A.20 COSTS OF HEARINGS.

15 Subdivision 1. In each proceeding under sections 252A.01
16 to 252A.21, the court shall allow and order paid to each witness
17 subpoenaed the fees and mileage prescribed by law; to each
18 physician, psychologist or social worker who assists in the
19 preparation of the comprehensive evaluation and who is not in
20 the employ of the county welfare department, state department of
21 human services or area mental health-mental retardation board, a
22 reasonable sum for his services and for travel; and to the
23 ward's counsel, when appointed by the court, a reasonable sum
24 for travel and for each day or portion thereof actually employed
25 in court or actually consumed in preparing for the hearing.
26 Upon such order the county auditor shall issue a warrant on the
27 county treasurer for payment of the amount allowed.

28 Subd. 2. When the settlement of the ward is found to be in
29 another county, the court shall transmit to the county auditor a
30 statement of the expenses incurred pursuant to subdivision 1.
31 The auditor shall transmit the statement to the auditor of the
32 county of the ward's settlement and this claim shall be paid as
33 other claims against that county. If the auditor to whom this
34 claim is transmitted denies the claim, he the auditor shall
35 transmit it, together with his the objections thereto, to the
36 commissioner, who shall determine the question of settlement and
37 certify his findings to each auditor. If the claim is not paid
38 within 30 days after such certification, an action may be
39 maintained thereon in the district court of the claimant county. *

40 No change for subd 3

252A#21S

41 252A.21 GENERAL PROVISIONS.

42 No change for subd 1

43 Subd. 2. The commissioner shall establish such rules and
44 regulations not inconsistent with the provisions of sections
45 252A.01 to 252A.21 as he may find to be the commissioner finds
46 necessary for the proper and efficient administration thereof. *
47 In promulgating such regulations, the commissioner shall
48 specifically develop methods of administration under which the
49 county welfare departments shall have sufficient authority to
50 effectively implement the duties and responsibilities of the
51 commissioner under sections 252A.01 to 252A.21, consistent with
52 the commissioner's ultimate responsibility as public guardian or
53 public conservator.

54 No change for subd 3 to 4

253*#10S

55 253.10 DEATH OR ILLNESS; NOTICE GIVEN NEXT OF KIN.

56 The chief executive officer of any state hospital shall
57 give to the next of kin of any resident thereof immediate notice
58 of his the resident's death, serious illness, or special change
59 in his condition and promptly and fully answer all letters of
60 inquiry from relatives. Immediately after the death of a
61 patient or resident therein, he the chief executive officer
62 shall furnish for registration, to the proper clerk or health
63 officer, and to the probate judge of the county from which he
64 the resident was committed, a certificate setting forth the name
65 of the patient or resident, his age, the duration of his last
66 sickness, and the cause and date of his death. The expenses of
67 all coroners' inquests upon persons dying in such hospital shall
68 be paid from the appropriation for its current expenses. *

253*#20S

69 253.20 MINNESOTA SECURITY HOSPITAL.

70 The commissioner of human services is hereby authorized and
71 directed to erect, equip, and maintain in connection with a

1 state hospital at St. Peter a suitable building to be known as
 2 the Minnesota Security Hospital, for the purpose of holding in
 3 custody and caring for such persons with mental illness or
 4 mental retardation as may be committed thereto by courts of
 5 criminal jurisdiction, or otherwise, or transferred thereto by
 6 the commissioner of human services, and for such persons as may
 7 be declared insane while confined in any penal institution, or
 8 who may be found to be mentally ill and dangerous, and he the
 9 commissioner shall supervise and manage the same as in the case
 10 of other state hospitals.

253*#202S

11 253.202 MANAGEMENT.

12 Notwithstanding the provisions of section 253.201, or any
 13 other law to the contrary, the Minnesota Security Hospital shall
 14 be under the administrative management of a hospital
 15 administrator, to be appointed by the commissioner of human
 16 services, who shall be a graduate of an accredited college
 17 giving a course leading to a degree in hospital administration,
 18 and the commissioner of human services, by rule or regulation,
 19 shall designate such colleges which in his the commissioner's
 20 opinion give an accredited course in hospital administration.
 21 The administrative management of the Minnesota Security Hospital
 22 shall not continue under the management of the superintendent of
 23 the St. Peter State Hospital. In addition to a hospital
 24 administrator, the commissioner of human services may appoint a
 25 licensed doctor of medicine as chief of the medical staff and he
 26 the doctor shall be in charge of all medical care, treatment,
 27 rehabilitation, and research. This section is effective on July
 28 1, 1963.

253*#21S

29 253.21 COMMITMENT; PROCEEDINGS; RESTORATION OF MENTAL
30 HEALTH.

31 When any person confined in the Minnesota correctional
 32 facility-Stillwater or the Minnesota correctional facility-St.
 33 Cloud is alleged to be mentally ill, the chief executive officer
 34 or other person in charge shall forthwith notify the
 35 commissioner of human services, who shall cause the prisoner to
 36 be examined by the probate court of the county where he the
 37 prisoner is confined, as in the case of other mentally ill
 38 persons. In case he the prisoner is found to be mentally ill,
 39 he the prisoner shall be transferred by the order of the court
 40 to the Minnesota Security Hospital or to a state hospital for
 41 mentally ill people in the discretion of the court, there to be
 42 kept and maintained as in the case of other mentally ill
 43 persons. If, in the judgment of the chief executive
 44 officer, his the prisoner's mental health is restored before the
 45 period of his commitment to the penal institution has expired,
 46 he the prisoner shall be removed by the commissioner, upon the
 47 certificate of the chief executive officer, to the institution
 48 whence he the prisoner came, ~~and there to~~ complete the period
 49 ~~of his~~ sentence.

253*#22S

50 253.22 ALLOWANCES.

51 When any convict is discharged from the Minnesota Security
 52 Hospital he the convict shall receive the same allowances in
 53 money, clothing, and otherwise which he the convict would have
 54 received ~~had he remained on remaining~~ at the sending institution
 55 ~~from which he was received~~ and the expenditures in his behalf of
 56 the convict shall be made out of the same fund. While ~~he is~~ at
 57 the hospital he, the convict shall be clothed and supported as
 58 are other patients.

253*#23S

59 253.23 TRANSFER PROCEEDINGS.

60 When any criminal shall be transferred to the Minnesota
 61 Security Hospital the original warrant of his commitment to the
 62 penal institution shall be sent with him the criminal and
 63 returned to the penal institution upon his return or discharge
 64 of the criminal. A certified copy thereof shall be preserved at
 65 the penal institution.

253*#24S

66 253.24 TERMS OF SENTENCE.

67 A prisoner who is removed or returned under sections 253.20
 68 to 253.27 shall be held in the place to which he the prisoner is
 69 so removed or returned in accordance with the terms of his the
 70 prisoner's original sentence unless sooner discharged and the
 71 period ~~for which he is removed~~ of removal shall be counted as a

1 part of the term of the confinement.

253*#25S

2 253.25 COMMITMENT BEFORE CONVICTION.

3 When any person under indictment or information and before
4 trial thereon shall be found to be incompetent to proceed and to
5 have homicidal tendencies; or when during the trial of any
6 person on an indictment or information such person shall be
7 found to be incompetent to proceed and to have homicidal
8 tendencies, the court in which such indictment or information is
9 filed shall forthwith commit such person to the Minnesota
10 Security Hospital for safekeeping and treatment and such person
11 shall be received and cared for thereat until ~~he shall recover~~
12 recovery when ~~he~~ the person shall be returned to the court from
13 which ~~he~~ the person was received there to be dealt with
14 according to law.

*
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253*#26S

15 253.26 TRANSFERS OF PATIENTS OR RESIDENTS.

16 When any person of the state hospital for patients with
17 mental illness or residents with mental retardation is found by
18 the commissioner of human services to have homicidal tendencies
19 or to be under sentence or indictment or information ~~he~~ the
20 person may be transferred by the commissioner to the Minnesota
21 Security Hospital for safekeeping and treatment.

*
*

253B#02S

22 253B.02 DEFINITIONS.

23 No change for subd 1

24 Subd. 2. CHEMICALLY DEPENDENT PERSON. "Chemically
25 dependent person" means any person (a) determined as being
26 incapable of ~~managing-himself~~ self-management or ~~his~~ management
27 of personal affairs by reason of the habitual and excessive use
28 of alcohol or drugs; and (b) whose recent conduct as a result of
29 habitual and excessive use of alcohol or drugs poses a
30 substantial likelihood of physical harm to ~~himself~~ self or
31 others as demonstrated by (i) a recent attempt or threat to
32 physically harm ~~himself~~ self or others, (ii) evidence of recent
33 serious physical problems, or (iii) a failure to ~~provide~~ obtain
34 necessary food, clothing, shelter, or medical care ~~for-himself~~.

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35 Subd. 3. COMMISSIONER. "Commissioner" means the
36 commissioner of human services or ~~his~~ the commissioner's
37 designee.

*

38 No change for subd 4 to 7

39 Subd. 8. HEAD OF THE TREATMENT FACILITY. "Head of
40 the treatment facility" means the person who is charged with
41 overall responsibility for the professional program of care and
42 treatment of the facility or ~~his~~ the person's designee.

*

43 No change for subd 9 to 11

44 Subd. 12. LICENSED PHYSICIAN. "Licensed physician"
45 means a person licensed in Minnesota to practice medicine or a
46 medical officer of the government of the United States in
47 performance of ~~his~~ official duties.

*

48 Subd. 13. MENTALLY ILL PERSON. "Mentally ill person"
49 means any person who has an organic disorder of the brain or a
50 substantial psychiatric disorder of thought, mood, perception,
51 orientation, or memory which grossly impairs judgment, behavior,
52 capacity to recognize reality, or to reason or understand, which
53 (a) is manifested by instances of grossly disturbed behavior or
54 faulty perceptions; and (b) poses a substantial likelihood of
55 physical harm to ~~himself~~ self or others as demonstrated by (i) a
56 recent attempt or threat to physically harm ~~himself~~ self or
57 others, or (ii) a failure to ~~provide~~ obtain necessary food,
58 clothing, shelter or medical care ~~for-himself~~, as a result of
59 the impairment. This impairment excludes (a) epilepsy, (b)
60 mental retardation, (c) brief periods of intoxication caused by
61 alcohol or drugs, or (d) dependence upon or addiction to any
62 alcohol or drugs.

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63 Subd. 14. MENTALLY RETARDED PERSON. "Mentally
64 retarded person" means any person (a) who has been diagnosed as
65 having significantly subaverage intellectual functioning
66 existing concurrently with demonstrated deficits in adaptive
67 behavior; and (b) whose recent conduct is a result of mental
68 retardation and poses a substantial likelihood of physical harm
69 to ~~himself~~ self or others in that there has been (i) a recent
70 attempt or threat to physically harm ~~himself~~ self or others, or
71 (ii) a failure and inability to ~~provide~~ obtain necessary food,
72 clothing, shelter, safety, or medical care ~~for-himself~~.

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73 No change for subd 15

1 Subd. 16. PEACE OFFICER. "Peace officer" means a
2 sheriff, or municipal or other local police officer, or a state
3 patrol officer when engaged in the authorized duties of his
4 office. *

5 No change for subd 17 to 23

253B#03S

6 253B.03 RIGHTS OF PATIENTS.

7 No change for subd 1

8 Subd. 2. CORRESPONDENCE. A patient has the right to
9 correspond freely without censorship. The head of the treatment
10 facility may restrict correspondence ~~if he determines on~~
11 determining that the medical welfare of the patient requires
12 it. For patients in regional facilities, that determination may
13 be reviewed by the commissioner. Any limitation imposed on the
14 exercise of a patient's correspondence rights and the reason for
15 it shall be made a part of the clinical record of the patient.
16 Any communication which is not delivered to a patient shall be
17 immediately returned to the sender. *

18 Subd. 3. VISITORS AND PHONE CALLS. Subject to the
19 general rules of the treatment facility, a patient has the right
20 to receive visitors and make phone calls. The head of the
21 treatment facility may restrict visits and phone calls ~~if he~~
22 determines on determining that the medical welfare of the
23 patient requires it. Any limitation imposed on the exercise of
24 the patient's visitation and phone call rights and the reason
25 for it shall be made a part of the clinical record of the
26 patient. *

27 Subd. 4. SPECIAL VISITATION; RELIGION. A patient has
28 the right to meet with or call ~~his~~ a personal physician,
29 spiritual advisor, and counsel at all reasonable times. The
30 patient has the right to continue the practice of ~~his~~ religion. *

31 No change for subd 5 to 7

32 Subd. 8. MEDICAL RECORDS. A patient has the right to
33 access to ~~his~~ personal medical records. Notwithstanding the
34 provisions of section 144.335, subdivision 2, every person
35 subject to a proceeding or receiving services pursuant to this
36 chapter shall have complete access to all ~~of his~~ medical records
37 relevant to ~~his~~ the person's commitment. *

38 Subd. 9. RIGHT TO COUNSEL. A patient has the right
39 to be represented by counsel at any proceeding under this
40 chapter. The court shall appoint counsel to represent the
41 proposed patient if neither the proposed patient nor others
42 provide counsel. Counsel shall be appointed at the time a
43 petition is filed pursuant to section 253B.07. Counsel shall
44 have the full right of subpoena. In all proceedings under this
45 chapter, counsel shall: (1) consult with the person prior to
46 any hearing; (2) be given adequate time to prepare for all
47 hearings; (3) continue to represent the person throughout any
48 proceedings under this charge unless released as counsel by the
49 court; and (4) be a vigorous advocate on behalf of ~~his~~ the
50 client. *

51 No change for subd 10

253B#04S

52 253B.04 INFORMAL ADMISSION PROCEDURES.

53 No change for subd 1

54 Subd. 2. RELEASE. Every patient admitted for mental
55 illness or mental retardation under this section shall be
56 informed in writing at the time of ~~his~~ admission that ~~he~~ the
57 patient has a right to leave the facility within 12 hours of ~~his~~
58 making a request, unless held under another provision of this
59 chapter. Every patient admitted for chemical dependency under
60 this section shall be informed in writing at the time of ~~his~~
61 admission that ~~he~~ the patient has a right to leave the facility
62 within 72 hours, exclusive of Saturdays, Sundays and holidays,
63 of ~~his~~ making a request, unless held under another provision of
64 this chapter. The request shall be submitted in writing to the
65 head of the treatment facility. ~~if the head of the treatment~~
66 facility deems On deeming it to be in the best interest of the
67 person, ~~his~~ the person's family, or the public, ~~he~~ the head of
68 the treatment facility shall petition for the commitment of the
69 person pursuant to section 253B.07. *

253B#05S

70 253B.05 EMERGENCY ADMISSION.

71 Subdivision 1. EMERGENCY HOLD. Any person may be
72 admitted or held for emergency care and treatment in a treatment
73 facility with the consent of the head of the treatment facility

1 upon a written statement by an examiner that: (1) he the *
 2 examiner has examined the person not more than 15 days prior to *
 3 admission, (2) he the examiner is of the opinion, for stated *
 4 reasons, that the person is mentally ill, mentally retarded or
 5 chemically dependent, and is in imminent danger of causing
 6 injury to himself self or others if not immediately restrained, *
 7 and (3) an order of the court cannot be obtained in time to
 8 prevent the anticipated injury.

9 The statement shall be: (1) sufficient authority for a
 10 peace or health officer to transport a patient to a treatment
 11 facility, (2) stated in behavioral terms and not in conclusory
 12 language, and (3) of sufficient specificity to provide an
 13 adequate record for review. A copy of the statement shall be
 14 personally served on the person immediately upon admission. A
 15 copy of the statement shall be maintained by the treatment
 16 facility.

17 Subd. 2. PEACE OR HEALTH OFFICER HOLD. (a) A peace
 18 or health officer may take a person into custody and transport
 19 him the person to a licensed physician or treatment facility if *
 20 the officer has reason to believe that the person is mentally
 21 ill or mentally retarded and in imminent danger of
 22 injuring himself self or others if not immediately restrained. *
 23 A peace or health officer or a person working under such
 24 officer's supervision, may take a person who is believed to be
 25 chemically dependent or is intoxicated in public into custody
 26 and transport him the person to a treatment facility. If the *
 27 person is intoxicated in public or is believed to be chemically
 28 dependent and is not endangering-himself-or in danger of causing
 29 self-harm or harm to any person or property, the peace or health *
 30 officer may transport the person ~~to-his~~ home. Application for *
 31 admission of the person to a treatment facility shall be made by
 32 the peace or health officer. The application shall contain a
 33 statement given by the peace or health officer specifying the
 34 reasons for and circumstances under which the person was taken
 35 into custody. A copy of the statement shall be made available
 36 to the person taken into custody.

37 (b) A person may be admitted to a treatment facility for
 38 emergency care and treatment under this subdivision with the
 39 consent of the head of the facility under the following
 40 circumstances: a written statement is made by the medical
 41 officer on duty at the facility that after preliminary
 42 examination the person has symptoms of mental illness or mental
 43 retardation and appears to be in imminent danger of harming
 44 himself self or others; or, a written statement is made by the *
 45 institution program director or his the director's designee on *
 46 duty at the facility that after preliminary examination the
 47 person has symptoms of chemical dependency and appears to be in
 48 imminent danger of harming himself self or others or is *
 49 intoxicated in public.

50 No change for subd 2a

51 Subd. 3. DURATION OF HOLD. Any person held pursuant
 52 to this section may be held up to 72 hours, exclusive of
 53 Saturdays, Sundays, and legal holidays, after admission unless a
 54 petition for the commitment of the person has been filed in the
 55 probate court of the county of the person's residence or of the
 56 county in which the facility is located and the court issues an
 57 order pursuant to section 253B.07, subdivision 6. If the head
 58 of the facility believes that commitment is required and no
 59 petition has been filed, he the head shall file a petition for *
 60 the commitment of the person. The hospitalized person may move
 61 to have the venue of the petition changed to the probate court
 62 of the county of his the person's residence, if he the person is *
 63 a resident of Minnesota.

64 Subd. 4. CHANGE OF STATUS. Any person admitted
 65 pursuant to this section shall be changed to the informal status
 66 provided by section 253B.04 upon his the person's request in *
 67 writing and with the consent of the head of the treatment
 68 facility.

69 Subd. 5. NOTICE. Every person held pursuant to this
 70 section shall be informed in writing at the time of admission of
 71 his-rights the right to leave after 72 hours, to a medical *
 72 examination within 48 hours, to change of venue, and to change
 73 to informal status. The head of the treatment facility shall,
 74 upon request, assist the person in exercising the rights granted
 75 in this subdivision.

1 253B.06 MEDICAL EXAMINATION.

2 No change for subd 1 to 2

3 Subd. 3. DISCHARGE. At the end of a 48-hour period,
4 any patient admitted pursuant to section 253B.05 shall be
5 discharged if an examination has not been held or if the
6 examiner or evaluation staff person fails to notify the head of
7 the treatment facility in writing that in ~~his~~ the examiner's or
8 staff person's opinion the patient is apparently in need of
9 care, treatment, and evaluation as a mentally ill, mentally
10 retarded, or chemically dependent person.

*
*

253B#07S

11 253B.07 JUDICIAL COMMITMENT; PRELIMINARY PROCEDURES.

12 No change for subd 1

13 Subd. 2. THE PETITION. Any interested person may
14 file a petition for commitment in the probate court of the
15 county of the proposed patient's residence or presence.
16 Following an acquittal of a person of a criminal charge under
17 section 611.026, the petition shall be filed by the county
18 attorney of the county in which the acquittal took place and the
19 petition shall be filed with the court in which the acquittal
20 took place, and that court shall be the committing court for
21 purposes of this chapter. The petition shall set forth the name
22 and address of the proposed patient, the name and address of ~~his~~
23 the patient's nearest relatives, and the reasons for the
24 petition. The petition must contain factual descriptions of the
25 proposed patient's recent behavior, including a description of
26 the behavior, where it occurred, and over what period of time it
27 occurred. Each factual allegation must be supported by
28 observations of witnesses named in the petition. Petitions
29 shall be stated in behavioral terms and shall not contain
30 judgmental or conclusory statements. The petition shall be
31 accompanied by a written statement by an examiner stating that
32 ~~he~~ the examiner has examined the proposed patient within the 15
33 days preceding the filing of the petition and is of the opinion
34 that the proposed patient is suffering a designated disability
35 and should be committed to a treatment facility. The statement
36 shall include the reasons for the opinion. If a petitioner has
37 been unable to secure a statement from an examiner, the petition
38 shall include documentation that a reasonable effort has been
39 made to secure the supporting statement.

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40 No change for subd 2a

41 Subd. 3. EXAMINERS. After a petition has been filed,
42 the probate court or other court in which the petition was filed
43 shall appoint an examiner. Prior to the hearing, the court
44 shall inform the proposed patient ~~that he is entitled of the~~
45 right to an independent second examination. At the proposed
46 patient's request, the court shall appoint a second examiner of
47 the patient's choosing to be paid for by the county at a rate of
48 compensation fixed by the court.

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*

49 Subd. 4. PRE-HEARING EXAMINATION; NOTICE AND SUMMONS
50 PROCEDURE. A summons to appear for a pre-hearing examination
51 and the commitment hearing shall be served upon the proposed
52 patient. A plain language notice of the proceedings and notice
53 of the filing of the petition, a copy of the petition, a copy of
54 the examiner's supporting statement, and the order for
55 examination and a copy of the pre-petition screening report
56 shall be given to the proposed patient, ~~his~~ patient's counsel,
57 the petitioner, any interested person, and any other persons as
58 the court directs. All papers shall be served personally on the
59 proposed patient. Unless otherwise ordered by the court, the
60 notice shall be served on the proposed patient by a nonuniformed
61 person.

*

62 Subd. 5. PRE-HEARING EXAMINATION; REPORT. The
63 examination shall be held at a treatment facility or other
64 suitable place the court determines is not likely to have a
65 harmful effect on the health of the proposed patient. The
66 county attorney and the patient's attorney may be present during
67 the examination. Either party may waive this right. Unless
68 otherwise agreed by the counsel for the proposed patient, a
69 court appointed examiner shall file three copies of ~~his~~ the
70 report with the court not less than 48 hours prior to the
71 hearing. Copies of the examiner's report shall be sent to the
72 proposed patient and ~~his~~ the patient's counsel.

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*

73 Subd. 6. APPREHEND AND HOLD ORDERS. When (1) there
74 has been a particularized showing by the petitioner that serious
75 imminent physical harm to the proposed patient or others is

1 likely unless the proposed patient is apprehended, (2) the
 2 proposed patient has not voluntarily appeared for the
 3 examination or the commitment hearing pursuant to the summons,
 4 or (3) a request for a petition for commitment of a person
 5 institutionalized pursuant to section 253B.05 has been filed,
 6 the court may order the treatment facility to hold the person if
 7 he the person is institutionalized or direct a health officer,
 8 peace officer, or other person to take the proposed patient into
 9 custody and transport him the proposed patient to a treatment
 10 facility for observation, evaluation, diagnosis, care,
 11 treatment, and, if necessary, confinement. The order of the
 12 court may be executed on any day and at any time by the use of
 13 all necessary means including the imposition of necessary
 14 restraint upon the proposed patient. Unless otherwise ordered by
 15 the court, a peace officer taking the proposed patient into
 16 custody pursuant to this subdivision shall not be in uniform and
 17 shall not use a motor vehicle visibly marked as a police vehicle.

18 Subd. 7. PRELIMINARY HEARING. (a) No proposed
 19 patient may be held pursuant to subdivision 6 for longer than 72
 20 hours, exclusive of Saturdays, Sundays, and legal holidays,
 21 unless the court holds a preliminary hearing and determines that
 22 probable cause exists to continue to hold him the person.

23 (b) The proposed patient, his patient's counsel, the
 24 petitioner, the county attorney, and any other persons as the
 25 court directs shall be given at least 24 hours written notice of
 26 the preliminary hearing. The notice shall include the alleged
 27 grounds for confinement. The proposed patient shall be
 28 represented at the preliminary hearing by counsel. If the court
 29 finds it to be reliable, it may admit hearsay evidence,
 30 including written reports.

31 (c) The court, on its motion or on motion of any party, may
 32 exclude or excuse a respondent who is seriously disruptive or
 33 who is totally incapable of comprehending and participating in
 34 the proceedings. In such instances, the court shall, with
 35 specificity on the record, state the behavior of respondent or
 36 other circumstances justifying proceeding in the absence of the
 37 respondent.

38 (d) The court may order the continued holding of the
 39 proposed patient if it finds, by a preponderance of the
 40 evidence, that serious imminent physical harm to the patient or
 41 others is likely if the proposed patient is not confined. The
 42 fact that a proposed patient was acquitted of a crime against
 43 the person under section 611.026 immediately preceding the
 44 filing of the petition constitutes evidence that serious
 45 imminent physical harm to the patient or others is likely if the
 46 proposed patient is not confined and shifts the burden of going
 47 forward in the presentation of evidence to the proposed patient;
 48 provided that the standard of proof remains as required by this
 49 chapter.

253B#08S

50 253B.08 JUDICIAL COMMITMENT; HEARING PROCEDURES.

51 Subdivision 1. TIME FOR COMMITMENT HEARING. The
 52 hearing on the commitment petition shall be held within 14 days
 53 from the date of the filing of the petition. For good cause
 54 shown, the court may extend the time of hearing up to an
 55 additional 30 days. When any proposed patient has not had a
 56 hearing on a petition filed for his the person's commitment
 57 within the allowed time, the proceedings shall be dismissed.
 58 The proposed patient, or the head of the treatment facility in
 59 which he the person is held, may demand in writing at any time
 60 that the hearing be held immediately. Unless the hearing is held
 61 within five days of the date of the demand, exclusive of
 62 Saturdays, Sundays and legal holidays, the petition shall be
 63 automatically discharged if the patient is being held in a
 64 treatment facility pursuant to court order. For good cause
 65 shown, the court may extend the time of hearing on the demand
 66 for an additional ten days.

67 Subd. 2. NOTICE OF HEARING. The proposed patient,
 68 his patient's counsel, the petitioner, and any other persons as
 69 the court directs shall be given at least five days' notice that
 70 a hearing will be held and at least two days' notice of the time
 71 and date of the hearing, except that any person may waive
 72 notice. Notice to the proposed patient may be waived by
 73 patient's counsel. If the proposed patient has no residence in
 74 this state, the commissioner shall be notified of the
 75 proceedings by the court.

1 No change for subd 3

2 Subd. 4. WITNESSES. The proposed patient or his *
3 patient's counsel and the petitioner may present and *
4 cross-examine witnesses, including examiners, at the hearing.
5 The court may in its discretion receive the testimony of any
6 other person. Opinions of court-appointed examiners shall not
7 be admitted into evidence unless the examiner is present to
8 testify, except by agreement of the parties.

9 Subd. 5. ABSENCE PERMITTED. (a) The court may permit *
10 the proposed patient to waive his the right to attend the *
11 hearing if it determines that the waiver is freely given. All
12 waivers shall be on the record. At the time of the hearing the
13 patient shall not be so under the influence or suffering from
14 the effects of drugs, medication, or other treatment so as to be
15 hampered in participating in the proceedings. When in the
16 opinion of the licensed physician or licensed consulting
17 psychologist attending the patient the discontinuance of drugs,
18 medication, or other treatment is not in the best interest of
19 the patient, the court, at the time of the hearing, shall be
20 presented a record of all drugs, medication or other treatment
21 which the patient has received during the 48 hours immediately
22 prior to the hearing.

23 (b) The court, on its own motion or on motion of any party,
24 may exclude or excuse a respondent who is seriously disruptive
25 or who is totally incapable of comprehending and participating
26 in the proceedings. In such instances, the court shall, with
27 specificity on the record, state the behavior of respondent or
28 other circumstances justifying proceeding in the absence of the
29 respondent.

30 No change for subd 6 to 8

253B#09S

31 253B.09 DECISION; STANDARD OF PROOF; DURATION.

32 No change for subd 1 to 4

33 Subd. 5. INITIAL COMMITMENT PERIOD. For persons
34 committed as mentally ill, mentally retarded, or chemically
35 dependent the initial commitment shall not exceed six months.
36 At least 60 days, but not more than 90 days, after the
37 commencement of the initial commitment of a person as mentally
38 ill, mentally retarded, or chemically dependent, the head of the
39 facility shall file a written report with the committing court
40 with a copy to the patient and his patient's counsel. This *
41 first report shall set forth the same information as is required
42 in section 253B.12, subdivision 1, but no hearing shall be
43 required at this time. If no written report is filed within the
44 required time, or if it describes the patient as not in need of
45 further institutional care and treatment, the proceedings shall
46 be terminated by the committing court, and the patient shall be
47 discharged from the treatment facility. If the person is
48 discharged prior to the expiration of 60 days, the report
49 required by this subdivision shall be filed at the time of
50 discharge.

253B#10S

51 253B.10 PROCEDURES FOR COMMITMENT.

52 Subdivision 1. ADMINISTRATIVE REQUIREMENTS. When a
53 person is committed, the court shall issue a warrant in
54 duplicate, committing the patient to the custody of the head of
55 the treatment facility. Upon the arrival of a patient at the
56 designated treatment facility, the head of the facility shall
57 retain the duplicate of the warrant and endorse his receipt upon *
58 the original warrant, which shall be filed in the court of
59 commitment. After arrival, the patient shall be under the
60 control and custody of the head of the treatment facility.

61 Copies of the petition for commitment, the court's findings
62 of fact and conclusions of law, the court order committing the
63 patient, the report of the examiners, and the pre-petition
64 report shall be provided to the treatment facility at the time
65 of admission.

66 No change for subd 2 to 4

253B#12S

67 253B.12 TREATMENT REPORT; REVIEW; HEARING.

68 Subdivision 1. REPORT. Prior to the termination of
69 the initial commitment order or final discharge of the patient,
70 the head of the facility shall file a written report with the
71 committing court with a copy to the patient and his patient's *
72 counsel, setting forth in detailed narrative form at least the
73 following:

1 (1) the diagnosis of the patient with the supporting data;
2 (2) the anticipated discharge date;
3 (3) an individualized treatment plan;
4 (4) a detailed description of the discharge planning
5 process with suggested after care plan;
6 (5) whether the patient is in need of further care and
7 treatment with evidence to support the response;
8 (6) whether any further care and treatment must be provided
9 in a treatment facility with evidence to support the response;
10 (7) whether in his the opinion of the head of the facility *
11 the patient must continue to be committed to a treatment
12 facility; and
13 (8) whether in his the opinion of the head of the facility *
14 the patient satisfies the statutory requirement for continued
15 commitment, with documentation to support the opinion.
16 No change for subd 2
17 Subd. 3. EXAMINATION. Prior to the hearing, the
18 court shall inform the patient that-he-is-entitled of the right *
19 to an independent examination by an examiner chosen by the
20 patient and appointed in accordance with provisions of section
21 253B.07, subdivision 3. The report of the examiner may be
22 submitted at the hearing.
23 Subd. 4. HEARING; STANDARD OF PROOF. The committing
24 court shall not make a final determination of the need to
25 continue commitment unless a hearing is held and the court finds
26 by clear and convincing evidence that (1) the person continues
27 to be mentally ill, mentally retarded or chemically dependent;
28 (2) involuntary commitment is necessary for the protection of
29 the patient or others; and (3) there is no alternative to
30 involuntary commitment.
31 In determining whether a person continues to be mentally
32 ill, the court need not find that there has been a recent
33 attempt or threat to physically harm himself self or others, or *
34 a recent failure to provide necessary personal food, clothing, *
35 shelter, or medical care ~~for-himself~~. Instead, the court must *
36 find that the patient is likely to attempt to physically
37 harm himself self or others, or to fail to provide *
38 necessary personal food, clothing, shelter, or medical care ~~for~~ *
39 himself unless involuntary commitment is continued. *
40 Subd. 5. TIME FOR HEARING. The hearing shall be held
41 within 14 days after receipt by the committing court of the
42 report of the head of the treatment facility. The court may
43 continue the hearing for good cause shown.
44 The patient, his patient's counsel, the petitioner, and *
45 other persons as the court directs shall be given at least five
46 days notice of the time and place of the hearing.
47 Subd. 6. WAIVER. A patient, after consultation with *
48 his counsel, may waive any hearing under this section or section *
49 253B.13 in writing. The waiver shall be signed by the patient
50 and his counsel. The waiver must be submitted to the committing *
51 court. *
52 No change for subd 7
53 Subd. 8. TRANSFER TO INFORMAL STATUS. At any time
54 prior to the expiration of the initial commitment period a
55 patient who has not been committed as mentally ill and dangerous
56 to the public may be transferred to informal status upon his the *
57 patient's application in writing with the consent of the head of *
58 the facility. Upon transfer the head of the treatment facility
59 shall immediately notify the court in writing and the court
60 shall terminate the proceedings.
253B#14S
61 253B.14 TRANSFER OF COMMITTED PERSONS.
62 The commissioner may transfer any committed person, other
63 than a person committed as mentally ill and dangerous to the
64 public, from one regional center to any other institution under
65 his the commissioner's jurisdiction which is capable of *
66 providing proper care and treatment. When a committed person is
67 transferred from one treatment facility to another, written
68 notice shall be given to the committing court and to his the *
69 person's parent or spouse or, if none is known, to an interested *
70 person, and the designated agency.
253B#15S
71 253B.15 PROVISIONAL DISCHARGE; PARTIAL
72 INSTITUTIONALIZATION.
73 Subdivision 1. PROVISIONAL DISCHARGE. The head of
74 the treatment facility may provisionally discharge any patient

1 without discharging the commitment, unless ~~he~~ the patient was *
 2 found by the committing court to be mentally ill and dangerous
 3 to the public.

4 Each patient released on provisional discharge shall have
 5 an aftercare plan developed which specifies the expected period
 6 of provisional discharge, the precise goals for the granting of
 7 a final discharge, and conditions or restrictions on the patient
 8 during the period of the provisional discharge.

9 The aftercare plan shall be reviewed on a quarterly basis
 10 by the patient, designated agency and other appropriate persons.
 11 The aftercare plan shall contain the grounds upon which a
 12 provisional discharge may be revoked. The provisional discharge
 13 shall terminate on the date specified in the plan unless
 14 specific action is taken to revoke or extend it.

15 Subd. 2. REVOCATION OF PROVISIONAL DISCHARGE. The
 16 head of the treatment facility may revoke a provisional
 17 discharge if:

18 (i) The patient has violated material conditions of the
 19 provisional discharge, and the violation creates the need to
 20 return the patient to the facility; or,

21 (ii) There exists a serious likelihood that the safety of
 22 the patient or others will be jeopardized, in that either the
 23 patient's need for food, clothing, shelter, or medical care are
 24 not being met, or will not be met in the near future, or the
 25 patient has attempted or threatened to seriously physically harm
 26 ~~himself~~ self or others. *

27 Any interested person, including the designated agency, may
 28 request that the head of the treatment facility revoke the
 29 patient's provisional discharge. Any person making a request
 30 shall provide the head of the treatment facility with a written
 31 report setting forth the specific facts, including witnesses,
 32 dates and locations, supporting a revocation, demonstrating that
 33 every effort has been made to avoid revocation and that
 34 revocation is the least restrictive alternative available.

35 Subd. 3. PROCEDURE; NOTICE. When the possibility of
 36 revocation becomes apparent, the designated agency shall notify
 37 the patient and all participants in the plan, and every effort
 38 shall be made to prevent revocation.

39 Revocation shall be commenced by a notice of intent to
 40 revoke provisional discharge, which shall be served upon the
 41 patient, ~~his~~ the patient's attorney, and the designated agency. *
 42 The notice shall set forth the grounds upon which the intention
 43 to revoke is based, and shall inform the patient of ~~his~~ the *
 44 rights of a patient under this chapter. *

45 No change for subd 4

46 Subd. 5. RETURN TO FACILITY. The head of the
 47 treatment facility may apply to the committing court for an
 48 order directing that the patient be returned to the facility.
 49 The court may order the patient returned to the facility prior
 50 to a review hearing only upon finding that immediate return to
 51 the facility is necessary to avoid serious, imminent harm to the
 52 patient or others. If a voluntary return is not arranged, the
 53 head of the treatment facility may request a health officer, a
 54 welfare officer, or a peace officer to return the patient to the
 55 treatment facility from which ~~he~~ the patient was released or to *
 56 any other treatment facility which consents to receive ~~him~~ the *
 57 patient. If necessary, the head of the treatment facility may *
 58 request the committing court to direct a health or peace officer
 59 in the county where the patient is located to return the patient
 60 to the treatment facility or to another treatment facility which
 61 consents to receive ~~him~~ the patient. The expense of returning *
 62 the patient to a treatment facility shall be paid by the
 63 commissioner unless paid by the patient or ~~his~~ the patient's *
 64 relatives.

65 No change for subd 6 to 9

66 Subd. 10. VOLUNTARY RETURN. With the consent of the
 67 head of the treatment facility, a patient may voluntarily return
 68 to inpatient status at the treatment facility as follows:

69 (a) As an informal patient, in which case the patient's
 70 commitment is discharged;

71 (b) As a committed patient, in which case the patient's
 72 provisional discharge is voluntarily revoked; or

73 (c) On temporary return from provisional discharge, in
 74 which case both the commitment and the provisional discharge
 75 remain in effect.

76 Prior to readmission, the patient shall be informed of ~~his~~ *

1 status upon readmission.

2 No change for subd 11

253B#16S

3 253B.16 DISCHARGE OF COMMITTED PERSONS.

4 Subdivision 1. DATE. The head of a treatment
5 facility shall discharge any patient admitted as mentally ill,
6 mentally retarded or chemically dependent when certified by ~~him~~ *
7 the head of the facility to be no longer in need of *
8 institutional care and treatment or at the conclusion of any
9 period of time specified in the commitment order, whichever
10 occurs first.

11 No change for subd 2

253B#17S

12 253B.17 RELEASE; JUDICIAL DETERMINATION.

13 No change for subd 1

14 Subd. 2. NOTICE OF HEARING. Upon the filing of the
15 petition, the court shall fix the time and place for the hearing
16 on it. Ten days' notice of the hearing shall be given to the
17 county attorney, the patient, ~~his~~ patient's counsel, the person *
18 who filed the initial commitment petition, the head of the
19 treatment facility, and other persons as the court directs. Any
20 person may oppose the petition.

21 No change for subd 3

22 Subd. 4. EVIDENCE. The patient, ~~his~~ patient's *
23 counsel, the petitioner and the county attorney shall be
24 entitled to be present at the hearing and to present and
25 cross-examine witnesses, including examiners. The court may
26 hear any relevant testimony and evidence which is offered at the
27 hearing.

28 No change for subd 5

253B#18S

29 253B.18 PROCEDURES FOR PERSONS MENTALLY ILL AND
30 DANGEROUS TO THE PUBLIC.

31 No change for subd 1 to 4a

32 Subd. 4b. PASS-ELIGIBLE STATUS; NOTIFICATION. The
33 following patients committed to the Minnesota security hospital
34 shall not be placed on pass-eligible status unless that status
35 has been approved by the medical director of the Minnesota
36 security hospital:

37 (a) a patient who has been committed as mentally ill and
38 dangerous and who

39 (1) was found incompetent to proceed to trial for a felony
40 or was found not guilty by reason of mental illness of a felony
41 immediately prior to the filing of the commitment petition;

42 (2) was convicted of a felony immediately prior to or
43 during ~~his~~ commitment as mentally ill and dangerous; or *
44 (3) is subject to a commitment to the commissioner of

45 corrections; and

46 (b) a patient who has been committed as a psychopathic
47 personality, as defined in section 526.09.

48 At least ten days prior to a determination on the status,
49 the medical director shall notify the committing court, the
50 county attorney of the county of commitment, an interested
51 person, the petitioner, and the petitioner's counsel of the
52 proposed status, and their right to request review by the
53 special review board. If within ten days of receiving notice
54 any notified person requests review by filing a notice of
55 objection with the commissioner and the head of the treatment
56 facility, a hearing shall be held before the special review
57 board. The proposed status shall not be implemented unless it
58 receives a favorable recommendation by a majority of the board
59 and approval by the commissioner. The order of the commissioner
60 is appealable as provided in section 253B.19.

61 Nothing in this subdivision shall be construed to give a
62 patient an affirmative right to seek pass-eligible status from
63 the special review board.

64 Subd. 5. PETITION; NOTICE OF HEARING; ATTENDANCE;
65 ORDER. A petition for an order of transfer, discharge,
66 provisional discharge, or revocation of provisional discharge
67 shall be filed with the commissioner and may be filed by the
68 patient or by the head of the treatment facility. The special
69 review board shall hold a hearing on each petition prior to
70 making any recommendation. Within 45 days of the filing of the
71 petition, the committing court, the county attorney of the
72 county of commitment, an interested person, the petitioner and
73 ~~his~~ petitioner's counsel shall be given written notice by the *

1 commissioner of the time and place of the hearing before the
 2 special review board. Only those entitled to statutory notice
 3 of the hearing or those administratively required to attend may
 4 be present at the hearing. The commissioner shall issue ~~his~~ an *
 5 order no later than 14 days after receiving the recommendation
 6 of the special review board. A copy of the order shall be sent
 7 by certified mail to every person entitled to statutory notice
 8 of the hearing within five days after it is issued. No order by
 9 the commissioner shall be effective sooner than 15 days after it
 10 is issued.

11 No change for subd 6 to 9

12 Subd. 10. PROVISIONAL DISCHARGE; REVOCATION. The
 13 head of the treatment facility may revoke a provisional
 14 discharge if any of the following grounds exist:

15 (i) the patient has departed from the conditions of the
 16 provisional discharge plan;

17 (ii) the patient is exhibiting signs of a mental illness
 18 which may require in-hospital evaluation or treatment; or

19 (iii) the patient is exhibiting behavior which may be
 20 dangerous to self or others.

21 Revocation shall be commenced by a notice of intent to
 22 revoke provisional discharge, which shall be served upon the
 23 patient, ~~his~~ patient's counsel, and the designated agency. The *
 24 notice shall set forth the grounds upon which the intention to
 25 revoke is based, and shall inform the patient of ~~his~~ the rights *
 26 of a patient under this chapter. *

27 In all non-emergency situations, prior to revoking a
 28 provisional discharge, the head of the treatment facility shall
 29 obtain a report from the designated agency outlining the
 30 specific reasons for recommending the revocation, including but
 31 not limited to the specific facts upon which the revocation
 32 recommendation is based.

33 The patient must be provided a copy of the revocation
 34 report and informed orally and in writing of ~~his~~ the rights of a *
 35 patient under this section. *

36 No change for subd 11

37 Subd. 12. RETURN OF PATIENT. After revocation of a
 38 provisional discharge or if the patient is absent without
 39 authorization, the head of the treatment facility may request
 40 the patient to return to the treatment facility voluntarily. He *
 41 The head of the facility may request a health officer, a welfare *
 42 officer, or a peace officer to return the patient to the
 43 treatment facility. If a voluntary return is not arranged, the
 44 head of the treatment facility shall inform the committing court
 45 of the revocation or absence and the court shall direct a health
 46 or peace officer in the county where the patient is located to
 47 return the patient to the treatment facility or to another
 48 treatment facility. The expense of returning the patient to a
 49 treatment facility shall be paid by the commissioner unless paid
 50 by the patient or ~~his~~ the patient's relatives. *

51 No change for subd 13 to 15

253B#19S

52 253B.19 JUDICIAL APPEAL PANEL; PATIENTS MENTALLY ILL AND
 53 DANGEROUS TO THE PUBLIC.

54 Subdivision 1. CREATION. The supreme court shall
 55 establish an appeal panel composed of three probate judges and
 56 two alternate probate judges appointed from among the acting
 57 probate judges of the state. Panel members shall serve for
 58 terms of one year each. Only three judges need hear any case.
 59 One of the regular three appointed judges shall be designated as
 60 the chief judge of the appeal panel. The chief judge is vested
 61 with power to fix the time and place of all hearings before the
 62 panel, issue all notices, subpoena witnesses, appoint counsel
 63 for the patient, if necessary, and supervise and direct the
 64 operation of the appeal panel. The chief judge shall designate
 65 one of the other judges or an alternate judge to act as chief
 66 judge in any case where ~~he~~ the chief judge is unable to act. No *
 67 member of the appeal panel shall take part in the consideration
 68 of any case in which that judge committed the patient. The
 69 chief justice of the supreme court shall determine the
 70 compensation of the judges serving on the appeal panel. The
 71 compensation shall be in addition to their regular compensation
 72 as probate judges. All compensation and expenses of the appeal
 73 panel and all allowable fees and costs of the patient's counsel
 74 shall be paid by the department of human services.

75 Subd. 2. PETITION; HEARING. The committed person or

1 the county attorney of the county from which a patient as
 2 mentally ill and dangerous to the public was committed may
 3 petition the appeal panel for a rehearing and reconsideration of
 4 a decision by the commissioner. The petition shall be filed
 5 with the supreme court within 30 days after the decision of the
 6 commissioner. The supreme court shall refer the petition to the
 7 chief judge of the appeal panel. The chief judge shall notify
 8 the patient, the county attorney of the county of commitment,
 9 the commissioner, the head of the treatment facility, any
 10 interested person, and other persons the chief judge designates,
 11 of the time and place of the hearing on the petition. The
 12 notice shall be given at least 14 days prior to the date of the
 13 hearing. The hearing shall be within 45 days of the filing of
 14 the petition. Any person may oppose the petition. The appeal
 15 panel may appoint examiners and may adjourn the hearing from
 16 time to time. It shall hear and receive all relevant testimony
 17 and evidence and make a record of all proceedings. The patient,
 18 his patient's counsel, and the county attorney of the committing
 19 county may be present and present and cross-examine all
 20 witnesses.

21 No change for subd 3 to 5

253B#20S

22 253B.20 DISCHARGE; ADMINISTRATIVE PROCEDURE.

23 Subdivision 1. NOTICE TO COURT. When a committed
 24 person is discharged, provisionally discharged, transferred to
 25 another treatment facility, or partially hospitalized, or when
 26 he the person dies, is absent without authorization, or is
 27 returned, the treatment facility having custody of the patient
 28 shall notify the committing court.

29 Subd. 2. NECESSITIES. The head of the treatment
 30 facility shall make necessary arrangements at the expense of the
 31 state to insure that no patient is discharged or provisionally
 32 discharged without suitable clothing. The head of the treatment
 33 facility shall, if necessary, provide the patient with a
 34 sufficient sum of money to secure transportation home, or to
 35 another destination of his the patient's choice, if the
 36 destination is located within a reasonable distance of the
 37 treatment facility. The commissioner shall establish procedures
 38 by rule to help the patient receive all public assistance
 39 benefits provided by state or federal law to which his the
 40 patient is entitled by residence and circumstances ~~entitle-him~~.
 41 The rule shall be uniformly applied in all counties. All
 42 counties shall provide temporary relief whenever necessary to
 43 meet the intent of this subdivision.

44 No change for subd 3

45 Subd. 4. AFTER-CARE SERVICES. Prior to the date of
 46 discharge, provisional discharge or partial institutionalization
 47 of any committed person, the designated agency of the county of
 48 the patient's residence, in cooperation with the head of the
 49 treatment facility, and the patient's physician, if notified
 50 pursuant to subdivision 6, shall establish a continuing plan of
 51 after-care services for the patient including a plan for medical
 52 and psychiatric treatment, nursing care, vocational assistance,
 53 and other assistance the patient needs. The designated agency
 54 shall provide case management services, supervise and assist the
 55 patient in finding employment, suitable shelter, and adequate
 56 medical and psychiatric treatment, and aid in his the patient's
 57 readjustment to the community.

58 No change for subd 5 to 6

59 Subd. 7. SERVICES. A committed person may at any
 60 time after discharge, provisional discharge or partial
 61 institutionalization, apply to the head of the treatment
 62 facility within whose district he the committed person resides
 63 for treatment. ~~if~~ The head of the treatment
 64 facility determines, on determining that the applicant requires
 65 service, he may provide needed services related to mental
 66 illness, mental retardation, or chemical dependency to the
 67 applicant. The services shall be provided in regional centers
 68 under terms and conditions established by the commissioner.

253B#21S

69 253B.21 COMMITMENT TO AN AGENCY OF THE UNITED STATES.

70 No change for subd 1 to 4

71 Subd. 5. TRANSFER. Upon receipt of a certificate of
 72 a federal agency that facilities are available for the care or
 73 treatment of any committed person, the head of the treatment
 74 facility may transfer the person to a federal agency for care or

1 treatment. Upon the transfer, the committing court shall be
 2 notified by the transferring agency. No person shall be
 3 transferred to a federal agency if ~~he-is~~ confined pursuant to
 4 conviction of any felony or gross misdemeanor or if ~~he-has-been~~
 5 acquitted of the charge under section 611.026, unless prior to
 6 transfer the committing court enters an order for the transfer
 7 after appropriate motion and hearing.

*
*

8 Written notice of the transfer shall be given to the
 9 patient's spouse or parent, or if none be known, to some other
 10 interested person.

253B#22S

11 253B.22 REVIEW BOARDS.

12 Subdivision 1. ESTABLISHMENT. The commissioner shall
 13 establish a review board of three or more persons for each
 14 regional center to review the admission and retention of
 15 patients institutionalized under this chapter. One member shall
 16 be qualified in the diagnosis of mental illness, mental
 17 retardation, or chemical dependency, and one member shall be an
 18 attorney. The commissioner may, upon written request from the
 19 appropriate federal authority, establish a review panel for any
 20 federal treatment facility within the state to review the
 21 admission and retention of patients hospitalized under this
 22 chapter. For any review board established for a federal
 23 treatment facility, one of the persons appointed by the
 24 commissioner shall be the commissioner of veterans affairs or
 25 his the commissioner's designee.

*

26 No change for subd 2 to 5

253B#23S

27 253B.23 GENERAL PROVISIONS.

28 Subdivision 1. COSTS OF HEARINGS. (a) In each
 29 proceeding under this chapter the court shall allow and order
 30 paid to each witness subpoenaed the fees and mileage prescribed
 31 by law; to each examiner a reasonable sum for ~~his~~ services and
 32 for travel; to persons conveying the patient to the place of
 33 detention, disbursements for the travel, board, and lodging of
 34 the patient and of themselves and their authorized assistants;
 35 and to the patient's counsel, when appointed by the court, a
 36 reasonable sum for travel and for the time spent in court or in
 37 preparing for the hearing. Upon the court's order, the county
 38 auditor shall issue a warrant on the county treasurer for
 39 payment of the amounts allowed.

*

40 (b) When the residence of the patient is found to be in
 41 another county, the committing court shall transmit to the
 42 county auditor a statement of the expenses of the taking into
 43 custody, confinement, examination, commitment, conveyance to the
 44 place of detention, and rehearing. The auditor shall transmit
 45 the statement to the auditor of the county of the patient's
 46 residence. The claim shall be paid as other claims against that
 47 county. If the auditor to whom this claim is transmitted denies
 48 the claim, he the auditor shall transmit it, together with ~~his~~
 49 any objections to the commissioner. The commissioner shall
 50 determine the question of residence and certify ~~his~~ findings to
 51 each auditor. If the claim is not paid within 30 days after
 52 certification, an action may be maintained on it in the district
 53 court of the claimant county.

*
*
*

54 (c) Whenever venue of a proceeding has been transferred
 55 under this chapter, the costs of the proceedings shall be
 56 reimbursed to the county of the patient's residence by the state.

57 Subd. 1a. RETURN OF PATIENT. If a patient is absent
 58 without authorization, the head of the treatment facility shall
 59 order the patient to return to the treatment facility
 60 voluntarily. The head of the treatment facility may request a
 61 health officer, a welfare officer, or a peace officer to return
 62 the patient to the treatment facility. The head of the
 63 treatment facility shall inform the committing court of the
 64 absence and the court shall direct a health or peace officer in
 65 the county where the patient is located to return the patient to
 66 the treatment facility or to another treatment facility. The
 67 expense of returning the patient to a treatment facility shall
 68 be paid by the commissioner unless paid by the patient or ~~his~~
 69 the patient's relatives.

*
*

70 Subd. 2. LEGAL RESULTS OF COMMITMENT STATUS. (a)
 71 Except as otherwise provided in this chapter and in sections
 72 246.15 and 246.16, no person by reason of commitment or
 73 treatment pursuant to this chapter shall be deprived of any
 74 legal right, including but not limited to the right to dispose

1 of property, sue and be sued, execute instruments, make
 2 purchases, enter into contractual relationships, vote, and hold
 3 a driver's license. Commitment or treatment of any patient
 4 pursuant to this chapter is not a judicial determination of
 5 legal incompetency except to the extent provided in section
 6 253B.03, subdivision 6.

7 (b) Proceedings for determination of legal incompetency and
 8 the appointment of a guardian for a person subject to commitment
 9 under this chapter may be commenced before, during, or after
 10 commitment proceedings have been instituted and may be conducted
 11 jointly with the commitment proceedings. The court shall notify
 12 the head of the treatment facility to which the patient is
 13 committed of a finding that the patient is incompetent.

14 (c) Where the person to be committed is a minor or owns
 15 property of value and it appears to the court that the person is
 16 not competent to manage ~~his~~ a personal estate, the court shall *
 17 appoint a general or special guardian or conservator of the
 18 person's estate as provided by law.

19 Subd. 3. FALSE REPORTS. Any person who willfully
 20 makes, joins in, or advises the making of any false petition or
 21 report, or knowingly or willfully makes any false representation
 22 for the purpose of causing the petition or report to be made or
 23 for the purpose of causing an individual to be improperly
 24 committed under this chapter, is guilty of a gross misdemeanor.
 25 The attorney general or ~~his~~ the attorney general's designee *
 26 shall prosecute violations of this section.

27 No change for subd 4 to 7

28 Subd. 8. TRANSCRIPTS. For purposes of taking an
 29 appeal or petition for habeas corpus or for a judicial
 30 determination of mental competency or need for commitment,
 31 transcripts of commitment proceedings, or portions of them,
 32 shall be made available to the parties upon written application
 33 to the court. Upon a showing by a party that ~~he~~ the party is *
 34 unable to pay the cost of a transcript, it shall be made
 35 available at no expense to the party.

36 No change for subd 9

254*#09S

37 254.09 COMPULSORY TREATMENT FOR HABITUAL USERS OF
 38 NARCOTICS.

39 When an affidavit duly verified by a person claiming to
 40 have knowledge of the facts and setting forth that, with
 41 resulting injury to ~~his~~ health, any person named or described *
 42 therein is a habitual user, otherwise than under the direction
 43 of a duly licensed and practicing physician, of opium, or cocoa
 44 leaves or any compound, manufacture, salt, derivative, or
 45 preparation thereof, shall be filed with the county attorney of
 46 any county in which such alleged habitual user is or may be
 47 found, such county attorney ~~under-his-hand~~ shall issue a notice *
 48 requiring the person so named or described to appear before a
 49 judge of the district court of the county in chambers at a time
 50 and place specified in such notice, and cause a copy thereof to
 51 be served by the sheriff upon the person so named or described
 52 not less than two days before the dates specified for such
 53 appearance. The affidavit and the original notice with proof of
 54 service shall be filed with the clerk of court at or before the
 55 time specified for such appearance, but the same and the other
 56 records and files of the proceeding shall be open for inspection
 57 only by the person named or described therein or ~~his~~ the *
 58 person's counsel, and by public officers. *

254*#10S

59 254.10 HEARINGS; ORDERS.

60 At the time and place specified in the notice, the person
 61 named or described in such notice, or ~~his~~ the person's counsel *
 62 being present, the judge shall hear the evidence presented; and,
 63 upon being satisfied that the allegations contained in the
 64 affidavit are true, make and file an order requiring such
 65 habitual user forthwith to take and continue, until otherwise
 66 ordered by the court, treatment for the cure of the habit at a
 67 private institution to be selected by the user and approved by
 68 the judge, if the user is able to pay therefor, otherwise at
 69 some public institution selected by the judge and at the expense
 70 of the county. In either case the order shall further require
 71 reports to be made to the court at stated intervals therein
 72 specified by the person and by the physician or superintendent
 73 in charge as to the effect and progress of the treatment. A
 74 copy of the order forthwith shall be served upon the user.

254*#11S

1 254.11 VIOLATIONS OF ORDERS TO BE CONTEMPT OF COURT.
 2 Any person named or described in a notice so issued by the
 3 county attorney and who has been duly served ~~upon him~~ who shall *
 4 fail, refuse, or neglect to appear at the time and place therein
 5 specified, and any person named or described in the order so
 6 made and served who shall fail, refuse, or neglect to comply
 7 with the terms and conditions of such order shall be deemed
 8 guilty of contempt of the court and proceeded against
 9 accordingly.

254A#02S

10 254A.02 DEFINITIONS.
 11 No change for subd 1 to 4
 12 Subd. 5. "Drug dependent person" means any inebriate
 13 person or any person incapable of ~~managing himself~~ *
 14 self-management or his management of personal affairs or unable *
 15 to function physically or mentally in an effective manner
 16 because of the abuse of a drug, including alcohol.
 17 No change for subd 6 to 17

254A#09S

18 254A.09 CONFIDENTIALITY OF RECORDS.
 19 The department of human services shall assure
 20 confidentiality to individuals who are the subject of research
 21 by the state authority or are recipients of alcohol or drug
 22 abuse information, assessment, or treatment from a licensed or
 23 approved program. The commissioner shall withhold from all
 24 persons not connected with the conduct of the research the names
 25 or other identifying characteristics of a subject of research
 26 unless the individual gives written permission that information
 27 relative to ~~his~~ treatment and recovery may be released. Persons *
 28 authorized to protect the privacy of subjects of research may
 29 not be compelled in any federal, state or local, civil,
 30 criminal, administrative or other proceeding to identify or
 31 disclose other confidential information about the individuals.
 32 Identifying information and other confidential information
 33 related to alcohol or drug abuse information, assessment,
 34 treatment, or aftercare services may be ordered to be released
 35 by the court for the purpose of civil or criminal investigations
 36 or proceedings if, after review of the records considered for
 37 disclosure, the court determines that the information is
 38 relevant to the purpose for which disclosure is requested. The
 39 court shall order disclosure of only that information which is
 40 determined relevant. In determining whether to compel
 41 disclosure, the court shall weigh the public interest and the
 42 need for disclosure against the injury to the patient, to the
 43 treatment relationship in the program affected and in other
 44 programs similarly situated, and the actual or potential harm to
 45 the ability of programs to attract and retain patients if
 46 disclosure occurs. This section does not exempt any person from
 47 the reporting obligations under section 626.556, nor limit the
 48 use of information reported in any proceeding arising out of the
 49 abuse or neglect of a child. Identifying information and other
 50 confidential information related to alcohol or drug abuse
 51 information, assessment, treatment, or aftercare services may be
 52 ordered to be released by the court for the purpose of civil or
 53 criminal investigations or proceedings. No information may be
 54 released pursuant to this section that would not be released
 55 pursuant to section 595.02, subdivision 2.

256*#01S

56 256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.
 57 No change for subd 1 to 3
 58 Subd. 4. DUTIES AS STATE AGENCY. The state agency
 59 shall:
 60 (1) supervise the administration of assistance to dependent
 61 children under Laws 1937, chapter 438, by the county agencies in
 62 an integrated program with other service for dependent children
 63 maintained under the direction of the state agency;
 64 (2) may subpoena witnesses and administer oaths, make rules
 65 and regulations, and take such action as may be necessary, or
 66 desirable for carrying out the provisions of Laws 1937, chapter
 67 438. All rules and regulations made by the state agency shall
 68 be binding on the counties and shall be complied with by the
 69 respective county agencies;
 70 (3) establish adequate standards for personnel employed by
 71 the counties and the state agency in the administration of Laws
 72 1937, chapter 438, and make the necessary rules and regulations

1 to maintain such standards;

2 (4) prescribe the form of and print and supply to the
3 county agencies blanks for applications, reports, affidavits,
4 and such other forms as it may deem necessary and advisable;

5 (5) cooperate with the federal government and its public
6 welfare agencies in any reasonable manner as may be necessary to
7 qualify for federal aid for aid to dependent children and in
8 conformity with the provisions of Laws 1937, chapter 438,
9 including the making of such reports and such forms and
10 containing such information as the Federal Social Security Board
11 may from time to time require, and comply with such provisions
12 as such board may from time to time find necessary to assure the
13 correctness and verification of such reports; and

14 (6) may cooperate with other state agencies in establishing
15 reciprocal agreements in instances where a child receiving aid
16 to dependent children moves or contemplates moving into or out
17 of the state, in order that such child may continue to receive
18 supervised aid from the state ~~from which he has~~ moved from until *
19 he the child shall have resided for one year in the state ~~to~~ *
20 ~~which he has~~ moved to; and *

21 (7) on or before October 1 in each even-numbered year make
22 a biennial report to the governor concerning the activities of
23 the agency;

24 (8) prepare a plan and submit it to the full productivity
25 and opportunity coordinator in each even-numbered year,
26 according to standards established by the coordinator, for use
27 in developing a biennial statewide employment and training plan;
28 and

29 (9) enter into agreements with other departments of the
30 state as necessary to meet all requirements of the federal
31 government.

32 Subd. 5. GIFTS, CONTRIBUTIONS, PENSIONS AND BENEFITS;
33 ACCEPTANCE. The commissioner shall have the power and
34 authority to accept in behalf of the state contributions and
35 gifts for the use and benefit of children under the guardianship
36 or custody of the commissioner; ~~he the commissioner~~ may also *
37 receive and accept on behalf of such children, and on behalf of
38 patients and residents at the several state hospitals for
39 persons with mental illness or mental retardation during the
40 period of their hospitalization and while on provisional
41 discharge therefrom, money due and payable to them as old age
42 and survivors insurance benefits, veterans benefits, pensions or
43 other such monetary benefits. Such gifts, contributions,
44 pensions and benefits shall be deposited in and disbursed from
45 the social welfare fund provided for in sections 256.88 to
46 256.92.

47 Subd. 6. ADVISORY TASK FORCES. The commissioner may
48 appoint advisory task forces to ~~consult with him~~ provide *
49 consultation on any of the programs under ~~his~~ the commissioner's *
50 administration and supervision. A task force shall expire and
51 the compensation, terms of office and removal of members shall
52 be as provided in section 15.059.

53 Subd. 7. SPECIAL CONSULTANT ON AGING. The
54 commissioner of human services may appoint a special consultant
55 on aging in the classified service. Within the limits of
56 appropriations available therefor, the commissioner may appoint
57 such other employees in the classified service as ~~he the~~ *
58 commissioner deems necessary to carry out the purposes of Laws *
59 1961, Chapter 466. Such special consultant and staff shall
60 encourage cooperation among agencies, both public and private,
61 including the departments of the state government, in providing
62 services for the aging. They shall provide consultation to
63 county welfare boards in developing local services for the
64 aging, shall promote volunteer services programs and stimulate
65 public interest in the problem of the aging.

66 No change for subd 8 to 11

256*#012S

67 256.012 MINNESOTA MERIT SYSTEM.

68 The commissioner of human services shall promulgate by rule
69 personnel standards on a merit basis in accordance with federal
70 standards for a merit system of personnel administration for all
71 employees of county boards engaged in the administration of
72 community social services or income maintenance programs, all
73 employees of human services boards that have adopted the rules
74 of the Minnesota merit system, and all employees of county
75 welfare boards.

1 Excluded from the rules are employees of institutions and
 2 hospitals under the jurisdiction of the aforementioned boards;
 3 employees of county personnel systems otherwise provided for by
 4 law that meet federal merit system requirements; duly appointed
 5 or elected members of the aforementioned boards; and the
 6 director of community social services and employees in positions
 7 that, upon the request of the appointing authority, the
 8 commissioner ~~in-his-discretion-exempts~~ chooses to exempt, *
 9 provided the exemption accords with the federal standards for a
 10 merit system of personnel administration.

256*#02S

11 256.02 INVESTIGATIONS; EXAMINATIONS; SUPERVISION.
 12 Subdivision 1. DUTIES. The commissioner of human
 13 services shall investigate the whole system of public charities
 14 and charitable institutions in the state, especially infirmaries
 15 and public hospitals, and examine their condition and
 16 management. ~~He~~ The commissioner may require the officers in *
 17 charge of any such institution to furnish such information and
 18 statistics as ~~he-may-deem~~ the commissioner deems necessary, upon *
 19 blanks furnished by ~~him~~ the commissioner. ~~He~~ The commissioner *
 20 shall examine all plans for new infirmaries, or for repairs at
 21 an estimated cost of over \$200, before the same are adopted by
 22 the county or other municipal board, and have an advisory
 23 supervision over all such institutions. Upon the request of the
 24 governor, ~~he~~ the commissioner shall specially investigate any *
 25 charitable institution and report its condition; and for this
 26 purpose ~~he~~ the commissioner is hereby authorized to send for *
 27 persons and papers, administer oaths, and take testimony which *
 28 ~~he-shall-cause~~ to be transcribed and included in ~~his~~ the report. *

29 Subd. 2. Temporary

256*#045S

30 256.045 ADMINISTRATIVE AND JUDICIAL REVIEW OF WELFARE
31 MATTERS.

32 No change for subd 1 to 3

33 Subd. 4. CONDUCT OF HEARINGS. All hearings held
 34 pursuant to subdivisions 2 or 3 shall be conducted according to
 35 the provisions of the federal Social Security Act and the
 36 regulations implemented in accordance with that act to enable
 37 this state to qualify for federal grants-in-aid, and according
 38 to the rules and written policies of the commissioner of human
 39 services. The hearing shall not be held earlier than five days
 40 after filing of the required notice with the local or state
 41 agency. The local welfare referee or state welfare referee
 42 shall notify all interested persons of the time, date and
 43 location of the hearing at least five days before the date of
 44 the hearing. Interested persons may be represented by legal
 45 counsel or other spokesman representative of their choice at the *
 46 hearing and may appear personally, testify and offer evidence,
 47 and examine and cross-examine witnesses. The applicant,
 48 recipient, or former recipient shall have the opportunity to
 49 examine the contents of ~~his~~ the case file and all documents and *
 50 records to be used by the local agency at the hearing at a
 51 reasonable time before the date of the hearing and during the
 52 hearing. All evidence, except that privileged by law, commonly
 53 accepted by reasonable men people in the conduct of their *
 54 affairs as having probative value with respect to the issues
 55 shall be submitted at the hearing and such hearing shall not be
 56 "a contested case" within the meaning of section 14.02,
 57 subdivision 3.

58 Subd. 5. ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.

59 The commissioner of human services may accept the recommended
 60 order of a state welfare referee and issue the order to the
 61 local agency and the applicant, recipient, or former recipient.
 62 ~~¶¶~~ The commissioner refuses on refusing to accept the *
 63 recommended order of the state welfare referee, ~~he~~ shall notify *
 64 the local agency and the applicant, recipient, or former
 65 recipient of that fact and shall state ~~his~~ reasons therefor and *
 66 shall allow each party ten days' time to submit additional
 67 written argument on the matter. After the expiration of the ten
 68 day period, the commissioner shall issue an order on the matter
 69 to the local agency and the applicant, recipient, or former
 70 recipient. Any order of the commissioner issued in accordance
 71 with this subdivision shall be conclusive upon the parties
 72 unless appeal is taken in the manner provided by subdivision 7.

73 Subd. 6. ADDITIONAL POWERS OF THE COMMISSIONER;
 74 SUBPOENAS. The commissioner of human services may ~~on-his-own~~ *

1 ~~motion~~ initiate a review of any action or decision of a local *
 2 agency and direct that the matter be presented to a state
 3 welfare referee for a hearing held pursuant to subdivision 3.
 4 In all matters dealing with public welfare committed by law to
 5 the discretion of the local agency, the ~~commissioner-may~~ *
 6 ~~substitute-his-own-judgment~~ commissioner's judgment may be *
 7 substituted for that of the local agency. Any party to a hearing *
 8 held pursuant to subdivisions 2 or 3 may request that the
 9 commissioner issue a subpoena to compel the attendance of
 10 witnesses at the hearing.

11 Subd. 7. JUDICIAL REVIEW. Any party who is aggrieved
 12 by an order of the commissioner of human services may appeal the
 13 order to the district court of the county responsible for
 14 furnishing assistance by serving a written copy of a notice of
 15 appeal upon the commissioner and any adverse party of record
 16 within 30 days after the date the commissioner issued the order,
 17 and by filing the original notice and proof of service with the
 18 clerk of the district court. Service may be made personally or
 19 by mail; service by mail is complete upon mailing; no filing fee
 20 shall be required by the clerk of court in appeals taken
 21 pursuant to this subdivision. The commissioner may elect to
 22 become a party to the proceedings in the district court. Any
 23 party may demand that the commissioner furnish all parties to
 24 the proceedings with a copy of ~~his~~ the decision, and a *
 25 transcript of any testimony, evidence, or other supporting
 26 papers from the hearing held before the state welfare referee,
 27 by serving a written demand upon the commissioner within 30 days
 28 after service of the notice of appeal.

29 No change for subd 8 to 10

256*#05S

30 256.05 SUPERVISION OVER PAROLED PATIENTS; STATE AGENTS
 31 APPOINTED.

32 The commissioner of human services so far as possible shall
 33 exercise supervision over paroled patients of the state
 34 hospitals for the mentally ill and of the state schools and
 35 hospitals for mentally retarded persons and persons having
 36 epilepsy; and, when deemed necessary for that purpose, may
 37 appoint one or more state agents and fix their salary. ~~He~~ The *
 38 commissioner may appoint suitable persons in any part of the *
 39 state for the same purpose. Every such agent or person shall
 40 perform such duties as the commissioner of human services may
 41 prescribe in behalf or in supervision of patients paroled from
 42 any such institution, including assistance in obtaining
 43 employment and the return of paroled patients when necessary.
 44 The duty of the commissioner of human services or the
 45 superintendent of any state institution exercising such
 46 supervision over any patient who has been or may be paroled to
 47 the custody of the superintendent or other proper officer or
 48 authority in charge or control of any United States veterans
 49 bureau neuropsychiatric hospital shall cease to exist upon
 50 acceptance of ~~his~~ the patient's custody thereby. *

256*#09S

51 256.09 NO CIVIL OR CRIMINAL LIABILITY.

52 Sterilization, as outlined in section 256.08, shall be
 53 lawful and shall not render the commissioner of human services,
 54 or ~~his~~ department employees, or other persons participating in *
 55 the examination or operation, liable either civilly or
 56 criminally.

256*#12S

57 256.12 DEFINITIONS.

58 No change for subd 9 to 10

59 Subd. 14. DEPENDENT CHILD. "Dependent child," as
 60 used in sections 256.72 to 256.87 and 256.872, means a child
 61 under the age of 18 years, or a child under the age of 19 years
 62 who is regularly attending as a full time student, and is
 63 expected to complete before reaching age 19, a high school or a
 64 secondary level course of vocational or technical training
 65 designed to fit ~~him~~ students for gainful employment, who is *
 66 found to be deprived of parental support or care by reason of
 67 the death, continued absence from the home, physical or mental
 68 incapacity of a parent; or who is a child of an unemployed
 69 parent as that term is defined by the commissioner of human
 70 services, such definition to be consistent with and not to
 71 exceed minimum standards established by the congress of the
 72 United States and the secretary of health and human services,
 73 and whose relatives, liable under the law for ~~his~~ the child's *

1 support are not able to provide adequate care and support of the
 2 child, and who is living with ~~his~~ father, mother, grandfather, *
 3 grandmother, brother, sister, stepfather, stepmother,
 4 stepbrother, stepsister, uncle, aunt, first cousin, nephew, or
 5 niece in a place of residence maintained by one or more of these
 6 relatives as ~~his-or-their~~ a home. *

7 The term "dependent child" also means a child who has been
 8 removed from the home of a relative after a judicial
 9 determination that continuance in the home would be contrary to
 10 the welfare and best interests of the child and whose care and
 11 placement in a foster home or a private licensed child care
 12 institution is, in accordance with the rules of the
 13 commissioner, the responsibility of the state or county agency
 14 under sections 256.72 to 256.87. This child is eligible for
 15 benefits only through the foster care and adoption assistance
 16 program contained in Title IV-E of the Social Security Act, 42
 17 U.S.C. 670 to 676, and is not entitled to benefits under
 18 sections 256.72 to 256.87.

19 No change for subd 15 to 22

256*#25S

20 256.25 OLD AGE ASSISTANCE TO BE ALLOWED AS CLAIM IN
 21 PROBATE COURT.

22 On the death of any person who received any old age
 23 assistance under this or any previous old age assistance law of
 24 this state, or on the death of the survivor of a married couple,
 25 either or both of whom received old age assistance, the total
 26 amount paid as old age assistance to either or both, without
 27 interest, shall be allowed as a claim against the estate of such
 28 person or persons by the court having jurisdiction to probate
 29 the estate. If the value of the estate of any such person has
 30 been enhanced as a result of the failure on the part of a
 31 recipient to make a full disclosure of the amount or value of
 32 ~~his~~ the recipient's property, or the amount or value of the *
 33 combined property of a married couple, in any old age assistance
 34 proceeding, the claim shall be allowed by the probate court as a
 35 preferred claim and have preference to the extent of such
 36 enhancement over all other claims, excepting only claims for
 37 expenses of administration, funeral expenses, and expenses of
 38 last sickness. If the value of any such estate, exclusive of
 39 household goods, wearing apparel, and a burial lot, is more than
 40 the value of the property of such person, as disclosed by the
 41 applicant in any old age assistance proceeding, it shall be
 42 prima facie evidence that the value of such estate was enhanced
 43 by the payment of old age assistance to the extent of the
 44 excess, but not exceeding the total amount of old age assistance
 45 paid to such person or persons. The statute of limitations
 46 which limits the county agency or the state agency, or both, to
 47 recover only for assistance granted within six years shall not
 48 apply to any claim made under Minnesota Statutes 1971, Sections
 49 256.11 to 256.43 for reimbursement for any assistance granted
 50 hereunder.

256*#263S

51 256.263 LAND ACQUIRED BY STATE UNDER OLD AGE ASSISTANCE
 52 LIENS.

53 No change for subd 1

54 Subd. 2. MANAGEMENT. While the state owns such real
 55 estate, if the county board by resolution stating the price to
 56 be paid in cash shall recommend the sale and conveyance thereof,
 57 and transmit a copy of such resolution to the state agency, the
 58 state agency shall make an order approving the sale for the
 59 price recommended and transmit a copy thereof to the county
 60 auditor, in the county where the land is situated. Thereupon,
 61 when the purchase price is paid by the purchaser to the
 62 treasurer of such county, the ~~chairman~~ chair of the county board *
 63 shall execute a deed in the name of the state, which shall be
 64 attested by the county auditor, conveying such land to the
 65 purchaser.

256*#482S

66 256.482 COUNCIL FOR THE HANDICAPPED.

67 Subdivision 1. ESTABLISHMENT; MEMBERS. There is
 68 hereby established the council for the handicapped which shall
 69 consist of 21 members appointed by the governor. Members shall
 70 be appointed from the general public and from organizations
 71 which provide services for handicapped persons. A majority of
 72 council members shall be handicapped persons or parents or
 73 guardians of handicapped persons. There shall be at least one

1 member of the council appointed from each of the state
2 development regions. The commissioners of the departments of
3 education, human services, health, economic security, and human
4 rights and the directors of the division of vocational
5 rehabilitation and state services for the blind or their
6 designees shall serve as ex officio members of the council
7 without vote. In addition, there may be ex officio members from
8 other bureaus, divisions, or sections of state departments which
9 are directly concerned with the provision of services to
10 handicapped persons.

11 The terms of members serving as of December 31, 1983, shall
12 expire on that date. Thereafter, notwithstanding the provisions
13 of section 15.059, each member of the council appointed by the
14 governor shall serve a three-year term and until ~~his or her~~ a *
15 successor is appointed and qualified, provided that of the
16 members initially appointed to serve starting in 1984, one-third
17 shall be appointed for one year, one-third for two years, and
18 one-third for three years as designated by the governor. The
19 compensation and removal of all members and expiration of the
20 council shall be as provided in section 15.059. The governor
21 shall appoint a chair of the council from among the members
22 appointed from the general public or handicapped persons or
23 their parents or guardians. Vacancies shall be filled by the
24 appointing authority for the remainder of the unexpired term.
25 The council shall not expire as provided in section 15.059.

26 No change for subd 2 to 5

256*#73S

27 256.73 ASSISTANCE, RECIPIENTS.

28 No change for subd 1

29 Subd. 2. ALLOWANCE BARRED BY OWNERSHIP OF PROPERTY.

30 Ownership by an assistance unit of property as follows is a bar
31 to any allowance under sections 256.72 to 256.87:

32 (1) The value of real property other than the homestead,
33 which when combined with other assets exceeds the limits of
34 paragraph (2), unless the assistance unit is making a good faith
35 effort to sell the nonexcludable real property. The time period
36 for disposal must not exceed nine months and the assistance unit
37 shall execute an agreement to dispose of the property to repay
38 assistance received during the nine months up to the amount of
39 the net sale proceeds. The payment must be made when the
40 property is sold. If the property is not sold within the
41 required time or the assistance unit becomes ineligible for any
42 reason the entire amount received during the nine months is an
43 overpayment and subject to recovery. For the purposes of this
44 section "homestead" means the house owned and occupied by the
45 child, relative or other member of the assistance unit as ~~his~~ a *
46 dwelling place, together with the land upon which it is situated
47 in an area no greater than two contiguous lots in a platted or
48 laid out city or town or 80 contiguous acres in rural areas; or

49 (2) Personal property of an equity value in excess of
50 \$1,000 for the entire assistance unit, exclusive of personal
51 property used as the home, one motor vehicle of an equity value
52 not exceeding \$1,500, one burial plot for each member of the
53 assistance unit, one prepaid burial contract with an equity
54 value of no more than \$1,000 for each member of the assistance
55 unit, clothing and necessary household furniture and equipment
56 and other basic maintenance items essential for daily living, in
57 accordance with rules promulgated by and standards established
58 by the commissioner of human services.

59 Subd. 3. Repealed, 1973 c 717 s 33

60 No change for subd 3a to 6

256*#736S

61 256.736 EMPLOYMENT AND TRAINING PROGRAMS.

62 Subd. 3. OPERATION OF PROGRAMS. To determine who
63 shall be designated as an appropriate individual for
64 certification for employment and training services, the
65 commissioner of jobs and training shall provide, by rule,
66 standards for county boards consistent with the standards
67 promulgated by the secretary of health and human services.
68 County boards shall certify appropriate individuals for
69 employment and training services, shall notify the commissioner
70 of human services, and shall require that every individual
71 certified, as a condition of receiving aid to families with
72 dependent children, register for employment services, training,
73 and employment, unless such individual is:

74 (1) a child who is under age 16, a child age 16 or 17 who

1 is attending elementary or secondary school or a secondary level
2 vocational or technical school full time, or a full-time student
3 age 18 who is attending a secondary school or a secondary level
4 vocational or technical program and who is expected to complete
5 the school or program before reaching age 19;

6 (2) a person who is ill, incapacitated or of advanced age;

7 (3) a person so remote from an employment and training
8 service and where transportation is not reasonably available
9 that ~~his~~ effective participation is precluded;

10 (4) a person whose presence in the home is required because
11 of illness or incapacity of another member of the household;

12 (5) a parent or other caretaker relative of a child under
13 the age of six who personally provides full-time care for the
14 child;

15 (6) a parent or other caretaker if another adult relative
16 in the assistance unit is registered and has not, without good
17 cause, failed or refused to participate or accept employment;

18 (7) a pregnant woman in the last trimester of pregnancy; or

19 (8) a parent who is not the principal earner if the parent
20 who is the principal earner is not exempt under clauses (1) to
21 (7).

22 Any individual referred to in clauses (5) to (8) must be
23 advised of the option to register for employment services,
24 training services, and employment if the individual so desires,
25 and must be informed of the child care and other services
26 available if the individual decides to register.

27 If, after planning with a recipient, a decision is made
28 that the recipient must register for employment services,
29 training, and employment, the county board shall ~~give notice in~~
30 writing to notify the recipient stating that he or she must in
31 writing of the need to register for participation in an
32 employment and training service and that the recipient has a
33 right to a fair hearing under section 256.045 with respect to
34 the appropriateness of the registration.

35 Subd. 4. CONDITIONS OF CERTIFICATION. The
36 commissioner of human services shall:

37 (1) Arrange for or provide any relative or child required
38 to register for employment and training services pursuant to
39 this section with child-care services, transportation, and other
40 necessary family services;

41 (2) Pay ten percent of the cost of the work incentive
42 program and any other costs that are required of that agency by
43 federal regulation for employment and training services for
44 recipients of aid to families with dependent children;

45 (3) Provide that in determining a recipient's needs any
46 monthly incentive training payment made to the recipient by the
47 department of jobs and training is disregarded and the
48 additional expenses attributable to participation in a program
49 are taken into account in grant determination to the extent
50 permitted by federal regulations; and

51 (4) Provide that when it has been certified by the
52 commissioner of jobs and training, certification to be binding
53 upon the commissioner of human services, that a relative or
54 child certified under an employment and training program to the
55 commissioner of jobs and training has been found by the
56 commissioner, after a hearing conducted in the manner prescribed
57 by section 268.10, subdivision 3, with the right of review in
58 accordance with the provisions of section 268.10, subdivision 8,
59 to have refused without good cause to participate in appropriate
60 employment and training services or to have refused without good
61 cause to accept a bona fide offer of public or other employment,
62 the county board shall provide that:

63 (a) If the relative makes the refusal, the relative's needs
64 shall not be taken into account in making the grant
65 determination, and aid for any dependent child in the family
66 will be made in the form of protective or vendor payments,
67 except that when protective payments are made, the local agency
68 may continue payments to the relative if a protective payee
69 cannot reasonably be found.

70 (b) Aid with respect to a dependent child will be denied if
71 a child who makes the refusal is the only child receiving aid in
72 the family.

73 (c) If there is more than one child receiving aid in the
74 family, aid for the child who makes the refusal will be denied
75 and ~~his or her~~ the child's needs will not be taken into account
76 in making the grant determination.

1 (d) If the assistance unit's eligibility is based on the
 2 nonexempt principal earner's unemployment and this principal
 3 earner fails or refuses without good cause to participate or to
 4 accept employment, the entire assistance unit is ineligible for
 5 benefits under sections 256.72 to 256.87, if the family is
 6 subject to requirements of the work incentive program.

7 No change for subd 5 to 9

256*#74S

8 256.74 ASSISTANCE.

9 Subdivision 1. AMOUNT. The amount of assistance
 10 which shall be granted to or on behalf of any dependent child
 11 and mother or other needy eligible relative caring for the
 12 dependent child shall be determined by the county agency in
 13 accordance with rules promulgated by the commissioner and shall
 14 be sufficient, when added to all other income and support
 15 available to the child, to provide the child with a reasonable
 16 subsistence compatible with decency and health. The amount
 17 shall be based on the method of budgeting required in Public Law
 18 Number 97-35, section 2315, United States Code, title 42,
 19 section 602, as amended and federal regulations at Code of
 20 Federal Regulations, title 45, section 233. Nonrecurring lump
 21 sum income received by an assistance unit must be budgeted in
 22 the normal retrospective cycle. The number of months of
 23 ineligibility is determined by dividing the amount of the lump
 24 sum income and all other income, after application of the
 25 applicable disregards, by the standard of need for the
 26 assistance unit. An amount remaining after this calculation is
 27 income in the first month of eligibility. If the total monthly
 28 income including the lump sum income is larger than the standard
 29 of need for a single month the first month of ineligibility is
 30 the payment month that corresponds with the budget month in
 31 which the lump sum income was received. In making its
 32 determination the county agency shall disregard the following
 33 from family income:

34 (1) all of the earned income of each dependent child
 35 receiving aid to families with dependent children who is a
 36 full-time student or part-time student, and not a full-time
 37 employee, attending a school, college, or university, or a
 38 course of vocational or technical training designed to fit ~~him~~ *
 39 students for gainful employment as well as all the earned income *
 40 derived from the job training and partnership act (JTPA) for a
 41 dependent child for six calendar months per year, together with
 42 unearned income derived from the job training and partnership
 43 act;

44 (2) all educational grants and loans awarded pursuant to a
 45 federal law when public assistance was considered in making the
 46 award and the award was made on the basis of financial need; and
 47 that part of any other educational grant or loan which is used
 48 for educational purposes, such as tuition, fees, equipment,
 49 transportation and child care expenses necessary for school
 50 attendance;

51 (3) the first \$75 of each individual's earned income. For
 52 self-employed persons, the expenses directly related to
 53 producing goods and services and without which the goods and
 54 services could not be produced shall be disregarded pursuant to
 55 rules promulgated by the commissioner;

56 (4) an amount equal to the actual expenditures but not to
 57 exceed \$160 for the care of each dependent child or
 58 incapacitated individual living in the same home and receiving
 59 aid. In the case of a person not engaged in full-time
 60 employment or not employed throughout the month, the
 61 commissioner shall prescribe by rule a lesser amount to be
 62 disregarded;

63 (5) thirty dollars plus one-third of the remainder of each
 64 individual's earned income not already disregarded for
 65 individuals found otherwise eligible to receive aid or who have
 66 received aid in one of the four months before the month of
 67 application. With respect to any month, the county welfare
 68 agency shall not disregard under this clause any earned income
 69 of any person who has:

70 (a) reduced ~~his~~ earned income without good cause within 30 *
 71 days preceding any month in which an assistance payment is made;
 72 or

73 (b) refused without good cause to accept an offer of
 74 suitable employment; or

75 (c) left employment or reduced ~~his~~ earnings without good *

1 cause and applied for assistance so ~~that-he-might~~ as to be able *
 2 later to return to employment with the advantage of the income *
 3 disregard; or

4 (d) failed without good cause to make a timely report of
 5 earned income in accordance with rules promulgated by the
 6 commissioner of human services.

7 Persons who are already employed and who apply for
 8 assistance shall have their needs computed with full account
 9 taken of their earned and other income. If earned and other
 10 income of the family is less than need, as determined on the
 11 basis of public assistance standards, the county agency shall
 12 determine the amount of the grant by applying the disregard of
 13 income provisions. The county agency shall not disregard earned
 14 income for persons in a family if the total monthly earned and
 15 other income exceeds their needs, unless for any one of the four
 16 preceding months their needs were met in whole or in part by a
 17 grant payment.

18 The disregard of \$30 and one-third of the remainder of
 19 earned income described in clause (5) shall be applied to the
 20 individual's income for a period not to exceed four consecutive
 21 months. Any month in which the individual loses this disregard
 22 because of the provisions of clause (5)(a) to (5)(d) shall be
 23 considered as one of the four months. An additional \$30 work
 24 incentive must be available for an eight-month period beginning
 25 in the month following the last month of the combined \$30 and
 26 one-third work incentive. This period must be in effect whether
 27 or not the person has earned income or is eligible for AFDC. To
 28 again qualify for the earned income disregards under clause (d),
 29 the individual must not be a recipient of aid for a period of 12
 30 consecutive months. When an assistance unit becomes ineligible
 31 for aid due to the fact that these disregards are no longer
 32 applied to income, the assistance unit shall be eligible for
 33 medical assistance benefits for a 12-month period beginning with
 34 the first month of AFDC ineligibility;

35 (6) the first \$50 per assistance unit of the monthly
 36 support obligation collected by the support and recovery (IV-D)
 37 unit; and

38 (7) insurance settlements to pay medical bills, to
 39 compensate a member of an assistance unit for partial or
 40 permanent loss of function or a body part, or to repair or
 41 replace insured property.

42 The first \$50 of periodic support payments collected by the
 43 public authority responsible for child support enforcement from
 44 a person with a legal obligation to pay support for a member of
 45 the assistance unit shall be paid to the assistance unit within
 46 15 days of the collection of such periodic support payments and
 47 shall be disregarded in determining the amount of assistance.

48 No change for subd 1a to 2

49 Subd. 5. ASSIGNMENT OF SUPPORT AND MAINTENANCE RIGHTS.

50 An applicant for assistance, or a recipient of assistance,
 51 under sections 256.72 to 256.87 or an applicant or recipient for
 52 whom foster care maintenance is provided under Title IV-E of the
 53 Social Security Act is considered to have assigned to the public
 54 agency responsible for child support enforcement at the time of
 55 application all rights to child support and maintenance from any
 56 other person the applicant may have in ~~his~~ the applicant's own *
 57 behalf or in the behalf of any other family member for whom
 58 application is made under sections 256.72 to 256.87 or Title
 59 IV-E. The assignment:

60 (1) is effective as to both current and accrued child
 61 support and maintenance obligations;

62 (2) takes effect upon a determination that the applicant is
 63 eligible for assistance under sections 256.72 to 256.87 or that
 64 the applicant or family member is eligible for foster care
 65 maintenance under Title IV-E of the Social Security Act;

66 (3) terminates when an applicant ceases to receive
 67 assistance under sections 256.72 to 256.87 or when the applicant
 68 or family member ceases to receive foster care maintenance under
 69 Title IV-E of the Social Security Act, except with respect to
 70 the amount of any unpaid support or maintenance obligation, or
 71 both, under the assignment.

256*#871S

72 256.871 EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH
 73 CHILDREN UNDER AGE 21.

74 No change for subd 1

75 Subd. 2. ELIGIBILITY FOR EMERGENCY ASSISTANCE.

1 Notwithstanding any other eligibility provision of this chapter,
 2 any child without resources immediately available to meet
 3 emergency needs shall be furnished assistance for a period not
 4 in excess of 30 days during any 12-month period. Assistance
 5 shall be furnished under the following conditions:

6 (a) The child is without resources immediately available to
 7 meet emergency needs.

8 (b) Assistance is necessary to avoid destitution or provide
 9 emergency shelter arrangements.

10 (c) The child's destitution or need for living arrangements
 11 did not arise because he the child or the relative refused
 12 without good cause to accept employment or training for
 13 employment. *

14 (d) Assistance shall be in the form of money payments,
 15 vendor payments, payments in kind or interest free loans for
 16 tools, equipment or expenses required for return to employment.
 17 Such loans shall not exceed \$100 and shall be considered only
 18 when other private or public resources are not immediately
 19 available.

20 No change for subd 3

21 Subd. 4. EMERGENCY DEFINED. An emergency is a
 22 situation or set of circumstances which endangers or threatens
 23 to endanger the health or safety of a child or ~~his-or-her~~ the
 24 child's relative caretaker. Examples of emergencies which
 25 create the need for such assistance include natural disasters
 26 such as floods, fires, or storms; civil disorders; strikes;
 27 illness; accident; death; eviction from shelter; migrant
 28 families in necessitous circumstances; or other crises, as
 29 defined by the commissioner, in accordance with directives of
 30 the United States secretary of health and human services. The
 31 commissioner shall limit, entirely or in part, emergency
 32 assistance payments for utilities and housing when eligible
 33 families do not demonstrate that they have made a good faith
 34 effort to meet those payments. *

35 No change for subd 5 to 7

256*#91S

36 256.91 PURPOSES.

37 From that part of the social welfare fund held in the state
 38 treasury subject to disbursement as provided in section 256.90
 39 the commissioner of human services at any time may pay out such
 40 amounts as ~~he~~ the commissioner deems proper for the support,
 41 maintenance, or other legal benefit of any of the handicapped,
 42 dependent, neglected, and delinquent children, children born to
 43 mothers who were not married to the children's fathers at the
 44 times of the conception nor at the births of the children,
 45 persons with mental retardation, chemical dependency, or mental
 46 illness, or other wards or persons entitled thereto, not
 47 exceeding in the aggregate to or for any person the principal
 48 amount previously received for the benefit of the person,
 49 together with the increase in it from an equitable apportionment
 50 of interest realized from the social welfare fund. *

51 When any such person dies or is finally discharged from the
 52 guardianship, care, custody, and control of the commissioner of
 53 human services, the amount then remaining subject to use for the
 54 benefit of the person shall be paid as soon as may be from the
 55 social welfare fund to the persons thereto entitled by law.

256*#93S

56 256.93 COMMISSIONER OF HUMAN SERVICES, POSSESSION OF
 57 ESTATES.

58 No change for subd 1

59 Subd. 2. ANNUAL REPORT. The commissioner of human
 60 services shall annually or at such other times as the probate
 61 court may direct file with the court an account of moneys
 62 received and disbursed by ~~him~~ the commissioner for ~~his~~
 63 ~~respective~~ wards and conservatees, pursuant to subdivision 1.
 64 Upon petition of the ward or conservatee or of any person
 65 interested in such estate and upon notice to the commissioner
 66 the probate court may terminate such trust and require final
 67 accounting thereof. *

256*#935S

68 256.935 FUNERAL EXPENSES, PAYMENT BY COUNTY AGENCY.

69 Subdivision 1. On the death of any person receiving public
 70 assistance through aid to dependent children, the county agency
 71 shall pay an amount for funeral expenses not exceeding \$370 and
 72 actual cemetery charges. No funeral expenses shall be paid if
 73 the estate of the deceased is sufficient to pay such expenses or

1 if the children, or spouse, who were legally responsible for the
 2 support of the deceased ~~during his lifetime~~ while living, are *
 3 able to pay such expenses; provided, that the additional payment
 4 or donation of the cost of cemetery lot, interment, religious
 5 service, or for the transportation of the body into or out of
 6 the community in which the deceased resided, shall not limit
 7 payment by the county agency as herein authorized. Freedom of
 8 choice in the selection of a funeral director shall be granted
 9 to persons lawfully authorized to make arrangements for the
 10 burial of any such deceased recipient. In determining the
 11 sufficiency of such estate, due regard shall be had for the
 12 nature and marketability of the assets of the estate. The
 13 county agency may grant funeral expenses where the sale would
 14 cause undue loss to the estate. Any amount paid for funeral
 15 expenses shall be a prior claim against the estate, as provided
 16 in section 524.3-805, and any amount recovered shall be
 17 reimbursed to the agency which paid the expenses. The state
 18 shall reimburse the county for 50 percent of any payments made
 19 for funeral expenses.

20 Subd. 2. Repealed, 3Spl981 c 3 s 20

256*#94S

21 256.94 CONFERENCES OF VARIOUS OFFICIALS.

22 For the purpose of promoting economy and efficiency in the
 23 enforcement of laws relating to children, and particularly of
 24 laws relating to defective, delinquent, dependent, and neglected
 25 children, the commissioner of human services may, at such times
 26 and places as ~~he~~ the commissioner deems advisable, call an *
 27 annual conference with officials responsible for the enforcement
 28 of such laws. When practicable such conference shall be held at
 29 the same time and place as the state conference of social work.

256*#971S

30 256.971 SERVICES FOR DEAF.

31 The commissioner of human services shall provide such
 32 services for the deaf and hard of hearing in the state as will
 33 best promote their personal, economic and social well being. He *
 34 The commissioner shall maintain a register of all such persons, *
 35 with such information as ~~he~~ the commissioner deems necessary to *
 36 improve services for them. ~~He~~ The commissioner shall gather and *
 37 disseminate information relating to the causes of deafness, ~~he~~ *
 38 ~~shall~~, collect statistics on the deaf and ascertain what trades *
 39 or occupations are most suitable for them, ~~and he shall~~ use his *
 40 best efforts to aid them in securing vocational rehabilitation *
 41 and employment, through cooperation with other agencies, both *
 42 public and private.

256*#975S

43 256.975 MINNESOTA BOARD ON AGING.

44 Subdivision 1. CREATION. There is created a
 45 Minnesota board on aging consisting of 25 members to be
 46 appointed by the governor. At least one member shall be
 47 appointed from each congressional district and the remaining
 48 members shall be appointed at large. No member shall be
 49 appointed for more than two consecutive terms of four years
 50 each. In making appointments, the governor shall give
 51 consideration to individuals having a special interest in aging,
 52 and so far as practicable, shall include persons affiliated with
 53 agriculture, labor, industry, education, social work, health,
 54 housing, religion, recreation, and voluntary citizen groups,
 55 including senior citizens.

56 The governor shall designate the chairman chair. Other *
 57 officers, including vice-chairman vice-chair and secretary, *
 58 shall be elected by the board members.

59 No change for subd 1a to 2

60 Subd. 3. POLICY. The board shall recommend to the
 61 state legislature no later than January 1, 1977, a proposed
 62 state policy for citizens dependent on long term care and
 63 services. The proposed state policy shall address, but need not
 64 be limited to, the following:

65 (a) Developing alternatives to institutionalization in long
 66 term care facilities and other programs which will assist each
 67 citizen dependent on long term care and services to maintain the
 68 highest level of self-sufficiency and independence which ~~his~~ the *
 69 citizen's mental and physical condition allows; *

70 (b) Developing methods for ensuring citizens dependent on
 71 long term care and services an effective voice in determining
 72 which programs and services are made available to them;

73 (c) Protecting citizens dependent on long term care and

1 services from unnecessary governmental interference in private
 2 and personal affairs; and
 3 (d) Informing citizens dependent on long term care and
 4 services of the programs and services for which they are
 5 eligible.

256*#977S

6 256.977 SENIOR COMPANION PROGRAM.

7 No change for subd 1 to 2

8 Subd. 3. COMPENSATION. Persons serving as senior
 9 companions shall be compensated for no more than 20 hours per
 10 week at an hourly rate not to exceed the rate established under
 11 the Older Americans Act. In addition, senior companions shall
 12 receive such other assistance as the Minnesota board on aging
 13 may prescribe. No person serving as a senior companion shall be
 14 terminated as a result of a change in the eligibility
 15 requirements set by the Minnesota board on aging, nor as a
 16 result of a change in ~~his~~ income, marital status, or number of
 17 dependents. *

18 No change for subd 4 to 5

256*#98S

19 256.98 WRONGFULLY OBTAINING ASSISTANCE; THEFT.

20 A person who obtains, or attempts to obtain, or aids or
 21 abets any person to obtain by means of a wilfully false
 22 statement or representation, by intentional concealment of a
 23 material fact, or by impersonation or other fraudulent device,
 24 assistance to which ~~he~~ the person is not entitled or assistance *
 25 greater than that to which ~~he~~ the person is entitled, or who *
 26 knowingly aids or abets in buying or in any way disposing of the
 27 property of a recipient or applicant of assistance without the
 28 consent of the local agency with intent to defeat the purposes
 29 of sections 256.12, 256.72 to 256.872, chapter 256B, is guilty
 30 of theft and shall be sentenced pursuant to section 609.52,
 31 subdivision 3, clauses (1), (2) and (5). The amount of the
 32 assistance incorrectly paid shall be the difference between the
 33 amount of assistance actually received and the amount to which
 34 the recipient would have been entitled under state and federal
 35 law had the welfare agency been informed of all material facts.
 36 The amount of any assistance determined to have been incorrectly
 37 paid shall be recoverable from the recipient or ~~his~~ the *
 38 recipient's estate by the county or the state as a debt due the *
 39 county or the state or both in proportion to the contribution of
 40 each. Any amounts recovered shall be paid to the appropriate
 41 units of government in the same manner as provided in section
 42 256.863. To prosecute or to recover assistance wrongfully
 43 obtained under this section, the attorney general or the
 44 appropriate county attorney, acting independently or at the
 45 direction of the attorney general, may institute a criminal or
 46 civil action.

256B#02S

47 256B.02 DEFINITIONS.

48 No change for subd 1 to 2

49 Subd. 3. "County of financial responsibility" means:

50 (a) for an applicant who resides in the state and is not in
 51 a facility described in subdivision 2, the county in which ~~he-or~~ *
 52 she the applicant resides at the time of application; *

53 (b) for an applicant who resides in a facility described in
 54 subdivision 2, the county in which ~~he-or-she~~ the applicant *
 55 resided immediately before entering the facility; and *

56 (c) for an applicant who has not resided in this state for
 57 any time other than the excluded time, the county in which the
 58 applicant resides at the time of making application. For this
 59 limited purpose, an infant who has resided only in an excluded
 60 time facility is the responsibility of the county which would
 61 have been responsible for the infant if eligibility could have
 62 been established with the birth mother under section 256B.06,
 63 subdivision 1, clause (9).

64 Notwithstanding clauses (a) to (c), the county of financial
 65 responsibility for medical assistance recipients is the same
 66 county as that from which a recipient is receiving a maintenance
 67 grant or money payment under the program of aid to families with
 68 dependent children. There can be a redetermination of the
 69 county of financial responsibility for former recipients of the
 70 medical assistance program who have been ineligible for at least
 71 one month, so long as that redetermination is in accord with the
 72 provisions of this subdivision.

73 No change for subd 4 to 6

1 Subd. 7. "Vendor of medical care" means any person or
2 persons furnishing, within the scope of ~~his~~ the vendor's
3 respective license, any or all of the following goods or
4 services: medical, surgical, hospital, optical, visual, dental
5 and nursing services; drugs and medical supplies; appliances;
6 laboratory, diagnostic, and therapeutic services; nursing home
7 and convalescent care; screening and health assessment services
8 provided by public health nurses; health care services provided
9 at the residence of the patient if the services are performed by
10 a public health nurse and the nurse indicates in a statement
11 submitted under oath that the services were actually provided;
12 and such other medical services or supplies provided or
13 prescribed by persons authorized by state law to give such
14 services and supplies.

15 Subd. 8. MEDICAL ASSISTANCE; MEDICAL CARE. "Medical
16 assistance" or "medical care" means payment of part or all of
17 the cost of the following care and services for eligible
18 individuals whose income and resources are insufficient to meet
19 all of this cost:

20 (1) Inpatient hospital services. A second medical opinion
21 is required prior to reimbursement for elective surgeries. The
22 commissioner shall publish in the State Register a proposed list
23 of elective surgeries that require a second medical opinion
24 prior to reimbursement. The list is not subject to the
25 requirements of sections 14.01 to 14.70. The commissioner's
26 decision whether a second medical opinion is required, made in
27 accordance with rules governing that decision, is not subject to
28 administrative appeal;

29 (2) Skilled nursing home services and services of
30 intermediate care facilities, including training and
31 habilitation services, as defined in section 256B.50,
32 subdivision 1, for persons with mental retardation or related
33 conditions who are residing in intermediate care facilities for
34 persons with mental retardation or related conditions. Medical
35 assistance must not be used to pay the costs of nursing care
36 provided to a patient in a swing bed as defined in section
37 144.562;

38 (3) Physicians' services;

39 (4) Outpatient hospital or nonprofit community health
40 clinic services or physician-directed clinic services. The
41 physician-directed clinic staff shall include at least two
42 physicians, one of whom is on the premises whenever the clinic
43 is open, and all services shall be provided under the direct
44 supervision of the physician who is on the premises. Hospital
45 outpatient departments are subject to the same limitations and
46 reimbursements as other enrolled vendors for all services,
47 except initial triage, emergency services, and services not
48 provided or immediately available in clinics, physicians'
49 offices, or by other enrolled providers. "Emergency services"
50 means those medical services required for the immediate
51 diagnosis and treatment of medical conditions that, if not
52 immediately diagnosed and treated, could lead to serious
53 physical or mental disability or death or are necessary to
54 alleviate severe pain. Neither the hospital, its employees, nor
55 any physician or dentist, shall be liable in any action arising
56 out of a determination not to render emergency services or care
57 if reasonable care is exercised in determining the condition of
58 the person, or in determining the appropriateness of the
59 facilities, or the qualifications and availability of personnel
60 to render these services consistent with this section;

61 (5) Community mental health center services, as defined in
62 rules adopted by the commissioner pursuant to section 256B.04,
63 subdivision 2, and provided by a community mental health center
64 as defined in section 245.62, subdivision 2;

65 (6) Home health care services;

66 (7) Private duty nursing services;

67 (8) Physical therapy and related services;

68 (9) Dental services, excluding cast metal restorations;

69 (10) Laboratory and X-ray services;

70 (11) The following if prescribed by a licensed
71 practitioner: drugs, eyeglasses, dentures, and prosthetic
72 devices. The commissioner shall designate a formulary committee
73 which shall advise the commissioner on the names of drugs for
74 which payment shall be made, recommend a system for reimbursing
75 providers on a set fee or charge basis rather than the present
76 system, and develop methods encouraging use of generic drugs

1 when they are less expensive and equally effective as trademark
2 drugs. The commissioner shall appoint the formulary committee
3 members no later than 30 days following July 1, 1981. The
4 formulary committee shall consist of nine members, four of whom
5 shall be physicians who are not employed by the department of
6 human services, and a majority of whose practice is for persons
7 paying privately or through health insurance, three of whom
8 shall be pharmacists who are not employed by the department of
9 human services, and a majority of whose practice is for persons
10 paying privately or through health insurance, a consumer
11 representative, and a nursing home representative. Committee
12 members shall serve two year terms and shall serve without
13 compensation. The commissioner may establish a drug formulary.
14 Its establishment and publication shall not be subject to the
15 requirements of the administrative procedure act, but the
16 formulary committee shall review and comment on the formulary
17 contents. Prior authorization may be required by the
18 commissioner, with the consent of the drug formulary committee,
19 before certain formulary drugs are eligible for payment. The
20 formulary shall not include: drugs or products for which there
21 is no federal funding; over the counter drugs, except for
22 antacids, acetaminophen, family planning products, aspirin,
23 insulin, prenatal vitamins, and vitamins for children under the
24 age of seven; or any other over the counter drug identified by
25 the commissioner, in consultation with the appropriate
26 professional consultants under contract with or employed by the
27 state agency, as necessary, appropriate and cost effective for
28 the treatment of certain specified chronic diseases, conditions
29 or disorders, and this determination shall not be subject to the
30 requirements of chapter 14, the administrative procedure act;
31 nutritional products, except for those products needed for
32 treatment of phenylketonuria, hyperlysinemia, maple syrup urine
33 disease, a combined allergy to human milk, cow milk, and soy
34 formula, or any other childhood or adult diseases, conditions,
35 or disorders identified by the commissioner as requiring a
36 similarly necessary nutritional product; anorectics; and drugs
37 for which medical value has not been established. Separate
38 payment shall not be made for nutritional products for residents
39 of long-term care facilities; payment for dietary requirements
40 is a component of the per diem rate paid to these facilities.
41 Payment to drug vendors shall not be modified before the
42 formulary is established except that the commissioner shall not
43 permit payment for any drugs which may not by law be included in
44 the formulary, and ~~his~~ the commissioner's determination shall *
45 not be subject to chapter 14, the administrative procedure act.
46 The commissioner shall publish conditions for prohibiting
47 payment for specific drugs after considering the formulary
48 committee's recommendations.

49 The basis for determining the amount of payment shall be
50 the actual acquisition costs of the drugs plus a fixed
51 dispensing fee established by the commissioner. Actual
52 acquisition cost includes quantity and other special discounts
53 except time and cash discounts. Establishment of this fee shall
54 not be subject to the requirements of the administrative
55 procedure act. Whenever a generically equivalent product is
56 available, payment shall be on the basis of the actual
57 acquisition cost of the generic drug, unless the prescriber
58 specifically indicates "dispense as written" on the prescription
59 as required by section 151.21, subdivision 2.

60 Notwithstanding the above provisions, implementation of any
61 change in the fixed dispensing fee which has not been subject to
62 the administrative procedure act shall be limited to not more
63 than 180 days, unless, during that time, the commissioner shall
64 have initiated rulemaking through the administrative procedure
65 act;

66 (12) Diagnostic, screening, and preventive services;

67 (13) Health care prepayment plan premiums and insurance
68 premiums if paid directly to a vendor and supplementary medical
69 insurance benefits under Title XVIII of the Social Security Act;

70 (14) Abortion services, but only if one of the following
71 conditions is met:

72 (a) The abortion is a medical necessity. "Medical
73 necessity" means (1) the signed written statement of two
74 physicians indicating the abortion is medically necessary to
75 prevent the death of the mother, and (2) the patient has given
76 her consent to the abortion in writing unless the patient is

1 physically or legally incapable of providing informed consent to
2 the procedure, in which case consent will be given as otherwise
3 provided by law;

4 (b) The pregnancy is the result of criminal sexual conduct
5 as defined in section 609.342, clauses (c), (d), (e)(i), and
6 (f), and the incident is reported within 48 hours after the
7 incident occurs to a valid law enforcement agency for
8 investigation, unless the victim is physically unable to report
9 the criminal sexual conduct, in which case the report shall be
10 made within 48 hours after the victim becomes physically able to
11 report the criminal sexual conduct; or

12 (c) The pregnancy is the result of incest, but only if the
13 incident and relative are reported to a valid law enforcement
14 agency for investigation prior to the abortion;

15 (15) Transportation costs incurred solely for obtaining
16 emergency medical care or transportation costs incurred by
17 nonambulatory persons in obtaining emergency or nonemergency
18 medical care when paid directly to an ambulance company, common
19 carrier, or other recognized providers of transportation
20 services. For the purpose of this clause, a person who is
21 incapable of transport by taxicab or bus shall be considered to
22 be nonambulatory;

23 (16) To the extent authorized by rule of the state agency,
24 costs of bus or taxicab transportation incurred by any
25 ambulatory eligible person for obtaining nonemergency medical
26 care;

27 (17) Personal care attendant services provided by an
28 individual, not a relative, who is qualified to provide the
29 services, where the services are prescribed by a physician in
30 accordance with a plan of treatment and are supervised by a
31 registered nurse. Payments to personal care attendants shall be
32 adjusted annually to reflect changes in the cost of living or of
33 providing services by the average annual adjustment granted to
34 vendors such as nursing homes and home health agencies; and

35 (18) Any other medical or remedial care licensed and
36 recognized under state law unless otherwise prohibited by law.

37 No change for subd 9 to 11

256B#04S

38 256B.04 DUTIES OF STATE AGENCY.

39 No change for subd 1 to 12

40 Subd. 13. Each person appointed by the commissioner to
41 participate in decisions whether medical care to be provided to
42 eligible recipients is medically necessary shall abstain from
43 participation in those cases in which ~~he~~ the appointee (a) has *
44 issued treatment orders in the care of the patient or *
45 participated in the formulation or execution of the patient's
46 treatment plan or (b) has, or a member of ~~his~~ the appointee's *
47 family has, an ownership interest of five percent or more in the
48 institution that provided or proposed to provide the services
49 being reviewed.

50 No change for subd 14 to 15

256B#042S

51 256B.042 THIRD PARTY LIABILITY.

52 Subdivision 1. When the state agency provides, pays for or
53 becomes liable for medical care, it shall have a lien for the
54 cost of the care upon any and all causes of action which accrue
55 to the person to whom the care was furnished, or to ~~his~~ the *
56 person's legal representatives, as a result of the injuries *
57 which necessitated the medical care.

58 No change for subd 2 to 3

256B#06S

59 256B.06 ELIGIBILITY REQUIREMENTS.

60 Subdivision 1. Medical assistance may be paid for any
61 person:

62 (1) who is a child eligible for or receiving adoption
63 assistance payments under Title IV-E of the Social Security Act,
64 United States Code, title 42, sections 670 to 676 under
65 Minnesota Statutes, section 259.40 or 259.431; or

66 (2) who is a child eligible for or receiving foster care
67 maintenance payments under Title IV-E of the Social Security
68 Act, United States Code, title 42, sections 670 to 676; or

69 (3) who is eligible for or receiving public assistance
70 under the aid to families with dependent children program, the
71 Minnesota supplemental aid program; or

72 (4) who is a pregnant woman, as certified in writing by a
73 physician or nurse midwife, and who (a) meets the other

1 eligibility criteria of this section, and (b) would be
2 categorically eligible for assistance under the aid to families
3 with dependent children program if the child had been born and
4 was living with the woman; or

5 (5) who is a pregnant woman, as certified in writing by a
6 physician or nurse midwife, who meets the other eligibility
7 criteria of this section and whose unborn child would be
8 eligible as a needy child under clause (9) if born and living
9 with the woman; or

10 (6) who meets the categorical eligibility requirements of
11 the supplemental security income program and the other
12 eligibility requirements of this section; or

13 (7) who, except for the amount of income or resources,
14 would qualify for supplemental security income for the aged,
15 blind and disabled, or aid to families with dependent children,
16 and who meets the other eligibility requirements of this
17 section; or

18 (8) who is under 21 years of age and in need of medical
19 care that neither ~~he~~ the person nor ~~his~~ the person's relatives *
20 responsible under sections 256B.01 to 256B.26 are financially
21 able to provide; or

22 (9) who is an infant less than one year of age born on or
23 after October 1, 1984, whose mother was eligible at the time of
24 birth and who remains in the mother's household. Eligibility
25 under this clause is concurrent with the mother's and does not
26 depend on the father's income except as the income affects the
27 mother's eligibility; or

28 (10) who is residing in a hospital for treatment of mental
29 disease or tuberculosis and is 65 years of age or older and
30 without means sufficient to pay the per capita hospital charge;
31 and

32 (11) who resides in Minnesota, or, if absent from the
33 state, is deemed to be a resident of Minnesota in accordance
34 with the regulations of the state agency; and

35 (12) who alone, or together with ~~his~~ the person's spouse, *
36 does not own real property other than the homestead. For the
37 purposes of this section, "homestead" means the house owned and
38 occupied by the applicant or recipient as ~~his~~ a primary place of *
39 residence, together with the contiguous land upon which it is
40 situated. The homestead shall continue to be excluded for
41 persons residing in a long-term care facility if it is used as a
42 primary residence by the spouse, minor child, or disabled child
43 of any age; or the applicant/recipient is expected to return to
44 the home as a principal residence within six calendar months of
45 entry to the long-term care facility. Certification of expected
46 return to the homestead shall be documented in writing by the
47 attending physician. Real estate not used as a home may not be
48 retained unless it produces net income applicable to the
49 family's needs or the family is making a continuing effort to
50 sell it at a fair and reasonable price or unless the
51 commissioner determines that sale of the real estate would cause
52 undue hardship or unless the equity in the real estate when
53 combined with the equity in the homestead totals \$15,000 or
54 less; and

55 (13) who individually does not own more than \$3,000 in cash
56 or liquid assets, or if a member of a household with two family
57 members (husband and wife, or parent and child), does not own
58 more than \$6,000 in cash or liquid assets, plus \$200 for each
59 additional legal dependent. Cash and liquid assets may include
60 a prepaid funeral contract and insurance policies with cash
61 surrender value. The value of the following shall not be
62 included:

63 (a) the homestead, and (b) one motor vehicle licensed
64 pursuant to chapter 168 and defined as: (1) passenger
65 automobile, (2) station wagon, (3) motorcycle, (4) motorized
66 bicycle or (5) truck of the weight found in categories A to E,
67 of section 168.013, subdivision 1e; and

68 (14) who has or anticipates receiving an annual income not
69 in excess of the income standards by family size used in the aid
70 to families with dependent children program, or who has income
71 in excess of these maxima and in the month of application, or
72 during the three months prior to the month of application,
73 incurs expenses for medical care that total more than one-half
74 of the annual excess income in accordance with the regulations
75 of the state agency. In computing income to determine
76 eligibility of persons who are not residents of long-term care

1 facilities, the commissioner shall disregard increases in income
 2 due solely to increases in federal retiree, survivor's, and
 3 disability insurance benefits, veterans administration benefits,
 4 and railroad retirement benefits in the percentage amount
 5 established in the biennial appropriations law unless prohibited
 6 by federal law or regulation. If prohibited, the commissioner
 7 shall first seek a waiver. In excess income cases, eligibility
 8 shall be limited to a period of six months beginning with the
 9 first of the month in which these medical obligations are first
 10 incurred; and

11 (15) who has continuing monthly expenses for medical care
 12 that are more than the amount of ~~his~~ the person's excess income, *
 13 computed on a monthly basis, in which case eligibility may be
 14 established before the total income obligation referred to in
 15 the preceding paragraph is incurred, and medical assistance
 16 payments may be made to cover the monthly unmet medical need.
 17 In licensed nursing home and state hospital cases, income over
 18 and above that required for justified needs, determined pursuant
 19 to a schedule of contributions established by the commissioner
 20 of human services, is to be applied to the cost of institutional
 21 care. The commissioner of human services may establish a
 22 schedule of contributions to be made by the spouse of a nursing
 23 home resident to the cost of care; and

24 (16) who has applied or agrees to apply all proceeds
 25 received or receivable by ~~him~~ the person or ~~his~~ the person's *
 26 spouse from automobile accident coverage and private health care
 27 coverage to the costs of medical care for ~~himself, his~~ the *
 28 person, the spouse, and children. The state agency may require *
 29 from any applicant or recipient of medical assistance the
 30 assignment of any rights accruing under private health care
 31 coverage. Any rights or amounts so assigned shall be applied
 32 against the cost of medical care paid for under this chapter.
 33 Any assignment shall not be effective as to benefits paid or
 34 provided under automobile accident coverage and private health
 35 care coverage prior to receipt of the assignment by the person
 36 or organization providing the benefits.

37 Subd. 2. Repealed, 1974 c 525 s 3

38 Subd. 3. Notwithstanding any law to the contrary, a
 39 migrant worker who meets all of the eligibility requirements of
 40 this section ~~other than that he has~~ except for having a *
 41 permanent place of abode in another state, shall be eligible for
 42 medical assistance and shall have ~~his~~ medical needs met by the *
 43 county in which ~~he~~ the worker resides at the time of making *
 44 application.

256B#061S

45 256B.061 ELIGIBILITY.

46 If any individual has been determined to be eligible for
 47 medical assistance, it will be made available ~~to him~~ for care *
 48 and services included under the plan and furnished in or after *
 49 the third month before the month in which ~~he~~ the individual made *
 50 application for such assistance, if such individual was, or upon
 51 application would have been, eligible for medical assistance at
 52 the time the care and services were furnished. The commissioner
 53 may limit, restrict, or suspend the eligibility of an individual
 54 for up to one year upon that individual's conviction of a
 55 criminal offense related to ~~his~~ application for or receipt of *
 56 medical assistance benefits.

256B#08S

57 256B.08 APPLICATION.

58 An applicant for medical assistance hereunder, or a person
 59 acting in ~~his~~ the applicant's behalf, shall file ~~his~~ an *
 60 application with a county agency in such manner and form as *
 61 shall be prescribed by the state agency. When a married
 62 applicant resides in a nursing home or applies for medical
 63 assistance for nursing home services, the county agency shall
 64 consider an application on behalf of the applicant's spouse only
 65 upon specific request of the applicant or upon specific request
 66 of the spouse and separate filing of an application.

256B#15S

67 256B.15 CLAIMS AGAINST ESTATES.

68 If a person receives any medical assistance hereunder, on
 69 ~~his~~ the person's death, if ~~he-is~~ single, or on the death of the *
 70 person and ~~his~~ the surviving spouse, if ~~he-is~~ married, and only *
 71 ~~at-a-time~~ when ~~he~~ there is no surviving child who is under 21 or *
 72 is blind or totally disabled, the total amount paid for medical
 73 assistance rendered for the person, after age 65, without

1 interest, shall be filed as a claim against the estate of the
2 person in the court having jurisdiction to probate the estate.
3 The claim shall be considered an expense of the last illness of
4 the decedent for the purpose of section 524.3-805. Any statute
5 of limitations that purports to limit any county agency or the
6 state agency, or both, to recover for medical assistance granted
7 hereunder shall not apply to any claim made hereunder for
8 reimbursement for any medical assistance granted hereunder.
9 Counties may retain one-half of the nonfederal share of medical
10 assistance collections from estates that are directly
11 attributable to county effort.

256B#19S

12 256B.19 DIVISION OF COST.

13 No change for subd 1 to 2

14 Subd. 3. STUDY OF MEDICAL ASSISTANCE FINANCIAL

15 PARTICIPATION. The commissioner shall study the feasibility
16 and outcomes of implementing a variable medical assistance
17 county financial participation rate for long-term care services
18 to mentally retarded persons in order to encourage the
19 utilization of alternative services to long-term intermediate
20 care for the mentally retarded. The commissioner shall submit
21 ~~his~~ findings and recommendations to the legislature by January
22 20, 1984. *

256B#20S

23 256B.20 COUNTY APPROPRIATIONS.

24 The providing of funds necessary to carry out the
25 provisions hereof on the part of the counties and the manner of
26 administering the funds of the counties and the state shall be
27 as follows:

28 (1) The board of county commissioners of each county shall
29 annually set up in its budget an item designated as the county
30 medical assistance fund and levy taxes and fix a rate therefor
31 sufficient to produce the full amount of such item, in addition
32 to all other tax levies and tax rate, however fixed or
33 determined, sufficient to carry out the provisions hereof and
34 sufficient to pay in full the county share of assistance and
35 administrative expense for the ensuing year; and annually on or
36 before October 10 shall certify the same to the county auditor
37 to be entered by ~~him~~ the auditor on the tax rolls. Such tax
38 levy and tax rate shall make proper allowance and provision for
39 shortage in tax collections. *

40 (2) Any county may transfer surplus funds from any county
41 fund, except the sinking or ditch fund, to the general fund or
42 to the county medical assistance fund in order to provide moneys
43 necessary to pay medical assistance awarded hereunder. The
44 money so transferred shall be used for no other purpose, but any
45 portion thereof no longer needed for such purpose shall be
46 transferred back to the fund from which taken.

47 (3) Upon the order of the county agency the county auditor
48 shall draw ~~his~~ a warrant on the proper fund in accordance with
49 the order, and the county treasurer shall pay out the amounts
50 ordered to be paid out as medical assistance hereunder. When
51 necessary by reason of failure to levy sufficient taxes for the
52 payment of the medical assistance in the county, the county
53 auditor shall carry any such payments as an overdraft on the
54 medical assistance funds of the county until sufficient tax
55 funds shall be provided for such assistance payments. The board
56 of county commissioners shall include in the tax levy and tax
57 rate in the year following the year in which such overdraft
58 occurred, an amount sufficient to liquidate such overdraft in
59 full. *

60 (4) Claims for reimbursement shall be presented to the
61 state agency by the respective counties in such manner as the
62 state agency shall prescribe, not later than 10 days after the
63 close of the month in which the expenditures were made. The
64 state agency shall audit such claims and certify to the
65 commissioner of finance the amounts due the respective counties
66 without delay. The amounts so certified shall be paid within 10
67 days after such certification, from the state treasury upon
68 warrant of the commissioner of finance from any moneys available
69 therefor. The moneys available to the state agency to carry out
70 the provisions hereof, including all federal funds available to
71 the state, shall be kept and deposited by the state treasurer in
72 the revenue fund and disbursed upon warrants in the same manner
73 as other state funds.

256B#21S

1 256B.21 CHANGE OF RESIDENCE.

2 ~~When a recipient changes his place of~~ On changing *
3 residence, ~~he a recipient~~ shall notify the county agency by *
4 through which his the recipient's medical assistance hereunder *
5 is paid. ~~If he removes~~ On removing to another county, ~~he the~~ *
6 recipient shall declare whether such absence is temporary or for *
7 the purpose of residing therein. *

256B#27S

8 256B.27 MEDICAL ASSISTANCE; COST REPORTS.

9 Subdivision 1. In the interests of efficient
10 administration of the medical assistance to the needy program
11 and incident to the approval of rates and charges therefor, the
12 commissioner of human services may require any reports,
13 information, and audits of medical vendors which ~~he the~~ *
14 commissioner deems necessary. *

15 No change for subd 2 to 5

256B#35S

16 256B.35 PERSONAL ALLOWANCE, PERSONS IN SKILLED NURSING
17 HOMES OR INTERMEDIATE CARE FACILITIES.

18 No change for subd 1 to 4

19 Subd. 5. The nursing home may transfer the personal
20 allowance to someone other than the recipient only when the
21 recipient or ~~his the recipient's~~ guardian or conservator *
22 designates that person in writing to receive or expend funds on
23 behalf of the recipient and that person certifies in writing
24 that the allowance is spent for the well being of the
25 recipient. Persons, other than the recipient, in possession of
26 the personal allowance, may use the allowance only for the well
27 being of the recipient. Any person, other than the recipient,
28 who, with intent to defraud, uses the personal needs allowance
29 for purposes other than the well being of the recipient shall be
30 guilty of theft and shall be sentenced pursuant to section
31 609.52, subdivision 3, clauses (1), (2) and (5). To prosecute
32 under this subdivision, the attorney general or the appropriate
33 county attorney, acting independently or at the direction of the
34 attorney general, may institute a criminal action. A nursing
35 home that transfers personal needs allowance funds to a person
36 other than the recipient in good faith and in compliance with
37 this section shall not be held liable under this subdivision.

38 No change for subd 6

256B#36S

39 256B.36 PERSONAL ALLOWANCE FOR CERTAIN RECIPIENTS OF
40 MEDICAL ASSISTANCE.

41 In addition to the personal allowance established in
42 section 256B.35, any recipient of medical assistance with a
43 handicap, mental retardation, or a related condition, confined
44 in a skilled nursing home or intermediate care facility shall
45 also be permitted a special personal allowance drawn solely from
46 earnings from any productive employment under an individual plan
47 of rehabilitation. This special personal allowance shall not
48 exceed (1) the limits set therefor by the commissioner, or (2)
49 the amount of disregarded income the individual would have
50 retained ~~had he or she been as~~ a recipient of aid to the *
51 disabled benefits in December, 1973, whichever amount is lower.

256B#48S

52 256B.48 CONDITIONS FOR PARTICIPATION.

53 Subdivision 1. PROHIBITED PRACTICES. A nursing home
54 is not eligible to receive medical assistance payments unless it
55 refrains from:

56 (a) Charging private paying residents rates for similar
57 services which exceed those which are approved by the state
58 agency for medical assistance recipients as determined by the
59 prospective desk audit rate, except under the following
60 circumstances: the nursing home may (1) charge private paying
61 residents a higher rate for a private room, and (2) charge for
62 special services which are not included in the daily rate if
63 medical assistance residents are charged separately at the same
64 rate for the same services in addition to the daily rate paid by
65 the commissioner. Services covered by the payment rate must be
66 the same regardless of payment source. Special services, if
67 offered, must be offered to all residents and charged separately
68 at the same rate. Residents are free to select or decline
69 special services. Special services must not include services
70 which must be provided by the nursing home in order to comply
71 with licensure or certification standards and that if not
72 provided would result in a deficiency or violation by the

1 nursing home. Services beyond those required to comply with
 2 licensure or certification standards must not be charged
 3 separately as a special service if they were included in the
 4 payment rate for the previous reporting year. A nursing home
 5 that charges a private paying resident a rate in violation of
 6 this clause is subject to an action by the state of Minnesota or
 7 any of its subdivisions or agencies for civil damages. A
 8 private paying resident or the resident's legal representative
 9 has a cause of action for civil damages against a nursing home
 10 that charges the resident rates in violation of this clause.
 11 The damages awarded shall include three times the payments that
 12 result from the violation, together with costs and
 13 disbursements, including reasonable attorneys' fees or their
 14 equivalent. A private paying resident or the resident's legal
 15 representative, the state, subdivision or agency, or a nursing
 16 home may request a hearing to determine the allowed rate or
 17 rates at issue in the cause of action. Within 15 calendar days
 18 after receiving a request for such a hearing, the commissioner
 19 shall request assignment of an administrative law judge under
 20 sections 14.48 to 14.56 to conduct the hearing as soon as
 21 possible or according to agreement by the parties. The
 22 administrative law judge shall issue a report within 15 calendar
 23 days following the close of the hearing. The prohibition set
 24 forth in this clause shall not apply to facilities licensed as
 25 boarding care facilities which are not certified as skilled or
 26 intermediate care facilities level I or II for reimbursement
 27 through medical assistance;

28 (b) Requiring an applicant for admission to the home, or
 29 the guardian or conservator of the applicant, as a condition of
 30 admission, to pay any fee or deposit in excess of \$100, loan any
 31 money to the nursing home, or promise to leave all or part of
 32 the applicant's estate to the home;

33 (c) Requiring any resident of the nursing home to utilize a
 34 vendor of health care services who is a licensed physician or
 35 pharmacist chosen by the nursing home;

36 (d) Providing differential treatment on the basis of status
 37 with regard to public assistance;

38 (e) Discriminating in admissions, services offered, or room
 39 assignment on the basis of status with regard to public
 40 assistance. Admissions discrimination shall include, but is not
 41 limited to:

42 (1) basing admissions decisions upon assurance by the
 43 applicant to the nursing home, or the applicant's guardian or
 44 conservator, that the applicant is neither eligible for nor will
 45 seek public assistance for payment of nursing home care costs;

46 (2) engaging in preferential selection from waiting lists
 47 based on an applicant's ability to pay privately.

48 The collection and use by a nursing home of financial
 49 information of any applicant pursuant to the pre-admission
 50 screening program established by section 256B.091 shall not
 51 raise an inference that the nursing home is utilizing that
 52 information for any purpose prohibited by this paragraph;

53 (f) Requiring any vendor of medical care as defined by
 54 section 256B.02, subdivision 7, who is reimbursed by medical
 55 assistance under a separate fee schedule, to pay any portion of
 56 ~~his~~ the vendor's fee to the nursing home except as payment for *
 57 renting or leasing space or equipment of the nursing home or
 58 purchasing support services, if those agreements are disclosed
 59 to the commissioner; and

60 (g) Refusing, for more than 24 hours, to accept a resident
 61 returning to ~~his~~ the same bed or a bed certified for the same *
 62 level of care, in accordance with a physician's order
 63 authorizing transfer, after receiving inpatient hospital
 64 services.

65 The prohibitions set forth in clause (b) shall not apply to
 66 a retirement home with more than 325 beds including at least 150
 67 licensed nursing home beds and which:

68 (1) is owned and operated by an organization tax-exempt
 69 under section 290.05, subdivision 1, clause (i); and

70 (2) accounts for all of the applicant's assets which are
 71 required to be assigned to the home so that only expenses for
 72 the cost of care of the applicant may be charged against the
 73 account; and

74 (3) agrees in writing at the time of admission to the home
 75 to permit the applicant, or ~~his~~ the applicant's guardian, or *
 76 conservator, to examine the records relating to the applicant's

1 account upon request, and to receive an audited statement of the
 2 expenditures charged against ~~his~~ the applicant's individual
 3 account upon request; and *

4 (4) agrees in writing at the time of admission to the home
 5 to permit the applicant to withdraw from the home at any time
 6 and to receive, upon withdrawal, the balance of ~~his~~ the
 7 applicant's individual account. *

8 For a period not to exceed 180 days, the commissioner may
 9 continue to make medical assistance payments to a nursing home
 10 or boarding care home which is in violation of this section if
 11 extreme hardship to the residents would result. In these cases
 12 the commissioner shall issue an order requiring the nursing home
 13 to correct the violation. The nursing home shall have 20 days
 14 from its receipt of the order to correct the violation. If the
 15 violation is not corrected within the 20-day period the
 16 commissioner may reduce the payment rate to the nursing home by
 17 up to 20 percent. The amount of the payment rate reduction
 18 shall be related to the severity of the violation, and shall
 19 remain in effect until the violation is corrected. The nursing
 20 home or boarding care home may appeal the commissioner's action
 21 pursuant to the provisions of chapter 14 pertaining to contested
 22 cases. An appeal shall be considered timely if written notice
 23 of appeal is received by the commissioner within 20 days of
 24 notice of the commissioner's proposed action.

25 In the event that the commissioner determines that a
 26 nursing home is not eligible for reimbursement for a resident
 27 who is eligible for medical assistance, the commissioner may
 28 authorize the nursing home to receive reimbursement on a
 29 temporary basis until the resident can be relocated to a
 30 participating nursing home.

31 Certified beds in facilities which do not allow medical
 32 assistance intake on July 1, 1984, or after shall be deemed to
 33 be decertified for purposes of section 144A.071 only.

34 No change for subd 1a to 6

256B#504S

35 256B.504 LEGISLATIVE COMMISSION ON LONG-TERM HEALTH CARE.

36 No change for subd 1 to 3

37 Subd. 4. The commission shall hold meetings and hearings
 38 at the times and places it designates to accomplish the purposes
 39 set forth in this section. It shall select a chairperson chair
 40 and other officers from its membership as it deems necessary. *

41 No change for subd 5

256B#71S

42 256B.71 SOCIAL HEALTH MAINTENANCE ORGANIZATION
 43 DEMONSTRATION.

44 No change for subd 1 to 2

45 Subd. 3. ENROLLMENT OF MEDICAL ASSISTANCE RECIPIENTS.

46 Medical assistance recipients may voluntarily enroll in the
 47 social health maintenance organization projects. However, once
 48 ~~a recipient enrolls~~ enrolled in a project, ~~he or she the~~
 49 recipient must remain enrolled for a period of six months. *

50 No change for subd 4 to 5

256C#02S

51 256C.02 PUBLIC ACCOMMODATIONS.

52 The blind, the visually handicapped, and the otherwise
 53 physically disabled have the same right as the able-bodied to
 54 the full and free use of the streets, highways, sidewalks,
 55 walkways, public buildings, public facilities, and other public
 56 places; and are entitled to full and equal accommodations,
 57 advantages, facilities, and privileges of all common carriers,
 58 airplanes, motor vehicles, railroad trains, motor buses, boats,
 59 or any other public conveyances or modes of transportation,
 60 hotels, lodging places, places of public accommodation,
 61 amusement, or resort, and other places to which the general
 62 public is invited, subject only to the conditions and
 63 limitations established by law and applicable alike to all
 64 persons.

65 Every totally or partially blind or deaf person shall have
 66 the right to be accompanied by a guide dog in any of the places
 67 listed in section 363.03, subdivision 10, ~~provided that he.~~ The
 68 person shall be liable for any damage done to the premises or
 69 facilities by such dog. *

256C#025S

70 256C.025 HOUSING ACCOMMODATIONS.

71 No change for subd 1 to 2

72 Subd. 3. Nothing in this section shall require any person

1 renting, leasing, or providing for compensation real property to
 2 modify ~~his~~ the property in any way or provide a higher degree of *
 3 care for a blind person, visually handicapped person, or other
 4 physically disabled person than for a person who is not
 5 physically disabled.

6 Subd. 4. Every totally or partially blind or deaf person
 7 who has a guide dog, or who obtains a guide dog, shall be
 8 entitled to full and equal access to all housing accommodations
 9 provided for in this section, and ~~he~~ shall not be required to *
 10 pay extra compensation for such guide dog but shall be liable
 11 for any damage done to the premises by such guide dog.

256C#04S

12 256C.04 PROCLAMATION BY GOVERNOR.

13 Each year, the governor may take suitable public notice of *
 14 October 15 as white cane safety day. ~~He~~ and may issue a *
 15 proclamation in which the governor:

16 ~~(a)~~ (1) He comments upon the significance of the white cane *
 17 + *
 18 ~~(b)~~ (2) He calls upon the citizens of the state to observe *
 19 the provisions of the white cane law and to take precautions *
 20 necessary to the safety of the disabled + *
 21 ~~(c)~~ (3) He reminds the citizens of the state of the *
 22 policies with respect to the disabled herein declared and urges *
 23 the citizens to cooperate in giving effect to them +, and *
 24 ~~(d)~~ (4) He emphasizes the need of the citizens to be aware *
 25 of the presence of disabled persons in the community and to keep *
 26 safe and functional for the disabled the streets, highways, *
 27 sidewalks, walkways, public buildings, public facilities, other *
 28 public places, places of public accommodation, amusement and *
 29 resort, and other places to which the public is invited, and to *
 30 offer assistance to disabled persons upon appropriate occasions.

256C#24S

31 256C.24 REGIONAL SERVICE CENTERS.

32 No change for subd 1 to 2

33 Subd. 3. ADVISORY COMMITTEE. The commissioner of
 34 human services shall appoint an advisory committee of eight
 35 persons for each regional service center. Members shall include
 36 four persons who are hearing impaired persons or who are the
 37 parents of a hearing impaired child and four representatives of
 38 county and regional human services, including representatives of
 39 private service providers. Members shall serve without payment
 40 by the state of per diem or expense. The commissioner of human
 41 services shall designate one member as chairperson chair. The *
 42 commissioner of human services shall assign staff to serve as ex
 43 officio members of the committee.

256D#01S

44 256D.01 DECLARATION OF POLICY; CITATION.

45 No change for subd 1

46 Subd. 1a. STANDARDS. A principal objective in
 47 providing general assistance is to provide for persons
 48 ineligible for federal programs who are unable to provide for
 49 themselves. To achieve these aims, the commissioner shall
 50 establish minimum standards of assistance for general
 51 assistance. The minimum standard of assistance determines the
 52 total amount of the general assistance grant without separate
 53 standards for shelter, utilities, or other needs.

54 For a recipient who is a member of a one-person assistance
 55 unit, the standard shall not be less than the combined total of
 56 the minimum standards of assistance for shelter and basic needs
 57 in effect on February 1, 1983. The standards of assistance
 58 shall not be lower for a recipient sharing a residence with
 59 another person unless that person is a responsible relative.
 60 The standards of assistance for recipients who are members of an
 61 assistance unit composed of more than one person must be equal
 62 to the aid to families with dependent children standard of
 63 assistance for a family of similar size and composition.

64 The standards shall be lowered for recipients who share a
 65 residence with a person who is a responsible relative of one or
 66 more members of the assistance unit if the responsible relative
 67 also receives general assistance or aid to families with
 68 dependent children. The standards must also be lowered for
 69 recipients who share a residence with a responsible relative if
 70 the relative is not receiving general assistance or aid to
 71 families with dependent children because the relative has been
 72 sanctioned or disqualified. If the responsible relative is
 73 receiving general assistance or aid to families with dependent

1 children, or would be receiving them but for sanction or
 2 disqualification, then the standard applicable to the general
 3 assistance recipient's assistance unit must equal the amount
 4 that would be attributable to the members of the assistance unit
 5 if the members were included as additional recipients in the
 6 responsible relative's general assistance or aid to families
 7 with dependent children grant. When determining the amount
 8 attributable to members of an assistance unit that must receive
 9 a reduced standard, the amount attributed to adults must be the
 10 amount attributed to another child added to the responsible
 11 relative's assistance unit. When an assistance unit is subject
 12 to a reduced standard, the reduced standard must not exceed the
 13 standard that applies to an assistance unit that does not share
 14 a residence with a responsible relative.

15 For recipients, except recipients who are eligible under
 16 section 256D.05, subdivision 1, paragraph (a), clauses (1), (7),
 17 (8), (9), and (14), who share a residence with a responsible
 18 relative who is not receiving general assistance or aid to
 19 families with dependent children but who receives other income,
 20 the standards shall be lowered, subject to these limitations:

21 (a) The general assistance grant to the one-person
 22 assistance unit shall be in an amount such that total household
 23 income is equal to the aid to families with dependent children
 24 standard for a household of like size and composition, except
 25 that the grant shall not exceed that paid to a general
 26 assistance recipient living independently.

27 (b) Benefits received by a responsible relative under the
 28 supplemental security income program, the social security
 29 retirement program if the relative was receiving benefits under
 30 the social security disability program at the time ~~he-or-she~~ *
 31 ~~became of becoming~~ eligible for the social security retirement *
 32 program or if the relative is a person described in section
 33 256D.05, subdivision 1, paragraph (a), clause (1), (7), or (9),
 34 the social security disability program, a workers' compensation
 35 program, the Minnesota supplemental aid program, or on the basis
 36 of the relative's disability, must not be included in the
 37 household income calculation.

38 No change for subd 1b to 2

256D#02S

39 256D.02 DEFINITIONS.

40 No change for subd 1

41 Subd. 2. "Commissioner" means the commissioner of human
 42 services or ~~his~~ a designee. *

43 No change for subd 3 to 4a

44 Subd. 5. "Family" means two or more individuals who are
 45 related by blood, marriage or adoption, who are living in a
 46 place or residence maintained by one or more of them as ~~his-or~~ *
 47 ~~their-own~~ a home, and at least one of whom is a child who is not *
 48 married to another of such individuals and is in the care of or *
 49 dependent upon another of such individuals.

50 No change for subd 6 to 15

256D#05S

51 256D.05 ELIGIBILITY FOR GENERAL ASSISTANCE.

52 Subdivision 1. ELIGIBILITY. (a) Each person or
 53 family whose income and resources are less than the standard of
 54 assistance established by the commissioner shall be eligible for
 55 and entitled to general assistance if the person or family is:

56 (1) a person who is suffering from a permanent or temporary
 57 illness, injury, or incapacity which is medically certified and
 58 which prevents the person from obtaining or retaining employment;

59 (2) a person whose presence in the home on a substantially
 60 continuous basis is required because of the certified illness,
 61 injury, incapacity, or the age of another member of the
 62 household;

63 (3) a person who has been placed in a licensed or certified
 64 facility for purposes of physical or mental health or
 65 rehabilitation, or in an approved chemical dependency
 66 domiciliary facility, if the placement is based on illness or
 67 incapacity and is pursuant to a plan developed or approved by
 68 the local agency through its director or designated
 69 representative;

70 (4) a person who resides in a shelter facility described in
 71 subdivision 3;

72 (5) a person who is or may be eligible for displaced
 73 homemaker services, programs, or assistance under section 4.40,
 74 but only if that person is enrolled as a full-time student;

- 1 (6) a person who is unable to secure suitable employment
 2 due to inability to communicate in the English language,
 3 provided that the person is not an illegal alien, and who, if
 4 assigned to a language skills program by the local agency, is
 5 participating in that program;
- 6 (7) a person not described in clause (1) or (3) who is
 7 diagnosed by a licensed physician or licensed consulting
 8 psychologist as mentally retarded or mentally ill, and that
 9 condition prevents the person from obtaining or retaining
 10 employment;
- 11 (8) a person who has an application pending for the social
 12 security disability program or the program of supplemental
 13 security income for the aged, blind, and disabled, or who has
 14 been terminated from either program and has an appeal from that
 15 termination pending;
- 16 (9) a person who is unable to obtain or retain employment
 17 because advanced age significantly affects his-or-her the *
 18 person's ability to seek or engage in substantial work; *
- 19 (10) a person completing a secondary education program;
- 20 (11) a family with one or more minor children; provided
 21 that, if all the children are six years of age or older, all the
 22 adult members of the family register for and cooperate in the
 23 work readiness program under section 256D.051; and provided
 24 further that, if one or more of the children are under the age
 25 of six and if the family contains more than one adult member,
 26 all the adult members except one adult member register for and
 27 cooperate in the work readiness program under section 256D.051.
 28 The adult members required to register for and cooperate with
 29 the work readiness program are not eligible for financial
 30 assistance under section 256D.051, except as provided in section
 31 256D.051, subdivision 6, and shall be included in the general
 32 assistance grant. If an adult member fails to cooperate with
 33 requirements of section 256D.051, the local agency shall not
 34 take his that member's needs into account in making the grant *
 35 determination. The time limits of section 256D.051,
 36 subdivisions 4 and 5, do not apply to people eligible under this
 37 clause.
- 38 (12) a person who has substantial barriers to employment,
 39 including but not limited to factors relating to work or
 40 training history, as determined by the local agency in
 41 accordance with permanent or emergency rules adopted by the
 42 commissioner after consultation with the commissioner of
 43 economic security;
- 44 (13) a person who is certified by the commissioner of
 45 economic security before August 1, 1985, as lacking work skills
 46 or training or as being unable to obtain work skills or training
 47 necessary to secure employment, as defined in a permanent or
 48 emergency rule adopted by the commissioner of economic security
 49 in consultation with the commissioner; or
- 50 (14) a person who is determined by the local agency, in
 51 accordance with emergency and permanent rules adopted by the
 52 commissioner, to be functionally illiterate or learning disabled.
- 53 (b) The following persons or families with income and
 54 resources that are less than the standard of assistance
 55 established by the commissioner are eligible for and entitled to
 56 a maximum of six months of general assistance during any
 57 consecutive 12-month period, after registering with and
 58 completing six months in a work readiness program under section
 59 256D.051:
- 60 (1) a person who has borderline mental retardation; and
 61 (2) a person who exhibits perceptible symptoms of mental
 62 illness as certified by a qualified professional but who is not
 63 eligible for general assistance under paragraph (a), because the
 64 mental illness interferes with the medical certification
 65 process; provided that the person cooperates with social
 66 services, treatment, or other plans developed by the local
 67 agency to address the illness.
- 68 In order to retain eligibility under this paragraph, a
 69 recipient must continue to cooperate with work and training
 70 requirements as determined by the local agency.
- 71 Subd. 1a. Repealed; 1983 c 312 art 8 s 17
- 72 Subd. 2. USE OF FEDERAL FUNDS. Notwithstanding any
 73 law to the contrary, if any person otherwise eligible for
 74 general assistance would, but for state statutory restriction or
 75 limitation, be eligible for a federally aided assistance program
 76 providing benefits equal to or greater than those of general

1 assistance, ~~he~~ the person shall be eligible for that federally
 2 aided program and ineligible for general assistance; provided,
 3 however, that (a) nothing in this section shall be construed to
 4 extend eligibility for federally aided programs to persons not
 5 otherwise eligible for general assistance; (b) this section
 6 shall not be effective to the extent that federal law or
 7 regulation require new eligibility for federal programs to
 8 persons not otherwise eligible for general assistance; and (c)
 9 nothing in this section shall deny general assistance to a
 10 person otherwise eligible who is determined ineligible for a
 11 substitute federally aided program.

12 No change for subd 3

13 Subd. 4. CONSENT TO REVIEW RECORDS. No person shall
 14 be eligible for general assistance medical care unless ~~he~~ the
 15 person has authorized the commissioner of human services in
 16 writing to examine all personal medical records developed while
 17 receiving general assistance for the purpose of investigating
 18 whether or not a vendor has submitted a claim for reimbursement,
 19 a cost report or a rate application which the vendor knows to be
 20 false in whole or in part, or in order to determine whether or
 21 not the medical care provided was medically necessary. The
 22 vendor of medical care shall receive notification from the
 23 commissioner at least 24 hours before the commissioner gains
 24 access to such records. A vendor of medical care shall require
 25 presentation of this authorization before the state agency can
 26 obtain access to such records unless the vendor already has
 27 received written authorization. Notwithstanding any other law
 28 to the contrary, a vendor of medical care shall not be subject
 29 to any civil or criminal liability for providing access to
 30 medical records to the commissioner pursuant to this subdivision.

256D#051S

31 256D.051 WORK READINESS PROGRAM.

32 No change for subd 1 to 7

33 Subd. 8. INELIGIBILITY. A person who is otherwise
 34 eligible to receive work readiness assistance under subdivision
 35 1 must be terminated from work readiness assistance ~~if he or she~~
 36 quits on quitting work without good cause, ~~is~~ being fired for
 37 misconduct, or refuses refusing to accept an offer of suitable
 38 employment.

39 No change for subd 9 to 14

256D#07S

40 256D.07 TIME OF PAYMENT OF ASSISTANCE.

41 An applicant for general assistance or general assistance
 42 medical care authorized by section 256D.03, subdivision 3 shall
 43 be deemed eligible if ~~his~~ the application and the verification
 44 of the statement on that application demonstrate that ~~he~~ the
 45 applicant is within the eligibility criteria established by
 46 sections 256D.01 to 256D.21 and any applicable rules of the
 47 commissioner. Any person requesting general assistance or
 48 general assistance medical care shall be permitted by the local
 49 agency to make an application for assistance as soon as
 50 administratively possible and in no event later than the fourth
 51 day following the date on which assistance is first requested,
 52 and no local agency shall require that a person requesting
 53 assistance appear at the offices of the local agency more than
 54 once prior to the date on which the person is permitted to make
 55 the application. The application shall be in writing in the
 56 manner and upon the form prescribed by the commissioner and
 57 attested to by the oath of the applicant or in lieu thereof
 58 shall contain the following declaration which shall be signed by
 59 the applicant: "I declare that this application has been
 60 examined by me and to the best of my knowledge and belief is a
 61 true and correct statement of every material point." On the
 62 date that general assistance is first requested, the local
 63 agency shall inquire and determine whether the person requesting
 64 assistance is in immediate need of food, shelter, clothing,
 65 assistance for necessary transportation, or other emergency
 66 assistance pursuant to section 256D.06, subdivision 2. A person
 67 in need of emergency assistance shall be granted emergency
 68 assistance immediately, and necessary emergency assistance shall
 69 continue until either the person is determined to be ineligible
 70 for general assistance or the first grant of general assistance
 71 is paid to the person. A determination of an applicant's
 72 eligibility for general assistance shall be made by the local
 73 agency as soon as the required verifications are received by the
 74 local agency and in no event later than 30 days following the

1 date that the application is made. Any verifications required
 2 of the applicant shall be reasonable, and the commissioner shall
 3 by rule establish reasonable verifications. General assistance
 4 shall be granted to an eligible applicant without the necessity
 5 of first securing action by the board of the local agency. The
 6 amount of the first grant of general assistance awarded to an
 7 applicant shall be computed to cover the time period starting
 8 with the date that assistance is first requested or if the
 9 applicant is not eligible on that date, the date on which the
 10 applicant first becomes eligible, and the first grant may be
 11 reduced by the amount of emergency general assistance provided
 12 to the applicant.

13 If upon verification and due investigation it appears that
 14 the applicant provided false information and the false
 15 information materially affected ~~his~~ the applicant's eligibility *
 16 for general assistance or general assistance medical care
 17 provided pursuant to section 256D.03, subdivision 3 or the
 18 amount of ~~his~~ the applicant's general assistance grant, the *
 19 local agency may refer the matter to the county attorney. The
 20 county attorney may commence a criminal prosecution or a civil
 21 action for the recovery of any general assistance wrongfully
 22 received, or both.

256D#09S

23 256D.09 FORM OF PAYMENT; VENDOR PAYMENTS.

24 No change for subd 1

25 Subd. 2. Notwithstanding the provisions of subdivision 1,
 26 the commissioner shall provide by rule, and may adopt emergency
 27 rules, for situations in which vouchers or vendor payments may
 28 be issued by local agencies because of the inability of the
 29 recipient to manage ~~his~~ a general assistance grant for ~~his-own~~ *
 30 personal or ~~family's~~ family benefit. *

31 No change for subd 3

32 Subd. 4. TEMPORARY SHELTER AND FOOD. The local
 33 agency may provide general assistance, emergency general
 34 assistance, or work readiness assistance in the form of vouchers
 35 or vendor payments to an applicant or recipient who does not
 36 have an a residence address ~~at which he or she resides~~. The *
 37 local agency may provide separate vouchers or vendor payments
 38 for food, shelter, and other needs and may divide the monthly
 39 assistance standard into daily or weekly payments, whether in
 40 cash or by voucher or vendor payment, until the applicant or
 41 recipient has secured a permanent residence.

256D#10S

42 256D.10 HEARINGS PRIOR TO REDUCTION; TERMINATION;
 43 SUSPENSION OF GENERAL ASSISTANCE GRANTS.

44 No grant of general assistance except one made pursuant to
 45 sections 256D.06, subdivision 2 or 256D.08, subdivision 2, shall
 46 be reduced, terminated or suspended unless the recipient
 47 receives notice and is afforded an opportunity to be heard prior
 48 to any action by the local agency.

49 Nothing herein shall deprive a recipient of ~~his~~ the right *
 50 to full administrative and judicial review of an order or
 51 determination of a local agency as provided for in section
 52 256.045 subsequent to any action taken by a local agency after a
 53 prior hearing.

256D#113S

54 256D.113 EMPLOYMENT EXPERIENCE PROGRAM.

55 No change for subd 1 to 2

56 Subd. 3. RESPONSIBILITY; COUNTY BOARDS OF
 57 COMMISSIONERS. A county may establish an employment
 58 experience program and may assign work to the recipient that ~~he~~ *
 59 ~~or she~~ the recipient is able to perform. Work performed through *
 60 this program must not displace persons currently employed or
 61 fill an established vacant position. The county must provide
 62 workers' compensation or other comparable protection for an
 63 employment experience participant. A participant is not
 64 eligible for unemployment compensation, and is not an employee
 65 of the state of Minnesota within the meaning of section 43A.02,
 66 subdivision 21.

67 No change for subd 4 to 5

256D#13S

68 256D.13 MANDAMUS TO COMPEL PAYMENT OF GENERAL ASSISTANCE.

69 Subdivision 1. Notwithstanding the provisions of section
 70 256.045 providing for administrative and judicial review of
 71 local agency determinations, a person denied general assistance
 72 by the local agency may apply to the district court of the

1 county in which ~~his~~ the person's application was filed and the *
 2 district court shall order the payment of general assistance if *
 3 the person establishes: *
 4 (1) The substantial likelihood ~~that he is eligible of~~ *
 5 eligibility for and entitled entitlement to general assistance, *
 6 and *
 7 (2) The person or family will suffer irreparable injury if *
 8 general assistance is not granted without delay. *
 9 No change for subd 2

256D#14S

10 256D.14 VIOLATIONS.
 11 Whoever obtains or attempts to obtain, or aids or abets any *
 12 person to obtain by means of a willfully false statement or *
 13 representation, or by the intentional withholding or concealment *
 14 of a material fact, or by impersonation, or other fraudulent *
 15 device: *
 16 (1) Assistance to which ~~he~~ the person is not entitled; or *
 17 (2) Assistance greater than that to which ~~he~~ the person is *
 18 reasonably entitled; *
 19 shall be considered to have violated section 256.98, and *
 20 shall be subject to both the criminal and civil penalties *
 21 provided therein.

256D#21S

22 256D.21 CONTINUATION OF RETIREMENT SYSTEM FOR FORMER *
 23 MINNEAPOLIS EMPLOYEES. *
 24 Subdivision 1. Each employee of the city of Minneapolis *
 25 who is transferred to and employed by the county under the *
 26 provisions of section 256D.20 and who is a contributing member *
 27 of a retirement system organized under the provisions of chapter *
 28 422A, shall continue to be a member of that system and entitled *
 29 to all of the benefits conferred thereby and subject to all the *
 30 restrictions of chapter 422A, unless ~~he~~ the member applies to *
 31 cancel ~~his~~ membership within six months after January 1, 1974. *
 32 No change for subd 2 to 3

256D#35S

33 256D.35 DEFINITIONS.
 34 No change for subd 1 to 4
 35 Subd. 5. "Commissioner" means the commissioner of human *
 36 services or ~~his~~ a designee. *
 37 No change for subd 6 to 8

256D#36S

38 256D.36 1973 CATEGORICAL AID RECIPIENTS; PROVISIONS FOR *
 39 SUPPLEMENTAL AID. *
 40 No change for subd 1
 41 Subd. 2. An individual eligible for supplemental aid under *
 42 this section may renounce ~~his-or-her-rights~~ the right to aid *
 43 under this section and become eligible for supplemental aid *
 44 under the provisions of section 256D.37; or, the individual may *
 45 retain eligibility under this section and have the amount of ~~his~~ *
 46 ~~or-her~~ supplemental aid recalculated pursuant to the provisions *
 47 of section 256D.38.

256D#38S

48 256D.38 RECALCULATION OF SUPPLEMENTAL AID IN CASES OF *
 49 CHANGED CIRCUMSTANCES. *
 50 A recipient of supplemental aid may, if ~~his-or-her~~ personal *
 51 circumstances change substantially after becoming a recipient of *
 52 supplemental aid, have the amount of ~~his-or-her~~ aid recalculated *
 53 in accordance with the standards set forth in section 256D.37.

256E#05S

54 256E.05 DUTIES OF COMMISSIONER OF HUMAN SERVICES.
 55 No change for subd 1
 56 Subd. 2. PLAN APPROVAL. Within 45 days after *
 57 submission of the community social services plan by the counties *
 58 pursuant to section 256E.09, subdivision 4, the commissioner *
 59 shall certify whether the plan fulfills the purposes and *
 60 requirements of section 256E.09, state and federal law and the *
 61 rules of the state agency. ~~If-the-commissioner-certifies~~ On *
 62 certifying that the plan does not do so, ~~he~~ the commissioner *
 63 shall state the reasons therefore, and the county shall have 30 *
 64 days to submit a plan amended to comply with the requirements of *
 65 the commissioner. If the county fails to resubmit a plan *
 66 amended as required by the commissioner, the commissioner shall *
 67 notify the county of ~~his~~ the intention to reduce the next *
 68 quarterly payment by an amount equal to one-third of one percent *
 69 of the county's annual entitlement for each 30 day period during *
 70 which the county fails to amend the plan as required by the

1 commissioner. The county board has the right to appeal the
2 commissioner's decision pursuant to section 256E.06, subdivision
3 10.

4 Subd. 3. ADDITIONAL DUTIES. The commissioner shall
5 also:

6 (a) Provide necessary forms and instructions to the
7 counties for plan format and information;

8 (b) Identify and then amend or repeal the portions of all
9 applicable department rules which mandate counties to provide
10 specific community social services or programs, unless state or
11 federal law requires the commissioner to mandate a service or
12 program. The commissioner shall be exempt from the rulemaking
13 provisions of chapter 14 in amending or repealing rules pursuant
14 to this clause. However, when the commissioner proposes to
15 amend or repeal any rule under the authority granted by this
16 clause, notice shall be provided by publication in the state
17 register. When the commissioner proposes to amend a rule, the
18 notice shall include that portion of the existing rule necessary
19 to provide adequate notice of the nature of the proposed
20 change. ~~When the commissioner proposes~~ On proposing to repeal *
21 an entire rule, ~~he the commissioner~~ need only publish that fact, *
22 giving the exact citation to the rule to be repealed. In all
23 cases, the notice shall contain a statement indicating that
24 interested persons may submit comment on the proposed repeal or
25 amendment for a period of 30 days after publication of the
26 notice. The commissioner shall take no final action until after
27 the close of the comment period. The commissioner's actions
28 shall not be effective until five days after the commissioner
29 publishes notice of adoption in the state register. If the
30 final action is the same as the action originally proposed,
31 publication may be made by notice in the state register that the
32 amendment and repeals have been adopted as proposed, and by
33 citing the prior publication. If the final action differs from
34 the action as previously proposed in the state register, the
35 text which differs from the original proposal shall be included
36 in the notice of adoption together with a citation to the prior
37 state register publication. The commissioner shall provide to
38 all county boards separate notice of all final actions which
39 become effective under this clause, advising the boards with
40 respect to services or programs which have now become optional,
41 to be provided at county discretion;

42 (c) Provide to the ~~chairman~~ chair of each county board, in *
43 addition to notice required pursuant to sections 14.05 to 14.36,
44 timely advance notice and a written summary of the fiscal impact
45 of any proposed new rule or changes in existing rule which will
46 have the effect of increasing county costs for community social
47 services;

48 (d) Provide training and other support services to county
49 boards to assist in needs assessment, planning, implementing,
50 and monitoring social services programs in the counties;

51 (e) Design and implement a method of monitoring and
52 evaluating the social services delivered within the state, and
53 assure compliance with applicable standards, guidelines, and the
54 county and state social services plans;

55 (f) Annually publish a report on community social services
56 which shall reflect the contents of the individual county
57 reports. The report shall be submitted to the governor and the
58 legislature with an evaluation of community social services and
59 recommendations for changes needed to fully implement state
60 social service policies; and

61 (g) Request waivers from federal programs as necessary to
62 implement sections 256E.01 to 256E.12.

256E#06S

63 256E.06 DISTRIBUTION OF STATE AIDS.

64 No change for subd 1 to 9

65 Subd. 10. APPEAL. Prior to certifying any reduction
66 in aids, the commissioner shall notify the county of ~~his~~ the *
67 intention to certify a reduction. ~~He~~ The commissioner shall *
68 notify the county of the right to a hearing. If the county
69 requests a hearing within 30 days of notification of intention
70 to reduce aids, the commissioner shall not certify any reduction
71 in aids until a hearing is conducted and a decision rendered in
72 accordance with the provisions of chapter 14 for contested cases.

73 Subd. 11. Repealed, 1981 c 355 s 34

256E#08S

74 256E.08 DUTIES OF COUNTY BOARDS.

1 No change for subd 1 to 6

2 Subd. 7. COUNTY OF FINANCIAL RESPONSIBILITY. (a)

3 Except as described in paragraphs (b) and (c), the county
4 responsible for payment for community social services is the
5 county in which the recipient of services resides at the time of
6 application if the applicant is not in a facility described in
7 section 256B.02, subdivision 2, or has never resided in this
8 state other than in such a facility. If the applicant is in a
9 facility described in section 256B.02 and has previously resided
10 in this state without being in such a facility, then the county
11 of financial responsibility is the county in which ~~he or she~~ the
12 applicant resided immediately before entering the facility. The *
13 county of financial responsibility does not change as a result *
14 of referral or approval of referral for services to another
15 county by the county of financial responsibility. Minors are
16 considered as residing in the county in which their parents or
17 guardians reside. When a minor reaches the age of 18, the
18 county of financial responsibility is the county in which the
19 minor resides. If a person continues in residential care or
20 treatment after reaching the age of 18, the county which
21 initiated the treatment is the county of financial
22 responsibility. When there is a dispute as to the county of
23 financial responsibility, the county providing or arranging for
24 services shall pay for them pending final determination of the
25 county of residence. Disputes concerning the county of
26 financial responsibility shall be settled in the manner
27 prescribed in section 256D.18, subdivision 4. When the county
28 board providing the care or service is not the county of the
29 minor's legal residence, it has a claim for recovery of costs
30 upon the county where the minor has residence.

31 (b) The county of financial responsibility for
32 detoxification services is the county where the client is when
33 the need for services is identified. If the client is a
34 resident of a chemical dependency facility, paragraph (a)
35 applies.

36 (c) The county of financial responsibility for social
37 services for a person receiving aid to families with dependent
38 children, general assistance, or medical assistance is the
39 county from which that person is receiving the aid or assistance.

40 No change for subd 8 to 10

256E#09S

41 256E.09 COMMUNITY SOCIAL SERVICE PLANS.

42 No change for subd 1 to 5

43 Subd. 6. PLAN AMENDMENT. After providing opportunity
44 for public comment, the county may amend its plan. After
45 approval of the amendment by the county board, the county shall
46 submit its amendment to the commissioner. ~~He~~ The commissioner
47 shall certify whether the amendment fulfills the purpose and *
48 requirements of law and the rules of the state agency.

256E#12S

49 256E.12 GRANTS FOR CHRONICALLY MENTALLY ILL PERSONS.

50 No change for subd 1 to 2

51 Subd. 3. The commissioner shall allocate grants under this
52 section to finance up to 90 percent of each county's costs for
53 services for chronically mentally ill persons. The commissioner
54 shall promulgate emergency and permanent rules to govern grant
55 applications, approval of applications, allocation of grants,
56 and maintenance of financial statements by grant recipients.
57 The commissioner shall require collection of data and periodic
58 reports as the commissioner deems necessary to demonstrate the
59 effectiveness of the services in helping chronically mentally
60 ill persons remain and function in their own communities. The
61 commissioner shall report to the legislature no later than
62 January 15, 1983 on the effectiveness of the experimental
63 program and ~~his~~ shall make recommendations regarding making this *
64 program an integral part of the social development programs
65 administered by counties. The experimental program shall expire
66 no later than June 30, 1987.

257*#01S

67 257.01 RECORDS REQUIRED.

68 Each person or authorized child placing agency permitted by
69 law to receive children, secure homes for children, or care for
70 children, shall keep a record containing the name, age, former
71 residence, legal status, health records, sex, race, and
72 accumulated length of time in foster care, if applicable, of
73 each child received; the name, former residence, occupation,

1 health history, and character, of each genetic parent; the date
 2 of reception, placing out, and adoption of each child, and the
 3 name, race, occupation, and residence of the person with whom a
 4 child is placed; the date of the removal of any child to another
 5 home and the reason for removal; the date of termination of the
 6 guardianship; the history of each child until ~~he~~ the child
 7 reaches the age of 18 years, is legally adopted, or is
 8 discharged according to law; and further demographic and other
 9 information as is required by the commissioner of human services.

257*#02S

10 257.02 SURRENDER OF PARENTAL RIGHTS.

11 No person other than the parents or relatives may assume
 12 the permanent care and custody of a child under 14 years of age
 13 unless authorized so to do by an order or decree of court.
 14 Except in proceedings for adoption, no parent may assign or
 15 otherwise transfer to another ~~his~~ parental rights or duties with
 16 respect to the permanent care and custody of ~~his~~ a child under
 17 14 years of age. Any such transfer shall be void.

257*#022S

18 257.022 RIGHTS OF VISITATION TO UNMARRIED PERSONS.

19 Subdivision 1. WHEN PARENT IS DECEASED. If a parent
 20 of an unmarried minor child is deceased, the parents and
 21 grandparents of the deceased parent may be granted reasonable
 22 visitation rights to the unmarried minor child during ~~his~~
 23 minority by the district or county court upon finding that
 24 visitation rights would be in the best interests of the child
 25 and would not interfere with the parent child relationship. The
 26 court shall consider the amount of personal contact between the
 27 parents or grandparents of the deceased parent and the child
 28 prior to the application.

29 Subd. 2. WHEN PARENTS' MARRIAGE IS DISSOLVED. In
 30 all proceedings for dissolution, subsequent to the commencement
 31 of the proceeding and continuing thereafter during the minority
 32 of the child, the court may, upon the request of the parent or
 33 grandparent of a party, grant reasonable visitation rights to
 34 the unmarried minor child, after dissolution of marriage, during
 35 ~~his~~ minority if it finds that visitation rights would be in the
 36 best interests of the child and would not interfere with the
 37 parent child relationship. The court shall consider the amount
 38 of personal contact between the parents or grandparents of the
 39 party and the child prior to the application.

40 Subd. 2a. WHEN CHILD HAS RESIDED WITH GRANDPARENTS.

41 If an unmarried minor has resided with ~~his~~ grandparents or
 42 great-grandparents for a period of 12 months or more, and is
 43 subsequently removed from the home by ~~his~~ the minor's parents,
 44 the grandparents or great-grandparents may petition the district
 45 or county court for an order granting them reasonable visitation
 46 rights to the child during ~~his~~ minority. The court shall grant
 47 the petition if it finds that visitation rights would be in the
 48 best interests of the child and would not interfere with the
 49 parent and child relationship.

50 No change for subd 3

257*#03S

51 257.03 NOTICE TO COMMISSIONER OF HUMAN SERVICES.

52 Any person receiving a child in ~~his~~ the person's home with
 53 intent to adopt ~~him~~ the child or keep ~~him~~ the child permanently,
 54 except a person receiving a child from an authorized agency,
 55 must notify the commissioner of human services in writing within
 56 30 days after the child is received. Notice shall state the
 57 true name of the child; ~~his~~ the child's last previous address;
 58 the name and address of ~~his~~ the child's parents or legal
 59 guardian and of persons with whom ~~he~~ the child last resided; and
 60 the names and addresses of persons who placed ~~him~~ the child in
 61 the home, arranged for, or assisted with arrangements for ~~his~~
 62 the child's placement there; and such other facts about the
 63 child or the home as the commissioner may require. It is the
 64 duty of the commissioner or ~~his~~ a designated agent to
 65 investigate the circumstances surrounding the child's entry into
 66 the home and to take appropriate action to assure for the child,
 67 the natural parents, and the foster parents the full protection
 68 of all laws of Minnesota relating to custody and foster care of
 69 children. Except as provided by section 317.65, no person shall
 70 solicit, receive, or accept any payment, promise of payment, or
 71 compensation, for placing a child in foster care or for
 72 assisting to place a child in foster care. Nor shall any person
 73 pay or promise to pay or in any way compensate any person, for

1 placing or for assisting to place a child in foster care.

257*#04S

2 257.04 INVESTIGATION.

3 Upon receipt of the notice provided for in section 257.03
4 the commissioner of human services or ~~his~~ a designated agent of
5 the commissioner shall visit the child and the home and shall
6 continue to visit and supervise the home and the child or take
7 other appropriate action to assure that the welfare of the
8 child, ~~his~~ natural parents and ~~his~~ foster parents are fully
9 protected.

257*#05S

10 257.05 IMPORTATION.

11 Subdivision 1. No person, except as provided by
12 subdivision 2, shall bring or send into the state any child for
13 the purpose of placing ~~him~~ the child out or procuring ~~his~~ the
14 child's adoption without first obtaining the consent of the
15 commissioner of human services, and such person shall conform to
16 all rules of the commissioner of human services and laws of the
17 state of Minnesota relating to protection of children in foster
18 care. ~~He~~ The person bringing or sending the child shall file
19 with the commissioner of human services a bond to the state,
20 approved by the commissioner of human services, in the penal sum
21 of \$1,000, conditioned that ~~he~~ the person will not send or bring
22 into the state any child who is incorrigible or unsound of mind
23 or body; ~~that he~~ and will remove any such child who becomes a
24 public charge or who, in the opinion of the commissioner of
25 human services, becomes a menace to the community prior to ~~his~~
26 adoption or becoming of legal age; provided however, that the
27 commissioner of human services may ~~in his discretion~~ waive the
28 filing of a bond and accept in lieu thereof a written guarantee
29 of responsibility in such form as ~~he~~ the commissioner shall
30 prescribe. Before any child shall be brought or sent into the
31 state for the purpose of ~~placing him~~ being placed in foster
32 care, the person bringing or sending the child into the state
33 shall first notify the commissioner of human services of ~~his~~ the
34 person's intention, and shall obtain from the commissioner of
35 human services a certificate stating that the home in which the
36 child is to be placed is, in the opinion of the commissioner of
37 human services, a suitable adoptive home for the child if legal
38 adoption is contemplated or that the home meets the
39 commissioner's requirements for licensing of foster homes if
40 legal adoption is not contemplated. The commissioner is
41 responsible for protecting the child's interests so long as ~~he~~
42 the child remains within the state and until ~~he~~ the child
43 reaches the age of 18 or is legally adopted. Notice to the
44 commissioner shall state the name, age, and personal description
45 of the child, and the name and address of the person with whom
46 the child is to be placed, and such other information about the
47 child and the foster home as may be required by the commissioner.

48 No change for subd 2

257*#06S

49 257.06 EXPORTATION.

50 No person except a parent or guardian may take or send a
51 child out of the state for purposes of placing ~~him~~ the child in
52 foster care without first obtaining the approval of the
53 commissioner of human services.

257*#071S

54 257.071 CHILDREN IN FOSTER HOMES; PLACEMENT; REVIEW.

55 Subdivision 1. PLACEMENT; PLAN. A case plan shall be
56 prepared within 30 days after any child is placed in a
57 residential facility by court order or by the voluntary release
58 of the child by ~~his~~ the parent or parents.

59 For purposes of this section, a residential facility means
60 any group home, family foster home or other publicly supported
61 out-of-home residential facility, including any out-of-home
62 residential facility under contract with the state, county or
63 other political subdivision, or any agency thereof, to provide
64 those services.

65 For the purposes of this section, a case plan means a
66 written document which is ordered by the court or which is
67 prepared by the social service agency responsible for the
68 residential facility placement and is signed by the parent or
69 parents, or other custodian, of the child, the child's legal
70 guardian, the social service agency responsible for the
71 residential facility placement, and, if possible, the child.
72 The document shall be explained to all persons involved in its

1 implementation, including the child who has signed the document,
2 and shall set forth:

3 (1) The specific reasons for the placement of the child in
4 a residential facility, including a description of the problems
5 or conditions in the home of the parent or parents which
6 necessitated removal of the child from ~~his~~ home; *

7 (2) The specific actions to be taken by the parent or
8 parents of the child to eliminate or correct the problems or
9 conditions identified in clause (1), and the time period during
10 which the actions are to be taken;

11 (3) The financial responsibilities and obligations, if
12 any, of the parents for the support of the child during the
13 period the child is in the residential facility;

14 (4) The visitation rights and obligations of the parent or
15 parents during the period the child is in the residential
16 facility;

17 (5) The social and other supportive services to be
18 provided to the parent or parents of the child, the child, and
19 the residential facility during the period the child is in the
20 residential facility;

21 (6) The date on which the child is expected to be returned
22 to the home of ~~his~~ the parent or parents; *

23 (7) The nature of the effort to be made by the social
24 service agency responsible for the placement to reunite the
25 family; and

26 (8) Notice to the parent or parents that placement of the
27 child in foster care may result in termination of parental
28 rights but only after notice and a hearing as provided in
29 chapter 260.

30 The parent or parents and the child each shall have the
31 right to legal counsel in the preparation of the case plan and
32 shall be informed of the right at the time of placement of the
33 child. The child shall also have the right to a guardian ad
34 litem. If unable to employ counsel from their own resources,
35 the court shall appoint counsel upon the request of the parent
36 or parents or the child or ~~his~~ the child's legal guardian. The
37 parent or parents may also receive assistance from any person or
38 social service agency in preparation of the case plan. *

39 After the plan has been agreed upon by the parties
40 involved, the foster parents shall be fully informed of the
41 provisions of the case plan.

42 No change for subd 1a

43 Subd. 2. SIX MONTH REVIEW OF PLACEMENTS. There shall
44 be an administrative review of the case plan of each child
45 placed in a residential facility no later than 180 days after
46 the initial placement of the child in a residential facility and
47 at least every six months thereafter if the child is not
48 returned to the home of ~~his~~ the parent or parents within that
49 time. As an alternative to the administrative review, the
50 social service agency responsible for the placement may bring a
51 petition as provided in section 260.131, subdivision 1a, to the
52 court for review of the foster care to determine if placement is
53 in the best interests of the child. This petition must be
54 brought to the court within the applicable six months and is not
55 in lieu of the requirements contained in subdivision 3 or 4. *

56 Subd. 3. REVIEW OF VOLUNTARY PLACEMENTS. Subject to
57 the provisions of subdivision 4, if the child has been placed in
58 a residential facility pursuant to a voluntary release by ~~his~~ *
59 the parent or parents, and is not returned ~~to-his~~ *
60 months after ~~his~~ initial placement in the residential facility, *
61 the social service agency responsible for the placement shall: *

62 (a) Return the child to the home of ~~his~~ the parent or
63 parents; or *

64 (b) File an appropriate petition pursuant to section
65 260.131, subdivision 1, or 260.231, and if the petition is
66 dismissed, petition the court within two years, pursuant to
67 section 260.131, subdivision 1a, to determine if the placement
68 is in the best interests of the child.

69 No change for subd 4 to 6

257*#351S

70 257.351 DEFINITIONS.

71 No change for subd 1 to 2

72 Subd. 3. CHILD PLACEMENT PROCEEDING. "Child
73 placement proceeding" includes a judicial proceeding which could
74 result in the following:

75 (a) "Adoptive placement" means the permanent placement of

1 an Indian child for adoption, including an action resulting in a
2 final decree of adoption.

3 (b) "Involuntary foster care placement" means an action
4 removing an Indian child from ~~his-or-her~~ its parents or Indian *
5 custodian for temporary placement in a foster home, institution,
6 or the home of a guardian. The parent or Indian custodian
7 cannot have the child returned upon demand, but parental rights
8 have not been terminated.

9 (c) "Preadoptive placement" means the temporary placement
10 of an Indian child in a foster home or institution after the
11 termination of parental rights, before or instead of adoptive
12 placement.

13 (d) "Termination of parental rights" means an action
14 resulting in the termination of the parent-child relationship
15 under section 260.221.

16 The terms include placements based upon juvenile status
17 offenses, but do not include a placement based upon an act which
18 if committed by an adult would be deemed a crime, or upon an
19 award of custody in a divorce proceeding to one of the parents.

20 No change for subd 4 to 16

21 Subd. 17. VOLUNTARY FOSTER CARE PLACEMENT.

22 "Voluntary foster care placement" means a decision in which
23 there has been participation by a local social service agency or
24 private child placing agency resulting in the temporary
25 placement of an Indian child away from the home of ~~his-or-her~~ *
26 the child's parents or Indian custodian in a foster home, *
27 institution, or the home of a guardian, and the parent or Indian
28 custodian may have the child returned upon demand.

257*#52S

29 257.52 PARENT AND CHILD RELATIONSHIP DEFINED.

30 As used in sections 257.51 to 257.74, "parent and child
31 relationship" means the legal relationship existing between a
32 child and ~~his~~ the child's natural or adoptive parents incident *
33 to which the law confers or imposes rights, privileges, duties,
34 and obligations. It includes the mother and child relationship
35 and the father and child relationship.

257*#57S

36 257.57 DETERMINATION OF FATHER AND CHILD RELATIONSHIP;
37 WHO MAY BRING ACTION; WHEN ACTION MAY BE BROUGHT.

38 Subdivision 1. A child, ~~his~~ the child's natural mother, or *
39 a man presumed to be ~~his~~ the child's father under section *
40 257.55, subdivision 1, clause (a), (b), or (c) may bring an
41 action:

42 (a) At any time for the purpose of declaring the existence
43 of the father and child relationship presumed under section
44 257.55, subdivision 1, clause (a), (b), or (c); or

45 (b) For the purpose of declaring the nonexistence of the
46 father and child relationship presumed under section 257.55,
47 subdivision 1, clause (a), (b), or (c) only if the action is
48 brought within a reasonable time after the person bringing the
49 action has obtained knowledge of relevant facts, but in no event
50 later than three years after the child's birth. After the
51 presumption has been rebutted, paternity of the child by another
52 man may be determined in the same action, if he has been made a
53 party.

54 No change for subd 2 to 6

257*#63S

55 257.63 EVIDENCE RELATING TO PATERNITY.

56 No change for subd 1

57 Subd. 2. Upon refusal of a witness, including a party, to *
58 testify under oath or produce evidence, the court may order ~~him~~ *
59 the party to testify under oath and produce evidence concerning *
60 all relevant facts. If the refusal is upon the grounds that ~~his~~ *
61 the testimony or evidence might tend to incriminate ~~him~~ the *
62 party, the court may grant ~~him~~ the party immunity from all *
63 criminal liability on account of the testimony or evidence ~~he~~ *
64 the party is required to produce. An order granting immunity *
65 bars prosecution of the witness for any offense shown, in whole *
66 or in part, by testimony or evidence which ~~he~~ the party is *
67 required to produce, except for perjury committed in ~~his~~ the *
68 testimony. The refusal of a witness, who has been granted *
69 immunity, to obey an order to testify or produce evidence is *
70 subject to the sanctions within the jurisdiction of the court.

71 No change for subd 3

257*#64S

72 257.64 PRE-TRIAL ORDERS AND RECOMMENDATIONS.

1 Subdivision 1. On the basis of the information produced at
2 the pretrial hearing, including information as to the financial
3 status of the parties, the court may:

4 (a) recommend that the alleged father voluntarily
5 acknowledge his paternity of the child if the parties have
6 agreed on a financial settlement; or

7 (b) recommend that the matter be compromised by an
8 agreement among the alleged father, the mother, and the child,
9 in which the father and child relationship is not determined but
10 in which a defined economic obligation is undertaken by the
11 alleged father in favor of the child and, if appropriate, in
12 favor of the mother, subject to approval by the court. In
13 reviewing the obligation undertaken by the alleged father in a
14 compromise agreement, the court shall consider the best interest
15 of the child, in the light of the applicable factors enumerated
16 in section 518.17, subdivision 3, discounted by the
17 improbability, as it appears to the court, of establishing the
18 alleged father's paternity or nonpaternity of the child in a
19 trial of the action. In the best interest of the child, the
20 court may order that the alleged father's identity be kept
21 confidential. In that case, the court may designate a person or
22 agency to receive from the alleged father and disburse on behalf
23 of the child all amounts paid by the alleged father in
24 fulfillment of obligations imposed on him. When The
25 child reaches, on reaching 21 years of age or older he, may
26 petition the court to disclose the alleged father's identity.
27 The court shall grant the petition if after considering the
28 interests of all known persons involved, the court determines
29 that disclosure of the information would be of greater benefit
30 than nondisclosure.

31 No change for subd 2 to 5

257*#67S

32 257.67 ENFORCEMENT OF JUDGMENT OR ORDER.

33 Subdivision 1. If existence of the parent and child
34 relationship is declared, or parentage or a duty of support has
35 been acknowledged or adjudicated under sections 257.51 to 257.74
36 or under prior law, the obligation of the non-custodial parent
37 may be enforced in the same or other proceedings by the
38 custodial parent, the child, the public authority that has
39 furnished or may furnish the reasonable expenses of pregnancy,
40 confinement, education, support, or funeral, or by any other
41 person, including a private agency, to the extent he that person
42 has furnished or is furnishing these expenses.

43 No change for subd 2 to 3

259*#10S

44 259.10 PROCEDURE.

45 A person who shall have resided in any county for one year
46 may apply to the district court thereof to have-his change the
47 person's name, the names of his minor children, if any, and the
48 name of his a spouse, if the spouse joins in the application,
49 changed in the manner herein specified. He The person shall
50 state in his the application the name and age of his the spouse
51 and each of his the children, if any, and shall describe all
52 lands in the state in or upon which he the person, his the
53 children and his the spouse if their names are also to be
54 changed by the application, claim any interest or lien, and
55 shall appear personally before the court and prove his identity
56 by at least two witnesses. If he the person be a minor, the
57 application shall be made by his a guardian or next of kin.
58 Every person who, with intent to defraud, shall make a false
59 statement in any such application shall be guilty of a
60 misdemeanor provided, however, that no minor child's name may be
61 changed without both of-his parents having notice of the pending
62 of the application for change of name, whenever practicable, as
63 determined by the court.

259*#11S

64 259.11 ORDER; FILING COPIES.

65 Upon meeting the requirements of section 259.10, the court
66 shall grant the application unless it finds that there is an
67 intent to defraud or mislead or in the case of the change of a
68 minor child's name, the court finds that such name change is not
69 in the best interests of the child. The court shall set forth
70 in the order the name and age of his the applicant's spouse and
71 each child of the applicant, if any, and shall state a
72 description of the lands, if any, in which the applicant and his
73 the spouse and children, if any, claim to have an interest. The

1 clerk shall file such order, and record the same in the judgment
 2 book. If lands be described therein, a certified copy of the
 3 order shall be filed for record, by the clerk, with the county
 4 recorder of each county wherein any of the same are situated.
 5 Before doing so ~~he~~ the clerk shall present the same to the
 6 county auditor who shall enter the change of name in ~~his~~ the
 7 auditor's official records and note upon the instrument,
 8 over ~~his~~ an official signature, the words "change of name
 9 recorded." Any such order shall not be filed, nor any certified
 10 copy thereof be issued, until the applicant shall have paid to
 11 the clerk the cost of such record. The fee of the clerk shall
 12 be as provided by law. No application shall be denied on the
 13 basis of the marital status of the applicant.

*
*
*

259*#21S

14 259.21 DEFINITIONS.

15 No change for subd 1 to 6

16 Subd. 7. PETITIONER. "Petitioner" means a person

17 ~~and his~~ with spouse, if there be one, petitioning for the
 18 adoption of any person or persons pursuant to sections 259.21 to
 19 259.32.

*

259*#22S

20 259.22 PETITION.

21 No change for subd 1

22 Subd. 2. No petition for adoption shall be filed unless
 23 the child sought to be adopted has been placed by the
 24 commissioner of human services, ~~his~~ the commissioner's agent, or
 25 a licensed child-placing agency. The provisions of this
 26 subdivision shall not apply if

*

27 (a) the child is over 14 years of age;

28 (b) the child is sought to be adopted by a step-parent;

29 (c) the child is sought to be adopted by a relative related
 30 by blood or marriage within the third degree;

31 (d) the child has been lawfully placed under the laws of
 32 another state while the child and petitioner resided in that
 33 other state; or

34 (e) the court waives the requirement of placement in the
 35 best interests of the child or petitioners.

36 No change for subd 3

259*#23S

37 259.23 JUVENILE COURT, JURISDICTION.

38 No change for subd 1

39 Subd. 2. CONTENTS OF PETITION. The petition shall
 40 be signed by the petitioner and, if married, by ~~his~~ the spouse.
 41 It shall be verified, and filed in duplicate. The petition
 42 shall allege:

*

43 (a) The full name, age and place of residence of
 44 petitioner, and if married, the date and place of marriage;

45 (b) The date petitioner acquired physical custody of the
 46 child and from what person or agency;

47 (c) The date of birth of the child, if known, and the state
 48 and county where born;

49 (d) The name of the child's parents, if known, and the
 50 guardian if there be one;

51 (e) The actual name of the child, if known, and any known
 52 aliases;

53 (f) The name to be given the child if a change of name is
 54 desired;

55 (g) The description and value of any real or personal
 56 property owned by the child;

57 (h) That the petitioner desires that the relationship of
 58 parent and child be established between petitioner and the
 59 child, and that it is to the best interests of the child for the
 60 child to be adopted by the petitioner.

61 In agency placements, the information required in clauses
 62 (d) and (e) above shall not be required to be alleged in the
 63 petition but shall be transmitted to the court by the
 64 commissioner of human services.

65 No change for subd 3

259*#24S

66 259.24 CONSENTS.

67 No change for subd ,1

68 Subd. 2. PARENTS, GUARDIAN. If an unmarried parent
 69 who consents to the adoption of a child is under 18 years of
 70 age, the consent of ~~his~~ the minor parent's parents or guardian,
 71 if any, also shall be required; if either or both the parents
 72 are disqualified for any of the reasons enumerated in

*

1 subdivision 1, the consent of such parent shall be waived, and
 2 the consent of the guardian only shall be sufficient; and, if
 3 there be neither parent nor guardian qualified to give such
 4 consent, the consent may be given by the commissioner. The
 5 agency overseeing the adoption proceedings shall ensure that the
 6 minor parent is offered the opportunity to consult with an
 7 attorney, a clergyman member of the clergy or a physician before
 8 consenting to adoption of the child. The advice or opinion of
 9 the attorney, clergyman clergy member or physician shall not be
 10 binding on the minor parent. If the minor parent cannot afford
 11 the cost of consulting with an attorney, clergyman a member of
 12 the clergy or physician, the county shall bear that cost.

*
*
*
*

13 Subd. 3. CHILD. When the child to be adopted is
 14 over 14 years of age, his the child's written consent also shall
 15 be necessary.

*

16 Subd. 4. ADULT ADOPTEE. In the adoption of an
 17 adult, his the adult's written consent only shall be required.

*

18 Subd. 5. EXECUTION. All consents to an adoption,
 19 except those by the commissioner, his the commissioner's agent,
 20 a licensed child-placing agency, or the child's parent when that
 21 parent is either a co-petitioner in the adoption proceeding or
 22 does not have custody of the child, shall be executed before a
 23 representative of the commissioner, his the commissioner's agent
 24 or a licensed child-placing agency. In addition all consents to
 25 an adoption shall be in writing and shall contain notice to the
 26 parent of the substance of subdivision 6a, providing for the
 27 right to withdraw consent. Consents shall be executed before
 28 two competent witnesses and acknowledged by the consenting party.
 29 Consents shall be filed in the adoption proceedings at any time
 30 before the matter is heard provided, however, that a consent
 31 executed and acknowledged outside of this state, either in
 32 accordance with the law of this state or in accordance with the
 33 law of the place where executed, is valid.

*
*
*

34 Subd. 6. Repealed, 1980 c 561 s 14

35 No change for subd 6a to 8

259*#25S

36 259.25 AGREEMENT CONFERRING AUTHORITY TO PLACE FOR
 37 ADOPTION.

38 Subdivision 1. CONSENTS REQUIRED. The parents and
 39 guardian, if there be one, of a child may enter into a written
 40 agreement with the commissioner of human services or an agency,
 41 giving the commissioner or such agency authority to place the
 42 child for adoption. If an unmarried parent is under the age of
 43 18 years the written consent of his the parents and guardian, if
 44 any, of the minor parent also shall be required; if either or
 45 both of the parents are disqualified from giving such consent
 46 for any of the reasons enumerated in section 259.24, subdivision
 47 1, then the written consent of the guardian shall be required.
 48 The agreement and consent shall be in the form prescribed by the
 49 commissioner and shall contain notice to the parent of the
 50 substance of subdivision 2a providing for the right to revoke
 51 the agreement. The agreement shall be executed by the
 52 commissioner or agency, or one of their authorized agents, and
 53 all other necessary parties, and shall be filed, together with
 54 the consent, in the proceedings for the adoption of the child.

*
*

55 Subd. 2. Repealed, 1980 c 561 s 14

56 No change for subd 2a

259*#26S

57 259.26 NOTICE, HEARING ON PETITION.

58 No change for subd 1

59 Subd. 2. SERVICE. Such notice shall be served,
 60 within or without the state, at least 14 days before the date of
 61 the hearing, in the manner provided by law for the service of a
 62 summons in a civil action. If personal service cannot be made,
 63 the court may order service by publication. The petitioner or
 64 his petitioner's attorneys shall make an affidavit setting forth
 65 the effort that was made to locate the parents, and the names
 66 and addresses of the known kin of the child. If satisfied that
 67 the parents cannot be served personally, the court shall order
 68 three weeks published notice to be given, the last publication
 69 to be at least ten days before the time set for the hearing.
 70 Where service is made by publication the court may cause such
 71 further notice to be given as it deems just. If, in the course
 72 of the proceedings, the court shall consider that the interests
 73 of justice will be promoted it may continue the proceeding and
 74 require that such notice as it deems proper shall be served on

*

1 any person. In the course of proceedings the court may enter
2 reasonable orders for the protection of the child if the court
3 determines that the best interests of the child require such an
4 order.

5 No change for subd 3

259*#261S

6 259.261 RETENTION OF RIGHTS.

7 Subdivision 1. NOTICE BY ILLEGITIMATE PARENT. Any
8 person not entitled to notice under section 259.26, shall lose
9 his parental rights and not be entitled to notice at *
10 termination, adoption, or other proceedings affecting the child,
11 unless within 90 days of the child's birth or within 60 days of
12 the child's placement with prospective adoptive parents,
13 whichever is sooner, that person gives to the division of vital
14 statistics of the Minnesota department of health an affidavit
15 stating his intention to retain parental rights. *

16 No change for subd 2 to 3

259*#27S

17 259.27 PETITION; INVESTIGATIONS; REPORTS.

18 Subdivision 1. COMMISSIONER'S DUTIES. Upon the
19 filing of a petition for adoption of a child the clerk of court
20 shall immediately transmit a copy of the petition to the
21 commissioner of human services. The commissioner shall verify
22 the allegations of the petition, investigate the conditions and
23 antecedents of the child for the purpose of ascertaining whether
24 he the child is a proper subject for adoption, and make *
25 appropriate inquiry to ascertain whether the proposed foster
26 home and the child are suited to each other and whether the
27 proposed foster home meets the preferences described in section
28 259.28, subdivision 2. The report of the county welfare board
29 submitted to the commissioner of human services bearing on the
30 suitability of the proposed foster home and the child to each
31 other shall be confidential, and the records of the county
32 welfare board or the contents thereof shall not be disclosed
33 either directly or indirectly to any person other than the
34 commissioner of human services or a judge of the court having
35 jurisdiction of the matter. Within 90 days after the receipt of
36 said copy of the petition the commissioner shall submit to the
37 court a full report in writing with his recommendations as to *
38 the granting of the petition. If such report is not returned
39 within the 90 days, without fault of petitioner, the court may
40 hear the petition upon giving the commissioner five days notice
41 by mail of the time and place of the hearing. If such report
42 disapproves of the adoption of the child, the commissioner may
43 recommend that the court dismiss the petition.

44 No change for subd 2

45 Subd. 3. REPORTS AND RECORDS; CONFIDENTIAL. All
46 reports and records of the commissioner of human services,
47 county welfare board, or child placing agency bearing on the
48 suitability of the proposed adoptive home and the child to each
49 other shall be confidential, and the contents thereof shall not
50 be disclosed either directly or indirectly to any person other
51 than the commissioner of human services or a judge of the court
52 having jurisdiction of the matter, provided, however, that a
53 judge of the court having jurisdiction of the matter may, in his *
54 discretion, disclose any such report or record to a party to the *
55 proceedings or his the party's counsel when such report or *
56 record disapproves the granting of the adoption petition.

57 No change for subd 4 to 5

259*#31S

58 259.31 HEARINGS, CONFIDENTIAL.

59 All hearings held in proceedings under sections 259.21 to
60 259.32 shall be confidential and shall be held in closed court
61 without admittance of any persons other than the petitioners,
62 their witnesses, the commissioner of human services or an
63 agency, or their authorized representatives, attorneys, and
64 persons entitled to notice by sections 259.21 to 259.32, except
65 by order of the court. The files and records of the court in
66 adoption proceedings shall not be open to inspection by any
67 person except the commissioner of human services or his the *
68 commissioner's representatives, or upon an order of the court *
69 expressly so permitting pursuant to a petition setting forth the
70 reasons therefor.

259*#40S

71 259.40 SUBSIDIZED ADOPTION PROGRAM.

72 Subdivision 1. SUBSIDY PAYMENTS. The commissioner of

1 human services may make subsidy payments as ~~he~~ the commissioner *

2 deems necessary to families who adopt a child under state

3 guardianship or a Minnesota resident from a licensed child

4 placing agency after the adoptive placement of the child. The

5 subsidy payments shall be based on the needs of the child.

6 No change for subd 2 to 10

259*#45S

7 259.45 STATE ADOPTION EXCHANGE.

8 No change for subd 1 to 4

9 Subd. 5. A child's registration shall be withdrawn when

10 the exchange service has been notified in writing by the

11 authorized child placing agency that the child has been adopted,

12 has ~~reached-his-or-her-14th-birthday~~ become 14 years old and *

13 will not consent to an adoption plan, or has died.

14 No change for subd 6 to 9

259*#46S

15 259.46 ADOPTION RECORDS.

16 Subdivision 1. CONTENT. The adoption records of the

17 commissioner, ~~his~~ the commissioner's agents and licensed child *

18 placing agencies shall contain copies of all relevant legal

19 documents, responsibly collected genetic, medical and social

20 history of the child and ~~his~~ the child's genetic parents, the *

21 child's placement record, copies of all pertinent agreements,

22 contracts, and correspondence relevant to the adoption, and

23 copies of all reports and recommendations made to the court.

24 Identifying information contained in the adoption record shall

25 be confidential and shall be disclosed only pursuant to section

26 259.31.

27 No change for subd 2 to 3

259*#47S

28 259.47 POST-ADOPTION SERVICES.

29 No change for subd 1 to 2

30 Subd. 3. IDENTIFYING INFORMATION. In agency adoptive

31 placements made on and after August 1, 1982, the agency

32 responsible for the placement shall obtain from the genetic

33 parents named on the original birth certificate an affidavit

34 attesting to the following:

35 (a) That the genetic parent has been informed of the right

36 of the adopted person at the age specified in section 259.49 to

37 request from the agency the name, last known address, birthdate

38 and birthplace of the genetic parents named on the adopted

39 person's original birth certificate;

40 (b) That each genetic parent may file in the agency record

41 an affidavit objecting to the release of any or all of the

42 information listed in clause (a) about that genetic parent, and

43 that parent only ~~about-himself~~, to the adopted person; *

44 (c) That if the genetic parent does not file an affidavit

45 objecting to release of information before the adopted person

46 reaches the age specified in section 259.49, the agency will

47 provide the adopted person with the information upon request;

48 (d) That notwithstanding the filing of an affidavit, the

49 adopted person may petition the court pursuant to section 259.31

50 for release of identifying information about a genetic parent;

51 (e) That the genetic parent shall then have the opportunity

52 to present evidence to the court that nondisclosure of

53 identifying information is of greater benefit to the genetic

54 parent than disclosure to the adopted person; and

55 (f) That any objection filed by the genetic parent shall

56 become invalid when withdrawn by the genetic parent or when the

57 genetic parent dies. Upon receipt of a death certificate for

58 the genetic parent, the agency shall release the identifying

59 information to the adopted person if requested.

60 No change for subd 4 to 5

259*#49S

61 259.49 ACCESS TO ADOPTION RECORDS.

62 No change for subd 1

63 Subd. 2. SEARCH. Within six months after receiving

64 notice of the request of the adopted person, the commissioner of

65 human services shall make complete and reasonable efforts to

66 notify each parent identified on the original birth certificate

67 of the adopted person. The commissioner may charge a reasonable

68 fee to the adopted person for the cost of making a search

69 pursuant to this subdivision. Every licensed child placing

70 agency in the state shall cooperate with the commissioner of

71 human services in ~~his~~ efforts to notify an identified parent. *

72 All communications under this subdivision are confidential

1 pursuant to section 13.02, subdivision 3.

2 For purposes of this subdivision, "notify" means a personal
3 and confidential contact with the genetic parents named on the
4 original birth certificate of the adopted person. The contact
5 shall not be by mail and shall be by an employee or agent of the
6 licensed child placing agency which processed the pertinent
7 adoption or some other licensed child placing agency designated
8 by the commissioner of human services. The contact shall be
9 evidenced by filing with the commissioner of health an affidavit
10 of notification executed by the person who notified each parent
11 certifying that each parent was given the following information:

12 (a) The nature of the information requested by the adopted
13 person;

14 (b) The date of the request of the adopted person;

15 (c) The right of the parent to file, within 120 days of
16 receipt of the notice, an affidavit with the commissioner of
17 health stating that the information on the original birth
18 certificate should not be disclosed;

19 (d) The right of the parent to file a consent to disclosure
20 with the commissioner of health at any time; and

21 (e) The effect of a failure of the parent to file either a
22 consent to disclosure or an affidavit stating that the
23 information on the original birth certificate should not be
24 disclosed.

25 Subd. 3. FAILURE TO NOTIFY PARENT. If the
26 commissioner of human services certifies to the commissioner of
27 health ~~that he has been unable~~ an inability to notify a parent *
28 identified on the original birth certificate within six months,
29 and if neither identified parent has at any time filed an
30 unrevoked consent to disclosure with the commissioner of health,
31 the information may be disclosed as follows:

32 (a) If the person was adopted prior to August 1, 1977, ~~he~~ *
33 the person may petition the appropriate court for disclosure of *
34 ~~his~~ the original birth certificate pursuant to section 259.31, *
35 and the court shall grant the petition if, after consideration
36 of the interests of all known persons involved, the court
37 determines that disclosure of the information would be of
38 greater benefit than nondisclosure.

39 (b) If the person was adopted on or after August 1, 1977,
40 the commissioner of health shall release the requested
41 information to the adopted person.

42 If either parent identified on the birth certificate has at
43 any time filed with the commissioner of health an unrevoked
44 affidavit stating that the information on the original birth
45 certificate should not be disclosed, the commissioner of health
46 shall not disclose the information to the adopted person until
47 the affidavit is revoked by the filing of a consent to
48 disclosure by that parent.

49 Subd. 4. RELEASE OF INFORMATION AFTER NOTICE. If,
50 within six months, the commissioner of human services certifies
51 to the commissioner of health ~~that he has notified~~ notification *
52 of each parent identified on the original birth certificate *
53 pursuant to subdivision 2, the commissioner of health shall
54 disclose the information requested by the adopted person 121
55 days after the date of the latest notice to either parent. This
56 disclosure will occur if, at any time during the 121 days both
57 of the parents identified on the original birth certificate have
58 filed a consent to disclosure with the commissioner of health
59 and neither consent to disclosure has been revoked by the
60 subsequent filing by a parent of an affidavit stating that the
61 information should not be disclosed.

62 Subd. 5. DEATH OF PARENT. Notwithstanding the
63 provisions of subdivisions 3 and 4, if a parent named on the
64 original birth certificate of an adopted person has died, and at
65 any time prior to ~~his~~ the death the parent has filed an *
66 unrevoked affidavit with the commissioner of health stating that
67 the information on the original birth certificate should not be
68 disclosed, the adopted person may petition the court of original
69 jurisdiction of the adoption proceeding for disclosure of ~~his~~ *
70 the original birth certificate pursuant to section 259.31. The *
71 court shall grant the petition if, after consideration of the
72 interests of all known persons involved, the court determines
73 that disclosure of the information would be of greater benefit
74 than nondisclosure.

260*#011S

75 260.011 TITLE, INTENT, AND CONSTRUCTION.

1 No change for subd 1

2 Subd. 2. The purpose of the laws relating to juvenile
3 courts is to secure for each child alleged or adjudicated
4 neglected or dependent and under the jurisdiction of the court,
5 the care and guidance, preferably in ~~his~~ the child's own home, *
6 as will serve the spiritual, emotional, mental, and physical
7 welfare of the child and the best interests of the state; to
8 provide judicial procedures which protect the welfare of the
9 child; to preserve and strengthen the child's family ties
10 whenever possible, removing ~~him~~ the child from the custody of *
11 ~~his~~ parents only when ~~his~~ the child's welfare or safety cannot *
12 be adequately safeguarded without removal; and, when ~~the-child~~ *
13 ~~is-removed~~ removal from ~~his~~ the child's own family is *
14 necessary, to secure for ~~him~~ the child custody, care and *
15 discipline as nearly as possible equivalent to that which should *
16 have been given by ~~his~~ the parents. *

17 The purpose of the laws relating to children alleged or
18 adjudicated to be delinquent is to promote the public safety and
19 reduce juvenile delinquency by maintaining the integrity of the
20 substantive law prohibiting certain behavior and by developing
21 individual responsibility for lawful behavior. This purpose
22 should be pursued through means that are fair and just, that
23 recognize the unique characteristics and needs of children, and
24 that give children access to opportunities for personal and
25 social growth.

26 The laws relating to juvenile courts shall be liberally
27 construed to carry out these purposes.

260*#015S

28 260.015 DEFINITIONS.

29 No change for subd 1 to 5

30 Subd. 6. "Dependent child" means a child:

31 (a) Who is without a parent, guardian, or other custodian;

32 or

33 (b) Who is in need of special care and treatment required
34 by ~~his~~ a physical or mental condition and whose parent, *
35 guardian, or other custodian is unable to provide it; or

36 (c) Whose parent, guardian, or other custodian for good
37 cause desires to be relieved of ~~his~~ the child's care and *
38 custody; or

39 (d) Who is without proper parental care because of the
40 emotional, mental, or physical disability, or state of
41 immaturity of ~~his~~ the child's parent, guardian, or other *
42 custodian.

43 No change for subd 7 to 9

44 Subd. 10. "Neglected child" means a child:

45 (a) who is abandoned by ~~his~~ a parent, guardian, or other *
46 custodian; or

47 (b) who is without proper parental care because of the
48 faults or habits of ~~his~~ a parent, guardian, or other custodian; *
49 or

50 (c) who is without necessary subsistence, education or
51 other care necessary for ~~his~~ physical or mental health or morals *
52 because ~~his~~ the parent, guardian or other custodian neglects or *
53 refuses to provide it; or

54 (d) who is without the special care made necessary by ~~his~~ a *
55 physical or mental condition because ~~his~~ the parent, guardian, *
56 or other custodian neglects or refuses to provide it; or

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

70 (1) the infant is chronically and irreversibly comatose;

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

75 (3) the provision of the treatment would be virtually

1 futile in terms of the survival of the infant and the treatment
 2 itself under the circumstances would be inhumane; or
 3 (f) whose occupation, behavior, condition, environment or
 4 associations are such as to be injurious or dangerous to ~~himself~~ *
 5 the child or others; or *
 6 (g) who is living in a facility for foster care which is
 7 not licensed as required by law, unless the child is living in
 8 the facility under court order; or
 9 (h) whose parent, guardian, or custodian has made
 10 arrangements for ~~his~~ the child's placement in a manner *
 11 detrimental to the welfare of the child or in violation of law;
 12 or
 13 (i) who comes within the provisions of subdivision 5, but
 14 whose conduct results in whole or in part from parental neglect.
 15 No change for subd 11 to 18
 16 Subd. 19. HABITUAL TRUANT. "Habitual truant" means a
 17 child under the age of 16 years ~~absenting-himself~~ who is absent *
 18 from attendance at school without lawful excuse for seven school
 19 days if the child is in elementary school or for one or more
 20 class periods on seven school days if the child is in middle
 21 school, junior high school, or high school.
 22 Subd. 20. RUNAWAY. "Runaway" means an unmarried
 23 child under the age of 18 years who ~~absents-himself~~ is absent *
 24 from the home of ~~his~~ a parent or other lawful placement without *
 25 the consent of ~~his~~ the parent, guardian, or lawful custodian. *
 26 Subd. 21. JUVENILE PETTY OFFENDER; JUVENILE PETTY
 27 OFFENSE. A "juvenile petty offense" is a violation of section
 28 609.685 or violation of a local ordinance, other than a juvenile
 29 alcohol or controlled substance offense, which by its terms
 30 prohibits conduct by a child under the age of 18 years which
 31 would be lawful conduct if committed by an adult or where a
 32 child is uncontrolled by ~~his-or-her~~ a parent, guardian, or other *
 33 custodian by reason of being wayward or habitually disobedient. *
 34 A child who commits a juvenile petty offense is a "juvenile
 35 petty offender."
 36 No change for subd 22 to 25
 260*#019S
 37 260.019 JUVENILE COURT; HENNEPIN AND RAMSEY COUNTIES.
 38 No change for subd 1 to 2
 39 Subd. 3. The chief judge shall designate any judge to hear
 40 cases arising under sections 260.011 to 260.301 as ~~his~~ a *
 41 principal or exclusive assignment for no more than six years out
 42 of any 12 year period.
 43 No change for subd 4
 260*#022S
 44 260.022 ST. LOUIS COUNTY JUVENILE COURT, DESIGNATION;
 45 JUDGES; LOCATION.
 46 No change for subd 1 to 3
 47 Subd. 4. The chief judge of the probate court of the
 48 county of Saint Louis shall designate one of the judges of such
 49 court to serve as the judge of the juvenile court division to
 50 hear all cases arising thereunder pursuant to Minnesota Statutes
 51 1967, Chapter 260, and any other law relating to juveniles.
 52 Such assignment shall be for one year unless otherwise ordered.
 53 The judge designated as the judge of the juvenile court division
 54 shall devote all time required to the business of that division
 55 and ~~his~~ work in connection therewith shall be disposed of before *
 56 ~~he~~ the judge engages in any other work of the probate court. *
 57 No change for subd 5
 260*#023S
 58 260.023 CLERK OF ST. LOUIS COUNTY JUVENILE COURT.
 59 The clerk of the probate court of Saint Louis county is
 60 also the clerk of the juvenile court. ~~He~~ The clerk may appoint *
 61 deputy clerks to serve at Duluth, Virginia, and Hibbing with the
 62 approval of the juvenile judge.
 260*#031S
 63 260.031 REFEREE.
 64 No change for subd 1 to 2
 65 Subd. 3. Upon the conclusion of the hearing in each case,
 66 the referee shall transmit to the judge all papers relating to
 67 the case, together with ~~his~~ findings and recommendations in *
 68 writing. Notice of the findings of the referee together with a
 69 statement relative to the right of rehearing shall be given to
 70 the minor, parents, guardian, or custodian of the minor whose
 71 case has been heard by the referee, and to any other person that
 72 the court may direct. This notice may be given at the hearing,

1 or by certified mail or other service directed by the court.
 2 Subd. 4. The minor and ~~his~~ the minor's parents, guardians,
 3 or custodians are entitled to a hearing by the judge of the
 4 juvenile court if, within three days after receiving notice of
 5 the findings of the referee, they file a request with the court
 6 for a hearing. The court may allow such a hearing at any time.
 7 No change for subd 5

260*#103S

8 260.103 JUVENILE COURT JUDGES CONFERENCES AND INSTITUTE.
 9 Subdivision 1. PURPOSES OF CONFERENCES; INSTITUTE.
 10 (a) For the purpose of promoting economy and efficiency in the
 11 enforcement of laws relating to children and particularly of the
 12 laws relating to defective, delinquent, dependent and neglected
 13 children, the president of the association of juvenile court
 14 judges may at such time and place as ~~he~~ the president deems
 15 advisable call an annual conference of all judges acting as
 16 judge of juvenile court.
 17 (b) A judge of juvenile court may attend the institute for
 18 judges of juvenile court established by the University of
 19 Minnesota, and may attend national or regional conferences
 20 similar to the state conference described in clause (a), above.

21 No change for subd 2

22 Subd. 3. COUNTY BOARD TO AUDIT CLAIMS FOR EXPENSES IN
 23 ATTENDING CONFERENCE. The county board of each county shall
 24 audit and, if found correct, allow duly itemized and verified
 25 claims of the juvenile judge for travel and other necessary
 26 expenses incurred and paid by ~~him~~ the judge in attending the
 27 annual conference called by the president of the association of
 28 juvenile court judges. The county board may audit and allow
 29 similar expenses of the judge of juvenile court in attending
 30 institutes or national or regional conferences of juvenile court
 31 judges authorized by subdivision 1(b).

260*#111S

32 260.111 JURISDICTION.

33 No change for subd 1

34 Subd. 2. JURISDICTION OVER OTHER MATTERS RELATING TO
 35 CHILDREN. Except as provided in clause (d), the juvenile
 36 court has original and exclusive jurisdiction in proceedings
 37 concerning:

38 (a) The termination of parental rights to a child in
39 accordance with the provisions of sections 260.221 to 260.245.

40 (b) The appointment and removal of a juvenile court
41 guardian of the person for a child, where parental rights have
42 been terminated under the provisions of sections 260.221 to
43 260.245.

44 (c) Judicial consent to the marriage of a child when
45 required by law.

46 (d) Adoptions. The juvenile court in those counties in
47 which the judge of the probate-juvenile court has been admitted
48 to the practice of law in this state shall proceed under the
49 laws relating to adoptions in all adoption matters. In those
50 counties in which the judge of the probate-juvenile court has
51 not been admitted to the practice of law in this state the
52 district court shall proceed under the laws relating to
53 adoptions in all adoption matters.

54 (e) The review of the foster care status of a child who has
55 been placed in a residential facility, as defined in section
56 257.071, subdivision 1, pursuant to a voluntary release by ~~his~~
57 the child's parent or parents.

58 No change for subd 3

260*#115S

59 260.115 TRANSFERS FROM OTHER COURTS.

60 No change for subd 1

61 Subd. 2. The court transfers the case by filing with the
 62 judge or clerk of juvenile court a certificate showing the name,
 63 age, and residence of the minor, the names and addresses of ~~his~~
 64 the minor's parent or guardian, if known, and the reasons
 65 for ~~his~~ appearance in court, together with all the papers,
 66 documents, and testimony connected therewith. The certificate
 67 has the effect of a petition filed in the juvenile court, unless
 68 the judge of the juvenile court ~~in-his-discretion~~ directs the
 69 filing of a new petition, which shall supersede the certificate
 70 of transfer.

71 NOTE: This subdivision is repealed by Laws 1965, Chapter
72 869, Section 18, as to any judicial district establishing a
73 public defender system. See section 611.28.

1 Subd. 3. The transferring court shall order the minor to
 2 be taken immediately to the juvenile court and in no event shall
 3 detain the minor for longer than 48 hours after the appearance
 4 of the minor in the transferring court. The transferring court
 5 may release the minor to the custody of ~~his~~ a parent, guardian,
 6 custodian, or other person designated by the court on the
 7 condition that the minor will appear in juvenile court as
 8 directed. The transferring court may require the person given
 9 custody of the minor to post such bail or bond as may be
 10 approved by the court which shall be forfeited to the juvenile
 11 court if the minor does not appear as directed. The
 12 transferring court may also release the minor on ~~his~~ the minor's
 13 own promise to appear in juvenile court.

260*#121S

14 260.121 VENUE.

15 Subdivision 1. VENUE. Except where otherwise
 16 provided, venue for any proceedings under section 260.111 shall
 17 be in the county where the child is found, or the county of ~~his~~
 18 the child's residence. When it is alleged that a child is
 19 neglected, venue may be in the county where the child is found,
 20 in the county of ~~his~~ residence, or in the county where the
 21 alleged neglect occurred. If delinquency, habitual truancy,
 22 running away, a juvenile petty offense, a juvenile alcohol or
 23 controlled substance offense, or a juvenile traffic offense is
 24 alleged, proceedings shall be brought in the county of ~~his~~
 25 residence or the county where the alleged delinquency, habitual
 26 truancy, running away, juvenile petty offense, juvenile alcohol
 27 or controlled substance offense or juvenile traffic offense
 28 occurred.

29 Subd. 2. TRANSFER. The judge of the juvenile court
 30 may transfer any proceedings brought under section 260.111,
 31 except adoptions, to the juvenile court of a county having venue
 32 as provided in subdivision 1, at any stage of the proceedings
 33 and in the following manner. When it appears that the best
 34 interests of the child, society, or the convenience of
 35 proceedings will be served by a transfer, the court may transfer
 36 the case to the juvenile court of the county of the child's
 37 residence. With the consent of the receiving court, the court
 38 may also transfer the case to the juvenile court of the county
 39 where the child is found or, if delinquency, habitual truancy,
 40 running away, a juvenile petty offense, juvenile alcohol or
 41 controlled substance offense or a juvenile traffic offense is
 42 alleged, to the county where the alleged delinquency, habitual
 43 truancy, running away, juvenile petty offense, juvenile alcohol
 44 or controlled substance offense or juvenile traffic offense
 45 occurred. The court transfers the case by ordering a
 46 continuance and by forwarding to the clerk of the appropriate
 47 juvenile court a certified copy of all papers filed, together
 48 with an order of transfer. The judge of the receiving court may
 49 accept the findings of the transferring court or ~~he~~ may direct
 50 the filing of a new petition or notice under section 260.015,
 51 subdivision 23 or 260.132 and hear the case anew.

52 Subd. 3. Except when a child is alleged to have committed
 53 a minor traffic offense, as defined in section 260.193,
 54 subdivision 1, clause (c), if it appears at any stage of the
 55 proceeding that a child before the court is a resident of
 56 another state, the court may invoke the provisions of the
 57 interstate compact on juveniles or, if it is in the best
 58 interests of the child or the public to do so, the court may
 59 place the child in the custody of ~~his~~ the child's parent,
 60 guardian, or custodian, if the parent, guardian, or custodian
 61 agrees to accept custody of the child and return ~~him~~ the child
 62 to their state.

260*#125S

63 260.125 REFERENCE FOR PROSECUTION.

64 No change for subd 1 to 3

65 Subd. 3a. PRIOR REFERENCE; EXCEPTION.

66 Notwithstanding the provisions of subdivisions 2 and 3, the
 67 court shall order a reference in any case where the prosecutor
 68 shows that the child has been previously referred for
 69 prosecution on a felony charge by an order of reference issued
 70 pursuant to either a hearing held under subdivision 2 or
 71 pursuant to the waiver of the right to such a hearing, other
 72 than a prior reference in the same case.

73 This subdivision only applies if the child is convicted of
 74 the offense or offenses for which ~~he~~ the child was prosecuted

1 pursuant to the order of reference or of a lesser included
 2 offense which is a felony.
 3 No change for subd 4 to 6
 260*#131S
 4 260.131 PETITION.
 5 No change for subd 1 to 2
 6 Subd. 3. The petition and all subsequent court documents
 7 shall be entitled substantially as follows:
 8 "Juvenile Court, County of
 9 In the matter of the welfare of"
 10 The petition shall set forth plainly:
 11 (a) The facts which bring the child within the jurisdiction
 12 of the court;
 13 (b) The name, date of birth, residence, and post-office
 14 address of the child;
 15 (c) The names, residences, and post-office addresses of his
 16 the child's parents;
 17 (d) The name, residence, and post-office address of his the
 18 child's guardian if there be one, of the person having custody
 19 or control of the child, and of the nearest known relative if no
 20 parent or guardian can be found;
 21 (e) The spouse of the child, if there be one. If any of
 22 the facts required by the petition are not known or cannot be
 23 ascertained by the petitioner, the petition shall so state.

*
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260*#132S
 24 260.132 PROCEDURE; HABITUAL TRUANTS, RUNAWAYS, JUVENILE
 25 PETTY OFFENDERS.
 26 Subdivision 1. NOTICE. When a peace officer, or
 27 attendance officer in the case of a habitual truant, has
 28 probable cause to believe that a child is a runaway, a habitual
 29 truant, or a juvenile petty offender, the officer may issue a
 30 notice to the child to appear in juvenile court in the county in
 31 which the child is found or in the county of his the child's
 32 residence or, in the case of a juvenile petty offense, the
 33 county in which the offense was committed. The officer shall
 34 file a copy of the notice to appear with the juvenile court of
 35 the appropriate county. If a child fails to appear in response
 36 to the notice, the court may issue a summons notifying the child
 37 of the nature of the offense alleged and the time and place set
 38 for the hearing. If the peace officer finds it necessary to
 39 take the child into custody, sections 260.165 and 260.171 shall
 40 apply.

*

41 No change for subd 2 to 3
 260*#135S
 42 260.135 SUMMONS; NOTICE.
 43 No change for subd 1 to 4
 44 Subd. 5. If it appears from the notarized petition or by
 45 sworn affidavit that there are reasonable grounds to believe the
 46 child is in surroundings or conditions which endanger the
 47 child's health, safety or welfare and require that his the
 48 child's custody be immediately assumed by the court, the court
 49 may order, by endorsement upon the summons, that the officer
 50 serving the summons shall take the child into immediate custody.

*
*

260*#141S
 51 260.141 SERVICE OF SUMMONS, NOTICE.
 52 Subdivision 1. (a) Service of summons or notice required
 53 by section 260.135 shall be made upon the following persons in
 54 the same manner in which personal service of summons in civil
 55 actions is made:
 56 (1) in all delinquency matters, upon the person having
 57 custody or control of the child and upon the child; and
 58 (2) in all other matters, upon the person having custody or
 59 control of the child, and upon the child if ~~he-is~~ more than 12
 60 years of age.
 61 Personal service shall be effected at least 24 hours before
 62 the time of the hearing; however, it shall be sufficient to
 63 confer jurisdiction if service is made at any time before the
 64 day fixed in the summons or notice for the hearing, except that
 65 the court, if so requested, shall not proceed with the hearing
 66 earlier than the second day after the service. If personal
 67 service cannot well be made within the state, a copy of the
 68 summons or notice may be served on the person to whom it is
 69 directed by delivering a copy thereof to such person personally
 70 outside the state. Such service if made personally outside the
 71 state shall be sufficient to confer jurisdiction; providing
 72 however it be made at least five days before the date fixed for

*

1 hearing in such summons or notice.

2 (b) If the court is satisfied that personal service of the
3 summons or notice cannot well be made, it shall make an order
4 providing for the service of summons or notice by certified mail
5 addressed to the last known addresses of such persons, and by
6 one weeks published notice as provided in section 645.11. A
7 copy of the notice shall be sent by certified mail at least five
8 days before the time of the hearing or 14 days if mailed to
9 addresses outside the state.

10 (c) Notification to the county welfare board required by
11 section 260.135, subdivision 3, shall be in such manner as the
12 court may direct.

13 No change for subd 2 to 3

260*#145S

14 260.145 FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT,
15 ARREST.

16 If any person personally served with summons or subpoena
17 fails, without reasonable cause, to appear or bring the minor,
18 he the person may be proceeded against for contempt of court or *
19 the court may issue a warrant for his the person's arrest, or *
20 both. In any case when it appears to the court that the service
21 will be ineffectual, or that the welfare of the minor requires *
22 that he the minor be brought forthwith into the custody of the *
23 court, the court may issue a warrant for the minor.

260*#151S

24 260.151 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

25 No change for subd 1

26 Subd. 2. The court may proceed as described in subdivision
27 1 only after a petition has been filed and, in delinquency
28 cases, after the child has appeared before the court or a court
29 appointed referee and has been informed of the allegations
30 contained in the petition. However, when the child denies being *
31 delinquent before the court or court appointed referee that-he *
32 is-delinquent, the investigation or examination shall not be *
33 conducted before a hearing has been held as provided in section
34 260.155.

260*#155S

35 260.155 HEARING.

36 Subdivision 1. GENERAL. Except for hearings arising
37 under section 260.261, hearings on any matter shall be without a
38 jury and may be conducted in an informal manner. The rules of
39 evidence promulgated pursuant to section 480.0591 and the law of
40 evidence shall apply in adjudicatory proceedings involving a
41 child alleged to be delinquent, a habitual truant, a runaway, a
42 juvenile petty offender, or a juvenile alcohol or controlled
43 substance offender, and hearings conducted pursuant to section
44 260.125 except to the extent that the rules themselves provide
45 that they do not apply. Hearings may be continued or adjourned
46 from time to time and, in the interim, the court may make any
47 orders as it deems in the best interests of the minor in
48 accordance with the provisions of sections 260.011 to 260.301.
49 The court shall exclude the general public from these hearings
50 and shall admit only those persons who, in the discretion of the
51 court, have a direct interest in the case or in the work of the
52 court. In all delinquency cases a person named in the charging
53 clause of the petition as a person directly damaged in person or
54 property shall be entitled, upon request, to be notified by the
55 clerk of court in writing, at his the named person's last known *
56 address, of (1) the date of the reference or adjudicatory *
57 hearings, and (2) the disposition of the case. Adoption *
58 hearings shall be conducted in accordance with the provisions of
59 laws relating to adoptions.

60 Subd. 2. APPOINTMENT OF COUNSEL. The minor, parent,
61 guardian or custodian have the right to effective assistance of
62 counsel. If they desire counsel but are unable to employ it,
63 the court shall appoint counsel to represent the minor or his *
64 the parents or guardian in any other case in which it feels that *
65 such an appointment is desirable.

66 No change for subd 3

67 Subd. 4. GUARDIAN AD LITEM. (a) The court shall
68 appoint a guardian ad litem to protect the interests of the
69 minor when it appears, at any stage of the proceedings, that the
70 minor is without a parent or guardian, or that his the minor's *
71 parent is a minor or incompetent, or that his the parent or *
72 guardian is indifferent or hostile to the minor's interests, and
73 in every proceeding alleging neglect or dependency. In any

1 other case the court may appoint a guardian ad litem to protect
2 the interests of the minor when the court feels that such an
3 appointment is desirable. The court shall appoint the guardian
4 ad litem on its own motion or in the manner provided for the
5 appointment of a guardian ad litem in the district court.

6 (b) The court may waive the appointment of a guardian ad
7 litem pursuant to clause (a), whenever counsel has been
8 appointed pursuant to subdivision 2 or is retained otherwise,
9 and the court is satisfied that the interests of the minor are
10 protected.

11 (c) In appointing a guardian ad litem pursuant to clause
12 (a), the court shall not appoint the party, or any agent or
13 employee thereof, filing a petition pursuant to section 260.131.

14 No change for subd 4a to 5

15 Subd. 6. RIGHTS OF THE PARTIES AT THE HEARING. The
16 minor and ~~his~~ the minor's parent, guardian, or custodian are *
17 entitled to be heard, to present evidence material to the case,
18 and to cross examine witnesses appearing at the hearing.

19 Subd. 7. FACTORS IN DETERMINING NEGLECT. In
20 determining whether a child is neglected and in foster care, the
21 court shall consider, among other factors, the following:

22 (1) The length of time the child has been in foster care;

23 (2) The effort the parent has made to adjust ~~his~~ *
24 circumstances, conduct, or condition to make it in the child's
25 best interest to ~~return-him~~ be returned to ~~his~~ the parent's home *
26 in the foreseeable future, including the use of rehabilitative
27 services offered to the parent;

28 (3) Whether the parent has visited the child within the
29 nine months preceding the filing of the petition, unless it was
30 physically or financially impossible for the parent to visit or
31 not in the best interests of the child to be visited by the
32 parent;

33 (4) The maintenance of regular contact or communication
34 with the agency or person temporarily responsible for the child;

35 (5) The appropriateness and adequacy of services provided
36 or offered to the parent to facilitate a reunion;

37 (6) Whether additional services would be likely to bring
38 about lasting parental adjustment enabling a return of the child
39 to the parent within an ascertainable period of time; and

40 (7) The nature of the effort made by the responsible social
41 service agency to rehabilitate and reunite the family.

42 No change for subd 8

260*#156S

43 260.156 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

44 An out-of-court statement made by a child under the age of
45 ten years, or a child over the age of ten years who is mentally
46 impaired, as defined under section 609.341, subdivision 6,
47 alleging, explaining, denying, or describing any act of sexual
48 contact or penetration performed with or on the child or any act
49 of physical abuse or neglect of the child by another, not
50 otherwise admissible by statute or rule of evidence, is
51 admissible in evidence in any dependency or neglect proceeding
52 or any proceeding for termination of parental rights if:

53 (a) the court finds that the time, content, and
54 circumstances of the statement and the reliability of the person
55 to whom the statement is made provide sufficient indicia of
56 reliability; and

57 (b) the proponent of the statement notifies other parties
58 of ~~his-intention~~ an intent to offer the statement and the *
59 particulars of the statement sufficiently in advance of the *
60 proceeding at which ~~he~~ the proponent intends to offer the
61 statement into evidence, to provide the parties with a fair
62 opportunity to meet the statement.

260*#161S

63 260.161 RECORDS.

64 Subdivision 1. The juvenile court judge shall keep such *
65 minutes and in such manner as ~~he~~ the judge deems necessary and
66 proper. The court shall keep and maintain records pertaining to
67 delinquent adjudications until the person reaches the age of 23
68 years and shall release the records on an individual to a
69 requesting adult court, for purposes of sentencing. The juvenile
70 court shall provide, upon the request of any other juvenile
71 court, copies of the records concerning adjudications involving
72 the particular child. The court shall also keep an index in
73 which files pertaining to juvenile matters shall be indexed
74 under the name of the juvenile. After the name of each file

1 shall be shown the file number and, if ordered by the court, the
 2 book and page of the register in which the documents pertaining
 3 to such file are listed. The court shall also keep a register
 4 properly indexed in which shall be listed under the name of the
 5 juvenile all documents filed pertaining thereto and in the order
 6 filed. The list shall show the name of the document and the
 7 date of filing thereof. The juvenile court legal records shall
 8 be deposited in files and shall include the petition, summons,
 9 notice, findings, orders, decrees, judgments, and motions and
 10 such other matters as the court deems necessary and proper. The
 11 legal records maintained in this file shall be open at all
 12 reasonable times to the inspection of any minor to whom the
 13 records relate, and to ~~his~~ the minor's parent and guardian. *

14 No change for subd 2 to 3

260*#165S

15 260.165 TAKING CHILD INTO CUSTODY.

16 Subdivision 1. No child may be taken into immediate
 17 custody except:

18 (a) With an order issued by the court in accordance with
 19 the provisions of section 260.135, subdivision 5, or by a
 20 warrant issued in accordance with the provisions of section
 21 260.145; or

22 (b) In accordance with the laws relating to arrests; or

23 (c) By a peace officer

24 (1) when a child has run away from ~~his~~ a parent, guardian, *

25 or custodian, or when the peace officer reasonably believes such
 26 child has run away from ~~his~~ a parent, guardian, or custodian; or *

27 (2) when a child is found in surroundings or conditions
 28 which endanger the child's health or welfare or which such peace
 29 officer reasonably believes will endanger such child's health or
 30 welfare; or

31 (d) By a peace officer or probation or parole officer when
 32 it is reasonably believed that the child has violated the terms
 33 of ~~his~~ probation, parole, or other field supervision. *

34 No change for subd 2

260*#171S

35 260.171 RELEASE OR DETENTION.

36 Subdivision 1. If a child is taken into custody as
 37 provided in section 260.165, the parent, guardian, or custodian
 38 of the child shall be notified as soon as possible. Unless
 39 there is reason to believe that the child would endanger ~~himself~~ *
 40 self or others, not return for a court hearing, not remain in *
 41 the care or control of the person to whose lawful custody ~~he~~ the *
 42 child is released, or that the child's health or welfare would *
 43 be immediately endangered, the child shall be released to the *
 44 custody of ~~his~~ a parent, guardian, custodian, or other suitable *
 45 person. That person shall promise to bring the child to the *
 46 court, if necessary, at the time the court may direct. If the *
 47 person taking the child into custody believes it desirable ~~he,~~ *
 48 that person may request the parent, guardian, custodian, or *
 49 other person designated by the court to sign a written promise
 50 to bring the child to court as provided above. The intentional
 51 violation of such a promise, whether given orally or in writing,
 52 shall be punishable as contempt of court.

53 The court may require the parent, guardian, custodian or
 54 other person to whom the child is released, to post any
 55 reasonable bail or bond required by the court which shall be
 56 forfeited to the court if the child does not appear as
 57 directed. The court may also release the child on ~~his~~ the *
 58 child's own promise to appear in juvenile court. *

59 No change for subd 2

60 Subd. 4. If the person who has taken the child into
 61 custody determines that the child should be placed in a secure
 62 detention facility or a shelter care facility, ~~he~~ that person *
 63 shall advise the child and as soon as is possible, the child's
 64 parent, guardian, or custodian:

65 (a) of the reasons why the child has been taken into
 66 custody and why ~~he~~ the child is being placed in a secure *
 67 detention facility or a shelter care facility; and

68 (b) of the location of the secure detention facility or
 69 shelter care facility.' If there is reason to believe that
 70 disclosure of the location of the shelter care facility would
 71 place the child's health and welfare in immediate endangerment,
 72 disclosure of the location of the shelter care facility shall
 73 not be made; and

74 (c) that the child's parent, guardian, or custodian and

1 attorney or guardian ad litem may make an initial visit to the
 2 secure detention facility or shelter care facility at any time.
 3 Subsequent visits by a parent, guardian, or custodian may be
 4 made on a reasonable basis during visiting hours and by the
 5 child's attorney or guardian ad litem at reasonable hours; and

6 (d) that the child may telephone ~~his~~ parents and an *
 7 attorney or guardian ad litem from the secure detention facility
 8 or shelter care facility immediately after being admitted to the
 9 facility and thereafter on a reasonable basis to be determined
 10 by the director of the facility; and

11 (e) that the child may not be detained for acts as defined
 12 in section 260.015, subdivision 5 at a secure detention facility
 13 or shelter care facility longer than 36 hours, excluding
 14 Saturdays, Sundays and holidays, unless a petition has been
 15 filed within that time and the court orders the child's
 16 continued detention, pursuant to section 260.172; and

17 (f) that the child may not be detained pursuant to section
 18 260.165, subdivision 1, clause (a) or (c)(2), at a shelter care
 19 facility longer than 72 hours, excluding Saturdays, Sundays and
 20 holidays, unless a petition has been filed within that time and
 21 the court orders the child's continued detention, pursuant to
 22 section 260.172; and

23 (g) of the date, time, and place of the detention hearing;
 24 and

25 (h) that the child and the child's parent, guardian, or
 26 custodian have the right to be present and to be represented by
 27 counsel at the detention hearing, and that if they cannot afford
 28 counsel, counsel will be appointed at public expense for the
 29 child, if it is a delinquency matter, or for any party, if it is
 30 a dependency, neglect, neglected and in foster care, or
 31 termination of parental rights matter.

32 Subd. 5. If a child is to be detained in a secure
 33 detention facility or shelter care facility, the child shall be
 34 promptly transported to the facility in a manner approved by the
 35 facility or by securing a written transportation order from the
 36 court authorizing transportation by the sheriff or other
 37 qualified person. The person who has determined that the child
 38 should be detained shall deliver to the court and the supervisor
 39 of the secure detention facility or shelter care facility where
 40 the child is placed, a signed report, setting forth:

41 (a) the time the child was taken into custody; and

42 (b) the time the child was delivered for transportation to
 43 the secure detention facility or shelter care facility; and

44 (c) the reasons why the child was taken into custody; and

45 (d) the reasons why the child has been placed in detention;
 46 and

47 (e) a statement that the child and ~~his~~ the child's parent *
 48 have received the notification required by subdivision 4 or the
 49 reasons why they have not been so notified; and

50 (f) any instructions required by subdivision 5a.

51 No change for subd 5a

52 Subd. 6. (a) When a child has been delivered to a secure
 53 detention facility, the supervisor of the facility shall deliver
 54 to the court a signed report acknowledging receipt of the child
 55 stating the time of the child's arrival. The supervisor of the
 56 facility shall ascertain from the report of the person who has
 57 taken the child into custody whether the child and ~~his~~ a parent, *
 58 guardian, or custodian have received the notification required *
 59 by subdivision 4. If the child or ~~his~~ a parent, guardian or *
 60 custodian, or both, have not been so notified, the supervisor of
 61 the facility shall immediately make the notification, and shall
 62 include in ~~his~~ the report to the court a statement that *
 63 notification has been received or the reasons why it has not.

64 (b) When a child has been delivered to a shelter care
 65 facility, the supervisor of the facility shall deliver to the
 66 court a signed report acknowledging receipt of the child stating
 67 the time of the child's arrival. The supervisor of the facility
 68 shall ascertain from the report of the person who has taken the
 69 child into custody whether the child's parent, guardian or
 70 custodian has been notified of the placement of the child at the
 71 shelter care facility and its location, and the supervisor shall
 72 follow any instructions concerning notification contained in
 73 that report.

260*#172S

74 260.172 DETENTION HEARING.

75 Subdivision 1. Except a child taken into custody pursuant

1 to section 260.165, subdivision 1, clause (a) or (c)(2), a
 2 hearing shall be held within 36 hours of a child's being taken
 3 into custody, excluding Saturdays, Sundays and holidays, to
 4 determine whether the child should continue in detention.
 5 Within 72 hours of a child being taken into custody pursuant to
 6 section 260.165, subdivision 1, clause (a) or (c)(2), excluding
 7 Saturdays, Sundays and holidays, a hearing shall be held to
 8 determine whether the child should continue in custody. Unless
 9 there is reason to believe that the child would endanger ~~himself~~
 10 self or others, not return for a court hearing, not remain in
 11 the care or control of the person to whose lawful custody ~~he~~ the
 12 child is released, or that the child's health or welfare would
 13 be immediately endangered, the child shall be released to the
 14 custody of ~~his~~ a parent, guardian, custodian or other suitable
 15 person.

16 No change for subd 2 to 2a

17 Subd. 2b. MENTAL HEALTH TREATMENT. (a) Except as
 18 provided in paragraph (b), a child who is held in detention
 19 ~~because he or she is as an~~ as an alleged ~~to be a~~ victim of child abuse
 20 as defined in section 630.36, subdivision 2, may not be given
 21 mental health treatment specifically for the effects of the
 22 alleged abuse until the court finds that there is probable cause
 23 to believe the abuse has occurred.

24 (b) A child described in paragraph (a) may be given mental
 25 health treatment prior to a probable cause finding of child
 26 abuse if the treatment is either agreed to by the child's parent
 27 or guardian in writing, or ordered by the court according to the
 28 standard contained in section 260.191, subdivision 1.

29 Subd. 3. Copies of the court's order shall be served upon
 30 the parties, including the supervisor of the detention facility,
 31 who shall release the child or continue to hold ~~him~~ the child as
 32 the court orders.

33 When the court's order is served upon these parties, notice
 34 shall also be given to the parties of the subsequent reviews
 35 provided by subdivision 4. The notice shall also inform each
 36 party ~~that he may~~ of the right to submit to the court for
 37 informal review any new evidence regarding whether the child
 38 should be continued in detention and ~~that he may~~ to request a
 39 hearing to present the evidence to the court.

40 Subd. 4. If a child held in detention under a court order
 41 issued under subdivision 2 has not been released prior to
 42 expiration of the order, the court or referee shall informally
 43 review the child's case file to determine, under the standards
 44 provided by subdivision 1, whether detention should be
 45 continued. If detention is continued thereafter, informal
 46 reviews such as these shall be held within every eight days,
 47 excluding Saturdays, Sundays and holidays, of the child's
 48 detention.

49 A hearing, rather than an informal review of the child's
 50 case file, shall be held at the request of any one of the
 51 parties notified pursuant to subdivision 3, if that party
 52 notifies the court ~~that he wishes~~ of a wish to present to the
 53 court new evidence concerning whether the child should be
 54 continued in detention.

55 In addition, if a child was taken into detention under
 56 section 260.135, subdivision 5, or 260.165, subdivision 1,
 57 clause (c)(2), and is held in detention under a court order
 58 issued under subdivision 2, the court shall schedule and hold an
 59 adjudicatory hearing on the petition within 60 days of the
 60 detention hearing upon the request of any party to the
 61 proceeding unless good cause is shown by a party to the
 62 proceeding why the hearing should not be held within that time
 63 period.

260*#173S

64 260.173 PLACE OF TEMPORARY CUSTODY; SHELTER CARE
 65 FACILITY.

66 No change for subd 1

67 Subd. 2. Notwithstanding the provisions of subdivision 1,
 68 if the child had been taken into custody pursuant to section
 69 260.165, subdivision 1, clause (a), or had been found in
 70 surroundings or conditions reasonably believed to endanger ~~his~~
 71 the child's health or welfare, and is not alleged to be
 72 delinquent, ~~he~~ the child may be detained only in a shelter care
 73 facility.

74 Subd. 3. PLACEMENT. If the child had been taken into
 75 custody and detained as one who is alleged to be delinquent, a

1 habitual truant, a runaway, a juvenile petty offender, or a
2 juvenile alcohol or controlled substance offender by reason of:

3 (a) Having committed an offense which would not constitute
4 a violation of a state law or local ordinance if ~~he~~ the child
5 were an adult; or *

6 (b) Having been previously adjudicated delinquent,
7 habitually truant, a runaway, a juvenile petty offender, or a
8 juvenile alcohol or controlled substance offender, or
9 conditionally released by the juvenile court without
10 adjudication, has violated ~~his~~ probation, parole, or other field *
11 supervision under which ~~he~~ the child had been placed as a result *
12 of behavior described in this subdivision; ~~he~~ the child may be *
13 placed only in a shelter care facility.

14 Subd. 4. If a child is taken into custody as one who:

15 (a) has allegedly committed an act which would constitute a
16 violation of a state law or a local ordinance if ~~he~~ the child
17 were an adult; or *

18 (b) is reasonably believed to have violated the terms of
19 ~~his~~ probation, parole, or other field supervision under which ~~he~~ *
20 the child had been placed as a result of behavior described *
21 under clause (a); *

22 ~~he~~ the child may be detained in a shelter care or secure *
23 detention facility. If the child cannot be detained in another
24 type of detention facility, and if there is no secure detention
25 facility for juveniles within the county, a child described in
26 this subdivision may be detained up to 48 hours in a jail,
27 lock-up or other facility used for the confinement of adults who
28 have been charged with or convicted of a crime, in quarters
29 separate from any adult confined in the facility which has been
30 approved for the detention of juveniles for up to 48 hours by
31 the commissioner of corrections, or, if continued detention is
32 required and there is no secure detention facility for juveniles
33 available for use by the county having jurisdiction over the
34 child, such child may be detained for no more than eight days
35 from and including the date of the original detention order in
36 separate quarters in any jail or other adult facility for the
37 confinement of persons charged with or convicted of crime which
38 has been approved by the commissioner of corrections to be
39 suitable for the detention of juveniles for up to eight days.
40 Except for children who have been referred for prosecution
41 pursuant to section 260.125, and as hereinafter provided, any
42 child requiring secure detention for more than eight days from
43 and including the date of the original detention order must be
44 removed to an approved secure juvenile detention facility. A
45 child 16 years of age or older against whom a motion to refer
46 for prosecution is pending before the court may be detained for
47 more than eight days in separate quarters in a jail or other
48 facility which has been approved by the commissioner of
49 corrections for the detention of juveniles for up to eight days
50 after a hearing and subject to the periodic reviews provided in
51 section 260.172. No child under the age of 14 may be detained
52 in a jail, lock-up or other facility used for the confinement of
53 adults who have been charged with or convicted of a crime.

54 No change for subd 5

260*#185S

55 260.185 DISPOSITIONS; DELINQUENT CHILD.

56 Subdivision 1. If the court finds that the child is
57 delinquent, it shall enter an order making any of the following
58 dispositions of the case which are deemed necessary to the
59 rehabilitation of the child:

60 (a) Counsel the child or ~~his~~ the parents, guardian, or *
61 custodian;

62 (b) Place the child under the supervision of a probation *
63 officer or other suitable person in ~~his~~ the child's own home *
64 under conditions prescribed by the court including reasonable *
65 rules for ~~his~~ conduct and the conduct of ~~his~~ the child's *
66 parents, guardian, or custodian, designed for the physical,
67 mental, and moral well-being and behavior of the child, or with
68 the consent of the commissioner of corrections, in a group
69 foster care facility which is under the management and
70 supervision of said commissioner;

71 (c) Subject to the supervision of the court, transfer legal
72 custody of the child to one of the following:

73 (1) A child placing agency; or

74 (2) The county welfare board; or

75 (3) A reputable individual of good moral character. No

1 person may receive custody of two or more unrelated children
 2 unless ~~he is~~ licensed as a residential facility pursuant to *
 3 sections 245.781 to 245.812; or

4 (4) Except for children found to be delinquent as defined
 5 in section 260.015, subdivision 5, clauses (c) and (d), a county
 6 home school, if the county maintains a home school or enters
 7 into an agreement with a county home school; or

8 (5) A county probation officer for placement in a group
 9 foster home established under the direction of the juvenile
 10 court and licensed pursuant to section 241.021;

11 (d) Except for children found to be delinquent as defined
 12 in section 260.015, subdivision 5, clauses (c) and (d), transfer
 13 legal custody by commitment to the commissioner of corrections;

14 (e) If the child is found to have violated a state or local
 15 law or ordinance which has resulted in damage to the property of
 16 another, the court may order the child to make reasonable
 17 restitution for such damage;

18 (f) Require the child to pay a fine of up to \$700; the
 19 court shall order payment of the fine in accordance with a time
 20 payment schedule which shall not impose an undue financial
 21 hardship on the child;

22 (g) If the child is in need of special treatment and care
 23 for ~~his~~ reasons of physical or mental health, the court may *
 24 order the child's parent, guardian, or custodian to provide it.
 25 If the parent, guardian, or custodian fails to provide this
 26 treatment or care, the court may order it provided;

27 (h) If the court believes that it is in the best interests
 28 of the child and of public safety that the driver's license of
 29 the child be canceled until ~~his~~ the child's 18th birthday, the *
 30 court may recommend to the commissioner of public safety the
 31 cancellation of the child's license for any period up to the
 32 child's 18th birthday, and the commissioner is hereby authorized
 33 to cancel such license without a hearing. At any time before
 34 the termination of the period of cancellation, the court may,
 35 for good cause, recommend to the commissioner of public safety
 36 that the child be authorized to apply for a new license, and the
 37 commissioner may so authorize.

38 Any order for a disposition authorized under this section
 39 shall contain written findings of fact to support the
 40 disposition ordered, and shall also set forth in writing the
 41 following information:

42 (a) Why the best interests of the child are served by the
 43 disposition ordered; and

44 (b) What alternative dispositions were considered by the
 45 court and why such dispositions were not appropriate in the
 46 instant case.

47 This subdivision applies to dispositions of juveniles found
 48 to be delinquent as defined in section 260.015, subdivision 5,
 49 clause (c) or (d) made prior to, on, or after January 1, 1978.

50 No change for subd 2 to 5

260*#191S

51 260.191 DISPOSITIONS; CHILDREN WHO ARE ABUSED,
 52 NEGLECTED, DEPENDENT, OR NEGLECTED AND IN FOSTER CARE.

53 Subdivision 1. DISPOSITIONS. If the court finds that
 54 the child is neglected, dependent, or neglected and in foster
 55 care, it shall enter an order making any of the following
 56 dispositions of the case:

57 (a) place the child under the protective supervision of the
 58 county welfare board or child placing agency in ~~his~~ the child's *
 59 own home under conditions prescribed by the court directed to
 60 the correction of the neglect or dependency of the child;

61 (b) transfer legal custody to one of the following:

- 62 (1) a child placing agency; or
 63 (2) the county welfare board.

64 In placing a child whose custody has been transferred under
 65 this paragraph, the agency and board shall follow the order of
 66 preference stated in section 260.181, subdivision 3;

67 (c) if the child is in need of special treatment and care
 68 for ~~his~~ reasons of physical or mental health, the court may *
 69 order the child's parent, guardian, or custodian to provide it.
 70 If the parent, guardian, or custodian fails to provide this
 71 treatment or care, the court may order it provided. If the
 72 court's order for mental health treatment is based on a
 73 diagnosis made by a treatment professional, the court may order
 74 that the diagnosing professional not provide the treatment to
 75 the child if it finds that such an order is in the child's best

1 interests.

2 No change for subd 1a to 3

3 Subd. 4. When it is in the best interests of the child or
 4 ~~his~~ the child's parents to do so and when either the allegations *
 5 contained in the petition have been admitted, or when a hearing
 6 has been held as provided in section 260.155 and the allegations
 7 contained in the petition have been duly proven, before a
 8 finding of neglect or dependency or a finding that a child is
 9 neglected and in foster care has been entered the court may
 10 continue the case for a period not to exceed 90 days on any one
 11 order. Such a continuance may be extended for one additional
 12 successive period not to exceed 90 days and only after the court
 13 has reviewed the case and entered its order for an additional
 14 continuance without a finding that the child is neglected,
 15 dependent, or neglected and in foster care. During this
 16 continuance the court may enter any order otherwise permitted
 17 under the provisions of this section.

260*#192S

18 260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

19 Upon a petition for review of the foster care status of a
 20 child, the court may:

21 (a) Find that the child's needs are being met and that the
 22 child's placement in foster care is in the best interests of the
 23 child, in which case the court shall approve the voluntary
 24 arrangement. The court shall order the social service agency
 25 responsible for the placement to bring a petition pursuant to
 26 either section 260.131, subdivision 1 or section 260.131,
 27 subdivision 1a, as appropriate, within two years if court review
 28 was pursuant to section 257.071, subdivision 3 or 4, or within
 29 one year if court review was pursuant to section 257.071,
 30 subdivision 2.

31 (b) Find that the child's needs are not being met, in which
 32 case the court shall order the social service agency or the
 33 parents to take whatever action is necessary and feasible to
 34 meet the child's needs, including, when appropriate, the
 35 provision by the social service agency of services to the
 36 parents which would enable the child to live at home, and shall
 37 order an administrative review of the case again within six
 38 months and a review by the court within one year.

39 (c) Find that the child has been abandoned by ~~his~~ parents *
 40 financially or emotionally, or that the developmentally disabled
 41 child does not require out-of-home care because of the
 42 handicapping condition, in which case the court shall order the
 43 social service agency to file an appropriate petition pursuant
 44 to sections 260.131, subdivision 1, or 260.231.

45 Nothing in this section shall be construed to prohibit
 46 bringing a petition pursuant to section 260.131, subdivision 1
 47 or 2, sooner than required by court order pursuant to this
 48 section.

260*#193S

49 260.193 JUVENILE TRAFFIC OFFENDER; PROCEDURES;
 50 DISPOSITIONS.

51 No change for subd 1 to 5

52 Subd. 6. Before making a disposition of any child found to
 53 be a juvenile major traffic offender, the court shall obtain
 54 from the department of public safety information of any previous
 55 traffic violation by this juvenile. In the case of a juvenile
 56 water traffic offender, ~~he~~ the court shall obtain from the *
 57 office where the information is now or hereafter may be kept
 58 information of any previous water traffic violation by the
 59 juvenile.

60 No change for subd 7

61 Subd. 8. If the juvenile court finds that the child is a
 62 juvenile major highway or water traffic offender, it may make
 63 any one or more of the following dispositions of the case:

64 (a) Reprimand the child and counsel with the child and ~~his~~ *
 65 the parents; *

66 (b) Continue the case for a reasonable period under such
 67 conditions governing the child's use and operation of any motor
 68 vehicles or boat as the court may set;

69 (c) Require the child to attend a driver improvement
 70 school if one is available within the county;

71 (d) Recommend to the department of public safety
 72 suspension of the child's driver's license as provided in
 73 section 171.16;

74 (e) If the child is found to have committed two moving

1 highway traffic violations or to have contributed to a highway
 2 accident involving death, injury, or physical damage in excess
 3 of \$100, the court may recommend to the commissioner of public
 4 safety or to the licensing authority of another state the
 5 cancellation of the child's license until ~~he~~ the child reaches *
 6 the age of 18 years, and the commissioner of public safety is
 7 hereby authorized to cancel the license without hearing. At any
 8 time before the termination of the period of cancellation, the
 9 court may, for good cause, recommend to the commissioner of
 10 public safety, or to the licensing authority of another state,
 11 that the child's license be returned ~~to him~~, and the *
 12 commissioner of public safety is authorized to return the
 13 license;

14 (f) Place the child under the supervision of a probation
 15 officer in ~~his~~ the child's own home under conditions prescribed *
 16 by the court including reasonable rules relating to ~~his~~ *
 17 operation and use of motor vehicles or boats directed to the
 18 correction of ~~his~~ the child's driving habits; *

19 (g) Require the child to pay a fine of up to \$700. The
 20 court shall order payment of the fine in accordance with a time
 21 payment schedule which shall not impose an undue financial
 22 hardship on the child.

23 No change for subd 9 to 10

260*#194S

24 260.194 DISPOSITIONS; CHILDREN WHO ARE HABITUALLY
 25 TRUANT, RUNAWAYS, OR JUVENILE PETTY OFFENDERS.

26 Subdivision 1. DISPOSITIONS PERMITTED. If the court
 27 finds that the child is a habitual truant, a runaway, or a
 28 juvenile petty offender, it shall enter an order making any of
 29 the following dispositions of the case which it deems necessary
 30 to the rehabilitation of the child:

31 (a) Counsel the child or ~~his~~ the parents, guardian, or *
 32 custodian;

33 (b) Place the child under the supervision of a probation
 34 officer or other suitable person in the child's own home under
 35 conditions prescribed by the court, including reasonable rules
 36 for the child's conduct and the conduct of ~~his~~ the parents, *
 37 guardian, or custodian, designed for the physical, mental, and
 38 moral well-being and behavior of the child; or with consent of
 39 the commissioner of corrections, in a group foster care facility
 40 which is under the commissioner's management and supervision;

41 (c) Subject to the supervision of the court, transfer legal
 42 custody of the child to one of the following:

- 43 (1) A child placing agency; or
- 44 (2) The county welfare board; or
- 45 (3) A reputable individual of good moral character. No
 46 person may receive custody of two or more unrelated children
 47 unless ~~he is~~ licensed as a residential facility pursuant to *
 48 sections 245.781 to 245.813; or

49 (4) A county probation officer for placement in a group
 50 foster home established under the direction of the juvenile
 51 court and licensed pursuant to section 241.021;

52 (d) Require the child to pay a fine of up to \$100; the
 53 court shall order payment of the fine in a manner that will not
 54 impose undue financial hardship upon the child;

55 (e) If the child is in need of special treatment and care
 56 for ~~his~~ reasons of physical or mental health, the court may *
 57 order the child's parent, guardian, or custodian to provide it.
 58 If the parent, guardian, or custodian fails to provide this
 59 treatment or care, the court may order it provided;

60 (f) Require the child to participate in a community service
 61 project;

62 (g) Order the child to undergo a chemical dependency
 63 evaluation and, if warranted by the evaluation, order
 64 participation by the child in a drug awareness program, or an
 65 inpatient or outpatient chemical dependency treatment program;

66 (h) Require the child to perform any other activities or
 67 participate in any other treatment programs deemed appropriate
 68 by the court;

69 (i) If the court believes that it is in the best interests
 70 of the child and of public safety that the child's driver's
 71 license be cancelled, the court may recommend to the
 72 commissioner of public safety that the child's license be
 73 cancelled for any period up to the child's 18th birthday. The
 74 commissioner is authorized to cancel the license without a
 75 hearing. At any time before the expiration of the period of

1 cancellation, the court may, for good cause, recommend to the
2 commissioner of public safety that the child be authorized to
3 apply for a new license, and the commissioner may so authorize.

4 Any order for a disposition authorized by this section
5 shall contain written findings of fact to support the
6 disposition ordered, and shall also set forth in writing the
7 following information:

8 (a) Why the best interests of the child are served by the
9 disposition ordered; and

10 (b) What alternative dispositions were considered by the
11 court and why they were not appropriate in the instant case.

12 No change for subd 2 to 5

260*#211S

13 260.211 EFFECT OF JUVENILE COURT PROCEEDINGS.

14 Subdivision 1. No adjudication upon the status of any
15 child in the jurisdiction of the juvenile court shall operate to
16 impose any of the civil disabilities imposed by conviction, nor
17 shall any child be deemed a criminal by reason of this
18 adjudication, nor shall this adjudication be deemed a conviction
19 of crime. The disposition of the child or any evidence given by
20 the child in the juvenile court shall not be admissible as
21 evidence against ~~him~~ the child in any case or proceeding in any *
22 other court, except that an adjudication may later be used to
23 determine a proper sentence, nor shall the disposition or
24 evidence disqualify ~~him~~ the child in any future civil service *
25 examination, appointment, or application.

26 No change for subd 2

260*#221S

27 260.221 GROUNDS FOR TERMINATION OF PARENTAL RIGHTS.

28 The juvenile court may, upon petition, terminate all rights
29 of a parent to a child in the following cases:

30 (a) With the written consent of a parent who for good cause
31 desires to terminate ~~his~~ parental rights; or *

32 (b) If it finds that one or more of the following
33 conditions exist:

34 (1) That the parent has abandoned the child; or

35 (2) That the parent has substantially, continuously, or
36 repeatedly refused or neglected to comply with the duties
37 imposed upon that parent by the parent and child relationship,
38 including but not limited to providing the child with necessary
39 food, clothing, shelter, education, and other care and control
40 necessary for the child's physical, mental or emotional health
41 and development, if the parent is physically and financially
42 able; or

43 (3) That a parent has been ordered to contribute to the
44 support of the child or financially aid in the child's birth and
45 has continuously failed to do so without good cause. This
46 clause shall not be construed to state a grounds for termination
47 of parental rights of a noncustodial parent if that parent has
48 not been ordered to or cannot financially contribute to the
49 support of the child or aid in the child's birth; or

50 (4) That a parent is palpably unfit to be a party to the
51 parent and child relationship because of a consistent pattern of
52 specific conduct before the child or of specific conditions
53 directly relating to the parent and child relationship either of
54 which are determined by the court to be permanently detrimental
55 to the physical or mental health of the child; or

56 (5) That following upon a determination of neglect or
57 dependency, reasonable efforts, under the direction of the
58 court, have failed to correct the conditions leading to the
59 determination; or

60 (6) That in the case of a child born to a mother who was
61 not married to the child's father when the child was conceived
62 nor when the child was born the person is not entitled to notice
63 of an adoption hearing under section 259.26 and either the
64 person has not filed a notice of ~~his-intention~~ intent to retain *
65 parental rights under section 259.261 or that the notice has
66 been successfully challenged; or

67 (7) That the child is neglected and in foster care.

260*#231S

68 260.231 PROCEDURES IN TERMINATING PARENTAL RIGHTS.

69 Subdivision 1. Any reputable person, including but not
70 limited to any agent of the commissioner of human services,
71 having knowledge of circumstances which indicate that the rights
72 of a parent to ~~his~~ a child should be terminated, may petition *
73 the juvenile court in the manner provided in section 260.131,

1 subdivisions 2 and 3.

2 No change for subd 2 to 3

3 Subd. 4. No parental rights of a minor or incompetent
4 parent may be terminated on consent of the parents under the
5 provisions of section 260.221, clause (a), unless the guardian
6 ad litem, in writing, joins in the written consent of the parent
7 to the termination of ~~his~~ parental rights. *

260*#242S

8 260.242 GUARDIAN.

9 No change for subd 1 to 1b

10 Subd. 2. GUARDIAN'S RESPONSIBILITIES. (a) A guardian
11 appointed under the provisions of this section has legal custody
12 of ~~his~~ a ward unless the court which appoints ~~him~~ the guardian
13 gives legal custody to some other person. If the court awards
14 custody to a person other than the guardian, the guardian
15 nonetheless has the right and responsibility of reasonable
16 visitation, except as limited by court order. *

17 (b) The guardian may make major decisions affecting the
18 person of ~~his~~ the ward, including but not limited to giving
19 consent (when consent is legally required) to the marriage,
20 enlistment in the armed forces, medical, surgical, or
21 psychiatric treatment, or adoption of the ward. When, pursuant
22 to this section, the commissioner of human services is appointed
23 guardian, ~~he~~ the commissioner may delegate to the welfare board
24 of the county in which, after the appointment, the ward resides,
25 the authority to act for ~~him~~ the commissioner in decisions
26 affecting the person of ~~his~~ the ward, including but not limited
27 to giving consent to the marriage, enlistment in the armed
28 forces, medical, surgical, or psychiatric treatment of the ward. *

29 (c) A guardianship created under the provisions of this
30 section shall not of itself include the guardianship of the
31 estate of the ward. *

32 (d) If the ward is in foster care, the court shall, upon
33 its own motion or that of the guardian, conduct a dispositional
34 hearing within 18 months of the foster care placement and once
35 every two years thereafter to determine the future status of the
36 ward including, but not limited to, whether the child should be
37 continued in foster care for a specified period, should be
38 placed for adoption, or should, because of the child's special
39 needs or circumstances, be continued in foster care on a
40 permanent or long-term basis. When the court has determined
41 that the special needs of the ward are met through a permanent
42 or long-term foster care placement, no subsequent dispositional
43 hearings are required. *

260*#251S

44 260.251 COSTS OF CARE.

45 Subdivision 1. CARE, EXAMINATION, OR TREATMENT. (a)

46 Except where parental rights are terminated,

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

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

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

58 (b) The court shall order the parents or custodian of a
59 child, while the child is under the age of 18, to use the total
60 income and resources attributable to the child for the period ~~in~~
61 ~~which-he-or-she-receives~~ of care, examination, or treatment,
62 except for clothing and personal needs allowance as provided in
63 section 256B.35, to reimburse the county for the cost of care,
64 examination, or treatment. Income and resources attributable to
65 the child include, but are not limited to, social security
66 benefits, supplemental security income (SSI), veterans benefits,
67 railroad retirement benefits and child support. When the child
68 is over the age of 18, and continues to receive care,
69 examination, or treatment, the court shall order the child to
70 reimburse the county for the cost of care, examination, or
71 treatment from the income and resources attributable to ~~him-or~~
72 ~~her~~ the child less the clothing and personal needs allowance. *

73 (c) If the income and resources attributable to the child
74 are not enough to reimburse the county for the full cost of the *

1 care, examination, or treatment, the court shall inquire into
 2 the ability of the parents to support the child and, after
 3 giving the parents a reasonable opportunity to be heard, shall
 4 order the parents to reimburse the county, in the manner and to
 5 whom the court may direct, such sums as will cover in whole or
 6 in part the cost of care, examination, or treatment of the child.

7 (d) The court shall order the amount of reimbursement
 8 attributable to the parents or custodian, or attributable to the
 9 child, or attributable to both sources, withheld under chapter
 10 518 from the income of the parents or the custodian of the
 11 child. ~~If~~ A parent or ~~the~~ custodian or ~~the~~ child over the age
 12 of 18 who fails to pay this sum without good reason, ~~he or she~~
 13 may be proceeded against for contempt, or the court may inform
 14 the county attorney, who shall proceed against any of them to
 15 collect the unpaid sums, or both procedures may be used.

16 No change for subd 1a to 2

17 Subd. 3. LEGAL SETTLEMENT. The county charged with
 18 the costs and expenses under subdivisions 1 and 2 may recover
 19 these costs and expenses from the county where the minor has
 20 legal settlement for general assistance purposes by filing
 21 verified claims which shall be payable as are other claims
 22 against the county. A detailed statement of the facts upon
 23 which the claim is based shall accompany the claim. If a
 24 dispute relating to general assistance settlement arises, the
 25 county welfare board of the county denying legal settlement
 26 shall send a detailed statement of the facts upon which the
 27 claim is denied together with a copy of the detailed statement
 28 of the facts upon which the claim is based to the commissioner
 29 of human services. The commissioner shall immediately
 30 investigate and determine the question of general assistance
 31 settlement and shall certify ~~his~~ findings to the county welfare
 32 board of each county. The decision of the commissioner is final
 33 and shall be complied with unless, within 30 days thereafter,
 34 action is taken in district court as provided in section 256.045.

35 No change for subd 4 to 5

260*#261S

36 260.261 JURISDICTION OF CERTAIN JUVENILE COURTS OVER
 37 OFFENSE OF CONTRIBUTING TO DELINQUENCY OR NEGLECT.

38 In counties having a population of over 200,000 the
 39 juvenile court has jurisdiction of the offenses described in
 40 section 260.315. Prosecutions hereunder shall be begun by
 41 complaint duly verified and filed in the juvenile court of the
 42 county. ~~If the defendant is found guilty,~~ The court may impose
 43 conditions upon ~~him~~ a defendant who is found guilty and, so long
 44 as ~~he~~ the defendant complies with these conditions to the
 45 satisfaction of the court, the sentence imposed may be suspended.

260*#271S

46 260.271 VIOLATION OF AN ORDER FOR PROTECTION.

47 No change for subd 1 to 3

48 Subd. 4. ORDER TO SHOW CAUSE. Upon the filing of an
 49 affidavit by the agency or any peace officer, alleging that the
 50 respondent has violated an order for protection granted pursuant
 51 to section 260.133 or 260.191, subdivision lb, the court may
 52 issue an order to the respondent, requiring the respondent to
 53 appear and show cause within 14 days why ~~he~~ the respondent
 54 should not be found in contempt of court. The hearing may be
 55 held by the court in any county in which the child or respondent
 56 temporarily or permanently resides at the time of the alleged
 57 violation.

58 A peace officer is not liable under section 609.43, clause
 59 (1), for failure to perform a duty required by subdivision 2 of
 60 this section.

260*#281S

61 260.281 NEW EVIDENCE.

62 A child whose status has been adjudicated by a juvenile
 63 court, or ~~his~~ the child's parent, guardian, custodian or spouse
 64 may, at any time within 90 days of the filing of the court's
 65 order, petition the court for a rehearing on the ground that new
 66 evidence has been discovered affecting the advisability of the
 67 court's original adjudication or disposition. Upon a showing
 68 that such evidence ~~does~~ exist the court shall order a new
 69 hearing and make such disposition of the case as the facts and
 70 the best interests of the child warrant.

260*#311S

71 260.311 PROBATION OFFICERS.

72 No change for subd 1 to 2

1 Subd. 3. POWERS AND DUTIES. All probation officers
 2 serving county courts shall act under the orders of the court in
 3 reference to any person committed to their care by the court,
 4 and in the performance of their duties shall have the general
 5 powers of a peace officer; and it shall be their duty to make
 6 such investigations with regard to any person as may be required
 7 by the court before, during, or after the trial or hearing, and
 8 to furnish to the court such information and assistance as may
 9 be required; to take charge of any person before, during or
 10 after trial or hearing when so directed by the court, and to
 11 keep such records and to make such reports to the court as the
 12 court may order.

13 All probation officers serving county courts shall, in
 14 addition, provide probation and parole services to wards of the
 15 commissioner of corrections resident in the counties they serve,
 16 and shall act under the orders of said commissioner of
 17 corrections in reference to any ward committed to their care by
 18 the commissioner of corrections.

19 All probation officers serving county courts shall, under
 20 the direction of the authority having power to appoint them,
 21 initiate programs for the welfare of persons coming within the
 22 jurisdiction of the court to prevent delinquency and crime and
 23 to rehabilitate within the community persons who come within the
 24 jurisdiction of the court and are properly subject to efforts to
 25 accomplish prevention and rehabilitation. They shall, under the
 26 direction of the court, cooperate with all law enforcement
 27 agencies, schools, child welfare agencies of a public or private
 28 character, and other groups concerned with the prevention of
 29 crime and delinquency and the rehabilitation of persons
 30 convicted of crime and delinquency.

31 All probation officers serving county courts shall make
 32 monthly and annual reports to the commissioner of corrections,
 33 on forms furnished by ~~him~~ the commissioner, containing such
 34 information on number of cases cited to the juvenile court,
 35 offenses, adjudications, dispositions, and related matters as
 36 may be required by the commissioner of corrections.

37 Subd. 4. COMPENSATION. In counties of more than
 38 200,000 population, a majority of the judges of the district
 39 court may direct the payment of such salary to probation
 40 officers as may be approved by the county board, and in addition
 41 thereto shall be reimbursed for all necessary expenses incurred
 42 in the performance of their official duties. In all counties
 43 which obtain probation services from the commissioner of
 44 corrections the commissioner shall, out of appropriations
 45 provided therefor, pay probation officers the salary and all
 46 benefits fixed by the state civil service law and all necessary
 47 expenses, including secretarial service, office equipment and
 48 supplies, postage, telephone and telegraph services, and travel
 49 and subsistence. Each county receiving probation services from
 50 the commissioner of corrections shall reimburse the department
 51 of corrections for the total cost and expenses of such services
 52 as incurred by the commissioner of corrections. Total annual
 53 costs for each county shall be that portion of the total costs
 54 and expenses for the services of one probation officer
 55 represented by the ratio which the county's population bears to
 56 the total population served by one officer. For the purposes of
 57 this section, the population of any county shall be the most
 58 recent estimate made by the department of health. At least
 59 every six months the commissioner of corrections shall certify
 60 to the state treasurer the total cost and expenses incurred by
 61 the commissioner on behalf of each county to which ~~he has~~
 62 provided probation services have been provided. The treasurer
 63 shall notify each county of the cost and expenses so certified
 64 and the county shall pay to the treasurer forthwith the amount
 65 certified. All such reimbursements shall be deposited in the
 66 general fund. Objections by a county to all allocation of such
 67 cost and expenses shall be presented to and determined by the
 68 commissioner of administration. Each county providing probation
 69 services under this section is hereby authorized to use
 70 unexpended funds and to levy additional taxes for this purpose.

71 The county commissioners of any county of not more than
 72 200,000 population shall, when requested to do so by the
 73 juvenile judge, provide probation officers with suitable
 74 offices, and may provide equipment, and secretarial help needed
 75 to render the required services.

76 No change for subd 5

1 Subd. 6. CERTIFICATE OF COUNTIES ENTITLED TO STATE
 2 AID. On or before January 1 of each year, until 1970 and on
 3 or before April 1 thereafter, the commissioner of corrections
 4 shall deliver to the commissioner of finance a certificate in
 5 duplicate for each county of the state entitled to receive state
 6 aid under the provisions of this section. Upon the receipt of
 7 such certificate, the commissioner of finance shall draw ~~his~~ a *
 8 warrant upon the state treasurer in favor of the county
 9 treasurer for the amount shown by each certificate to be due to
 10 the county specified. The commissioner of finance shall
 11 transmit such warrant to the county treasurer together with a
 12 copy of the certificate prepared by the commissioner of
 13 corrections.

14 No change for subd 7

260*#35S

15 260.35 TESTS, EXAMINATIONS.
 16 Thereafter it shall be the duty of the commissioner of
 17 human services through the bureau of child welfare and county
 18 welfare boards to arrange for such tests, examinations, and
 19 investigations as are necessary for the proper diagnosis,
 20 classification, treatment, care and disposition of the child as
 21 necessity and the best interests of the child shall from time to
 22 time require. When it appears that a dependent or neglected
 23 child is sound of mind, free from disease, and suitable for
 24 placement in a foster home for care or adoption, the
 25 commissioner may so place ~~him~~ the child or delegate such duties *
 26 to a child-placing agency accredited as provided by law, or
 27 authorize ~~his~~ the child's care in the county by and under the *
 28 supervision of the county welfare board.

260*#36S

29 260.36 SPECIAL PROVISIONS IN CERTAIN CASES.
 30 When the commissioner of human services shall find that a
 31 child transferred to ~~his~~ the commissioner's guardianship after *
 32 parental rights to the child are terminated or that a child
 33 committed to ~~his~~ the commissioner's guardianship as a dependent *
 34 or neglected child is handicapped physically or whose mentality
 35 has not been satisfactorily determined or who is affected by
 36 habits, ailments, or handicaps that produce erratic and unstable
 37 conduct, and is not suitable or desirable for placement in a
 38 home for permanent care or adoption, the commissioner of human
 39 services shall make special provision for ~~his~~ the child's care *
 40 and treatment designed to ~~fit-him~~ the child, if possible, for *
 41 such placement or to become self-supporting. The facilities of
 42 the commissioner of human services and all state treatment
 43 facilities, the Minnesota general hospital, and the child
 44 guidance clinic of its psychopathic department, as well as the
 45 facilities available through reputable clinics, private
 46 child-caring agencies, and foster boarding homes, accredited as
 47 provided by law, may be used as the particular needs of the
 48 child may demand. When it appears that the child is suitable
 49 for permanent placement or adoption, the commissioner of human
 50 services shall cause ~~him~~ the child to be placed as provided in *
 51 section 260.35. If the commissioner of human services is
 52 satisfied that the child is mentally retarded ~~he~~ the *
 53 commissioner may bring ~~him~~ the child before the probate court of *
 54 the county where ~~he~~ the child is found or the county of ~~his~~ the *
 55 child's legal settlement for examination and commitment as *
 56 provided by law.

260*#38S

57 260.38 COST, PAYMENT.
 58 In addition to the usual care and services given by public
 59 and private agencies, the necessary cost incurred by the
 60 commissioner of human services in providing care for such child
 61 shall be paid by the county committing such child which, subject
 62 to uniform regulations established by the commissioner of human
 63 services, may receive a reimbursement not exceeding one-half of
 64 such costs from funds made available for this purpose by the
 65 legislature during the period beginning July 1, 1985, and ending
 66 December 31, 1985. Beginning January 1, 1986, the necessary
 67 cost incurred by the commissioner of human services in providing
 68 care for the child must be paid by the county committing the
 69 child. Where such child is eligible to receive a grant of aid
 70 to families with dependent children or supplemental security
 71 income for the aged, blind, and disabled, or a foster care
 72 maintenance payment under Title IV-E of the Social Security Act,
 73 United States Code, title 42, sections 670 to 676, ~~his~~ the *

1 child's needs shall be met through these programs. *

260*#53S

2 260.53 COMPACT ADMINISTRATOR.

3 (1) Pursuant to the interstate compact on juveniles, the
4 governor is authorized to designate the commissioner of
5 corrections to be the compact administrator, who, acting jointly
6 with like officers of other party states, shall promulgate rules
7 to carry out more effectively the terms of the compact. ~~He~~ The
8 compact administrator shall serve subject to the pleasure of the
9 governor. The compact administrator is authorized to cooperate
10 with all departments, agencies and officers of and in the
11 government of this state and its political subdivisions in
12 facilitating the proper administration of the compact or of any
13 supplementary agreement entered into by this state thereunder.

14 (2) The compact administrator shall determine for this
15 state whether to receive juvenile probationers and parolees of
16 other states pursuant to Article VII of the interstate compact
17 on juveniles and shall arrange for the supervision of each such
18 probationer or parolee so received, either by the commissioner
19 of corrections or by a person appointed to perform supervision
20 service for the juvenile court of the county where the juvenile
21 is to reside, whichever is more convenient. Such persons shall
22 in all such cases make periodic reports to the compact
23 administrator regarding the conduct and progress of such
24 juveniles.

260*#55S

25 260.55 EXPENSE OF RETURNING JUVENILES TO STATE, PAYMENT.

26 The expense of returning juveniles to this state pursuant
27 to the interstate compact on juveniles shall be paid as follows:

28 (1) In the case of a runaway under Article IV, the court
29 making the requisition shall inquire summarily regarding the
30 financial ability of the petitioner to bear the expense and if
31 it finds ~~he~~ the petitioner is able to do so, shall order that ~~he~~
32 the petitioner pay all such expenses; otherwise the court shall
33 arrange for the transportation at the expense of the county and
34 order that the county reimburse the person, if any, who returns
35 the juvenile, for ~~his~~ actual and necessary expenses; and the
36 court may order that the petitioner reimburse the county for so
37 much of said expense as the court finds ~~he~~ the petitioner is
38 able to pay. If the petitioner fails, without good cause, or
39 refuses to pay such sum, ~~he~~ the petitioner may be proceeded
40 against for contempt.

41 (2) In the case of an escapee or absconder under Article V
42 or Article VI, if the juvenile is in the legal custody of the
43 commissioner of corrections ~~he~~ the commissioner shall bear the
44 expense of ~~his~~ the juvenile's return; otherwise the appropriate
45 court shall, on petition of the person or agency entitled to ~~his~~
46 the juvenile's custody or charged with ~~his~~ the juvenile's
47 supervision, arrange for the transportation at the expense of
48 the county and order that the county reimburse the person, if
49 any, who returns the juvenile, for ~~his~~ actual and necessary
50 expenses. In this subsection "appropriate court" means the
51 juvenile court which adjudged the juvenile to be delinquent or,
52 if the juvenile is under supervision for another state under
53 Article VII of the compact, then the juvenile court of the
54 county of the juvenile's residence during such supervision.

55 (3) In the case of a voluntary return of a runaway without
56 requisition under Article VI, the person entitled to ~~his~~ the
57 juvenile's legal custody shall pay the expense of transportation
58 and the actual and necessary expenses of the person, if any, who
59 returns such juvenile; but if ~~he-is~~ financially unable to pay
60 all the expenses ~~he~~ the person may petition the juvenile court
61 of the county of the petitioner's residence for an order
62 arranging for the transportation as provided in paragraph (1).
63 The court shall inquire summarily into the financial ability of
64 the petitioner and, if it finds ~~he~~ the petitioner is unable to
65 bear any or all of the expense, the court shall arrange for such
66 transportation at the expense of the county and shall order the
67 county to reimburse the person, if any, who returns the
68 juvenile, for ~~his~~ actual and necessary expenses. The court may
69 order that the petitioner reimburse the county for so much of
70 said expense as the court finds ~~he~~ the petitioner is able to
71 pay. ~~If-the~~ A petitioner who fails, without good cause, or
72 refuses to pay such sum, ~~he~~ may be proceeded against for
73 contempt.

260*#56S

1 260.56 COUNSEL OR GUARDIAN AD LITEM FOR JUVENILE, FEES.
 2 Any judge of this state who appoints counsel or a guardian
 3 ad litem pursuant to the provisions of the interstate compact on
 4 juveniles may, ~~in his discretion,~~ allow a reasonable fee to be *
 5 paid by the county on order of the court.

261*#035S

6 261.035 BURIAL AT EXPENSE OF COUNTY.
 7 When a person dies in any county without apparent means to
 8 provide for ~~his-own~~ burial and without relatives of sufficient *
 9 ability to procure the burial, the county board shall first
 10 investigate to determine whether the person who has died has
 11 contracted for any prepaid burial arrangements. If such
 12 arrangements have been made, the county shall authorize burial
 13 in accord with the written instructions of the deceased. If it
 14 is determined that the person did not leave sufficient means to
 15 defray the necessary expenses of ~~his~~ burial, nor any relatives *
 16 therein of sufficient ability to procure ~~his~~ the burial, the *
 17 county board shall cause a decent burial of ~~his~~ the person's *
 18 remains to be made at the expense of the county.

261*#04S

19 261.04 LIABILITY OF ESTATE.
 20 Subdivision 1. SUPPORT, MAINTENANCE, CARE, OR BURIAL.
 21 When any person is furnished or provided with support,
 22 maintenance, care, including care at the University of Minnesota
 23 hospitals, or burial as a poor person the county so furnishing
 24 such aid shall have a claim therefor against the person or ~~his~~ *
 25 the person's estate for the reasonable value thereof, which *
 26 claim may be presented and prosecuted by such county at its
 27 option upon discovery of any property belonging to the poor
 28 person or to ~~his~~ the estate. *

29 No change for subd 2

261*#21S

30 261.21 HOSPITALIZATION FOR INDIGENT PERSONS.
 31 Subdivision 1. The county board of any county in this
 32 state is hereby authorized to provide for the hospitalization in
 33 hospitals within the county or elsewhere of indigent residents
 34 of such county who are afflicted with a malady, injury,
 35 deformity, or ailment of a nature which can probably be remedied
 36 by hospitalization and who are unable financially to secure and
 37 pay for such hospitalization or, in the case of an unemancipated
 38 minor, whose parent, guardian, trustee, or other person having
 39 lawful custody of ~~his-person~~ the minor, as the case may be, is *
 40 unable to secure or provide such hospitalization.

41 No change for subd 2

261*#22S

42 261.22 APPLICATION FILED.
 43 Subdivision 1. DUTIES OF OFFICIALS. When the
 44 existence of a case described in section 261.21 shall come to
 45 the notice of the sheriff, town clerk, health officer, public
 46 health nurse, peace officer, public official, or physician or
 47 surgeon ~~it shall be his duty to,~~ then that person shall, and any *
 48 other person may, file with the auditor of the county of the
 49 residence of such indigent person requiring care an application
 50 for the hospitalization of such indigent person. Such
 51 application shall be made in such form as the county board of
 52 such county may prescribe, and shall contain the name, age,
 53 residence, and physical condition of the person sought to be
 54 hospitalized and shall contain also a full statement of ~~his~~ the *
 55 person's financial situation and of the persons, if any, legally *
 56 charged with ~~his~~ the indigent person's care and support and such *
 57 application shall be verified. The county board shall make a
 58 careful investigation of the matter in such manner as it shall
 59 deem advisable and expedient and it shall be the duty of any
 60 public official of any county, city or town of the residence of
 61 the person sought to be hospitalized to supply the county board
 62 on a request therefor all the information within ~~his~~ the public *
 63 official's knowledge relative to the financial condition of the *
 64 person sought to be hospitalized and of all persons, if any
 65 there be, who are legally liable for the support of such
 66 person. If after such investigation the county board shall be
 67 satisfied that the person on whose behalf the application is
 68 made is not financially able to ~~provide-himself-with~~ pay for *
 69 such hospitalization or in case of a minor, ~~his~~ the parents, *
 70 guardians, trustee, or other person having legal custody
 71 over ~~him~~ the minor or legally responsible for ~~his~~ the minor's *
 72 support and maintenance is not financially able to provide such

1 hospitalization, then said county board shall direct the county
 2 physician or some other physician to make an examination of the
 3 person on whose behalf such application was made. Such
 4 physician shall make and file with the county board a verified
 5 report in writing setting forth the nature and history of the
 6 case and such other information as will likely aid in the
 7 medical and surgical treatment of the disease, malady, injury,
 8 deformity, or ailment affecting such person, and shall state in
 9 such report ~~his~~ an opinion whether or not the condition of such *
 10 person can probably be remedied at a hospital. Such report
 11 shall be made in duplicate, one copy of which shall be filed
 12 with the county auditor and the other shall be transmitted to
 13 the hospital at which such afflicted person is hospitalized;
 14 such report shall also give any information the examining
 15 physician shall have or acquire relative to the financial
 16 ability of the afflicted person to pay for the hospitalization *
 17 and treatment ~~of his disease, malady, injury, deformity, or~~ *
 18 ~~ailment~~, together with any other information such physician may *
 19 deem helpful to the county board or the physician attending ~~him~~ *
 20 the affected person. *

21 Subd. 2. DUTIES OF COUNTY BOARD. If upon filing of
 22 the report and a full investigation of the application the
 23 county board shall be satisfied that the case is one which could
 24 be remedied by hospital treatment, that the afflicted person is
 25 financially unable to ~~secure or provide the same for himself~~ pay *
 26 for the treatment and that the persons legally charged with the *
 27 support and maintenance of that person, if any there be, are
 28 financially unable to provide hospitalization, the county board
 29 may grant or approve the application. If the county board is
 30 not so satisfied, it may take additional testimony or make any
 31 further investigation it deems proper and it shall reject any
 32 application if it finds that the facts do not merit the
 33 expenditure of public money for the relief of the person. Upon
 34 approval of the application, the ~~chairman~~ chair of the county *
 35 board shall arrange for the hospitalization of the person, in a
 36 hospital selected by the person to be hospitalized. If the
 37 county board shall find that the applicant or the person legally
 38 responsible for ~~his~~ the applicant's support and maintenance is *
 39 not able to pay in full but is able to pay in part for the
 40 hospitalization at the hospital, the county board may approve
 41 the application of the person on any terms of division of
 42 hospital charges and costs as it may deem equitable and just.
 43 The county board shall provide for transportation of the person
 44 to the hospital. When a physician certifies that an emergency
 45 exists in any case and that ~~he believes that~~ the person *
 46 suffering is, in the physician's opinion, unable to pay for *
 47 hospitalization, that person shall be admitted to any hospital *
 48 he the person selects upon the order of the ~~chairman~~ chair of *
 49 the county board or upon the order of the county commissioner of
 50 the district in which the alleged indigent person resides; and
 51 thereafter an investigation shall be made in the manner
 52 hereinbefore provided. When a physician certifies in a case of
 53 an injury or an emergency that immediate surgical or medical
 54 treatment is necessary, the patient shall forthwith be admitted *
 55 to any hospital ~~he~~ the patient selects for a period not to *
 56 exceed 72 hours; and thereafter an investigation shall be
 57 certified and made in the manner provided in sections 261.21 to
 58 261.23.

268*#04S

59 268.04 DEFINITIONS.
 60 No change for subd 1 to 2
 61 Subd. 3. "Benefits" means the money payments payable to an
 62 individual, as provided in sections 268.03 to 268.24, with
 63 respect to ~~his~~ the individual's unemployment. *
 64 No change for subd 4 to 11
 65 Subd. 12. "Employment" means: (1) Subject to the other
 66 provisions of this subdivision "employment" means service
 67 performed prior to January 1, 1945, which was employment as
 68 defined in this section prior to such date, and any service
 69 performed after December 31, 1944, including service in
 70 interstate commerce, by an individual who is a servant under the
 71 law of master and servant or who performs services for any
 72 employing unit, unless such services are performed by an
 73 independent contractor.
 74 The term "employment" shall include: Any service
 75 performed, including service in interstate commerce, by;

1 (a) any officer of any corporation; or
2 (b) any individual other than an individual who is an
3 employee under clause (1) who performs services for remuneration
4 for any person as an agent-driver or commission-driver engaged
5 in distributing meat products, vegetable products, fruit
6 products, bakery products, beverages (other than milk), or
7 laundry or dry-cleaning services, for ~~his~~ a principal, or as a *
8 traveling or city ~~salesman~~ salesperson, other than as an *
9 agent-driver or commission-driver, engaged upon a full-time
10 basis in the solicitation on behalf of, and the transmission to,
11 ~~his~~ a principal (except for sideline sales activities on behalf *
12 of some other person) of orders from wholesalers, retailers,
13 contractors, or operators of hotels, restaurants, or other
14 similar establishments for merchandise for resale or supplies
15 for use in their business operations;

16 Provided, that for purposes of clause (1)(b), the term
17 "employment" shall include services described above only if the
18 contract of service contemplates that substantially all of the
19 services are to be performed personally by such individual, the
20 individual does not have a substantial investment in facilities
21 used in connection with the performance of the services (other
22 than in facilities for transportation), and the services are not
23 in the nature of a single transaction that is not part of a
24 continuing relationship with the person for whom the services
25 are performed.

26 (2) The term "employment" shall include an individual's
27 entire service, performed within or both within and without this
28 state if (a) the service is localized in this state; or (b) the
29 service is not localized in any state but some of the service is
30 performed in this state and (1) the base of operations, or, if
31 there is no base of operations, then the place from which such
32 service is directed or controlled, is in this state; (2) the
33 base of operations or place from which such service is directed
34 or controlled is not in any state in which some part of the
35 service is performed, but the individual's residence is in this
36 state.

37 (3) Service shall be deemed to be localized within a state
38 if (a) the service is performed entirely within such state; or
39 (b) the service is performed both within and without such state,
40 but the service performed without such state is incidental to
41 the individual's service within the state, for example, is
42 temporary or transitory in nature or consists of isolated
43 transactions.

44 (4) The term "employment" shall include an individual's
45 service wherever performed within the United States or Canada,
46 if

47 (a) such service is not covered under the unemployment
48 compensation law of any other state or Canada, and

49 (b) the place from which the service is directed or
50 controlled is in this state.

51 (5) (a) Service covered by an election pursuant to section
52 268.11, subdivision 3; and

53 (b) service covered by an arrangement pursuant to section
54 268.13 between the commissioner and the agency charged with the
55 administration of any other state or federal employment security
56 law, pursuant to which all service performed by an individual
57 for an employing unit is deemed to be performed entirely within
58 this state, shall be deemed to be employment if the commissioner
59 has approved an election of the employing unit for which such
60 service is performed, pursuant to which the entire service of
61 such individual during the period covered by such election is
62 deemed to be employment.

63 (6) Notwithstanding any inconsistent provisions of
64 sections 268.03 to 268.24, the term "employment" shall include
65 any services which are performed by an individual with respect
66 to which an employing unit is liable for any federal tax against
67 which credit may be taken for contributions required to be paid
68 into a state unemployment compensation fund or which as a
69 condition for full tax credit against the tax imposed by the
70 Federal Unemployment Tax Act is required to be covered under
71 this law.

72 (7) Service performed by an individual in the employ of
73 the state of Minnesota or any instrumentality which is wholly
74 owned by the state of Minnesota or in the employ of this state
75 and one or more other states or an instrumentality of this state
76 and one or more of its political subdivisions or an

1 instrumentality of this state and another state or an
2 instrumentality of this state and one or more political
3 subdivisions of another state if such service is excluded from
4 "employment" as defined by section 3306(c)(7) of the Federal
5 Unemployment Tax Act and is not excluded from "employment" under
6 clause (10) of this subdivision.

7 (8) Service performed by an individual in the employ of any
8 political subdivision of the state of Minnesota or
9 instrumentality thereof or an instrumentality of two or more
10 political subdivisions of this state or any instrumentality of a
11 political subdivision of this state and another state or
12 political subdivisions of another state if such service is
13 excluded from "employment" as defined by section 3306(c)(7) of
14 the Federal Unemployment Tax Act and is not excluded from
15 "employment" under clause (10) of this subdivision.

16 (a) The provisions of section 268.08, subdivision 6, shall
17 apply to service covered by this section.

18 (b) The amounts required to be paid in lieu of
19 contributions by any political subdivision shall be billed and
20 payment made as provided in section 268.06, subdivision 28,
21 clause (2), with respect to similar payments by nonprofit
22 organizations.

23 (9) Service performed by an individual in the employ of a
24 religious, charitable, educational or other organization but
25 only if the following conditions are met:

26 (a) the service is excluded from "employment" as defined in
27 the Federal Unemployment Tax Act solely by reason of section
28 3306(c)(8) of that act; and

29 (b) the organization had one or more individuals in
30 employment for some portion of a day in each of 20 different
31 weeks, whether or not such weeks were consecutive, within either
32 the current or preceding calendar year, regardless of whether
33 they were employed at the same moment of time.

34 (10) For the purposes of clauses (7), (8), and (9), the
35 term "employment" does not apply to service performed

36 (a) in the employ of a church or convention or association
37 of churches, or an organization which is operated primarily for
38 religious purposes and which is operated, supervised,
39 controlled, or principally supported by a church or convention
40 or association of churches; or

41 (b) by a duly ordained, commissioned, or licensed minister
42 of a church in the exercise of ~~his~~ a ministry or by a member of
43 a religious order in the exercise of duties required by such
44 order; or

45 (c) in a facility conducted for the purpose of carrying out
46 a program of rehabilitation for individuals whose earning
47 capacity is impaired by age or physical or mental deficiency or
48 injury or providing remunerative work for individuals who
49 because of their impaired physical or mental capacity cannot be
50 readily absorbed in the competitive labor market by an
51 individual receiving such rehabilitation or remunerative work;
52 or

53 (d) as part of an unemployment work relief or work training
54 program assisted or financed in whole or in part by any federal
55 agency or an agency of a state or political subdivision thereof,
56 by an individual receiving such work relief or work training.
57 This exclusion shall not apply to programs that provide for and
58 require unemployment insurance coverage for the participants; or

59 (e) by an inmate of a custodial or penal institution; or

60 (f) in the employ of governmental entities referred to in
61 clauses (7) and (8) of this subdivision if such service is
62 performed by an individual in the exercise of duties

63 (i) as an elected official,

64 (ii) as a member of a legislative body, or a member of the
65 judiciary,

66 (iii) as a member of the Minnesota national guard or air
67 national guard,

68 (iv) as an employee serving only on a temporary basis in
69 case of fire, storm, snow, earthquake, flood or similar
70 emergency,

71 (v) (a) in a position with the state of Minnesota which is
72 a major nontenured policy making or advisory position in the
73 unclassified service, or

74 (b) a policy making position with the state of Minnesota
75 or a political subdivision the performance of the duties of
76 which ordinarily does not require more than eight hours per

1 week; or

2 (c) in a position with a political subdivision which is a
3 major nontenured policy making or advisory position.

4 (11) The term "employment" shall include the service of an
5 individual who is a citizen of the United States, performed
6 outside the United States, except in Canada, in the employ of an
7 American employer (other than service which is deemed
8 "employment" under the provisions of clauses (2), (3), or (4) or
9 the parallel provisions of another state's law) if:

10 (a) The employer's principal place of business in the
11 United States is located in this state; or

12 (b) The employer has no place of business in the United
13 States, but the employer is an individual who is a resident of
14 this state, or the employer is a corporation which is organized
15 under the laws of this state, or the employer is a partnership
16 or a trust and the number of partners or trustees who are
17 residents of this state is greater than the number who are
18 residents of any one other state; or

19 (c) None of the criteria of (a) and (b) of this clause is
20 met but the employer has elected coverage in this state, or the
21 employer having failed to elect coverage in any state, the
22 individual has filed a claim for benefits, based on such
23 service, under the law of this state.

24 (d) An "American employer," for the purposes of this
25 subdivision, means a person who is an individual who is a
26 resident of the United States, or a partnership if two-thirds or
27 more of the partners are residents of the United States, or a
28 trust, if all of the trustees are residents of the United
29 States, or a corporation organized under the laws of the United
30 States or of any state;

31 (e) As used in this subdivision, the term "United States"
32 includes the states, the District of Columbia, the Commonwealth
33 of Puerto Rico, and the Virgin Islands.

34 (12) Notwithstanding clause (2), all service performed by
35 an officer or member of the crew of an American vessel on or in
36 connection with such vessel, if the operating office, from which
37 the operations of such vessel operating on navigable waters
38 within, or within and without, the United States are ordinarily
39 and regularly supervised, managed, directed and controlled is
40 within this state.

41 (13) Service performed by an individual in agricultural
42 labor as defined in clause (15)(a) of this subdivision when:

43 (a) Such service is performed for a person who:

44 (i) during any calendar quarter in either the current or
45 the preceding calendar year paid wages of \$20,000 or more to
46 individuals employed in agricultural labor, or

47 (ii) for some portion of a day in each of 20 different
48 calendar weeks, whether or not such weeks were consecutive, in
49 either the current or preceding calendar year employed in
50 agricultural labor four or more individuals regardless of
51 whether they were employed at the same time.

52 (b) For the purpose of this clause (13) any individual who
53 is a member of a crew furnished by a crew leader to perform
54 service in agricultural labor for any other person shall be
55 treated as an employee of the crew leader:

56 (i) if the crew leader holds a valid certificate of
57 registration under the Farm Labor Contractor Registration Act of
58 1963, as amended; or substantially all of the members of his the *
59 crew operate or maintain tractors, mechanized harvesting or crop
60 dusting equipment, or any other mechanized equipment, which is
61 provided by the crew leader; and

62 (ii) if the individual is not an employee of another
63 person as determined by clause (1) of this subdivision.

64 (c) For the purpose of this clause (13) in the case of any
65 individual who is furnished by a crew leader to perform service
66 in agricultural labor for any other person and who is not
67 treated as an employee of the crew leader under subclause
68 (13)(b):

69 (i) such other person and not the crew leader shall be
70 treated as the employer of such individual; and

71 (ii) such other person shall be treated as having paid
72 wages to such individual in an amount equal to the amount of
73 wages paid to such individual by the crew leader (either on his *
74 own the crew leader's behalf or on behalf of such other person) *
75 for the service in agricultural labor performed for such other
76 person.

1 (d) For the purposes of this clause (13) the term "crew
2 leader" means an individual who:

3 (i) furnishes individuals to perform service in
4 agricultural labor for any other person,

5 (ii) pays (either on ~~his~~ the crew leader's own behalf or on *
6 behalf of such other person) the individuals so furnished by ~~him~~ *
7 the crew leader for the service in agricultural labor performed *
8 by them, and

9 (iii) has not entered into a written agreement with such
10 other person under which such furnished individual is designated
11 as an employee of such other person.

12 (e) For the purposes of this clause (13) services
13 performed by an officer or shareholder of a family farm
14 corporation shall be excluded from agricultural labor and
15 employment unless said corporation is an employer as defined in
16 section 3306(a)(2) of the Federal Unemployment Tax Act.

17 (f) For the purposes of this clause (13), services
18 performed by an individual 16 years of age or under shall be
19 excluded from agricultural labor and employment unless the
20 employer is an employer as defined in section 3306(a)(2) of the
21 Federal Unemployment Tax Act.

22 (14) The term "employment" shall include domestic service
23 in a private home, local college club, or local chapter of a
24 college fraternity or sorority performed for a person who paid
25 wages of \$1,000 or more in the current calendar year or the
26 preceding calendar year to individuals employed in domestic
27 service in any calendar quarter.

28 "Domestic service" includes all service for an individual
29 in the operation and maintenance of a private household, for a
30 local college club, or local chapter of a college fraternity or
31 sorority as distinguished from service as an employee in the
32 pursuit of an employer's trade, occupation, profession,
33 enterprise or vocation.

34 (15) The term "employment" shall not include:

35 (a) Agricultural labor. Service performed by an
36 individual in agricultural labor, except as provided in clause
37 (13) of this subdivision. The term "agricultural labor"
38 includes all services performed:

39 (1) On a farm, in the employ of any person or family farm
40 corporation, in connection with cultivating the soil, or in
41 connection with raising or harvesting any agricultural or
42 horticultural commodity, including the raising, shearing,
43 feeding, caring for, training, and management of livestock,
44 bees, poultry, fur-bearing animals and wildlife;

45 (2) In the employ of the owner or tenant or other operator
46 of a farm, in connection with the operation, management,
47 conservation, improvement, or maintenance of such farm and its
48 tools and equipment, or in salvaging timber or clearing land of
49 brush and other debris left by a tornadic-like storm, if the
50 major part of such service is performed on a farm;

51 (3) In connection with the production or harvesting of any
52 commodity defined as an agricultural commodity in section 15(g)
53 of the Agricultural Marketing Act, as amended (46 Statutes 1550,
54 section 3; 12 United States Code 1141j) or in connection with
55 the ginning of cotton, or in connection with the operation or
56 maintenance of ditches, canals, reservoirs, or waterways, not
57 owned or operated for profit, used exclusively for supplying and
58 storing water for farming purposes;

59 (4) In the employ of the operator of a farm in handling,
60 planting, drying, packing, packaging, processing, freezing,
61 grading, storing, or delivering to storage or to market or to a
62 carrier for transportation to market, in its unmanufactured
63 state, any agricultural or horticultural commodity; but only if
64 such operator produced more than one-half of the commodity with
65 respect to which such service is performed, or in the employ of
66 a group of operators of farms (or a cooperative organization of
67 which such operators are members) in the performance of service
68 described herein, but only if such operators produced more than
69 one-half of the commodity with respect to which such service is
70 performed; however, the provisions of this paragraph shall not
71 be deemed to be applicable with respect to service performed in
72 connection with commercial canning or commercial freezing or in
73 connection with any agricultural or horticultural commodity
74 after its delivery to a terminal market for distribution for
75 consumption; or

76 (5) On a farm operated for profit if such service is not

1 in the course of the employer's trade or business.

2 As used herein, the term "farm" includes stock, dairy,
3 poultry, fruit, fur-bearing animal, and truck farms,
4 plantations, ranches, nurseries, ranges, greenhouses or other
5 similar structures used primarily for the raising of
6 agricultural or horticultural commodities, and orchards.

7 (b) Casual labor not in the course of the employing unit's
8 trade or business;

9 (c) Service performed on the navigable waters of the
10 United States as to which this state is prohibited by the
11 constitution and laws of the United States of America from
12 requiring contributions of employers with respect to wages as
13 provided in sections 268.03 to 268.24;

14 (d) Service performed by an individual in the employ of
15 ~~his~~ a son, daughter, or spouse, and service performed by a child *
16 under the age of 18 in the employ of ~~his~~ the child's father or *
17 mother;

18 (e) Service performed in the employ of the United States
19 government, or any instrumentality of the United States exempt
20 under the constitution of the United States from the
21 contributions imposed by sections 268.03 to 268.24, except that
22 with respect to such service and to the extent that the congress
23 of the United States shall permit states to require any
24 instrumentalities of the United States to make payments into an
25 unemployment compensation fund under a state unemployment
26 compensation act; then, to the extent permitted by congress, and
27 from and after the date as of which such permission becomes
28 effective, all of the provisions of these sections shall be
29 applicable to such instrumentalities and to services performed
30 for such instrumentalities in the same manner, to the same
31 extent, and on the same terms as to all other employers,
32 employing units, individuals, and services; provided, that if
33 this state shall not be certified for any year by the United
34 States department of labor under section 3304(c) of the federal
35 Internal Revenue Code, the payments required of such
36 instrumentalities with respect to such year shall be refunded by
37 the commissioner from the fund in the same manner and within the
38 same period as is provided in section 268.16, subdivision 6,
39 with respect to contributions erroneously collected;

40 (f) Service with respect to which unemployment compensation
41 is payable under an unemployment compensation system established
42 by an act of congress;

43 (g) (1) Service performed in any calendar quarter in the
44 employ of any organization exempt from income tax under section
45 501(a) (other than an organization described in section 401(a))
46 or section 521 of the federal Internal Revenue Code, if the
47 remuneration for such service is less than \$50; or

48 (2) Service performed in the employ of a school, college,
49 or university, if such service is performed by a student who is
50 enrolled and is regularly attending classes at such school,
51 college, or university; or

52 (3) Service performed by an individual who is enrolled at a
53 nonprofit or public educational institution which normally
54 maintains a regular faculty and curriculum and normally has a
55 regularly organized body of students in attendance at the place
56 where its educational activities are carried on as a student in
57 a full-time program, taken for credit at such institution, which
58 combines academic instruction with work experience, if such
59 service is an integral part of such program, and such
60 institution has so certified to the employer, except that this
61 paragraph shall not apply to service performed in a program
62 established for or on behalf of an employer or group of
63 employers;

64 (h) Service performed in the employ of a foreign government
65 (including service as a consular or other officer or employee or
66 a nondiplomatic representative);

67 (i) Service performed in the employ of an instrumentality
68 wholly owned by a foreign government, if

69 (1) The service is of a character similar to that performed
70 in foreign countries by employees of the United States
71 government or of an instrumentality thereof; and

72 (2) The commissioner finds that the United States
73 secretary of state has certified to the United States secretary
74 of the treasury that the foreign government, with respect to
75 whose instrumentality exemption is claimed, grants an equivalent
76 exemption with respect to similar service performed in the

1 Foreign country by employees of the United States government and
2 of instrumentalities thereof.

3 (j) Service covered by an arrangement between the
4 commissioner and the agency charged with the administration of
5 any other state or federal employment security law pursuant to
6 which all services performed by an individual for an employing
7 unit during the period covered by such employing unit's duly
8 approved election, are deemed to be performed entirely within
9 such agency's state;

10 (k) Service performed in the employ of a hospital, if such
11 service is performed by a patient of the hospital, as defined in
12 clause (17);

13 (l) Service performed as a student nurse in the employ of
14 a hospital or a nurses' training school by an individual who is
15 enrolled and is regularly attending classes in a nurses'
16 training school chartered and approved pursuant to state law;
17 and service performed as an intern in the employ of a hospital
18 by an individual who has completed a four years' course in a
19 medical school chartered and approved pursuant to state law;

20 (m) Service performed by an individual for a person as an
21 insurance agent or as an insurance solicitor, if all such
22 service performed by such individual for such person is
23 performed for remuneration solely by way of commission (the word
24 "insurance" as used in this subdivision shall include an annuity
25 and an optional annuity);

26 (n) Service performed by an individual under the age of 18
27 in the delivery or distribution of newspapers or shopping news,
28 not including delivery or distribution to any point for
29 subsequent delivery or distribution;

30 (o) Service performed by an individual for a person as a
31 real estate ~~salesman~~ salesperson, if all such service performed *
32 by such individual for such person is performed for remuneration
33 solely by way of commission;

34 (p) If the service performed during one-half or more of any
35 pay period by an individual for the person employing ~~him~~ the *
36 individual constitutes employment, all the service of such *
37 individual for such period shall be deemed to be employment; but *
38 if the service performed during more than one-half of any such *
39 pay period by an individual for the person employing ~~him~~ the *
40 individual does not constitute employment, then none of the *
41 service of such individual for such period shall be deemed to be
42 employment. As used in this subdivision, the term "pay period"
43 means a period (of not more than 31 consecutive days) for which
44 a payment or remuneration is ordinarily made to the individual
45 by the person employing ~~him~~ the individual. *

46 (q) Services performed for a state, other than the state
47 of Minnesota, or an instrumentality wholly owned by such other
48 state or political subdivision of such other state;

49 (r) Services performed as a direct seller as defined in
50 United States Code, title 26, section 3508.

51 (16) "Institution of higher education," for the purposes of
52 this chapter, means an educational institution which:

53 (a) Admits as regular students only individuals having a
54 certificate of graduation from a high school, or the recognized
55 equivalent of such a certificate;

56 (b) Is legally authorized in this state to provide a
57 program of education beyond high school;

58 (c) Provides an educational program for which it awards a
59 bachelor's or higher degree, or provides a program which is
60 acceptable for credit toward such a degree, a program of
61 post-graduate or post-doctoral studies, or a program of training
62 to prepare students for gainful employment in a recognized
63 occupation; and

64 (d) Is a public or other nonprofit institution.

65 (e) Notwithstanding any of the foregoing provisions of this
66 clause, all colleges and universities in this state are
67 institutions of higher education for purposes of this section.

68 (17) "Hospital" means an institution which has been
69 licensed, certified or approved by the department of health as a
70 hospital.

71 No change for subd 13 to 14

72 Subd. 15. "Filing" means the delivery of any document to
73 the commissioner or any of ~~his~~ the commissioner's agents or *
74 representatives, or the depositing of the same in the United
75 States mail properly addressed to the department with postage
76 prepaid thereon, in which case the same shall have been filed on

1 the day indicated by the cancelation mark of the United States
2 Post Office Department.

3 No change for subd 16 to 17

4 Subd. 18. "Interested party" includes the claimant, ~~his~~ *
5 the claimant's base period employers, and ~~his~~ most recent *
6 employer prior to the filing of a valid claim for benefits.

7 No change for subd 19 to 22

8 Subd. 23. "Unemployment". An individual shall be deemed *
9 "unemployed" in any week during which ~~he~~ the individual performs *
10 no service and with respect to which no wages are payable to ~~him~~ *
11 the individual, or in any week of less than full time work if *
12 the wages payable ~~to him~~ with respect to such week are less than *
13 ~~his~~ the individual's weekly benefit amount. Any individual *
14 unemployed as a result of a uniform vacation shutdown shall not *
15 be deemed to be voluntarily unemployed. The commissioner *
16 may, ~~in his discretion~~, prescribe regulations relating to the *
17 payment of benefits to such unemployed individuals.

18 Subd. 24. "Valid claim" with respect to any individual *
19 means a claim filed by an individual who has registered for work *
20 and who has earned wage credits and established credit weeks *
21 during ~~his~~ the individual's base period sufficient to entitle *
22 ~~him~~ the individual to benefits under section 268.07, subdivision *
23 2.

24 Subd. 25. WAGES. "Wages" means all remuneration for *
25 services, including commissions and bonuses, back pay as of the *
26 date of payment, and tips and gratuities paid to an employee by *
27 a customer of an employer and accounted for by the employee to *
28 the employer, and the cash value of all remuneration in any *
29 medium other than cash, except that such term shall not include:

30 (a) For the purpose of determining contributions payable *
31 under section 268.06, subdivision 2, that part of the *
32 remuneration which exceeds, for each calendar year, the greater *
33 of \$7,000 or that part of the remuneration which exceeds 60 *
34 percent of the average annual wage rounded to the nearest \$100 *
35 computed in accordance with the provisions of clause (f), paid *
36 to an individual by an employer with respect to covered *
37 employment in this state, or with respect to employment under *
38 the unemployment compensation law of any other state during any *
39 calendar year paid to such individual by such covered employer. *
40 or ~~his~~ predecessor during such calendar year; provided, that if *
41 the term "wages" as contained in the Federal Unemployment Tax *
42 Act is amended to include remuneration in excess of the amount *
43 required to be paid hereunder to an individual by an employer *
44 under the federal act for any calendar year, wages for the *
45 purposes of sections 268.03 to 268.24 shall include remuneration *
46 paid in a calendar year up to an amount equal to the dollar *
47 limitation specified in the Federal Unemployment Tax Act. For *
48 the purposes of this clause, the term "employment" shall include *
49 service constituting employment under any employment security *
50 law of another state or of the federal government;

51 (b) The amount of any payment made to, or on behalf of, an *
52 employee under a plan or system established by an employer which *
53 makes provision for ~~his~~ employees generally or for a class or *
54 classes of ~~his~~ employees (including any amount paid by an *
55 employer for insurance or annuities, or into a fund, to provide *
56 for any such payment), on account of (1) retirement or (2) *
57 sickness or accident disability or (3) medical and *
58 hospitalization expenses in connection with sickness or accident *
59 disability, or (4) death, provided the employee has not the *
60 option to receive, instead of provision for such death benefit, *
61 any part of such payment, or if such death benefit is insured, *
62 any part of the premium (or contributions to premiums) paid by *
63 ~~his~~ the employer and has not the right, under the provisions of *
64 the plan or system or policy of insurance providing for such *
65 death benefit, to assign such benefit, or to receive a cash *
66 consideration in lieu of such benefit either upon ~~his~~ withdrawal *
67 from the plan or system providing for such benefit or upon *
68 termination of such plan or system or policy of insurance or of *
69 ~~his~~ employment with such employer;

70 (c) The payment by an employer (without deduction from the *
71 remuneration of the employee) (1) of the tax imposed upon an *
72 employee under section 3101 of the federal Internal Revenue *
73 Code, or (2) of any payment required from an employee under a *
74 state unemployment compensation law, with respect to *
75 remuneration paid to an employee for domestic service in a *
76 private home of the employer or for agricultural labor;

(d) Any payments made to a former employee during the period of active military service in the armed forces of the United States by such employer, whether legally required or not;

(e) Any payment made to, or on behalf of, an employee or his beneficiary (1) from or to a trust described in section 401(a) of the federal Internal Revenue Code which is exempt from tax under section 501(a) of such code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or (2) under or to an annuity plan which, at the time of such payment is a plan described in section 403(a) of the federal Internal Revenue Code, or (3) under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in section 405(a) of the federal Internal Revenue Code;

(f) On or before July 1 of each year the commissioner shall determine the average annual wage paid by employers subject to sections 268.03 to 268.24 in the following manner:

(1) The sum of the total monthly employment reported for the previous calendar year shall be divided by 12 to determine the average monthly employment;

(2) The sum of the total wages reported for the previous calendar year shall be divided by the average monthly employment to determine the average annual wage.

The average annual wage determined shall be effective for the calendar year next succeeding the determination.

No change for subd 26 to 33

268*#05S

268.05 UNEMPLOYMENT COMPENSATION FUND.

No change for subd 1

Subd. 2. COMMISSIONER OF FINANCE TO BE CUSTODIAN;

SEPARATE ACCOUNTS; BONDS. The commissioner of finance shall be ex officio the treasurer and custodian of the fund. He shall, administer the fund in accordance with the directions of the commissioner, and issue his warrants upon it in accordance with such regulations as the commissioner shall prescribe. He The commissioner of finance shall maintain within the fund three separate accounts:

- (1) a clearing account;
(2) an unemployment trust fund account; and
(3) a benefit account.

All money payable to the fund, upon receipt thereof by the commissioner, shall be forwarded to the commissioner of finance who shall immediately deposit them in the clearing account. All money in the clearing account, after clearance thereof, shall, except as herein otherwise provided, be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of money in the possession or custody of this state to the contrary notwithstanding. Refunds payable pursuant to sections 268.16, subdivision 6, and 268.04, subdivision 12, clause (8) (f), may be paid from the clearing account or the benefit account. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund in the United States Treasury for the payment of benefits. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the commissioner of finance, under the direction of the commissioner, in any depository bank in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Money in the clearing and benefit accounts shall not be commingled with other state funds, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by the general depository law of this state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the state. All sums recovered for losses sustained by the fund shall be deposited therein.

Subd. 3. WITHDRAWALS. (1) Moneys requisitioned from this state's account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds

1 pursuant to sections 268.16, subdivision 6, and 268.04,
 2 subdivision 12, clause (8) (f) except that money credited to
 3 this state's account pursuant to section 903 of the Social
 4 Security Act, as amended, shall be used exclusively as provided
 5 in subdivision 5 of this section. The commissioner or ~~his~~ a *
 6 duly authorized agent for that purpose, shall from time to time
 7 requisition from the unemployment trust fund such amounts, not
 8 exceeding the amount standing to this state's account therein,
 9 as ~~he~~ the commissioner deems necessary for the payment of such *
 10 benefits and refunds for a reasonable future period. Upon
 11 receipt thereof the treasurer shall deposit such moneys in the *
 12 benefit account and issue ~~his~~ warrants for the payment of *
 13 benefits solely from such benefit account. Expenditures of such
 14 moneys in the benefit account and refunds from the clearing
 15 account shall not be subject to any provisions of law requiring
 16 specific appropriations or other formal release by state
 17 officers of money in their custody. All warrants issued by the
 18 treasurer for the payment of benefits and refunds shall bear the
 19 signature of the treasurer and the counter signature of the
 20 commissioner or ~~his~~ a duly authorized agent for that purpose. *

21 (2) Any balance of moneys requisitioned from the
 22 unemployment trust fund which remains unclaimed or unpaid in the
 23 benefit account after the expiration of the period for which
 24 such sums were requisitioned shall either be deducted from
 25 estimates for, and may be utilized for the payment of, benefits
 26 and refunds during succeeding periods or, in the discretion of
 27 the commissioner, shall be redeposited with the secretary of the
 28 treasury of the United States, to the credit of this state's
 29 account in the unemployment trust fund, as provided in
 30 subdivision 2.

31 No change for subd 4 to 6

268*#06S

32 268.06 EMPLOYERS CONTRIBUTIONS.

33 Subdivision 1. PAYMENTS. (1) Contributions shall
 34 accrue and become payable by each employer for each calendar
 35 year in which ~~he~~ the employer is subject to sections 268.03 to *
 36 268.24 with respect to wages (as defined in section 268.04,
 37 subdivision 25) for employment. Such contributions shall become
 38 due and be paid by each employer to the department of economic
 39 security for the fund in accordance with such regulations as the
 40 commissioner may prescribe, and shall not be deducted, in whole
 41 or in part, from the wages of individuals in such employer's
 42 employ. No rule of the commissioner shall be put in force which
 43 will permit the payment of such contributions at a time or under
 44 conditions which will not allow the employer to take credit for
 45 such contribution against the tax imposed by section 3301 of the
 46 Internal Revenue Code.

47 (2) In the payment of any contribution, a fractional part
 48 of a cent shall be disregarded unless it amounts to one-half
 49 cent or more in which case it shall be increased to one cent.

50 (3) When the contribution rate applied to an employer's
 51 taxable payroll for any given calendar quarter results in a
 52 computed contribution of less than \$1, the contribution shall be
 53 disregarded.

54 Subd. 2. RATES. Each employer shall pay
 55 contributions equal to two and seven-tenths percent for each
 56 calendar year prior to 1985 and 5-4/10 percent for 1985 and each
 57 subsequent calendar year of wages paid and wages overdue and
 58 delayed beyond the usual time of payment from ~~him~~ the employer *
 59 with respect to employment occurring during each calendar year,
 60 except as may be otherwise prescribed in subdivisions 3a and 4.
 61 Each employer who has an experience ratio of less than one-tenth
 62 of one percent shall pay contributions on only the first \$8,000
 63 in wages paid and wages overdue and delayed beyond the usual
 64 time of payment to each employee with respect to employment
 65 occurring during each calendar year.

66 Subd. 3. Repealed, 1969 c 854 s 14

67 No change for subd 3a to 4

68 Subd. 5. BENEFITS CHARGED AS AND WHEN PAID. Benefits
 69 paid to an individual pursuant to a valid claim shall be charged
 70 against the account of ~~his~~ the individual's employer as and when *
 71 paid, except that benefits paid to an individual who earned base
 72 period wages for part-time employment shall not be charged to an
 73 employer that is liable for payments in lieu of contributions or
 74 to the experience rating account of an employer if the
 75 employer: (1) provided weekly base period part-time employment;

1 (2) continues to provide weekly employment equal to at least 90
 2 percent of the part-time employment provided in the base period;
 3 and (3) is an interested party because of the individual's loss
 4 of other employment. The amount of benefits so chargeable
 5 against each base period employer's account shall bear the same
 6 ratio to the total benefits paid to an individual as the base
 7 period wage credits of the individual earned from such employer
 8 bear to the total amount of base period wage credits of the
 9 individual earned from all ~~his~~ the individual's base period
 10 employers. *

11 In making computations under this provision, the amount of
 12 wage credits if not a multiple of \$1, shall be computed to the
 13 nearest multiple of \$1.

14 Benefits shall not be charged to an employer that is liable
 15 for payments in lieu of contributions or to the experience
 16 rating account of an employer for unemployment that is directly
 17 caused by a major natural disaster declared by the president
 18 pursuant to section 102(2) of the Disaster Relief Act of 1974
 19 (42 United States Code 5122(2)), if the unemployed individual
 20 would have been eligible for disaster unemployment assistance
 21 with respect to that unemployment but for the individual's
 22 receipt of unemployment insurance benefits.

23 Subd. 6. COMPUTATION OF EACH EMPLOYER'S EXPERIENCE
 24 RATIO. The commissioner shall, for the calendar year 1966,
 25 and for each calendar year thereafter, compute an experience
 26 ratio for each employer whose account has been chargeable with
 27 benefits;

28 (a) During the 36 consecutive calendar months immediately
 29 preceding July 1 of the preceding calendar year for calendar
 30 years up to December 31, 1983; except that, for any employer who
 31 has not been subject to the Minnesota economic security law for
 32 a period of time sufficient to meet the 36 consecutive months
 33 requirement, the commissioner shall compute an experience ratio
 34 if ~~his~~ the employer's account has been chargeable with benefits
 35 during at least the 12 consecutive calendar months immediately
 36 preceding July 1 of the preceding calendar year. Such
 37 experience ratio shall be the quotient obtained by dividing 1
 38 1/4 times the total benefits charged to the employer's account
 39 during the period ~~his~~ the account has been chargeable but not
 40 less than the 12 or more than the 36 consecutive calendar months
 41 ending on June 30 of the preceding calendar year, by ~~his~~ the
 42 employer's total taxable payroll for the same period on which
 43 all contributions due have been paid to the department of
 44 economic security on or before July 31 of the preceding calendar
 45 year. Such experience ratio shall be computed to the nearest
 46 one-tenth of a percent. *

47 (b) During the 48 consecutive calendar months immediately
 48 preceding July 1, 1983 for the calendar year for 1984; except
 49 that, for any employer who has not been subject to the Minnesota
 50 economic security law for a period of time sufficient to meet
 51 the 48 consecutive months requirement, the commissioner shall
 52 compute an experience ratio if ~~his~~ the employer's account has
 53 been chargeable with benefits during at least the 12 consecutive
 54 calendar months immediately preceding July 1, 1983. Such
 55 experience ratio shall be the quotient obtained by dividing
 56 1-1/4 times the total benefits charged to the employer's account
 57 during the period ~~his~~ the account has been chargeable but not
 58 less than the 12 or more than the 48 consecutive calendar months
 59 ending on June 30, 1983, by ~~his~~ the employer's total taxable
 60 payroll for the same period on which all contributions due have
 61 been paid to the department of economic security on or before
 62 July 31, 1983. Such experience ratio shall be computed to the
 63 nearest one-tenth of a percent. *

64 (c) During the 60 consecutive calendar months immediately
 65 preceding July 1 of the preceding calendar year for 1985 and
 66 each year thereafter; except that, for any employer who has not
 67 been subject to the Minnesota economic security law for a period
 68 of time sufficient to meet the 60 consecutive months
 69 requirement, the commissioner shall compute an experience ratio
 70 if ~~his~~ the employer's account has been chargeable with benefits
 71 during at least the 12 consecutive calendar months immediately
 72 preceding July 1 of the preceding calendar year. Such
 73 experience ratio shall be the quotient obtained by dividing
 74 1-1/4 times the total benefits charged to the employer's account
 75 during the period ~~his~~ the account has been chargeable but not
 76 less than the 12 or more than the 60 consecutive calendar months *

1 ending on June 30 of the preceding calendar year for 1985 and
 2 each year thereafter, by ~~his~~ the employer's total taxable
 3 payroll for the same period on which all contributions due have
 4 been paid to the department of economic security on or before
 5 July 31 of the preceding calendar year. Such experience ratio
 6 shall be computed to the nearest one-tenth of a percent.

7 Subd. 7. Repealed, 1949 c 605 s 15

8 Subd. 8. DETERMINATION OF CONTRIBUTION RATES. For
 9 each calendar year the commissioner shall determine the
 10 contribution rate of each employer by adding the minimum rate to
 11 the experience ratio, except that if the ratio for the current
 12 calendar year increases or decreases the experience ratio for
 13 the preceding calendar year by more than one and one-half
 14 percentage points for 1982; and 2-1/2 percentage points for 1983
 15 and each year thereafter, the increase or decrease for the
 16 current year shall be limited to one and one-half percentage
 17 points for 1982; and 2-1/2 percentage points for 1983 and each
 18 year thereafter, provided that a small business employer shall
 19 be eligible, upon application, for a reduction in the limitation
 20 to 1-1/2 percentage points for 1983 and each year thereafter.
 21 "Small business employer" for the purpose of this subdivision
 22 means an employer with an annual covered payroll of \$250,000 or
 23 less, or fewer than 20 employees in three of the four quarters
 24 ending June 30, of the previous calendar year.

25 The minimum rate for all employers shall be one percent if
 26 the amount in the unemployment compensation fund is less than
 27 \$80,000,000 on June 30 of the preceding calendar year; or
 28 nine-tenths of one percent if the fund is more than \$80,000,000
 29 but less than \$90,000,000; or eight-tenths of one percent if the
 30 fund is more than \$90,000,000 but less than \$110,000,000; or
 31 seven-tenths of one percent if the fund is more than
 32 \$110,000,000 but less than \$130,000,000; or six-tenths of one
 33 percent if the fund is more than \$130,000,000 but less than
 34 \$150,000,000; or five-tenths of one percent if the fund is more
 35 than \$150,000,000 but less than \$170,000,000; or three-tenths of
 36 one percent if the fund is more than \$170,000,000 but less than
 37 \$200,000,000; or one-tenth of one percent if the fund is
 38 \$200,000,000 or more; provided that no employer shall have a
 39 contribution rate of more than 7.5 percent.

40 For the purposes of this section the unemployment
 41 compensation fund shall not include any moneys advanced from the
 42 Federal Unemployment Account in the unemployment trust fund in
 43 accordance with Title XII of the Social Security Act, as
 44 amended. No employer first assigned an experience ratio in
 45 accordance with subdivision 6, shall have ~~his~~ a contribution
 46 rate increased or decreased by more than one and one-half
 47 percentage points for 1982; and 2-1/2 percentage points for 1983
 48 and each year thereafter over the contribution rate assigned for
 49 the preceding calendar year in accordance with subdivision 3a,
 50 provided that a small business employer shall be eligible, upon
 51 application, for a reduction in the limitation to 1-1/2
 52 percentage points for 1983 and each year thereafter.

53 Subd. 9. Repealed, 1949 c 605 s 15

54 Subd. 10. Repealed, 1949 c 605 s 15

55 Subd. 11. Repealed, 1953 c 97 s 7

56 Subd. 12. Repealed, 1953 c 97 s 7

57 Subd. 13. Repealed, 1953 c 97 s 7

58 Subd. 14. Repealed, 1953 c 97 s 7

59 Subd. 15. Repealed, 1953 c 97 s 7

60 Subd. 16. Repealed, 1953 c 97 s 7

61 Subd. 17. Repealed, 1949 c 605 s 15

62 Subd. 18. NOTICE TO EMPLOYER. The commissioner

63 shall at least twice each year notify each employer of the
 64 benefits as determined by the department which have been charged
 65 to ~~his~~ the employer's account subsequent to the last notice.
 66 Unless reviewed in the manner hereinafter provided, charges set
 67 forth in such notice, or as modified by a redetermination, a
 68 decision of a referee, or the commissioner, shall be final and
 69 shall be used in determining the contribution rates for all
 70 years in which the charges occur within the employer's
 71 experience period and shall not be subject to collateral attack
 72 by way of review of a rate determination, application for
 73 adjustment or refund, or otherwise.

74 Subd. 19. NOTICE OF RATE. The commissioner shall
 75 mail to each employer notice of ~~his~~ the employer's rate of
 76 contributions as determined for any calendar year pursuant to

1 employing unit which at the time of the acquisition was an
 2 employer subject to this law, and continues such organization,
 3 trade or business, the experience rating record of the
 4 predecessor employer shall be transferred as of the date of
 5 acquisition to the successor employer for the purpose of rate
 6 determination.

7 (b) When an employing unit succeeds to or acquires a
 8 distinct severable portion of the organization, trade, business
 9 or assets which is less than substantially all of the employing
 10 enterprises of another employing unit, the successor employing
 11 unit shall acquire the experience rating record attributable to
 12 the portion to which it has succeeded, and the predecessor
 13 employing unit shall retain the experience rating record
 14 attributable to the portion which it has retained, if (1) the
 15 successor continues the organization, trade or business of the
 16 portion acquired, (2) the successor within 90 days of
 17 acquisition makes a written request to file an application as
 18 prescribed by the commissioner for the transfer of the
 19 experience rating record for the severable portion acquired from
 20 the predecessor (3) and within 90 days from the date the
 21 application is mailed to the successor the successor and
 22 predecessor employing units sign the application that furnishes
 23 the commissioner with sufficient information to substantiate the
 24 severable portion and to assign the total and taxable wages and
 25 benefit charges to the successor for experience rating purposes.

26 (c) An employing unit which succeeds to or acquires the
 27 organization, trade or business or substantially all of the
 28 assets of an employer shall notify the department in writing of
 29 the acquisition not later than 30 days after the acquisition.
 30 Failure to give notice shall render the predecessor and
 31 successor employing unit jointly and severally liable for
 32 contributions due and unpaid by the predecessor.

33 (d) Employment with a predecessor employer shall not be
 34 deemed to have been terminated if similar employment is offered
 35 by the successor employer and accepted by the employee.

36 (e) An official, designated by the commissioner, upon ~~his~~ *
 37 the official's own motion or upon application of an employing *
 38 unit shall determine if an employing unit is a successor within
 39 the meaning of this subdivision and shall notify the employing
 40 unit of the determination. The determination shall be final
 41 unless the employing unit shall within 30 days after mailing of
 42 notice of determination to the employing unit's last known
 43 address file a written appeal. Proceedings on the appeal shall
 44 be in accordance with section 268.12, subdivision 13.

45 (f) Notwithstanding subdivision 19, the commissioner may,
 46 after any determination of succession, recompute the rate of the
 47 employer for any prior year affected by the transfer of part or
 48 all of the experience rating record under this subdivision.

49 Subd. 23. Repealed, 1955 c 380 s 5

50 Subd. 24. REASSIGNMENT. Notwithstanding any
 51 inconsistent provisions of law any employer who has been
 52 assigned a contribution rate pursuant to subdivisions 4, 6, and
 53 8 of this section may, for the calendar year 1967, or any
 54 calendar year thereafter, upon the voluntary payment of an
 55 amount equivalent to any portion or all of the benefits charged
 56 to ~~his~~ the employer's account during the period ending June 30 *
 57 of the preceding year used for the purpose of computing an
 58 employer's experience ratio as authorized by said subdivisions *
 59 4, 6, and 8, obtain a cancellation of benefits charged to ~~his~~ *
 60 the account during such period equal to such payment so *
 61 voluntarily made. Upon the payment of such voluntary
 62 contribution, plus a surcharge of 25 percent of such benefit
 63 charged, within the applicable period prescribed by the
 64 provisions of this subdivision, the commissioner shall cancel
 65 the benefits equal to such payment, excluding the 25 percent
 66 surcharge, so voluntarily made and compute a new experience
 67 ratio for such employer. The employer then shall be assigned the
 68 contribution rate applicable to the category within which ~~his~~ *
 69 the recomputed experience ratio is included. Such voluntary *
 70 payments may be made only during the 30-day period immediately *
 71 following the date of mailing to the employer of the notice *
 72 of ~~his~~ contribution rate as prescribed in this section; provided *
 73 that the commissioner may extend this period if ~~he~~ the *
 74 commissioner finds that the employer's failure to make such *
 75 payment within such 30-day period was for good cause; and *
 76 provided further that notwithstanding any of the foregoing

1 provisions of this subdivision, in no event shall any new
 2 experience ratio be computed for any employer or ~~his~~ a *
 3 contribution rate be reduced as a result of any such voluntary *
 4 payment which ~~he~~ is made after the expiration of the 120-day
 5 period commencing with the first day of the calendar year for
 6 which such rate is effective. Any adjustments under this
 7 subdivision shall be used only in the form of credits against
 8 accrued or future contributions.

9 When all or a part of the benefits charged to an employer's
 10 account are for the unemployment of 75 percent or more of the
 11 employees in an employing unit and the unemployment is caused by
 12 damages to the unit by fire, flood, wind or other act of God,
 13 the employer may obtain a cancellation of benefits incurred
 14 because of that unemployment in the manner provided by this
 15 subdivision without being subject to the surcharge of 25 percent
 16 otherwise required.

17 Subd. 25. PAYMENTS TO FUND BY STATE AND POLITICAL
 18 SUBDIVISIONS IN LIEU OF CONTRIBUTIONS. In lieu of
 19 contributions required of employers under this law, the state of
 20 Minnesota or its political subdivisions governed by this law
 21 shall pay into the unemployment compensation fund an amount
 22 equivalent to the amount of benefits charged, and as to weeks of
 23 unemployment beginning after January 1, 1979, all of the
 24 extended benefits paid based on wages paid by the state of
 25 Minnesota or such political subdivisions. If benefits paid an
 26 individual are based on wages paid by both the state of
 27 Minnesota or such political subdivisions and one or more other
 28 employers, the amount payable by the state of Minnesota or such
 29 political subdivisions to the fund shall bear the same ratio to
 30 total benefits paid to the individual as the base-period wages
 31 paid to the individual by the state of Minnesota or such
 32 political subdivisions bear to the total amount of base-period
 33 wages paid to the individual by all ~~his~~ base-period employers. *
 34 The amount of payment required under this subdivision shall be
 35 ascertained by the commissioner at least four times per year.
 36 Payments shall be made and become due on the last day of the
 37 month next following the month in which the notice of benefits
 38 charged is mailed to the employer. Past due payments of amounts
 39 determined due under this subdivision shall be subject to the
 40 same interest charges and collection procedures that apply to
 41 past due contributions under sections 268.16 and 268.161.

42 Subd. 26. REIMBURSEMENT OF FUND BY STATE. To
 43 facilitate the discharge by the state of Minnesota and its
 44 wholly owned instrumentalities of their obligations under
 45 subdivision 25 of this section, the state and its wholly owned
 46 instrumentalities shall reimburse the unemployment compensation
 47 fund as provided in the following clauses:

48 (1) Every self-sustaining department, institution and
 49 wholly owned instrumentality of the state shall pay into the
 50 unemployment compensation fund such amounts as the department of
 51 economic security shall certify has been paid from the fund to
 52 eligible individuals. For the purposes of this clause a
 53 "self-sustaining department, institution or wholly owned
 54 instrumentality" is one in which the dedicated income and
 55 revenue substantially offsets its cost of operation.

56 (2) Every partially self-sustaining department,
 57 institution and wholly owned instrumentality of the state shall
 58 pay into the unemployment compensation fund such proportion of
 59 the sum which the department of economic security certifies has
 60 been paid from the fund to eligible individuals as the total of
 61 its income and revenue bears to its annual cost of operation.

62 (3) Every department, institution or wholly owned
 63 instrumentality of the state which is not self-sustaining shall
 64 pay to the unemployment compensation fund such sums as the
 65 department of economic security certifies have been paid from
 66 the fund to eligible individuals to the extent funds are
 67 available from appropriated funds.

68 (4) The departments, institutions and wholly owned
 69 instrumentalities of the state, including the University of
 70 Minnesota, which have money available shall immediately
 71 reimburse the unemployment compensation fund for benefits paid
 72 which were charged to their accounts upon receiving notification
 73 from the department of economic security of such charges. If an
 74 individual to whom benefits were paid was paid by a department,
 75 institution or wholly owned instrumentality during ~~his~~ the *
 76 individual's base period from a special or administrative *

1 account or fund provided by law, the payment into the
2 unemployment compensation fund shall be made from such special
3 or administrative account or fund with the approval of the
4 department of administration and such amounts are hereby
5 appropriated.

6 (5) For those departments, institutions and wholly owned
7 instrumentalities of the state which cannot immediately
8 reimburse the unemployment compensation fund for benefits that
9 were charged to their accounts, the commissioner of economic
10 security shall certify on November 1 of each calendar year to
11 the department of finance as to the unpaid balances due and
12 owing. Upon receipt of the certification the commissioner of
13 the department of finance shall include such unpaid balances in
14 the biennial budget to be submitted to the legislature.

15 No change for subd 27

16 Subd. 28. PAYMENT TO FUND BY NONPROFIT CORPORATION AND
17 ALLOCATION OF BENEFIT COSTS BY BASE PERIOD REIMBURSERS. (1)
18 Benefits paid to employees of nonprofit organizations shall be
19 financed in accordance with the provisions of this subdivision.
20 For the purpose of this subdivision, a nonprofit organization is
21 an organization (or group of organizations) described in section
22 501(c)(3) of the United States Internal Revenue Code which is
23 exempt from income tax under section 501(a) of such code. Any
24 nonprofit organization which, pursuant to section 268.04,
25 subdivision 10, clause (9) is, or becomes, subject to this law
26 on or after January 1, 1972, shall pay contributions under the
27 provisions of section 268.06, subdivision 1, unless it elects,
28 in accordance with this paragraph, to pay to the commissioner
29 for the unemployment fund an amount equal to the amount of
30 regular benefits and the state share of the extended benefits
31 charged, that is attributable to service in the employ of such
32 nonprofit organization, to individuals for weeks of unemployment
33 which begin during the effective period of such election.

34 (a) Any nonprofit organization which becomes subject to
35 this law after January 1, 1972, may elect to become liable for
36 payments in lieu of contributions for a period of not less than
37 two calendar years beginning with the date on which such
38 subjectivity begins by filing a written notice of its election
39 with the commissioner not later than 30 days immediately
40 following the date of the determination of such subjectivity.

41 (b) Any nonprofit organization which makes an election in
42 accordance with clause (a) or clause (b) will continue to be
43 liable for payments in lieu of contributions until it files with
44 the commissioner a written notice terminating its election not
45 later than 30 days prior to the beginning of the calendar year
46 for which such termination shall first be effective.

47 (c) Any nonprofit organization which has been paying
48 contributions under this law for a period subsequent to January
49 1, 1972, may change to a reimbursable basis by filing with the
50 commissioner not later than 30 days prior to the beginning of
51 any calendar year a written notice of election to become liable
52 for payments in lieu of contributions. Such election shall not
53 be terminable by the organization for that and the next year.

54 (d) The commissioner may for good cause extend the period
55 within which a notice of election, or a notice of termination,
56 must be filed and may permit an election to be retroactive but
57 not any earlier than with respect to benefits paid after
58 December 31, 1971.

59 (e) The commissioner, in accordance with such regulations
60 as ~~he~~ the commissioner may prescribe, shall notify each
61 nonprofit organization of any determination which ~~he~~ the
62 commissioner may make of its status as an employer and of the
63 effective date of any election which it makes and of any
64 termination of such election. Such determinations shall be
65 final unless reviewed in accordance with the provisions of
66 section 268.12, subdivision 13.

67 (2) Payments in lieu of contributions shall be made at the
68 end of each calendar quarter, or at the end of any other period
69 as determined by the commissioner and become due on the last day
70 of the month next following the month in which the notice of
71 benefits charged is mailed to the employer. The commissioner
72 shall bill each nonprofit organization (or group of such
73 organizations) which has elected to make payments in lieu of
74 contributions for an amount equal to the full amount of regular
75 benefits plus one-half of the amount of extended benefits
76 charged during such quarter or other prescribed period that is

*
*
*

1 attributable to service in the employ of such organization.

2 (3) Past due payments of amounts in lieu of contributions
3 shall be subject to the same interest charges and collection
4 procedures that apply to past due contributions under sections
5 268.16 and 268.161.

6 (4) If any nonprofit organization is delinquent in making
7 payments in lieu of contributions as required under this
8 subdivision, the commissioner may terminate such organization's
9 election to make payments in lieu of contributions as of the
10 beginning of the next taxable year, and such termination shall
11 be effective for that and the following taxable year.

12 Subd. 29. GROUP ACCOUNTS. Two or more employers that
13 have become liable for payments in lieu of contributions may
14 file a joint application to the commissioner for the
15 establishment of a group account for the purpose of sharing the
16 cost of benefits paid that are attributable to service in the
17 employ of such employers. Each such application shall identify
18 and authorize a group representative to act as the group's agent
19 for the purposes of this subdivision. Upon ~~his~~ the *
20 commissioner's approval of the application, the commissioner *
21 shall establish a group account for such employers effective as
22 of the beginning of the calendar year in which the application
23 is received by the commissioner and shall notify the group's
24 representative of the effective date of the account. Such
25 account shall remain in effect for not less than two years and
26 thereafter until terminated at the discretion of the
27 commissioner or upon application by the group at least 30 days
28 prior to the end of such two year period or 30 days prior to
29 January 1 of any calendar year subsequent to such two calendar
30 years. Each member of the group shall be jointly and severally
31 liable for payments in lieu of contributions for all benefits
32 paid based upon wage credits earned with a group member during
33 the period the group account was in effect. The commissioner
34 shall prescribe such regulations as ~~he~~ the commissioner deems *
35 necessary with respect to applications for establishment,
36 maintenance and termination of group accounts that are
37 authorized by this subdivision, for addition of new members to,
38 and withdrawal of active members from, such account, and for the
39 determination of the amounts that are payable under this
40 subdivision by members of the group and the time and manner of
41 such payments.

42 No change for subd 30 to 33

268*#07S

43 268.07 BENEFITS PAYABLE.

44 No change for subd 1

45 Subd. 2. WEEKLY BENEFIT AMOUNT AND DURATION. If the
46 commissioner finds that an individual has earned 15, or more,
47 credit weeks within the base period of employment in insured
48 work with one or more employers, benefits shall be payable to
49 such individual during ~~his~~ the individual's benefit year as *
50 follows;

51 (1) Weekly benefit amount shall be equal to 60 percent of
52 the first \$85, 40 percent of the next \$85 and 50 percent of the
53 remainder of the average weekly wage of such individual. The
54 amount so computed if not a whole dollar shall be rounded down
55 to the next lower dollar amount. The maximum weekly benefit
56 amount of claims for benefits which establish a benefit year
57 subsequent to July 1, 1979 shall be 66-2/3 percent of the
58 average weekly wage, except as provided in clause (d).

59 On or before June 30 of each year the commissioner shall
60 determine the average weekly wage paid by employers subject to
61 sections 268.03 to 268.24 in the following manner:

62 (a) The sum of the total monthly employment reported for
63 the previous calendar year shall be divided by 12 to determine
64 the average monthly employment.

65 (b) The sum of the total wages reported for the previous
66 calendar year shall be divided by the average monthly employment
67 to determine the average annual wage.

68 (c) The average annual wage shall be divided by 52 to
69 determine the average weekly wage.

70 The maximum weekly benefit amount as so determined computed
71 to the nearest whole dollar shall apply to claims for benefits
72 which establish a benefit year which begins subsequent to June
73 30 of each year.

74 (d) The maximum weekly benefit amount for claims for
75 benefits which establish a benefit year subsequent to June 30,

1 1982, and prior to July 1, 1983, shall be \$184.

2 The maximum weekly benefit amount for claims for benefits
3 which establish a benefit year subsequent to June 30, 1983, and
4 prior to July 1, 1984, shall be \$191.

5 The maximum weekly benefit amount for claims for benefits
6 which establish a benefit year subsequent to June 30, 1984, and
7 prior to July 1, 1985, shall be \$198.

8 (2) An individual's maximum amount of regular benefits
9 payable in a benefit year shall not exceed the lesser of (a) 26
10 times ~~his~~ the individual's weekly benefit amount or (b) 70 *
11 percent of the number of credit weeks earned by such an *
12 individual computed to the nearest whole week times ~~his~~ the *
13 individual's weekly benefit amount.

14 (3) Each eligible individual who is unemployed in any week
15 shall be paid with respect to such week a benefit in an amount
16 equal to ~~his~~ the individual's weekly benefit amount less that *
17 part of ~~his~~ the individual's earnings, including holiday pay, *
18 payable to ~~him~~ the individual with respect to such week which is *
19 in excess of \$25 or \$200 for earnings from service in the *
20 national guard or a United States military reserve unit. Jury
21 duty pay is not considered as earnings and shall not be deducted
22 from benefits paid. Such benefit, if not a whole dollar amount
23 shall be rounded down to the next lower dollar amount.

24 (4) The provisions of clauses (1) and (2) shall apply to
25 claims for benefits which establish a benefit year subsequent to
26 June 30, 1983.

27 No change for subd 2a to 3

268*#071S

28 268.071 EXTENDED BENEFITS.

29 Subdivision 1. DEFINITIONS. As used in this section,
30 unless the context clearly requires otherwise:

31 (1) EXTENDED BENEFIT PERIOD. "Extended benefit period"
32 means a period which

33 (a) Begins with the third week after a week for which there
34 is a state "on" indicator; and

35 (b) Ends with either of the following weeks, whichever
36 occurs later: The third week after the first week for which
37 there is a state "off" indicator; or the 13th consecutive week
38 of the period;

39 Provided, that no extended benefit period may begin before
40 the 14th week following the end of a prior extended benefit
41 period which was in effect with respect to this state.

42 (2) STATE "ON" INDICATOR. There is a "state 'on'
43 indicator" for this state for a week if the commissioner
44 determines, in accordance with the regulations of the United
45 States secretary of labor, that for the period consisting of
46 such week and the immediately preceding 12 weeks, the rate of
47 insured unemployment (not seasonally adjusted) under this law

48 (a) equaled or exceeded 120 percent of the average of such
49 rates for the corresponding 13 week period ending in each of the
50 preceding two calendar years, and

51 (b) equaled or exceeded five percent.

52 The determination of whether there has been a state "on"
53 indicator beginning any extended benefit period may be made as
54 provided in clauses (a) and (b) above or a "state 'on'
55 indicator" shall exist if the rate described in clause (b)
56 equaled or exceeded six percent irrespective of whether the
57 percentage requirement provided by clause (a) is met or exceeded.

58 (3) STATE "OFF" INDICATOR. There is a "state 'off'
59 indicator" for this state for a week if, for the period
60 consisting of such week and the immediately preceding 12 weeks,
61 the rate of insured unemployment is less than six percent and
62 the requirements for a "state 'on' indicator" under clause (2)
63 of this subdivision are not satisfied.

64 (4) RATE OF INSURED UNEMPLOYMENT. "Rate of insured
65 unemployment," for purposes of clauses (2) and (3), means the
66 percentage derived by dividing the average weekly number of
67 individuals filing claims for regular benefits in this state for
68 weeks of unemployment with respect to the most recent 13
69 consecutive week period, as determined by the commissioner on
70 the basis of ~~his~~ the commissioner's reports to the United States *
71 secretary of labor, by the average monthly employment covered
72 under this law for the first four of the most recent six
73 completed calendar quarters ending before the end of such 13
74 week period.

75 (5) REGULAR BENEFITS. "Regular benefits" means

1 benefits payable to an individual under this law or under any
2 other state law (including benefits payable to federal civilian
3 employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85)
4 other than extended benefits and additional benefits.

5 (6) EXTENDED BENEFITS. "Extended benefits" means
6 benefits (including benefits payable to federal civilian
7 employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85)
8 payable to an individual under the provisions of this section
9 for weeks of unemployment in ~~his~~ the individual's eligibility
10 period. *

11 (7) ADDITIONAL BENEFITS. "Additional benefits" means
12 benefits payable to exhaustees by reason of conditions of high
13 unemployment or by reason of other special factors under the
14 provisions of any state law.

15 (8) ELIGIBILITY PERIOD. "Eligibility period" of an
16 individual means the period consisting of the weeks in ~~his~~ the *
17 individual's benefit year which begin in an extended benefit *
18 period and, if ~~his~~ the benefit year ends within such extended *
19 benefit period, any weeks thereafter which begin in such period.

20 (9) EXHAUSTEE. "Exhaustee" means an individual who,
21 with respect to any week of unemployment in ~~his~~ the individual's *
22 eligibility period: *

23 (a) Has received, prior to such week, all of the regular
24 benefits that were available ~~to him~~ under this law or any other *
25 state law (including dependents' allowances and benefits payable
26 to federal civilian employees and ex-servicemen under 5 U.S.C.
27 chapter 85) in ~~his~~ the individual's current benefit year that *
28 includes such week; *

29 Provided, that, for the purposes of this paragraph, an
30 individual shall be deemed to have received all of the regular *
31 benefits that were available to ~~him~~ the individual although as a *
32 result of a pending appeal with respect to wage credits or
33 credit weeks that were not considered in the original monetary
34 determination in ~~his~~ the individual's benefit year, ~~he~~ the *
35 individual may subsequently be determined to be entitled to *
36 added regular benefits; or *

37 (b) ~~His~~ The individual's benefit year having expired prior *
38 to such week, has no, or insufficient, wages and/or employment *
39 on the basis of which ~~he~~ the individual could establish a new *
40 benefit year that would include such week or having established *
41 a benefit year that includes such week, ~~he~~ the individual is *
42 precluded from receiving regular compensation by reason of: (i) *
43 a state law provision which meets the requirements of section
44 3304 (a) (7) of the Internal Revenue Code of 1954, or (ii) a
45 disqualification determination which cancelled wage credits or
46 totally reduced ~~his~~ benefit rights, or (iii) benefits are not *
47 payable by reason of a seasonal limitation in a state *
48 unemployment insurance law; and *

49 (c) Has no right to unemployment benefits or allowances, as
50 the case may be, under the railroad unemployment insurance act,
51 the trade expansion act of 1962, the automotive products act of
52 1965 and such other federal laws as are specified in regulations
53 issued by the United States secretary of labor; and has not
54 received and is not seeking unemployment benefits under the
55 unemployment compensation law of Canada; but if ~~he~~ the *
56 individual is seeking such benefits and the appropriate agency *
57 finally determines that ~~he~~ the individual is not entitled to *
58 benefits under such law ~~he~~ the individual is considered an *
59 exhaustee. *

60 (10) STATE LAW. "State law" means the unemployment
61 insurance law of any state, approved by the United States
62 secretary of labor under section 3304 of the Internal Revenue
63 Code of 1954.

64 No change for subd 2

65 Subd. 3. ELIGIBILITY REQUIREMENTS FOR EXTENDED
66 BENEFITS. An individual shall be eligible to receive extended *
67 benefits with respect to any week of unemployment in ~~his~~ the *
68 individual's eligibility period only if the commissioner finds *
69 that with respect to such week the individual: *

70 (1) ~~He~~ is an "exhaustee" as defined in subdivision 1,
71 clause (9); *

72 (2) ~~He~~ has satisfied the requirements of this law for the *
73 receipt of regular benefits that are applicable to individuals
74 claiming extended benefits, including not being subject to a
75 disqualification for the receipt of benefits, except that an
76 individual disqualified for benefits pursuant to section 268.09,

1 subdivision 1, clause (6) is not eligible for extended benefits
 2 unless the individual has, subsequent to the disciplinary
 3 suspension, earned at least four times ~~his-or-her~~ the
 4 individual's weekly extended benefit amount; and *

5 (3) ~~He~~ has, during ~~his~~ the individual's base period earned
 6 wage credits available for benefit purposes of not less than 40
 7 times ~~his~~ the individual's weekly benefit amount as determined
 8 pursuant to section 268.07, subdivision 2. *

9 Subd. 4. WEEKLY EXTENDED BENEFIT AMOUNT. The weekly
 10 extended benefit amount payable to an individual for a week of
 11 total unemployment in ~~his~~ the individual's eligibility period
 12 shall be an amount equal to the weekly benefit amount payable ~~to~~
 13 ~~him~~ during ~~his~~ the individual's applicable benefit year. *

14 Subd. 5. TOTAL EXTENDED BENEFIT AMOUNT. The total
 15 extended benefit amount payable to any eligible individual with
 16 respect to ~~his~~ the individual's applicable benefit year shall be
 17 50 percent of the total amount of regular benefits which were
 18 payable ~~to-him~~ under this law in ~~his~~ the applicable benefit
 19 year, provided that at the expiration of ~~his~~ the benefit year,
 20 ~~his~~ the individual's remaining balance of extended benefits
 21 shall be reduced, but not below zero, by the product arrived at
 22 by multiplying ~~his~~ the individual's weekly extended benefit
 23 amount by the number of weeks in ~~his~~ the individual's expired
 24 benefit year for which any trade readjustment allowance was
 25 paid ~~him~~ pursuant to sections 231 to 234 of the trade act of
 26 1974, as amended. *

27 No change for subd 6 to 8

28 Subd. 9. ELIGIBILITY REQUIREMENTS. Notwithstanding
 29 the provisions of subdivision 2, an individual shall be
 30 ineligible for the payment of extended benefits for any week of
 31 unemployment in ~~his~~ the individual's eligibility period if the
 32 commissioner finds that during that week ~~he~~ the individual
 33 failed to accept any offer of suitable work, failed to apply for
 34 any suitable work to which ~~he-was~~ referred by the commissioner
 35 or failed to actively engage in seeking work. *

36 Any individual who has been found ineligible for extended
 37 benefits for any week by reason of this subdivision shall also
 38 be denied benefits for the week following the week in which the
 39 failure occurred and until ~~he~~ the individual has been employed
 40 in each of four subsequent weeks, whether or not consecutive,
 41 and has earned remuneration of not less than four times ~~his~~ the
 42 individual's extended weekly benefit amount. *

43 For the purpose of this subdivision "suitable work" means,
 44 with respect to any individual, any work which is within that
 45 individual's capabilities and which has a gross average weekly
 46 remuneration payable which exceeds the sum of the individual's
 47 weekly benefit amount as determined under subdivision 4 plus the
 48 amount, if any, of supplemental unemployment benefits, as
 49 defined in section 501(c) (17) (D) of the Internal Revenue Code
 50 of 1954, as amended, payable to the individual for that week.
 51 The work must pay wages not less than the higher of the minimum
 52 wage provided by section 6(a) (1) of the Fair Labor Standards
 53 Act of 1938, as amended, without regard to any exemption, or the
 54 applicable state or local minimum wage.

55 No individual shall be denied extended benefits for failure
 56 to accept an offer of or apply for any suitable work if: (a)
 57 the position was not offered to the individual in writing or was
 58 not listed with employment service; (b) the failure could not
 59 result in a denial of benefits under the definition of suitable
 60 work for regular benefit claimants in section 268.09,
 61 subdivision 2 to the extent that the criteria of suitability
 62 therein are not inconsistent with this subdivision; or (c) the
 63 individual furnishes satisfactory evidence to the commissioner
 64 that ~~his~~ prospects for obtaining work in his the individual's
 65 customary occupation within a reasonably short period are good. *

66 If the evidence furnished is found to be satisfactory for this
 67 purpose, the determination of whether any work is suitable for
 68 the individual shall be made in accordance with the definition
 69 of suitable work for regular benefit claimants in section
 70 268.09, subdivision 2, clause (a) without regard to the
 71 definition or special disqualification specified in this
 72 subdivision.

73 No work shall be found to be suitable work for an
 74 individual which does not accord with the labor standard
 75 provisions required by section 3304(a) (5) of the Internal
 76 Revenue Code of 1954, as amended, and set forth in section

1 268.09, subdivision 2, clauses (b) (1) (2) and (3).

2 For the purpose of this subdivision an individual is
3 "actively seeking work" during any week if the individual has
4 engaged in a systematic and sustained effort to obtain work
5 during the week, and the individual furnishes tangible evidence
6 ~~that he has engaged~~ of engaging in that effort during the week. *

7 The employment service shall refer any claimant entitled to
8 extended benefits under section 268.071 to any work which is
9 suitable work for that individual under this subdivision.

268*#072S

10 268.072 CHILD SUPPORT INTERCEPT OF UNEMPLOYMENT BENEFITS.

11 No change for subd 1

12 Subd. 2. NOTICE OF CLAIM. An individual filing a new
13 claim for unemployment compensation shall, at the time of filing
14 the claim, disclose whether or not the individual owes child
15 support obligations. If any individual discloses that ~~he or she~~
16 the individual owes child support obligations, and is determined *
17 to be eligible for unemployment compensation, the commissioner *
18 shall notify the child support agency that the individual has
19 been determined to be eligible for unemployment compensation.

20 No change for subd 3 to 6

268*#08S

21 268.08 PERSONS ELIGIBLE TO RECEIVE BENEFITS.

22 No change for subd 1

23 Subd. 2. WEEK OF UNEMPLOYMENT. No week shall be
24 counted as a week of unemployment for the purposes of this
25 section:

26 (1) Unless it occurs subsequent to the filing of a valid
27 claim for benefits;

28 (2) Unless it occurs after benefits first could become
29 payable to any individual under sections 268.03 to 268.24;

30 (3) With respect to which ~~he~~ the individual is receiving, *
31 has received, or has filed a claim for unemployment compensation
32 benefits under any other law of this state, or of any other
33 state, or the federal government, including readjustment
34 allowances under Title V, Servicemen's Readjustment Act, 1944,
35 but not including benefits under the Veterans Readjustment
36 Assistance Act of 1952 or any other federal or state benefits
37 which are merely supplementary to those provided for under
38 sections 268.03 to 268.24; provided that if the appropriate
39 agency of such other state or the federal government finally
40 determines that ~~he~~ the individual is not entitled to such *
41 benefits, this provision shall not apply.

42 Subd. 3. NOT ELIGIBLE. An individual shall not be
43 eligible to receive benefits for any week with respect to which
44 ~~he~~ the individual is receiving, has received, or has filed a *
45 claim for remuneration in an amount equal to or in excess of ~~his~~ *
46 the individual's weekly benefit amount in the form of *

47 (1) termination, severance, or dismissal payment or wages
48 in lieu of notice whether legally required or not; provided that
49 if a termination, severance, or dismissal payment is made in a
50 lump sum, the employer may allocate such lump sum payment over a
51 period equal to the lump sum divided by the employee's regular
52 pay while employed by such employer; provided any such payment
53 shall be applied for a period immediately following the last day
54 of work but not to exceed 28 calendar days; or

55 (2) vacation allowance paid directly by the employer for a
56 period of requested vacation, including vacation periods
57 assigned by the employer under the provisions of a collective
58 bargaining agreement, or uniform vacation shutdown; or

59 (3) compensation for loss of wages under the workers'
60 compensation law of this state or any other state or under a
61 similar law of the United States, or under other insurance or
62 fund established and paid for by the employer except that this
63 does not apply to an individual who is receiving temporary
64 partial compensation pursuant to section 176.101, subdivision
65 3k; or

66 (4) 50 percent of the pension payments from any fund,
67 annuity or insurance maintained or contributed to by a base
68 period employer including the armed forces of the United States
69 if the employee contributed to the fund, annuity or insurance
70 and all of the pension payments if the employee did not
71 contribute to the fund, annuity or insurance; or

72 (5) 50 percent of a primary insurance benefit under title
73 II of the Social Security Act as amended, or similar old age
74 benefits under any act of congress or this state or any other

1 state.
 2 Provided, that if such remuneration is less than the
 3 benefits which would otherwise be due under sections 268.03 to
 4 268.24, he the individual shall be entitled to receive for such *
 5 week, if otherwise eligible, benefits reduced by the amount of
 6 such remuneration; provided, further, that if the appropriate
 7 agency of such other state or the federal government finally
 8 determines that he the individual is not entitled to such *
 9 benefits, this provision shall not apply. If the computation of
 10 reduced benefits, required by this subdivision, is not a whole
 11 dollar amount, it shall be rounded down to the next lower dollar
 12 amount.

13 No change for subd 3a

14 Subd. 4. SOCIAL SECURITY AMOUNT DEDUCTED FROM BENEFITS.
 15 Any claimant aged 62 or over who has not established a valid
 16 claim based on employment subsequent to the first receipt of
 17 primary insurance benefits under Title II of the federal social
 18 security act, as amended, or similar old age benefits under any
 19 act of congress or this state or any other state shall be
 20 required to state in writing at the time of the filing of his a *
 21 claim whether he the claimant intends to seek Title II social *
 22 security benefits for any week during which he the claimant will *
 23 receive unemployment benefits, and if he the claimant so intends *
 24 there shall be withheld from his the claimant's weekly *
 25 unemployment benefits an amount sufficient to cover the weekly
 26 equivalent of his the social security benefit. Any claimant *
 27 disclaiming such intention but who nevertheless receives such
 28 social security benefits for weeks for which he the claimant *
 29 previously received unemployment benefits shall be liable for
 30 repayment of such unemployment benefits and otherwise subject to
 31 the provisions of section 268.18.

32 Subd. 5. Repealed, 1977 c 297 s 22

33 No change for subd 6 to 7

34 Subd. 8. ILLEGAL ALIENS. (a) Benefits shall not be
 35 paid on the basis of services performed by an alien unless such
 36 alien is an individual who was lawfully admitted for permanent
 37 residence at the time such services were performed, was lawfully
 38 present for the purposes of performing such services, or was
 39 permanently residing in the United States under color of law at
 40 the time such services were performed (including an alien who
 41 was lawfully present in the United States as a result of the
 42 application of the provision of section 203(a)(7) or section
 43 212(d)(5) of the Immigration and Nationality Act).

44 (b) Any data or information required of individuals
 45 applying for benefits to determine whether benefits are not
 46 payable to them because of their alien status shall be uniformly
 47 required from all applicants for benefits.

48 (c) In the case of an individual whose application for
 49 benefits would otherwise be approved, no determination that
 50 benefits to such individual are not payable because of his alien *
 51 status shall be made except upon a preponderance of the evidence. *

52 No change for subd 9

268*#09S

53 268.09 UNEMPLOYMENT COMPENSATION; DISQUALIFIED FROM
 54 BENEFITS.

55 Subdivision 1. DISQUALIFYING CONDITIONS. An
 56 individual separated from employment under clauses (1), (2), or
 57 (3) shall be disqualified for waiting week credit and benefits.
 58 For separations under clauses (1) and (2), the disqualification
 59 shall continue until four calendar weeks have elapsed following
 60 his the individual's separation and the individual has earned *
 61 four times his the individual's weekly benefit amount in insured *
 62 work.

63 (1) VOLUNTARY LEAVE. The individual voluntarily and
 64 without good cause attributable to the employer discontinued his *
 65 employment with such employer. For the purpose of this clause,
 66 a separation from employment by reason of its temporary nature
 67 or for inability to pass a test or for inability to meet
 68 performance standards necessary for continuation of employment
 69 or based solely on a provision in a collective bargaining
 70 agreement by which an individual has vested discretionary
 71 authority in another to act in behalf of the individual shall
 72 not be deemed voluntary.

73 A separation shall be for good cause attributable to the
 74 employer if it occurs as a consequence of sexual harassment.
 75 Sexual harassment means unwelcome sexual advances, requests for

1 sexual favors, sexually motivated physical contact or other
 2 conduct or communication of a sexual nature when: (1) the
 3 employee's submission to such conduct or communication is made a
 4 term or condition of the employment, (2) the employee's
 5 submission to or rejection of such conduct or communication is
 6 the basis for decisions affecting employment, or (3) such
 7 conduct or communication has the purpose or effect of
 8 substantially interfering with an individual's work performance
 9 or creating an intimidating, hostile, or offensive working
 10 environment and the employer knows or should know of the
 11 existence of the harassment and fails to take timely and
 12 appropriate action.

13 (2) DISCHARGE FOR MISCONDUCT. The individual was
 14 discharged for misconduct, not amounting to gross misconduct
 15 connected with his work or for misconduct which interferes with
 16 and adversely affects his employment. *

17 An individual shall not be disqualified under clauses (1)
 18 and (2) of this subdivision under any of the following
 19 conditions:

20 (a) The individual voluntarily discontinued his employment
 21 to accept work offering substantially better conditions of work
 22 or substantially higher wages or both; *

23 (b) The individual is separated from employment due to his
 24 own personal, serious illness provided that such individual has
 25 made reasonable efforts to retain his employment; *

26 An individual who is separated from his employment due to
 27 his the individual's illness of chemical dependency which has
 28 been professionally diagnosed or for which he the individual has
 29 voluntarily submitted to treatment and who fails to make
 30 consistent efforts to maintain the treatment he the individual
 31 knows or has been professionally advised is necessary to control
 32 that illness has not made reasonable efforts to retain his
 33 employment. *

34 (c) The individual accepts work from a base period employer
 35 which involves a change in his location of work so that said
 36 work would not have been deemed to be suitable work under the
 37 provisions of subdivision 2 and within a period of 13 weeks from
 38 the commencement of said work voluntarily discontinues his
 39 employment due to reasons which would have caused the work to be
 40 unsuitable under the provision of said subdivision 2; *

41 (d) The individual left employment because ~~he had reached~~
 42 of reaching mandatory retirement age and was 65 years of age or
 43 older; *

44 (e) The individual is terminated by his the employer
 45 because he the individual gave notice of intention to terminate
 46 employment within 30 days. This exception shall be effective
 47 only through the calendar week which includes the date of
 48 intended termination, provided that this exception shall not
 49 result in the payment of benefits for any week for which he the
 50 individual receives his the individual's normal wage or salary
 51 which is equal to or greater than his the weekly benefit amount; *

52 (f) The individual is separated from employment due to the
 53 completion of an apprenticeship program, or segment thereof,
 54 approved pursuant to chapter 178;

55 (g) The individual voluntarily leaves part-time employment
 56 with a base period employer while continuing full-time
 57 employment if the individual attempted to return to part-time
 58 employment after being separated from the full-time employment,
 59 and if substantially the same part-time employment with the base
 60 period employer was not available for the individual.

61 (3) DISCHARGE FOR GROSS MISCONDUCT. The individual
 62 was discharged for gross misconduct connected with his work or
 63 gross misconduct which interferes with and adversely affects his
 64 the individual's employment. For a separation under this
 65 clause, the commissioner shall impose a total disqualification
 66 for the benefit year and cancel all of the wage credits from the
 67 last employer from whom he the individual was discharged for
 68 gross misconduct connected with his work. *

69 For the purpose of this clause "gross misconduct" is
 70 defined as misconduct involving assault and battery or the
 71 malicious destruction of property or arson or sabotage or
 72 embezzlement or any other act, including theft, the commission
 73 of which amounts to a felony or gross misdemeanor. For an
 74 employee of a health care facility, gross misconduct also
 75 includes misconduct involving an act of patient or resident
 76 abuse as defined in section 626.557, subdivision 2, clause (d).

1 If an individual is convicted of a felony or gross
 2 misdemeanor for the same act or acts of misconduct for which the
 3 individual was discharged, the misconduct is conclusively
 4 presumed to be gross misconduct if it was connected with ~~his~~ the
 5 individual's work. *

6 (4) LIMITED OR NO CHARGE OF BENEFITS. Benefits paid
 7 subsequent to an individual's separation under any of the
 8 foregoing clauses, excepting clauses (2)(c) and (2)(e), shall
 9 not be used as a factor in determining the future contribution
 10 rate of the employer from whose employment such individual
 11 separated.

12 Benefits paid subsequent to an individual's failure,
 13 without good cause, to accept an offer of suitable re-employment
 14 shall not be used as a factor in determining the future
 15 contribution rate of the employer whose offer of re-employment
 16 ~~he failed to accept~~ was not accepted or whose offer of
 17 re-employment was refused solely due to the distance of the
 18 available work from ~~his~~ the individual's residence, the
 19 individual's own serious illness or ~~his~~ the individual's other
 20 employment at the time of the offer. *

21 (5) An individual who was employed by an employer shall not
 22 be disqualified for benefits under this subdivision for any acts
 23 or omissions occurring after ~~his~~ separation from employment with
 24 the employer. *

25 (6) DISCIPLINARY SUSPENSIONS. An individual shall be
 26 disqualified for waiting week credit and benefits for the
 27 duration of any disciplinary suspension of 30 days or less
 28 resulting from ~~his~~ the individual's own misconduct. *
 29 Disciplinary suspensions of more than 30 days shall constitute a
 30 discharge from employment.

31 Subd. 2. FAILURE TO APPLY FOR OR ACCEPT SUITABLE WORK
 32 OR RE-EMPLOYMENT. An individual shall be disqualified for
 33 waiting week credit and benefits during the week of occurrence
 34 and until four calendar weeks have elapsed following ~~his~~ the
 35 refusal or failure and ~~he~~ the individual has earned four times
 36 ~~his~~ the individual's weekly benefit amount in insured work if
 37 the commissioner finds that ~~he~~ the individual has failed,
 38 without good cause, either to apply for available, suitable work
 39 of which ~~he was~~ advised by the employment office, or the
 40 commissioner or to accept suitable work when offered ~~him~~, or to
 41 return to ~~his~~ customary self-employment (if any) when so
 42 directed by the commissioner, or to accept a base period
 43 employer's offer of re-employment offering substantially the
 44 same or better hourly wages and conditions of work as were
 45 previously provided by that employer in ~~his~~ the base period. *

46 (a) In determining whether or not any work is suitable for
 47 an individual, the commissioner shall consider the degree of
 48 risk involved to ~~his~~ health, safety, and morals, ~~his~~ physical
 49 fitness and prior training, ~~his~~ experience, ~~his~~ length of
 50 unemployment and prospects of securing local work in ~~his~~ the
 51 individual's customary occupation, and the distance of the
 52 available work from ~~his~~ the individual's residence. *

53 (b) Notwithstanding any other provisions of sections 268.03
 54 to 268.24, no work shall be deemed suitable, and benefits shall
 55 not be denied thereunder to any otherwise eligible individual
 56 for refusing to accept new work under any of the following
 57 conditions:

58 (1) if the position offered is vacant due directly to a
 59 strike, lockout, or other labor dispute;

60 (2) if the wages, hours, or other conditions of the work
 61 offered are substantially less favorable to the individual than
 62 those prevailing for similar work in the locality;

63 (3) if as a condition of being employed the individual
 64 would be required to join a union or to resign from or refrain
 65 from joining any bona fide labor organization;

66 (4) if the individual is in training with the approval of
 67 the commissioner.

68 Subd. 3. LABOR DISPUTE. An individual who has left
 69 or partially or totally lost ~~his~~ employment with an employer
 70 because of a strike or other labor dispute at the establishment
 71 in which ~~he~~ the individual is or was employed shall be
 72 disqualified for benefits: *

73 (a) For each week during which the strike or labor dispute
 74 is in progress; or

75 (b) For one week following the commencement of the strike
 76 or labor dispute if ~~he~~ the individual is not participating in or *

1 directly interested in the strike or labor dispute.

2 Participation includes the failure or refusal of an
3 individual to accept and perform available and customary work at
4 the establishment.

5 An individual who has left or partially or totally lost his *
6 employment with an employer because of a jurisdictional
7 controversy between two or more labor organizations at the
8 establishment in which he the individual is or was employed *
9 shall be disqualified for benefits for each week during which
10 the jurisdictional controversy is in progress.

11 For the purpose of this subdivision the term "labor
12 dispute" shall have the same definition as provided in the
13 Minnesota labor relations act. Nothing in this subdivision
14 shall be deemed to deny benefits to any employee:

15 (a) who becomes unemployed because of a strike or lockout
16 caused by an employer's willful failure to observe the terms of
17 the safety and health section of a union contract or failure to
18 comply with an official citation for a violation of federal and
19 state laws involving occupational safety and health; provided,
20 however, that benefits paid in accordance with this provision
21 shall not be charged to the employer's experience rating account
22 if, following official appeal proceedings, it is held that there
23 was no willful failure on the part of the employer,

24 (b) who becomes unemployed because of a lockout,

25 (c) who is dismissed during the period of negotiation in
26 any labor dispute and prior to the commencement of a strike.

27 Provided, however, that voluntary separation during the
28 time that the strike or other labor dispute is in progress at
29 the establishment shall not be deemed to terminate the
30 individual's participation in or direct interest in such strike
31 or other labor dispute for purposes of this subdivision.

32 Benefits paid to an employee who has left or partially or
33 totally lost his employment because of a strike or other labor *
34 dispute at his the employee's primary place of employment shall *
35 not be charged to his the employer's account unless the employer *
36 was a party to the particular strike or labor dispute.

37 Notwithstanding any other provision of this section, an
38 individual whose last separation from employment with an
39 employer occurred prior to the commencement of the strike or
40 other labor dispute and was permanent or for an indefinite
41 period, shall not be denied benefits or waiting week credit
42 solely by reason of his failure to apply for or to accept recall *
43 to work or re-employment with the employer during any week in
44 which the strike or other labor dispute is in progress at the
45 establishment in which he the individual was employed. *

46 No change for subd 4 to 7

47 Subd. 8. TRAINING APPROVED UNDER TRADE ACT OF 1974.

48 An individual shall not be disqualified for benefits under
49 subdivision 1, clause (1) if he the individual left work which *
50 was not suitable employment to enter approved training or *
51 disqualified under subdivision 2, if he the individual is in *
52 approved training. For the purposes of this subdivision
53 "suitable employment" is defined in and the criteria for
54 approval of training are set forth in section 236 of the Trade
55 Act of 1974, as amended.

268*#10S

56 268.10 DETERMINATION OF CLAIMS FOR BENEFITS; APPEALS.

57 Subdivision 1. FILING. Claims for benefits shall be
58 made in accordance with such regulations as the commissioner may
59 prescribe. Each employer shall post and maintain printed
60 statements of such regulations in places readily accessible to
61 individuals in his the employer's service and shall make *
62 available to each such individual at the time he becomes of *
63 becoming unemployed, a printed statement of such regulations. *
64 Such printed statements shall be supplied by the commissioner to
65 each employer without cost to him the employer. *

66 (1) Any employer upon separation of an employee from his *
67 employment for any reason which may result in disqualification
68 for benefits under section 268.09, shall furnish to such
69 employee a separation notice which shall provide the employer's
70 name, address, and employer account number as registered with
71 the department, the employee's name and social security account
72 number, the inclusive dates of his employment, and the reason *
73 for the separation. A copy of such separation notice shall be
74 filed with the commissioner within seven days of such
75 separation. The commissioner shall require each individual

1 filing a claim for benefits to establish a benefit year to
 2 furnish the reason for separation from all employers in his the *
 3 individual's base period. *

4 (2) Upon the filing, by an individual, of a claim for
 5 benefits, the commissioner shall give notice to all such base
 6 period employers of the filing of such claim and request each
 7 such base period employer, within seven days after the mailing
 8 of such notice, to furnish the following information:

9 (a) The total wage credits earned in the base period;

10 (b) The number of credit weeks which end within the base
 11 period;

12 (c) The week ending dates for each calendar week within the
 13 base period in which the individual earned less than the amount
 14 required to make a credit week and the amount of earnings in
 15 each such week;

16 (d) The reason for the separation or separations of such
 17 individual from the employ of the employer in the base period;
 18 and

19 (e) Such employer's protest, if any, relating to the
 20 ineligibility or disqualification of such individual.

21 (3) If any base period employer, after the notice of filing
 22 of a claim and the request for wage and separation information
 23 has been duly mailed to his the employer's last known address, *
 24 fails to file information as provided by items (a) through (e)
 25 of clause 2 of this subdivision within seven days, the
 26 commissioner shall:

27 (a) Determine the validity of an individual's claim based
 28 on the claimant's statements or any other available
 29 information. An employer shall be liable for a late filing fee
 30 of not less than \$5 nor more than \$25, as the commissioner may
 31 determine, to be paid to the department of economic security and
 32 credited to the contingent fund if he the employer has failed *
 33 without good cause to submit the wage and separation information
 34 as required in clause 2 of this subdivision within seven days
 35 after the request has been duly mailed to his the employer's *
 36 last known address. In the absence of fraud, if a
 37 redetermination of validity of claim based on an employer's late
 38 report subsequently cancels or reduces the amount of benefits to
 39 which a claimant was entitled under the initial determination,
 40 the claimant shall not be required to make repayment to the fund
 41 of any benefits paid ~~to-him~~ prior to such redetermination; and *

42 (b) Determine any issue of disqualification raised by
 43 clause (1) or by an employer's late report. If an employer
 44 fails to file a separation notice within the time limits
 45 prescribed in clause (1), any relief from benefit charges
 46 provided by section 268.09, subdivision 1, clause (4), shall
 47 apply to weeks of unemployment beginning after the filing of the
 48 late report.

49 Subd. 2. EXAMINATION OF CLAIMS; DETERMINATION; APPEAL.

50 (1) An official, designated by the commissioner, shall
 51 promptly examine each claim for benefits filed to establish a
 52 benefit year pursuant to this section, and, on the basis of the
 53 facts found, shall determine whether or not such claims are
 54 valid, and if valid, the weekly benefit amount payable, the
 55 maximum benefit amount payable during the benefit year, and the
 56 date the benefit year terminates, and this determination shall
 57 be known as the determination of validity. Notice of the
 58 determination of validity or any redetermination as provided for
 59 in clause (4) shall be promptly given the claimant and all other
 60 interested parties. If within the time limits for filing a
 61 protest an employer notifies the department that an individual's
 62 weekly benefit amount as determined under section 268.07 exceeds
 63 the individual's weekly wages earned with the employer, the
 64 individual's weekly benefit amount shall be the lesser of (1)
 65 the weekly benefit amount as determined under section 268.07, or
 66 (2) the weekly benefit amount which is 50 percent of the
 67 quotient derived by dividing the total wage credits earned in
 68 the individual's base period credit weeks from all employers in
 69 insured work by the number of base period credit weeks. If
 70 within the time specified for the filing of wage and separation
 71 information as provided in subdivision 1, clause (2), the
 72 employer makes an allegation of disqualification or raises an
 73 issue of the chargeability to his the employer's account of *
 74 benefits that may be paid on such claim, if the claim is valid,
 75 the issue thereby raised shall be promptly determined by said
 76 official and a notification of the determination delivered or

1 mailed to the claimant and the employer. If an initial
2 determination or an appeal tribunal decision or the
3 commissioner's decision awards benefits, the benefits shall be
4 paid promptly regardless of the pendency of any appeal period or
5 any appeal or other proceeding which may thereafter be taken.
6 Except as provided in clause (6), if an appeal tribunal decision
7 modifies or reverses an initial determination awarding benefits,
8 or if a commissioner's decision modifies or reverses an appeal
9 decision awarding benefits, any benefits paid under the award of
10 such initial determination or appeal tribunal decision shall be
11 deemed erroneous payments.

12 (2) At any time within 24 months from the date of the
13 filing of a valid claim for benefits by an individual, an
14 official of the department or any interested party or parties
15 raises an issue of claimant's eligibility for benefits for any
16 week or weeks in accordance with the requirements of the
17 provisions of sections 268.03 to 268.24 or any official of the
18 department or any interested party or parties or benefit year
19 employer raises an issue of disqualification in accordance with
20 the regulations of the commissioner, a determination shall be
21 made thereon and a written notice thereof shall be given to the
22 claimant and such other interested party or parties or benefit
23 year employer. A determination issued under this clause which
24 denies benefits for weeks for which the claimant has previously
25 been paid benefits is an overpayment of those benefits subject
26 to section 268.18.

27 (3) A determination issued pursuant to clauses (1) and (2)
28 shall be final unless an appeal therefrom is filed by a claimant
29 or employer within 15 days after the mailing of the notice of
30 the determination to ~~his~~ the last known address or personal
31 delivery of the notice. Every notice of determination shall
32 contain a prominent statement indicating in clear language the
33 method of appealing the determination, the time within which
34 such an appeal must be made, and the consequences of not
35 appealing the determination. A timely appeal from a
36 determination of validity in which the issue is whether an
37 employing unit is an employer within the meaning of this chapter
38 or whether services performed for an employer constitute
39 employment within the meaning of this chapter shall be subject
40 to the provisions of section 268.12, subdivision 13.

41 (4) At any time within 24 months from the date of the
42 filing of a valid claim for benefits by an individual, the
43 commissioner on ~~his~~ the commissioner's own motion may reconsider
44 a determination of validity made thereon and make a
45 redetermination thereof ~~if he finds~~ on finding that an error in
46 computation or identity or the crediting of wage credits has
47 occurred in connection therewith or if the determination was
48 made as a result of a nondisclosure or misrepresentation of a
49 material fact. A determination or redetermination issued under
50 this clause which denies benefits for weeks for which the
51 claimant has previously been paid benefits is an overpayment of
52 those benefits subject to section 268.18.

53 (5) However, the commissioner may ~~in his discretion~~ refer
54 any disputed claims directly to a referee for hearing and
55 determination in accordance with the procedure outlined in
56 subdivision 3 and the effect and status of such determination in
57 such a case shall be the same as though the matter had been
58 determined upon an appeal to the tribunal from an initial
59 determination.

60 (6) If a referee's decision affirms an initial
61 determination awarding benefits or the commissioner affirms an
62 appeal tribunal decision awarding benefits, the decision, if
63 finally reversed, shall not result in a disqualification and
64 benefits paid shall neither be deemed overpaid nor shall they be
65 considered in determining any individual employer's future
66 contribution rate under section 268.06.

67 No change for subd 3 to 4

68 Subd. 5. REVIEW BY COMMISSIONER. Within 30 days
69 after mailing or personal delivery of the notice of a referee's
70 decision to the claimant or employer at the last known address,
71 a party may appeal from the decision and obtain a review of it
72 by the commissioner or an authorized representative. The
73 commissioner within the same period of time may on the
74 commissioner's own motion order a review of a decision. Upon
75 review, the commissioner or authorized representative may
76 affirm, modify, or set aside any finding of fact or decision, or

1 both, of the referee on the basis of the evidence previously
 2 submitted in the case, or remand the matter back to the referee
 3 for the taking of additional evidence and new findings and
 4 decision based on all of the evidence before the referee.
 5 Notice of all hearings on review shall be given to all
 6 interested parties in the same manner as provided for by
 7 subdivision 3. The commissioner or authorized representative
 8 may ~~remove-to-himself-or-herself~~ personally hear or transfer to *
 9 another referee the proceedings on any claim pending before a
 10 referee. Any proceedings removed to the commissioner or
 11 authorized representative shall be heard upon notice in
 12 accordance with the requirements of subdivision 3. The
 13 department of economic security shall mail to all interested
 14 parties a notice of the filing of and a copy of the findings and
 15 decision of the commissioner or ~~his~~ representative. *

16 No change for subd 6 to 7

17 Subd. 8. CERTIORARI. Any decision of the
 18 commissioner may be reviewed on certiorari by the court of
 19 appeals provided a petition for the writ is filed and served
 20 upon the adverse party or parties within 30 days after the date
 21 of mailing notice of any decision to ~~him~~ the party at ~~his~~ the *
 22 last known address.

23 Any party in interest, except a claimant for benefits, upon
 24 the service of the writ shall furnish a cost bond to be approved
 25 by the commissioner and pay to the department of economic
 26 security the fee prescribed by rule 103.01 of the rules of civil
 27 appellate procedure which shall be disposed of in the manner
 28 provided by that rule.

29 Subd. 9. REPRESENTATION BY ATTORNEY. In any
 30 proceeding under these sections before a referee or the
 31 commissioner, a party may be represented by an agent or
 32 attorney, but no individual claiming benefits shall be charged
 33 fees of any kind in a proceeding before a referee, the
 34 commissioner, commissioner's representatives, or by any court or
 35 any officers thereof. Any individual claiming benefits in any
 36 proceedings before the commissioner or ~~his~~ representatives or a *
 37 court may be represented by counsel or other duly authorized
 38 agent, except that said agent in any court proceedings under
 39 these sections, must be an attorney at law; but no counsel shall
 40 either charge or receive for the services more than an amount
 41 approved by the commissioner and no fees shall be collected from
 42 an individual claiming benefits by any agent unless ~~he~~ the agent *
 43 is an attorney at law.

44 No change for subd 10

268*#11S

45 268.11 EMPLOYERS COVERAGE.

46 No change for subd 1

47 Subd. 2. APPLICATION FOR TERMINATION OF COVERAGE.

48 Except as otherwise provided in subdivision 3, any employing
 49 unit shall cease to be an employer subject to sections 268.03 to
 50 268.24 as of the last day of the calendar quarter in which the
 51 employing unit files with the commissioner a written application
 52 for termination of coverage, if the commissioner finds the
 53 employment in the preceding calendar year and during the current
 54 calendar year, up to the last day of the calendar quarter in
 55 which the application was received, was not sufficient to make
 56 the employing unit liable under the provisions of section
 57 268.04, subdivision 10. For the purpose of this subdivision the
 58 two or more employing units mentioned in section 268.04,
 59 subdivision 10, clause (2), (3), (5), or (6), shall be treated
 60 as a single employing unit.

61 The commissioner shall waive the requirement for an
 62 application for termination of coverage whenever it shall appear
 63 that the employer was unable to comply with such requirement for
 64 the reason that, at the time when ~~he~~ the employer had qualified *
 65 for release from liability under the provisions of this chapter,
 66 ~~he~~ the employer was in good faith not aware of the fact that ~~he~~ *
 67 it was an employer subject to the provisions of this chapter. *

68 The commissioner at the commissioner's discretion may ~~on~~ *
 69 ~~his-or-her-own~~ make a motion to terminate the coverage of any *
 70 employer who no longer meets the definition of employer under *
 71 section 268.04, subdivision 10.

72 No change for subd 3

268*#12S

73 268.12 CREATION.

74 Subd. 2. REPORT; RECOMMENDATIONS; STUDIES. (1) Not

1 later than the first day of August each year, the commissioner
 2 shall submit to the governor a report covering the
 3 administration and operation of these sections during the
 4 preceding calendar year and make such recommendations for
 5 amendments thereto as the commissioner deems proper. When the
 6 commissioner believes that a change in contribution or benefit
 7 rates will become necessary to protect the solvency of the fund,
 8 he the commissioner shall promptly so inform the governor and
 9 the legislature and make recommendations with respect thereto.

10 (2) For the purpose of ascertaining the point at which the
 11 unemployment compensation fund should be stabilized in order to
 12 both avoid possible insolvency and the building up of
 13 unnecessary reserves and for the further purpose of ascertaining
 14 what might be a stabilized average annual rate of contributions
 15 over a period of years thereby eliminating great fluctuations in
 16 contribution rates from year to year, the commissioner is hereby
 17 authorized and directed to make a study thereof. For such study
 18 he the commissioner is hereby authorized to utilize such funds
 19 as may be available ~~to him~~ to contract for the services of
 20 specialists in this field, or utilize such public personnel as
 21 may be furnished to assist ~~him~~ the commissioner in making such
 22 study. Such study shall be made with the advice and counsel of
 23 the state advisory council to the department of economic
 24 security, and a report of such study shall be made to the
 25 governor and the legislature from time to time.

26 Subd. 3. Repealed, 1983 c 268 s 2

27 Subd. 4. PRINTING AND PUBLICATION. The commissioner
 28 shall cause to be printed for distribution to the public the
 29 text of sections 268.03 to 268.24, the commissioner's
 30 regulations and general rules, ~~his~~ annual reports to the
 31 governor, and any other material the commissioner deems relevant
 32 and suitable, provided such printing methods and means are not
 33 inconsistent with present statutes.

34 Subd. 5. ASSISTANCE. (1) Subject to the provisions
 35 of the state civil service act and to the other provisions of
 36 sections 268.03 to 268.24 the commissioner is authorized to
 37 appoint, and prescribe the duties and powers of, such officers,
 38 accountants, experts, and other persons as may be necessary in
 39 the performance of ~~his~~ duties thereunder. The commissioner may
 40 delegate to any such person so appointed such power and
 41 authority as he the commissioner deems reasonable and proper for
 42 the effective administration of those sections and may, ~~in his~~
 43 ~~discretion~~, bond any person handling moneys or signing checks
 44 thereunder. The commissioner is authorized to adopt such
 45 personnel and fiscal regulations as he the commissioner deems
 46 necessary to satisfy fiscal and personnel standards required by
 47 the secretary of labor pursuant to the Social Security Act, as
 48 amended, and the act of Congress entitled "An act to provide for
 49 the establishment of a national employment system and to
 50 cooperate with the states in the promotion of such system and
 51 for other purposes," approved June 6, 1933, as amended. The
 52 commissioner may, subject to the approval of the commissioner of
 53 administration, also adopt regulations relating to reimbursement
 54 to department employees for travel expenses incurred while
 55 traveling on official business including allowances on a per
 56 diem basis in lieu of actual subsistence expenses incurred. The
 57 commissioner is also hereby authorized to purchase liability and
 58 property damage automobile insurance to cover any automobiles
 59 owned by the Minnesota department of economic security for the
 60 protection of its employees who may be required to operate the
 61 same in pursuit of their duties for the department.

62 (2) No officer or employee engaged in the administration of
 63 these sections shall, for political purposes, furnish or
 64 disclose, or aid or assist in furnishing or disclosing, any list
 65 or names of persons obtained in the administration of these
 66 sections, to a political candidate, committee, campaign manager,
 67 or to any person for delivery to a political candidate,
 68 committee, or campaign manager, and it shall be unlawful for any
 69 person to receive any such list or names for political purposes.

70 Subd. 6. ADVISORY COUNCILS. The commissioner of
 71 economic security shall appoint a state advisory council and may
 72 appoint such local advisory councils as he the commissioner
 73 deems advisable, composed in each case of an equal number of
 74 employer and employee representatives who shall be selected
 75 because of their vocation, employment, or affiliation, and of
 76 such members representing the general public as he the

1 commissioner may designate. The advisory councils shall aid the *
2 commissioner in formulating policies and discussing problems
3 relating to the administration of sections 268.03 to 268.24 and
4 in assuring impartiality and freedom from political influence in
5 the solution of such problems. The councils shall expire and
6 the terms, compensation and removal of members shall be as
7 provided in section 15.059.

8 No change for subd 7

9 Subd. 8. RECORDS; REPORTS. (1) Each employing unit
10 shall keep true and accurate work records for such periods of
11 time and containing such information as the commissioner may
12 prescribe. Such records shall be open to inspection, audit, and
13 verification, and be subject to being copied by any authorized
14 representative of the commissioner at any reasonable time and as
15 often as may be necessary. The commissioner, appeal referee, or
16 any other duly authorized representative of the commissioner,
17 may require from any employing unit any sworn or unsworn
18 reports, with respect to persons employed by it, which the
19 commissioner, appeal referee, or any other duly authorized
20 representative of the commissioner deems necessary for the
21 effective administration of sections 268.03 to 268.24, provided
22 that quarterly contribution and wage report forms shall include
23 the employee's name, social security number, and total wages
24 paid to the employee.

25 (2) The commissioner may cause to be made such summaries,
26 compilations, photographs, duplications, or reproductions of any
27 records, reports, or transcripts thereof as ~~he~~ the commissioner *
28 may deem advisable for the effective and economical preservation
29 of the information contained therein, and such summaries,
30 compilations, photographs, duplications or reproductions, duly
31 authenticated, shall be admissible in any proceeding under
32 sections 268.03 to 268.24, if the original record or records
33 would have been admissible therein. Notwithstanding any
34 restrictions contained in section 16B.50, except restrictions as
35 to quantity, the commissioner is hereby authorized to duplicate,
36 on equipment furnished by the federal government or purchased
37 with funds furnished for that purpose by the federal government,
38 records, reports, summaries, compilations, instructions,
39 determinations, or any other written matter pertaining to the
40 administration of the Minnesota economic security law.

41 (3) Notwithstanding any inconsistent provisions elsewhere,
42 the commissioner may provide for the destruction or disposition
43 of any records, reports, transcripts, or reproductions thereof, *
44 or other papers in ~~his~~ the commissioner's custody, which are
45 more than two years old, the preservation of which is no longer
46 necessary for the establishment of contribution liability or
47 benefit rights or for any purpose necessary to the proper
48 administration of sections 268.03 to 268.24, including any
49 required audit thereof, provided, that the commissioner may
50 provide for the destruction or disposition of any record,
51 report, or transcript, or other paper in ~~his~~ the commissioner's *
52 custody which has been photographed, duplicated, or reproduced
53 in the manner provided in clause (2).

54 (4) Notwithstanding the provisions of the Minnesota State
55 Archives Act the commissioner shall with the approval of the
56 legislative auditor destroy all benefit checks and benefit check
57 authorization cards that are more than two years old and no
58 person shall make any demand, bring any suit or other proceeding
59 to recover from the state of Minnesota any sum alleged to be due
60 ~~him~~ on any claim for benefits after the expiration of two years *
61 from the date of filing such claim.

62 Subd. 9. TESTIMONIAL POWERS. (1) In the discharge of
63 the duties imposed by sections 268.03 to 268.24, the
64 commissioner, appeal referee, or any duly authorized
65 representative of the commissioner, shall have power to
66 administer oaths and affirmations, take depositions, certify to
67 official acts, and issue subpoenas to compel the attendance of
68 witnesses and the production of books, papers, correspondence,
69 memoranda, and other records deemed necessary as evidence in
70 connection with a disputed claim or the administration of these
71 sections;

72 (2) Witnesses, other than interested parties or officers
73 and employees of an employing unit which is an interested party,
74 subpoenaed pursuant to this subdivision or sections 268.03 to
75 268.24, shall be allowed fees the same as witness fees in civil
76 actions in district court, which fees need not be paid in

1 advance of the time of giving of testimony, and such fees of
2 witnesses so subpoenaed shall be deemed part of the expense of
3 administering these sections;

4 (3) In case of contumacy by, or refusal to obey, a subpoena
5 issued to any person, any court of this state within the
6 jurisdiction of which the inquiry is carried on or within the
7 jurisdiction of which such person guilty of contumacy or refusal
8 to obey is found or resides or transacts business, upon
9 application by the commissioner, or referee, or any duly
10 authorized representative of the commissioner, shall have
11 jurisdiction to issue to such person an order requiring such
12 person to appear before the commissioner, the chairman chair of *
13 an appeal tribunal, referee, or any duly authorized
14 representative of the commissioner, there to produce evidence if
15 so ordered or there to give testimony relative to the matter
16 under investigation or in question; and any failure to obey such
17 order of the court may be punished by the court as a contempt
18 thereof.

19 Subd. 10. SELF-INCRIMINATION. No person shall be
20 excused from attending and testifying or from producing books,
21 papers, correspondence, memoranda, and other records before the
22 commissioner, the chairman chair of an appeal tribunal, referee, *
23 or any duly authorized representative of the commissioner, or in
24 obedience to the subpoena of any of them in any cause or
25 proceeding before the commissioner, an appeal tribunal, referee,
26 or any duly authorized representative of the commissioner on the
27 grounds that the testimony or evidence, documentary or
28 otherwise, required ~~of him~~ may tend to incriminate him be *
29 incriminating or subject ~~him~~ the person to a penalty or *
30 forfeiture; but no individual shall be prosecuted or subjected
31 to any penalty or forfeiture for or on account of any
32 transaction, matter, or thing concerning which ~~he~~ the person is *
33 compelled, after having claimed ~~his~~ a privilege against *
34 self-incrimination, to testify or produce evidence, documentary
35 or otherwise, except that such individual so testifying shall
36 not be exempt from prosecution and punishment for perjury
37 committed in so testifying.

38 No change for subd 11 to 12

39 Subd. 13. DETERMINATIONS. (1) An official,
40 designated by the commissioner, upon ~~his~~ the commissioner's own *
41 motion or upon application of an employing unit, shall determine
42 if an employing unit is an employer within the meaning of this
43 chapter or as to whether services performed for it constitute
44 employment within the meaning of this chapter, and shall notify
45 the employing unit of the determination. The determination
46 shall be final unless the employing unit, within 30 days after
47 the mailing of notice of the determination to the employing
48 unit's last known address, files a written appeal from it.

49 (2) The commissioner shall designate one or more referees
50 to conduct hearings on appeals. The employing unit and any
51 claimant whose filed claim for benefits may be affected by a
52 determination issued under clause (1) shall be interested
53 parties to an appeal. The referee shall fix a time and place
54 within this state for the hearing and give interested parties
55 written notice of it, by mail, not less than ten days prior to
56 the time of the hearing. In the discharge of the duties imposed
57 by this subdivision, the referee may administer oaths and
58 affirmations, take depositions, certify to official acts, and
59 issue subpoenas to compel the attendance of witnesses and the
60 production of books, papers, correspondence, memoranda, and
61 other records deemed necessary as evidence in connection with
62 the subject matter of the hearing. The written report of any
63 employee of the department of economic security, made in the
64 regular course of the performance of the employee's duties,
65 shall be competent evidence of the facts contained in it and
66 shall be prima facie correct, unless refuted by other credible
67 evidence.

68 (3) Upon the conclusion of the hearing, the referee shall
69 serve upon the interested parties by mail findings of fact and
70 decision. The decision of the referee, together with ~~his~~ the *
71 findings of fact and reasons in support of them, is final unless
72 an interested party, within 30 days after the mailing of a copy
73 of it to the interested parties' last known addresses, files an
74 appeal with the commissioner, or unless the commissioner, within
75 30 days after mailing of the decision, on ~~his~~ the commissioner's *
76 own motion orders the matter certified to ~~him~~ the commissioner *

1 for review. Appeal from and review by the commissioner of the
2 decision of the referee shall be in the manner provided by
3 rule. The commissioner may without further hearing affirm,
4 modify, or set aside the findings of fact or decision, or both,
5 of the referee on the basis of the evidence previously submitted
6 in the case, or direct the taking of additional evidence. The
7 commissioner may disregard the findings of fact of the referee
8 and examine the testimony taken and make any findings of fact as
9 the evidence taken before the referee may, in the judgment of
10 the commissioner, require, and make any decision as the facts
11 found by ~~him~~ the commissioner require. The commissioner shall *
12 notify the employing unit of ~~his~~ the commissioner's findings and *
13 decision by mail, mailed to the interested parties' last known
14 addresses. The decision of the commissioner is final unless
15 judicial review of it is sought as provided by this
16 subdivision. Any interested party to a proceeding before the
17 commissioner may obtain a transcript of the testimony taken
18 before the referee upon payment to the commissioner of the cost
19 of the transcript at the rate of ten cents per 100 words.

20 (4) The court of appeals may, by writ of certiorari to the
21 commissioner, review all questions of law and fact presented by
22 the record in accordance with chapter 14. The commissioner
23 shall not be required to certify the record to the court unless
24 the party commencing the proceedings for review pays to the
25 commissioner the cost of certification of the record at the rate
26 of ten cents per 100 words less any amount previously paid by
27 the party for a transcript. The commissioner shall, upon
28 receipt of the payment, prepare and certify to the court a true
29 and correct typewritten copy of all matters contained in the
30 record. The costs collected by the commissioner shall be
31 deposited in the economic security administration fund provided
32 for in section 268.15.

33 (5) A final decision of the commissioner or referee, in the
34 absence of appeal, is conclusive for all the purposes of
35 sections 268.03 to 268.24 except as otherwise provided, and,
36 together with the records therein made, shall be admissible in
37 any subsequent judicial proceeding involving liability for
38 contributions. A final decision of the commissioner or referee
39 may be introduced in any proceeding involving a claim for
40 benefits.

41 (6) In the event a final decision of the commissioner or
42 referee determines the amount of contributions due under
43 sections 268.03 to 268.24, then, if the amount, together with
44 interest and penalties, is not paid within 30 days after the
45 decision, the provisions of section 268.161 shall apply. The
46 commissioner shall proceed thereunder, substituting a certified
47 copy of the final decision in place of the contribution report.

48 Subd. 14. Repealed, 1949 c 605 s 15

268*#121S

49 268.121 WAGE REPORTING.

50 Beginning on April 1, 1984, each employer subject to this
51 chapter shall provide the commissioner with a quarterly report
52 of wages, as defined in section 268.04, subdivision 25, paid to
53 each employee of that employer covered by this chapter. The
54 commissioner shall provide the legislature with ~~his~~ *
55 recommendations for statutory changes to fully implement this
56 section no later than January 1, 1983.

268*#13S

57 268.13 RECIPROCAL BENEFIT ARRANGEMENTS.

58 Subdivision 1. AUTHORIZATION. The commissioner is
59 hereby authorized to enter into reciprocal arrangements with the
60 appropriate and duly authorized agencies of other states and of
61 the federal government, or both, whereby:

62 (1) Service performed by an individual or individuals for a
63 single employing unit for which service is customarily performed
64 in more than one state shall be deemed to be service performed
65 entirely within any one of the states:

66 (a) in which any part of any such individual's service is
67 performed, or

68 (b) in which any such individual has ~~his~~ a residence, or *

69 (c) in which the employing unit maintains a place of
70 business; provided, there is in effect, as to such service, an
71 election, approved by the agency charged with the administration
72 of such state's employment security law, pursuant to which all
73 the service performed by such individual or individuals for such
74 employing unit is deemed to be performed entirely within such

1 state;

2 (2) The commissioner shall participate in any arrangements
 3 for the payment of compensation on the basis of combining an
 4 individual's wages and employment covered under this law with
 5 ~~his~~ wages and employment covered under the unemployment *
 6 compensation laws of other states which are approved by the
 7 United States secretary of labor in consultation with the state
 8 unemployment compensation agencies as reasonably calculated to
 9 assure the prompt and full payment of compensation in such
 10 situations and which include provisions for applying the base
 11 period of a single state law to a claim involving the combining
 12 of an individual's wages and employment covered under two or
 13 more state unemployment compensation laws, and avoiding the
 14 duplicate use of wages and employment by reason of such
 15 combining;

16 (3) Wages or services, upon the basis of which an
 17 individual may become entitled to benefits under an employment
 18 security law of another state or of the federal government,
 19 shall be deemed to be wages for insured work for the purpose of
 20 determining ~~his~~ the individual's rights to benefits under *
 21 sections 268.03 to 268.24, and wages for insured work, on the
 22 basis of which an individual may become entitled to benefits
 23 thereunder shall be deemed to be wages or services on the basis
 24 of which unemployment compensation under such law of another
 25 state or of the federal government is payable, but no such
 26 arrangement shall be entered into unless it contains provisions
 27 for reimbursements to the fund for such of the benefits paid
 28 thereunder upon the basis of such wages or service, and
 29 provisions for reimbursements from the fund for such of the
 30 compensation paid under such other law upon the basis of wages
 31 for insured work;

32 (4) Contributions due thereunder with respect to wages for
 33 insured work shall for the purpose of section 268.16 be deemed
 34 to have been paid to the fund as of the date payment was made as
 35 contributions therefor under another state or federal employment
 36 security law, but no such arrangement shall be entered into
 37 unless it contains provisions for such reimbursement to the fund
 38 of such contributions and the actual earnings thereon.

39 No change for subd 2

40 Subd. 3. COOPERATION. The administration of
 41 sections 268.03 to 268.24 and of other state and federal
 42 employment security and public employment service laws will be
 43 promoted by cooperation between this state and such other states
 44 and the appropriate federal agencies in exchanging services, and
 45 making available facilities and information. The commissioner
 46 is therefore authorized to make such investigation and audits,
 47 secure and transmit such information, make available such
 48 services and facilities and exercise such of the other powers
 49 provided herein with respect to the administration of these
 50 sections as ~~he~~ the commissioner deems necessary or appropriate *
 51 to facilitate the administration of any such employment security
 52 or public employment service law, and in like manner, to accept
 53 and utilize information, services and facilities made available
 54 to this state by the agency charged with the administration of
 55 any such other employment security or public employment service
 56 law.

57 If after entering into an arrangement under subdivision 1,
 58 clause (2) or (3), the commissioner finds that the unemployment
 59 compensation law of any state or of the federal government
 60 participating in such arrangement has been changed in a material
 61 respect, the commissioner may make new findings and a
 62 determination as to whether such arrangement shall be continued
 63 with such state or states or with the federal government.

64 No change for subd 4

65 Subd. 5. COOPERATE WITH OTHER STATES. The
 66 commissioner shall fully cooperate with the agencies of other
 67 states, and shall make every proper effort within ~~his~~ the *
 68 commissioner's means to oppose and prevent any further action *
 69 which would in ~~his~~ the commissioner's judgment tend to effect *
 70 complete or substantial federalization of state unemployment
 71 compensation funds or state employment security programs.

268*#15S

72 268.15 ECONOMIC SECURITY ADMINISTRATION FUND.

73 Subdivision 1. ADMINISTRATION FUND. There is hereby
 74 created in the state treasury a special fund to be known as the
 75 economic security administration fund. All moneys which are

1 deposited or paid into this fund shall be continuously available
 2 to the commissioner for expenditure in accordance with the
 3 provisions of sections 268.03 to 268.24, and shall not lapse at
 4 any time. The fund shall consist of all moneys received from
 5 the United States or any agency thereof, including the United
 6 States department of labor, and include any moneys received from
 7 any agency of the United States or any other state as
 8 compensation for services or facilities supplied to such agency,
 9 any amounts received pursuant to any surety bond or insurance
 10 policy or from other sources for losses sustained by the
 11 economic security administration fund or by reason of damage to
 12 equipment or supplies purchased from moneys in such fund, and
 13 any proceeds realized from the sale or disposition of any such
 14 equipment or supplies which may no longer be necessary for the
 15 proper administration of those sections. Notwithstanding any
 16 provision of this section, all money requisitioned and deposited
 17 in this fund pursuant to section 268.05, subdivision 5, shall
 18 remain part of the unemployment fund and shall be used only in
 19 accordance with the conditions specified in section 268.05,
 20 subdivision 5. All moneys in this fund shall be deposited,
 21 administered, and disbursed in the same manner and under the
 22 same conditions and requirements as are provided by law for the
 23 other special funds in the state treasury. The state treasurer
 24 shall be liable on ~~his~~ the treasurer's official bond for the
 25 faithful performance of ~~his~~ duties in connection with the
 26 economic security administration fund provided for under these
 27 sections. Such liability on the official bond shall be
 28 effective immediately upon the enactment of this provision, and
 29 such liability shall exist in addition to any liability upon any
 30 separate bond existent on the effective date of this provision,
 31 or which may be given in the future. All sums recovered on any
 32 surety bond for losses sustained by the economic security
 33 administration fund shall be deposited in this fund. All money
 34 in this fund, except money received pursuant to section 268.05,
 35 subdivision 5, clause (3) shall be expended solely for the
 36 purposes and in the amounts found necessary by the secretary of
 37 labor for the proper and efficient administration of the
 38 economic security program.

*
*

39 No change for subd 2

40 Subd. 3. CONTINGENT ACCOUNT. There is hereby created
 41 in the state treasury a special account, to be known as the
 42 economic security contingent account, which shall not lapse nor
 43 revert to any other fund. Such account shall consist of all
 44 moneys appropriated therefor by the legislature, all moneys in
 45 the form of interest and penalties collected pursuant to section
 46 268.16 and all moneys received in the form of voluntary
 47 contributions to this account and interest thereon. All moneys
 48 in such account shall be supplemental to all federal moneys that
 49 would be available to the commissioner but for the existence of
 50 this account. Moneys in this account are hereby appropriated to
 51 the commissioner and shall be expended in accordance with the
 52 provisions of section 3.30, in connection with the
 53 administration of sections 268.03 to 268.24. Whenever the
 54 commissioner expends moneys from said contingent account for the
 55 proper and efficient administration of the Minnesota economic
 56 security law for which funds have not yet been made available by
 57 the federal government, such moneys so withdrawn from the
 58 contingent account shall be replaced as hereinafter provided.
 59 Upon the deposit in the economic security administration fund of
 60 moneys which are received in reimbursement of payments made as
 61 above provided for said contingent account, the commissioner
 62 shall certify to the state treasurer the amount of such
 63 reimbursement and thereupon the state treasurer shall transfer
 64 such amount from the economic security administration fund to
 65 said contingent account. All moneys in this account shall be
 66 deposited, administered, and disbursed in the same manner and
 67 under the same conditions and requirements as is provided by law
 68 for the other special accounts in the state treasury. The state
 69 treasurer shall be liable on ~~his~~ the treasurer's official bond
 70 for the faithful performance of ~~his~~ duties in connection with
 71 the economic security contingent account provided for herein.
 72 Notwithstanding anything to the contrary contained herein, on
 73 June 30 of each year, except 1982, all amounts in excess of
 74 \$300,000 in this account shall be paid over to the unemployment
 75 compensation fund established under section 268.05 and
 76 administered in accordance with the provisions set forth therein.

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*

1 Subd. 4. Repealed, 2Spl981 c 1 s 8
268*#16S

2 268.16 COLLECTION OF CONTRIBUTIONS.

3 No change for subd 1

4 Subd. 2. REPORTS; DELINQUENCIES; PENALTIES. (1) Any
5 employer who knowingly fails to make and submit to the
6 department of economic security any report of wages paid by or
7 due from ~~him~~ the employer for insured work in the manner and at
8 the time such report is required by regulations prescribed by
9 the commissioner shall pay to the department of economic
10 security for the contingent account a penalty in the amount of
11 one and one-half percent of contributions accrued during the
12 period for which such report is required, for each month from
13 and after such date until such report is properly made and
14 submitted to the department of economic security. In no case
15 shall the amount of the penalty imposed hereby be less than \$5
16 per month. The maximum penalty imposed hereby shall be \$25 or
17 the amount determined at the rate of 1-1/2 percent per month,
18 whichever is greater. Any employing unit which fails to make
19 and submit to the commissioner any report, other than one of
20 wages paid or payable for insured work, as and when required by
21 the regulations of the commissioner, shall be subject to a
22 penalty in the sum of \$10 payable to the department of economic
23 security for the contingent account. All such penalties shall
24 be in addition to interest and any other penalties provided for
25 by sections 268.03 to 268.24 and shall be collected as provided
26 by section 268.161.

27 (2) If any employing unit required by sections 268.03 to
28 268.24 to make and submit contribution reports shall fail to do
29 so within the time prescribed by these sections or by
30 regulations under the authority thereof, or shall make,
31 willfully or otherwise, an incorrect, false or fraudulent
32 contribution report, ~~he~~ it shall, on the written demand of the
33 commissioner, make such contribution report, or corrected
34 report, within ten days after the mailing of such written demand
35 and at the same time pay the whole contribution, or additional
36 contribution, due on the basis thereof. If such employer shall
37 fail within that time to make such report, or corrected report,
38 the commissioner shall make ~~for him~~ a report, or corrected
39 report, from ~~his~~ the commissioner's own knowledge and from such
40 information as ~~he~~ the commissioner can obtain through testimony,
41 or otherwise, and assess a contribution on the basis thereof,
42 which contribution, plus penalties and interest which thereafter
43 accrued (less any payments theretofore made) shall be paid
44 within ten days after the commissioner has mailed to such
45 employer a written notice of the amount thereof and demand for
46 its payment. Any such contribution report or assessment made by
47 the commissioner on account of the failure of the employer to
48 make a report or corrected report shall be prima facie correct
49 and valid, and the employer shall have the burden of
50 establishing its incorrectness or invalidity in any action or
51 proceeding in respect thereto. Whenever such delinquent
52 employer shall file a report or corrected report, the
53 commissioner may, ~~if he finds~~ on finding it substantially
54 correct, substitute it for the commissioner's report.

55 Subd. 3. Repealed, 1Spl982 c 1 s 43

56 Subd. 4. COMPROMISE AGREEMENTS. The commissioner,
57 or any officer or employee of the state department of economic
58 security authorized in writing by the commissioner, is
59 authorized to enter into an agreement in writing with any
60 employer relating to the liability of such employer in respect
61 to delinquent contributions, interest, penalties, and costs;
62 provided that such agreement shall not be made in respect to
63 liability for the principal sum of delinquent contributions
64 unless the same has been delinquent for a period of at least
65 four years prior to the making of such agreement. The
66 commissioner may also enter into an agreement, with respect to
67 liability for delinquent contributions, interest, penalties and
68 costs, with any employer who has never paid any contributions to
69 the fund and such failure to pay contributions was, in the
70 opinion of the commissioner, due to an honest belief on the part
71 of such employer that ~~he~~ the employer was not covered by
72 sections 268.03 to 268.24. Any agreements made under this
73 subdivision shall be subject to the approval of the attorney
74 general and a summary of any such agreements shall be published
75 in the next succeeding annual report of the commissioner to the

1 governor.

2 If such agreements are approved by the commissioner and the
3 attorney general, the same shall be final and conclusive; and,
4 except upon a showing of fraud or malfeasance or
5 misrepresentation of a material fact, the case shall not be
6 reopened as to the matters agreed upon or the agreement modified
7 by any officer, employee or agent of the state; and, in any
8 suit, action or proceeding, such agreement, or any
9 determination, assessment, collection, payment, abatement,
10 refund, or credit made in accordance therewith, shall not be
11 annulled, modified, set aside or destroyed.

12 No change for subd 5

13 Subd. 6. ADJUSTMENTS, REFUNDS. If an employer makes
14 an application for an adjustment of any amount paid as
15 contributions or interest thereon, to be applied against
16 subsequent contribution payments, or for a refund thereof
17 because such adjustment cannot be made, and the payment was made
18 within four years prior to the year in which the application is
19 made, and if the commissioner shall determine that payment of
20 such contributions or interest or any portion thereof was
21 erroneous, the commissioner shall allow such employer to make an
22 adjustment thereof, without interest, in connection with
23 subsequent contribution payments by ~~him~~ the employer, or if such *
24 adjustment cannot be made, the commissioner shall refund from
25 the fund to which such payment has been credited, without
26 interest, the amount erroneously paid. For like cause and
27 within the same period, adjustment or refund may be so made on
28 the commissioner's own initiative.

29 In the event that any application for adjustment or refund
30 is denied in whole or in part, a written notice of such denial
31 shall be mailed to the applicant. Within 30 days after the
32 mailing of such notice of denial to the applicant's last known
33 address, the applicant may request, in writing, that the
34 commissioner grant a hearing for the purpose of reconsidering
35 the facts submitted and to consider any additional information.
36 Proceedings on the appeal shall be had in accordance with
37 section 268.12, subdivision 13.

38 No change for subd 7

39 Subd. 8. COMPROMISE BY ATTORNEY GENERAL. The
40 attorney general may compromise contributions, penalties, and
41 interest in any case referred to ~~him~~ the attorney general, *
42 whether reduced to judgment or not, when, in ~~his~~ the attorney *
43 general's opinion, it shall be in the best interests of the *
44 state to do so. A compromise made hereunder shall be in the
45 form the attorney general prescribes and in writing signed by
46 the attorney general, the taxpayer or ~~his~~ representative, and *
47 the commissioner or ~~his~~ authorized representative. No *
48 compromise is authorized under this subdivision when the amount
49 of contributions, interest, and penalties exceeds \$5,000.

268*#161S

50 268.161 CONTRIBUTION AND REIMBURSEMENT LIEN.

51 Subdivision 1. LIEN. Any contributions or
52 reimbursements due under sections 268.03 to 268.24 and interest
53 and penalties imposed with respect thereto, shall become a lien
54 upon all the property, within this state, both real and
55 personal, of the person liable therefor, except ~~his~~ the person's *
56 homestead, from and after the filing by the commissioner of a
57 notice of lien in the office of the county recorder of the
58 county in which the property is situated, or in the case of
59 personal property belonging to an individual who is not a
60 resident of this state, or which is a corporation, partnership,
61 or other organization, in the office of the secretary of state.
62 When the filing of the notice of lien is made in the office of
63 the county recorder, the fee for filing and indexing shall be as
64 prescribed in sections 272.483 and 272.484.

65 The lien created under this section shall become effective
66 with respect to personal property from and after the date of
67 filing by the commissioner of a notice of the lien describing
68 the property to which the lien attaches in the office of the
69 county recorder of the county in which the commissioner believes
70 the property is located at the time the lien is filed, and with
71 the secretary of state.

72 The lien imposed on personal property by this section, even
73 though properly filed, shall not be valid as against a purchaser
74 with respect to tangible personal property purchased at retail
75 or as against the personal property listed as exempt in sections

1 550.37, 550.38 and 550.39.

2 The lien imposed by this section shall be enforceable by
3 levy as authorized in subdivision 8 or by judgment lien
4 foreclosure as authorized in chapter 550.

5 No change for subd 2

6 Subd. 3. LEGAL ACTION. If after due notice any
7 employer defaults in any payment of contributions,
8 reimbursements, and interest due thereon or penalties for
9 failure to file returns and other reports as required by the
10 provisions of sections 268.03 to 268.24 or by any rule of the
11 commissioner, the commissioner shall, unless ~~he proceeds~~ *
12 proceeding under one of the other subdivisions of this section, *
13 bring against the person liable for payment thereof an action at
14 law, in the name of the state, for the recovery of the
15 contribution, reimbursement, interest and penalties due in
16 respect thereof under this chapter. The action shall be brought
17 in the district court of the county of the residence or
18 principal place of business within this state of the employer,
19 or, in the case of an estate or trust, of the place of its
20 principal administration, and for this purpose the place named
21 in the report, if any, made by the employer shall be conclusive
22 against the employer. If no place is named in the report, the
23 action may be commenced in Ramsey county. The action shall be
24 commenced by filing with the clerk of court a statement showing
25 the name and address of the employer, if known, an itemized
26 summary of the taxable wages on the basis of which the
27 contribution has been computed, the contribution due and unpaid
28 thereon, and the interest and penalties due with respect thereto
29 under this chapter, and shall contain a prayer that the court
30 adjudge the employer to be indebted on account of the
31 contribution, interest, and penalties in the amount thereof
32 specified in the statement. The clerk shall mail a copy of the
33 statement by certified mail to the employer at the address given
34 in the report, if any, and, if no address is given, then at ~~his~~ *
35 the employer's last known address, within five days after the *
36 same is filed, except that, if the employer's address is not *
37 known, notice ~~to him~~ shall be made by posting a copy of the *
38 statement for ten days in the place in the courthouse where *
39 public notices are regularly posted. The employer shall, if ~~he~~ *
40 desires desiring to litigate the claim, or any part thereof, *
41 file a verified answer with the clerk setting forth ~~his~~ *
42 objections to the claim, or any part thereof. The answer shall
43 be filed on or before the lapse of the 20th day after the date
44 of mailing the statement. If notice has been given by posting,
45 the answer shall be filed on or before the 20th day after the
46 expiration of the period during which the notice was required to
47 be posted. If no answer is filed within the specified time, the
48 clerk, upon the filing of an affidavit of default, shall enter
49 judgment for the state in the amount prayed for, plus costs of
50 \$10. If an answer be filed, the issues raised shall stand for
51 trial as soon as possible after the filing of the answer, and
52 the court shall determine the issues and direct judgment
53 accordingly and, if the contribution, interest, or penalties are
54 sustained to any extent over the amount rendered by the
55 employer, shall assess \$10 costs against the employer. The
56 court shall disregard all technicalities and matters of form not
57 affecting the substantial merits. The commissioner may call
58 upon a county attorney or the attorney general to conduct the
59 proceedings on behalf of the state. Execution shall be issued
60 upon the judgment at the request of the commissioner, and the
61 execution shall, in all other respects, be governed by the laws
62 applicable to executions issued on judgments. Only the
63 homestead and household goods of the judgment debtor shall be
64 exempt from seizure and sale upon the execution.

65 No change for subd 4 to 5

66 Subd. 6. CONTRIBUTION OR REIMBURSEMENT PRESUMED VALID.

67 The contribution and reimbursement, as assessed by the
68 commissioner, including any penalties, shall be presumed to be
69 valid and correctly determined and assessed, and the burden
70 shall be upon the employer to show its incorrectness or
71 invalidity. The statement filed by the commissioner with the
72 clerk of court, as provided in subdivision 3, or any other
73 certificate by the commissioner of the amount of the
74 contribution, reimbursement, interest and penalties as
75 determined or assessed by ~~him~~ the commissioner, shall be *
76 admissible in evidence and shall establish prima facie the facts

1 set forth therein.

2 Subd. 7. CONFESSION OF JUDGMENT. (a) Any
3 contribution report or form that is required to be filed with
4 the commissioner concerning contributions or reimbursements due,
5 shall contain a written declaration that it is made under the
6 penalties of section 268.18, subdivision 3 for willfully making
7 a false report and shall contain a confession of judgment for
8 the amount of the contribution or reimbursement shown due
9 thereon to the extent not timely paid together with any interest
10 and penalty due under this chapter.

11 (b) The commissioner may, within six years after a report
12 or form is filed, notwithstanding section 541.09, enter judgment
13 on any confession of judgment contained in the contribution
14 report or form after 20 days notice served upon the employer by
15 mail at the address shown in the employer's report. The
16 judgment shall be entered by the clerk of court of any county
17 upon the filing of a photocopy or similar reproduction of that
18 part of the contribution report or form containing the
19 confession of judgment along with a statement of the
20 commissioner or ~~his~~ agent that the contribution or reimbursement *
21 has not been paid.

22 Subd. 8. LEVY. (a) If any contribution or
23 reimbursement payable to the department is not paid when due,
24 the amount may be collected by the commissioner, ~~his~~ a duly *
25 authorized representative, or by the sheriff of any county to *
26 whom the commissioner has issued ~~his~~ a warrant, who may levy *
27 upon all property and rights of property of the person liable
28 for the contribution or reimbursement, (except that which is
29 exempt from execution pursuant to section 550.37), or property
30 on which there is a lien provided by subdivision 1. The terms
31 "contribution or reimbursement" shall include any penalty,
32 interest, and costs. The term "levy" includes the power of
33 distraint and seizure by any means. Before a levy is made or
34 warrant issued, notice and demand for payment of the amount due
35 shall be given to the person liable for the contribution or
36 reimbursement at least ten days prior to the levy or issuing of
37 a warrant.

38 (b) Upon the commissioner issuing a warrant, the sheriff
39 shall proceed within 60 days to levy upon the rights to property *
40 of the employer within ~~his~~ the employer's county, except the *
41 homestead and household goods of the employer and property of
42 the employer not liable to attachment, garnishment, or sale on
43 any final process issued from any court under the provisions of
44 section 550.37, and shall sell so much thereof as is required to
45 satisfy the contribution, reimbursement, interest, and *
46 penalties, together with ~~his~~ the commissioner's costs. The *
47 sales shall, as to their manner, be governed by the law
48 applicable to sales of like property on execution issued against
49 property upon a judgment of a court of record. The proceeds of
50 the sales, less the sheriff's costs, shall be turned over to the
51 commissioner, who shall retain a part thereof as is required to
52 satisfy the contribution, reimbursement, interest, penalties,
53 and costs, and pay over any balance to the employer.

54 (c) If the commissioner has reason to believe that
55 collection of the contribution or reimbursement is in jeopardy,
56 notice and demand for immediate payment of the amount may be
57 made by the commissioner. If the contribution or reimbursement
58 is not paid, the commissioner may proceed to collect by levy or *
59 issue ~~his~~ a warrant without regard to the ten day period *
60 provided herein.

61 (d) In making the execution of the levy and in collecting
62 the contribution or reimbursement due, the commissioner shall
63 have all of the powers provided in chapter 550 and in any other
64 law for purposes of effecting an execution against property in
65 this state. The sale of property levied upon and the time and
66 manner of redemption therefrom shall be as provided in chapter
67 550. The seal of the court, subscribed by the clerk, as
68 provided in section 550.04, shall not be required. The levy for
69 collection of contributions or reimbursements may be made
70 whether or not the commissioner has commenced a legal action for
71 collection of the amount.

72 (e) Where a jeopardy assessment or any other assessment has
73 been made by the commissioner, the property seized for
74 collection of the contribution or reimbursement shall not be
75 sold until any determination of liability, rate or benefit
76 charges has become final. No sale shall be made unless the

1 contribution or reimbursement remain unpaid for a period of more
2 than 30 days after the determination becomes final. Seized
3 property may be sold at any time if:

4 (1) the employer consents in writing to the sale; or

5 (2) the commissioner determines that the property is
6 perishable or may become greatly reduced in price or value by
7 keeping, or that the property cannot be kept without great
8 expense.

9 (f) Where a levy has been made to collect contributions or
10 reimbursements pursuant to this subdivision and the property
11 seized is properly included in a formal proceeding commenced
12 under sections 524.3-401 to 524.3-505 and maintained under full
13 supervision of the court, the property shall not be sold until
14 the probate proceedings are completed or until the court so
15 orders.

16 (g) The property seized shall be returned by the
17 commissioner if the owner gives a surety bond equal to the
18 appraised value of ~~his~~ the owner's interest in the property, as
19 determined by the commissioner, or deposits with the
20 commissioner security in a form and amount as ~~he~~ the
21 commissioner deems necessary to insure payment of the liability,
22 but not more than twice the liability. *
*
*

23 (h) Notwithstanding any other law to the contrary, if a
24 levy or sale pursuant to this section would irreparably injure
25 rights in property which the court determines to be superior to
26 rights of the state in the property, the district court may
27 grant an injunction to prohibit the enforcement of the levy or
28 to prohibit the sale.

29 (i) Any person who fails or refuses to surrender without
30 reasonable cause any property or rights to property subject to
31 levy upon demand by the commissioner shall be personally liable
32 to the department in an amount equal to the value of the
33 property or rights not so surrendered, but not exceeding the
34 amount of contribution or reimbursement for the collection of
35 which the levy has been made. Any amount recovered under this
36 subdivision shall be credited against the contribution or
37 reimbursement liability for the collection of which the levy was
38 made. The term "person" includes an officer or employee of a
39 corporation or a member or employee of a partnership who, as an
40 officer, employee, or member is under a duty to surrender the
41 property or rights to property or to discharge the obligation.

42 (j) Any action taken by the commissioner pursuant to this
43 subdivision shall not constitute an election by the department
44 to pursue a remedy to the exclusion of any other remedy.

45 (k) After the commissioner has seized the property of any
46 person, that person may, upon giving 48 hours notice to the
47 commissioner and to the court, bring a claim for equitable
48 relief before the district court for the release of the property
49 to the employer upon terms and conditions as the court may deem
50 equitable.

51 (l) Any person in possession of (or obligated with respect
52 to) property or rights to property subject to levy upon which a
53 levy has been made who, upon demand by the commissioner,
54 surrenders the property or rights to property or who pays a
55 liability under this subdivision shall be discharged from any
56 obligation or liability to the person liable for the payment of
57 the delinquent contribution or reimbursement with respect to the
58 property or rights to property so surrendered or paid.

59 (m) Notwithstanding any other provisions of law to the
60 contrary, the notice of any levy authorized by this section may
61 be served by certified or registered mail or by delivery by an
62 employee or agent of the department of economic security.

63 (n) It shall be lawful for the commissioner to release the
64 levy upon all or part of the property or rights to property
65 levied upon if the commissioner determines that the release will
66 facilitate the collection of the liability, but the release
67 shall not operate to prevent any subsequent levy. If the
68 commissioner determines that property has been wrongfully
69 levied upon, it shall be lawful for the commissioner to return:

70 (1) the specific property levied upon, at any time; or

71 (2) an amount of money equal to the amount of money levied
72 upon, at any time before the expiration of nine months from the
73 date of levy.

74 (o) A levy by the commissioner made pursuant to the
75 provisions of this section upon an employer's funds on deposit
76 in a financial institution located in this state, shall have

1 priority over any unexercised right of setoff of the financial
 2 institution to apply the levied funds toward the balance of an
 3 outstanding loan or loans owed by the employer to the financial
 4 institution. A claim by the financial institution that it
 5 exercised its right to setoff prior to the levy by the
 6 commissioner must be substantiated by evidence of the date of
 7 the setoff, and shall be verified by the sworn statement of a
 8 responsible corporate officer of the financial institution.
 9 Furthermore, for purposes of determining the priority of any
 10 levy made under this section, the levy shall be treated as if it
 11 were an execution made pursuant to chapter 550.

12 Subd. 9. PERSONAL LIABILITY. Any officer or any
 13 employee having 20 percent ownership interest of a corporation
 14 which is an employer under sections 268.03 to 268.24 who has
 15 control of or supervision over the filing of and responsibility
 16 for filing contribution reports or of making payment of
 17 contributions under these sections, and who wilfully fails to
 18 file the reports or to make payments as required, shall be
 19 personally liable for contributions or reimbursement, including
 20 interest, penalties, and costs in the event the corporation does
 21 not pay to the department those amounts for which the employer
 22 is liable.

23 Any personal representative of the estate of a decedent or
 24 fiduciary who voluntarily distributes the assets filed therein
 25 without reserving a sufficient amount to pay the contributions,
 26 interest, and penalties due pursuant to this chapter shall be
 27 personally liable for the deficiency.

28 The personal liability of any person as provided herein
 29 shall survive dissolution, reorganization, bankruptcy,
 30 receivership, or assignment for the benefit of creditors.

31 An official designated by the commissioner shall make an
 32 initial determination as to the personal liability under this
 33 section. The determination shall be final unless the person
 34 found to be personally liable shall within 30 days after mailing
 35 of notice of determination to ~~his~~ the person's last known *
 36 address files a written appeal. Proceedings on the appeal shall
 37 be conducted in the same manner as an appeal from a
 38 determination of employer liability under section 268.12,
 39 subdivision 13.

268*#17S

40 268.17 PROTECTION OF RIGHTS AND BENEFITS.

41 Subdivision 1. WAIVER OF RIGHTS VOID. Any agreement
 42 by an individual to waive, release, or commute ~~his~~ rights to *
 43 benefits or any other rights under sections 268.03 to 268.24
 44 shall be void. Any agreement by any individual in the employ of
 45 any person or concern to pay all or any portion of an employer's
 46 contributions, required under these sections from such employer,
 47 shall be void. No employer shall directly or indirectly make or
 48 require or accept any deduction from wages to finance the
 49 employer's contributions ~~required-from-him~~, require or accept *
 50 any waiver of any right hereunder by any employed individual in *
 51 ~~his-employ~~ or in any manner obstruct or impede the filing of *
 52 claims for benefits. Any employer or officer or agent of any
 53 employer who violates any provision of this subdivision shall,
 54 for each offense, be guilty of a misdemeanor.

55 Subd. 2. NO ASSIGNMENT OF BENEFITS; EXEMPTIONS. Any
 56 assignment, pledge, or encumbrance of any right to benefits
 57 which are or may become due or payable under sections 268.03 to
 58 268.24 shall be void; and such rights to benefits shall be
 59 exempt from levy, execution, attachment, or any other remedy
 60 provided for the collection of debt; and benefits received by
 61 any individual so long as they are not mingled with other funds
 62 of the recipient shall be exempt from any remedy for the
 63 collection of all debts, except debts incurred for necessities
 64 furnished to such individual or ~~his~~ a spouse or dependents *
 65 during the time when such individual was unemployed. Any waiver
 66 of any exemption provided for in this subdivision shall be void.

268*#18S

67 268.18 RETURN OF BENEFITS; OFFENSES.

68 Subdivision 1. ERRONEOUS PAYMENTS. Any claimant for *
 69 benefits who, by reason of ~~his~~ the claimant's own mistake or *
 70 through the error of any individual engaged in the
 71 administration of sections 268.03 to 268.24 or because of a
 72 determination or redetermination issued pursuant to section
 73 268.10, subdivision 2, has received any sum as benefits to which
 74 ~~he~~ the claimant was not entitled under these sections, shall *

1 promptly return such benefits in cash to the nearest office of
 2 the Minnesota department of economic security. If such claimant
 3 fails to return such benefits, the department of economic
 4 security shall, as soon as it discovers such erroneous payment,
 5 determine the amount thereof and notify said individual to
 6 return the same. Unless the claimant files a written appeal
 7 with the department of economic security within 15 days after
 8 the mailing of the notice of determination to ~~his~~ the claimant's
 9 last known address or personal delivery of the notice, the
 10 determination shall become final. If the claimant files an
 11 appeal with the department in writing within the time aforesaid
 12 the matter shall be set for hearing before a referee of the
 13 department and heard as other benefit matters are heard in
 14 accordance with section 268.10 with the same rights of review as
 15 outlined for benefit cases in that section. The commissioner of
 16 the department of economic security is hereby authorized to
 17 deduct from any future benefits payable to the claimant under
 18 these sections in either the current or any subsequent benefit
 19 year an amount equivalent to the overpayment determined or the
 20 overpayment may be collected without interest by civil action in
 21 the name of the commissioner. If a claimant has been overpaid
 22 benefits under the law of another state and that state certifies
 23 to the department the facts involved and that the individual is
 24 liable under its law to repay the benefits and requests the
 25 department to recover the overpayment, the commissioner is
 26 authorized to deduct from future benefits payable to the
 27 claimant in either the current or any subsequent benefit year an
 28 amount equivalent to the amount of overpayment determined by
 29 that state. Benefits paid for weeks more than three years prior
 30 to the discovery of error are not erroneous payments.

*

31 Subd. 2. FRAUD. Any claimant who files a claim for
 32 or receives benefits by knowingly and willfully misrepresenting
 33 or misstating any material fact or by knowingly and willfully
 34 failing to disclose any material fact which would make ~~him~~ the
 35 claimant ineligible for benefits under sections 268.03 to 268.24
 36 is guilty of fraud. After the discovery of facts by the
 37 commissioner indicating fraud in claiming or obtaining benefits
 38 under sections 268.03 to 268.24, ~~he~~ the commissioner is hereby
 39 authorized to make a determination that the claimant was
 40 ineligible for each week with reference to which benefits were
 41 claimed or obtained by fraud for the amount as was in excess of
 42 what the claimant would have been entitled to had ~~he~~ the
 43 claimant not made the fraudulent statements or failed to
 44 disclose any material facts. The commissioner also may
 45 disqualify an individual from benefits for one to 52 weeks in
 46 which the claimant is otherwise eligible for benefits following
 47 the week in which the fraud was determined. A disqualification
 48 imposed for fraud shall not be removed by subsequent insured
 49 work or the expiration of a benefit year but shall not apply to
 50 any week more than 104 weeks after the week in which the fraud
 51 was determined. The claimant shall promptly repay in cash to
 52 the department of economic security any benefits fraudulently
 53 obtained. Unless the claimant files a written appeal with the
 54 department of economic security within 15 days after the mailing
 55 of the notice of determination to ~~his~~ the claimant's last known
 56 address or personal delivery of the notice, the determination
 57 shall become final. If the claimant appeals from the
 58 determination within the time above specified the matter shall
 59 be referred to a referee for a hearing as in other benefit cases
 60 and thereafter the procedure for review shall be the same as set
 61 forth in section 268.10. The commissioner is hereby authorized
 62 to deduct from future benefits payable to the claimant in either
 63 the current or any subsequent benefit year an amount equivalent
 64 to the amount of overpayment determined or the overpayment may
 65 be collected without interest by civil action in the name of the
 66 commissioner. If a claimant has been overpaid benefits under
 67 the law of another state and that state certifies to the
 68 department the facts involved and that the individual is liable
 69 to repay the benefits and requests the department to recover the
 70 overpayment, the commissioner is authorized to deduct from
 71 future benefits payable to the claimant in either the current or
 72 any subsequent benefit year an amount equivalent to the amount
 73 of overpayment determined by that state. A determination of
 74 fraud may be made at any time.

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75 Subd. 3. FALSE REPRESENTATIONS; CONCEALMENT OF FACTS;
 76 PENALTY. Whoever makes a false statement or representation

1 knowing it to be false or knowingly fails to disclose a material
 2 fact to obtain or increase any benefit or other payment under
 3 sections 268.03 to 268.24, or under the employment security law
 4 of any state or of the federal government or of a foreign
 5 government, either ~~for-himself~~ personally or for any other *
 6 person, shall be guilty of a gross misdemeanor.

7 Any employing unit or any officer or agent of an employing
 8 unit or any other person who makes a false statement or
 9 representation knowing it to be false, or who knowingly fails to
 10 disclose a material fact, to prevent or reduce the payment of
 11 benefits to any individual entitled thereto, or to avoid
 12 becoming or remaining a subject employer or to avoid or reduce
 13 any contribution or other payment required from an employing
 14 unit under those sections or under the employment security law
 15 of any state or of the federal government, or who wilfully fails
 16 or refuses to make any such contributions or other payment or to
 17 furnish any reports at the time when required hereunder or to
 18 produce or permit the inspection or copying of records as
 19 required hereunder, shall be guilty of a gross misdemeanor.

20 Subd. 4. CANCELLATION OF BENEFITS PAID THROUGH ERROR OR
 21 FRAUD. When benefits paid through error or fraud are not
 22 repaid or deducted from subsequent benefit amounts as provided
 23 for in subdivisions 1 and 2 within six years after the date of
 24 the determination that benefits were paid through error or fraud
 25 irrespective of subsequent partial recovery dates, the
 26 commissioner may, in a manner ~~he~~ the commissioner prescribes by *
 27 regulation, cancel as uncollectible the overpayment balance, and
 28 no administrative or legal proceedings shall be instituted under
 29 the Minnesota economic security law to enforce collection of
 30 those amounts.

31 Subd. 5. ERRONEOUS PAYMENTS; CHARGING. The amount of
 32 benefits paid and subsequently determined to have been paid:
 33 (a) erroneously by the claimant's own mistake; (b) through error
 34 by any individual engaged in the administration of sections
 35 268.03 to 268.24; or (c) based upon the claimant's fraudulent
 36 statements or ~~his~~ failure to disclose any material facts, shall *
 37 not be charged to or will be removed from an employer's
 38 experience rating account for all subsequent rate computations
 39 which have not become final under section 268.06, and shall not
 40 be charged to employers electing to reimburse the unemployment
 41 fund in accordance with section 268.06, for all benefits paid,
 42 based upon wages for services performed with the employer.

43 Subd. 6. EMPLOYER MISCONDUCT; PENALTY. If the
 44 commissioner finds that any employing unit or any employee,
 45 officer, or agent of any employing unit, is in collusion with
 46 any employee for the purpose of assisting the claimant to
 47 receive benefits illegally, the employing unit shall be
 48 penalized \$500 or an amount equal to the amount of benefits
 49 determined to be overpaid, whichever is greater.

50 If the commissioner finds that any part of any employer's
 51 contribution deficiency is due to fraud with intent to avoid
 52 payment of contributions to the fund, 50 percent of the total
 53 amount of the deficiency or \$500, whichever is greater, shall be
 54 assessed as a penalty against the employer and collected in
 55 addition to the deficiency.

56 Penalties assessed under this section shall be in addition
 57 to any other penalties provided for by sections 268.03 to 268.24
 58 and be subject to the same collection procedures that apply to
 59 past due contributions under this chapter. Penalties under this
 60 section shall be paid to the department and credited to the
 61 contingent fund.

62 The assessment of the penalty shall be final unless the
 63 employer files a written appeal with the department within 15
 64 days after the notice of determination to ~~his~~ the employer's *
 65 last known address. If the employer shall appeal from the
 66 determination within the time above specified, the matter shall
 67 be referred for a hearing as set forth in section 268.10.

268*#673S

68 268.673 MINNESOTA EMERGENCY EMPLOYMENT DEVELOPMENT
 69 COORDINATOR.

70 No change for subd '3

71 Subd. 4. ENFORCEMENT. (a) The commissioner shall
 72 ensure compliance with sections 268.672 to 268.682.

73 (b) The commissioner may:

74 (1) make public or private investigations within or without
 75 this state necessary to determine whether any person has

1 violated or is about to violate sections 268.672 to 268.682, a
2 contract entered into under them, or any rule or order adopted
3 under them, or to aid in the enforcement of sections 268.672 to
4 268.682 or in rules and forms adopted under them;

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

9 (3) hold hearings, upon reasonable notice, on any matter
10 arising out of the administration of sections 268.672 to 268.682.

11 (c) The attorney general shall assign ~~from his staff~~ one or *
12 more assistant attorneys general to the commissioner and shall
13 conduct all proceedings involving the violation of sections
14 268.672 to 268.682 and all other enforcement proceedings.

15 (d) Whenever it appears to the commissioner that any person
16 has violated a provision of sections 268.672 to 268.682, a
17 contract entered into under them, or a rule or order adopted
18 under them:

19 (1) ~~He~~ The commissioner may issue and cause to be served *
20 upon the person an order requiring the person to cease and
21 desist from the violation. The order must be calculated to give
22 reasonable notice of the right of the person to request a
23 hearing on it and must state the reasons for the entry of the
24 order. A hearing must be held not later than seven days after a
25 request for the hearing is received by the commissioner, after
26 which and within 20 days of the date of the hearing the
27 commissioner shall issue a further order vacating the cease and
28 desist order or making it permanent as the facts require. If no
29 hearing is requested within 30 days of service of the order, the
30 order becomes final and remains in effect until it is modified
31 or vacated by the commissioner. If the person to whom a cease
32 and desist order is issued fails to appear at the hearing after
33 being duly notified, the person shall be deemed in default, and
34 the proceeding may be determined ~~against him~~ upon consideration *
35 of the cease and desist order, the allegations of which may be
36 deemed to be true;

37 (2) ~~He~~ The commissioner may bring an action in the district *
38 court of the appropriate county to enjoin the violation and to
39 enforce compliance with the provisions of sections 268.672 to
40 268.682, a contract entered into under them, or any rule or
41 order adopted under them, and ~~he~~ the commissioner may refer the *
42 matter to the attorney general. Upon a proper showing, a
43 permanent or temporary injunction, restraining order, or writ of
44 mandamus shall be granted. The court may not require the
45 commissioner to post a bond.

46 Any injunction proceeding under the provisions of sections
47 268.672 to 268.682 may be brought on for hearing and disposition
48 upon an order to show cause returnable upon not more than eight
49 days notice to the defendant. The case has precedence over
50 other cases upon the court calendar and may not be continued
51 without the consent of the state, except upon good cause shown
52 to the court, and then only for a reasonable length of time
53 necessary in the opinion of the court to protect the rights of
54 the defendant.

55 No change for subd 5 to 6

270*#02S

56 270.02 DEPARTMENT OF REVENUE; COMMISSIONER OF REVENUE.

57 No change for subd 1 to 2

58 Subd. 3. POWERS, ORGANIZATION, ASSISTANTS. Subject
59 to the provisions of this chapter and other applicable laws the
60 commissioner shall have power to organize the department with
61 such divisions and other agencies as ~~he~~ the commissioner deems *
62 necessary and to appoint one deputy commissioner, a department
63 secretary, directors of divisions, and such other officers,
64 employees, and agents as ~~he~~ the commissioner may deem necessary *
65 to discharge the functions of the department, define the duties
66 of such officers, employees, and agents, and delegate to them
67 any of ~~his~~ the commissioner's powers or duties, subject to ~~his~~ *
68 the commissioner's control and under such conditions as ~~he~~ the *
69 commissioner may prescribe. Appointments to exercise delegated *
70 power shall be by written order filed with the secretary of
71 state.

72 No change for subd 4

270*#04S

73 270.04 OFFICE AND SUPPLIES FURNISHED.

74 The commissioner of revenue shall be provided with suitable

1 and necessary office furniture, supplies, stationery, books,
 2 periodicals, newspapers, maps, and financial and commercial
 3 reports; and all necessary expenses therefor shall be audited
 4 and paid as other expenses are audited and paid. The actual
 5 necessary expenses of the commissioner and ~~his~~ the
 6 commissioner's secretary, clerks, and such experts and
 7 assistants as may be employed by ~~him~~ the commissioner while
 8 traveling on the business of the department shall be paid by the
 9 state, such expenditures to be sworn to by the party who
 10 incurred the expense and approved by the commissioner of revenue.

270*#06S

11 270.06 POWERS AND DUTIES.

12 ~~It shall be the duty of~~ The commissioner of revenue ~~and he~~
 13 shall ~~have power and authority~~:

14 (1) ~~To~~ have and exercise general supervision over the
 15 administration of the assessment and taxation laws of the state,
 16 over assessors, town, county, and city boards of review and
 17 equalization, and all other assessing officers in the
 18 performance of their duties, to the end that all assessments of
 19 property be made relatively just and equal in compliance with
 20 the laws of the state;

21 (2) ~~To~~ confer with, advise and give the necessary
 22 instructions and directions to local assessors and local boards
 23 of review throughout the state as to their duties under the laws
 24 of the state;

25 (3) ~~To~~ direct proceedings, actions, and prosecutions to be
 26 instituted to enforce the laws relating to the liability and
 27 punishment of public officers and officers and agents of
 28 corporations for failure or negligence to comply with the
 29 provisions of the laws of this state governing returns of
 30 assessment and taxation of property, and ~~to~~ cause complaints to
 31 be made against local assessors, members of boards of
 32 equalization, members of boards of review, or any other
 33 assessing or taxing officer, to the proper authority, for their
 34 removal from office for misconduct or negligence of duty;

35 (4) ~~To~~ require county attorneys to assist in the
 36 commencement of prosecutions in actions or proceedings for
 37 removal, forfeiture and punishment for violation of the laws of
 38 this state in respect to the assessment and taxation of property
 39 in their respective districts or counties;

40 (5) ~~To~~ require town, city, county, and other public
 41 officers to report information as to the assessment of property,
 42 collection of taxes received from licenses and other sources,
 43 and such other information as may be needful in the work of the
 44 department of revenue, in such form and upon such blanks as ~~he~~
 45 the commissioner may prescribe;

46 (6) ~~To~~ require individuals, copartnerships, companies,
 47 associations, and corporations to furnish information concerning
 48 their capital, funded or other debt, current assets and
 49 liabilities, earnings, operating expenses, taxes, as well as all
 50 other statements now required by law for taxation purposes;

51 (7) ~~To~~ summon witnesses to appear and give testimony, and
 52 to produce books, records, papers and documents relating to any
 53 tax matter which ~~he~~ the commissioner may have authority to
 54 investigate or determine. Provided, that any summons which does
 55 not identify the person or persons with respect to whose tax
 56 liability the summons is issued may be served only if (a) the
 57 summons relates to the investigation of a particular person or
 58 ascertainable group or class of persons, (b) there is a
 59 reasonable basis for believing that such person or group or
 60 class of persons may fail or may have failed to comply with any
 61 tax law administered by the commissioner, (c) the information
 62 sought to be obtained from the examination of the records (and
 63 the identity of the person or persons with respect to whose
 64 liability the summons is issued) is not readily available from
 65 other sources, (d) the summons is clear and specific as to the
 66 information sought to be obtained, and (e) the information
 67 sought to be obtained is limited solely to the scope of the
 68 investigation. Provided further that the party served with a
 69 summons which does not identify the person or persons with
 70 respect to whose tax liability the summons is issued shall have
 71 the right, within 20 days after service of the summons, to
 72 petition the district court for the judicial district in which
 73 lies the county in which that party is located for a
 74 determination as to whether the commissioner of revenue has
 75 complied with all the requirements in (a) to (e), and thus,

1 whether the summons is enforceable. If no such petition is made
2 by the party served within the time prescribed, the summons
3 shall have the force and effect of a court order;

4 (8) To cause the deposition of witnesses residing within or
5 without the state, or absent therefrom, to be taken, upon notice
6 to the interested party, if any, in like manner that depositions
7 of witnesses are taken in civil actions in the district court,
8 in any matter which he the commissioner may have authority to
9 investigate or determine; *

10 (9) ~~To~~ investigate the tax laws of other states and
11 countries and to formulate and submit to the legislature such
12 legislation as he the commissioner may deem expedient to prevent
13 evasions of assessment and taxing laws, and ~~to~~ secure just and
14 equal taxation and improvement in the system of assessment and
15 taxation in this state; *

16 (10) ~~To~~ consult and confer with the governor upon the
17 subject of taxation, the administration of the laws in regard
18 thereto, and the progress of the work of the department of
19 revenue, and ~~to~~ furnish the governor, from time to time, such
20 assistance and information as he the governor may require
21 relating to tax matters; *

22 (11) ~~To~~ transmit to the governor, on or before the third
23 Monday in December of each even-numbered year, and to each
24 member of the legislature, on or before November 15 of each even
25 numbered year, the report of the department of revenue for the
26 preceding years, showing all the taxable property in the state
27 and the value of the same, in tabulated form; *

28 (12) ~~To~~ inquire into the methods of assessment and taxation
29 and ascertain whether the assessors faithfully discharge their
30 duties, particularly as to their compliance with the laws
31 requiring the assessment of all property not exempt from
32 taxation; *

33 (13) ~~To~~ exercise and perform such further powers and duties
34 as may be required or imposed upon the commissioner of revenue
35 by law; *

36 (14) ~~The commissioner of revenue may~~ promulgate rules and
37 regulations having the force and effect of law, for the
38 administration and enforcement of the property tax;--~~Such rules~~
39 ~~and regulations shall have the force and effect of law;~~ *

40 (15) ~~To~~ execute and administer any agreement with the
41 secretary of the treasury of the United States regarding the
42 exchange of information and administration of the tax laws of
43 both the United States and the state of Minnesota; *

44 (16) ~~To~~ administer and enforce the provisions of sections
45 325.64 to 325.76, the Minnesota Unfair Cigarette Sales Act. *

270*#061S

46 270.061 SERVICE OF NOTICE BY MAIL.

47 Notwithstanding any other law to the contrary, ~~whenever~~ the
48 commissioner of revenue ~~is~~, if required to serve notices by
49 registered or certified mail, ~~he may at his option choose to~~
50 make such services by regular mail, retaining for his records a
51 record of adequate proof of such service. *

270*#063S

52 270.063 COLLECTION OF DELINQUENT TAXES.

53 For the purpose of collecting delinquent state tax
54 liabilities from taxpayers who do not reside or are not located
55 in Minnesota, there is appropriated to the commissioner of
56 revenue an amount representing the cost of collection, not to
57 exceed one-third of the amount collected by contract with
58 collection agencies, revenue departments of other states, or
59 attorneys to enable the commissioner to reimburse these agencies
60 for this service. The commissioner shall report quarterly on
61 the status of this program to the chairmen chairs of the house
62 tax and appropriation committees and senate tax and finance
63 committees. *

64 Notwithstanding section 16A.15, subdivision 3, the
65 commissioner of revenue may authorize the prepayment of
66 sheriff's fees, attorney fees, fees charged by revenue
67 departments of other states, or court costs to be incurred in
68 connection with the collection out of state of delinquent tax
69 liabilities owed to the commissioner of revenue.

270*#065S

70 270.065 EQUALITY AND CONSISTENCY IN THE EXERCISE OF
71 POWERS AND DUTIES.

72 Notwithstanding the provisions of any other law, the
73 commissioner of revenue may use any and all information in his *

1 possession, or to which ~~he~~ the commissioner has access, to *
 2 insure equal and consistent application and enforcement of all *
 3 tax laws administered by ~~his~~ the department. This section shall *
 4 not be construed as granting to the commissioner of revenue any *
 5 power to release any information outside ~~his~~ the department. *

270*#067S

6 270.067 TAX EXPENDITURE BUDGET.
 7 No change for subd 1 to 4
 8 Subd. 5. REVENUE ESTIMATES; LEGISLATIVE BILLS. Upon *
 9 reasonable notice from the ~~chairman~~ chair of the house or senate *
 10 tax committee that a bill is scheduled for hearing, the *
 11 commissioner of revenue shall prepare an estimate of the effect *
 12 on the state's tax revenues which would result from the passage *
 13 of a legislative bill establishing, extending, or restricting a *
 14 tax expenditure. These revenue estimates shall contain the same *
 15 information as provided in subdivision 4 for expenditure items *
 16 contained in the tax expenditure budget, as appropriate.
 17 No change for subd 6

270*#07S

18 270.07 POWER TO ABATE.
 19 Subdivision 1. The commissioner of revenue shall prescribe *
 20 the form of all blanks and books required under this chapter- *
 21 ~~He~~ and shall hear and determine all matters of grievance *
 22 relating to taxation. Except as otherwise provided by law, ~~he~~ *
 23 the commissioner shall have power to grant such reduction or *
 24 abatement of assessed valuations or taxes and of any costs, *
 25 penalties or interest thereon as ~~he~~ the commissioner may deem *
 26 just and equitable, and to order the refundment, in whole or in *
 27 part, of any taxes, costs, penalties or interest thereon which *
 28 have been erroneously or unjustly paid. Application therefor *
 29 shall be submitted with a statement of facts in the case and the *
 30 favorable recommendation of the county board or of the board of *
 31 abatement of any city where any such board exists, and the *
 32 county auditor of the county wherein such tax was levied or *
 33 paid. In the case of gross earnings taxes the application may *
 34 be made directly to the commissioner without the favorable *
 35 action of the county board and county auditor, and the *
 36 commissioner shall direct that any gross earnings taxes which *
 37 may have been erroneously or unjustly paid shall be applied *
 38 against unpaid taxes due from the applicant for such *
 39 refundment. No reduction, abatement, or refundment of any *
 40 special assessments made or levied by any municipality for local *
 41 improvements shall be made unless it is also approved by the *
 42 board of review or similar taxing authority of such *
 43 municipality. The commissioner may refer any question that may *
 44 arise in reference to the true construction of this chapter to *
 45 the attorney general, and ~~his~~ the decision thereon shall be in *
 46 force and effect until annulled by the judgment of a court of *
 47 competent jurisdiction. The commissioner shall forward to the *
 48 county auditor a copy of the order by ~~him~~ the commissioner made *
 49 in all cases in which the approval of the county board is *
 50 required. The commissioner may by written order abate, reduce, *
 51 or refund any penalty or interest imposed by any law relating to *
 52 taxation, if in ~~his~~ the commissioner's opinion the failure to *
 53 timely pay the tax or failure to timely file the return is due *
 54 to reasonable cause. Such order shall, in the case of real and *
 55 personal property taxes, be made only on application and *
 56 approval as provided in this section; in the case of all other *
 57 taxes, such order shall be made on application of the taxpayer *
 58 to the commissioner and, if the order is for an abatement, *
 59 reduction or refund of over \$5,000, it shall be valid only if *
 60 approved in writing by the attorney general.

61 An appeal may not be taken to the tax court from any order *
 62 of the commissioner of revenue made in the exercise of the *
 63 discretionary authority granted ~~to-him~~ in this subdivision in *
 64 response to a taxpayer's application for an abatement, reduction *
 65 or refund of taxes, assessed valuations, costs, penalties or *
 66 interest.

67 Subd. 1a. The commissioner shall examine all applications *
 68 submitted ~~to-him~~ by a county board pursuant to section 375.192, *
 69 subdivision 3. If the applicant has previously submitted a *
 70 claim for property tax relief pursuant to chapter 290A based on *
 71 the property taxes payable prior to receiving the abatement, the *
 72 commissioner may approve the application in an amount reduced by *
 73 the relief provided pursuant to chapter 290A.

74 An appeal may be taken to the tax court from an order of

1 the commissioner made pursuant to this subdivision.

2 No change for subd 2 to 3

3 Subd. 4. If a remittance is erroneously made payable to *
4 the commissioner of revenue ~~receives-a-remittance-erroneously~~ *
5 ~~made-payable-to-him~~ and he the commissioner had knowledge that *
6 the proper payee is a state or local official of this state, ~~he~~ *
7 the commissioner may endorse such remittance to the proper state *
8 or local official. The commissioner of revenue is also
9 authorized to return a remittance if the records indicate that
10 it has been erroneously submitted.

11 No change for subd 5

270*#071S

12 270.071 DEFINITIONS.

13 No change for subd 1 to 5

14 Subd. 6. (a) "Air commerce" means the transportation by
15 aircraft of persons or property for hire in interstate,
16 intrastate, or international transportation on regularly
17 scheduled flights or on intermittent or irregularly timed
18 flights by airline companies operating under authorization from
19 the United States Civil Aeronautics Board.

20 (b) "Air commerce" also includes but is not limited to an
21 intermittent or irregularly timed flight, a flight arranged at
22 the convenience of an airline and the person contracting for the
23 transportation, or a charter flight.

24 (c) "Air commerce" does not include casual transportation
25 for hire by aircraft commonly owned and used for private
26 airflight purposes if the person furnishing the transportation
27 does not hold ~~himself~~ out to be engaged regularly in *
28 transportation for hire.

29 No change for subd 7 to 8

270*#072S

30 270.072 TAXATION AND ASSESSMENT OF FLIGHT PROPERTY.

31 No change for subd 1 to 2

32 Subd. 3. REPORT BY AIRLINE COMPANY. Every airline
33 company engaged in air commerce in this state shall file with
34 the commissioner on or before the time fixed by the commissioner
35 a report under oath setting forth specifically the information
36 prescribed by the commissioner to enable ~~him~~ the commissioner to *
37 make the assessment required in sections 270.071 to 270.079,
38 unless the commissioner determines that the airline company or
39 person should be excluded from filing because its activities do
40 not constitute air commerce as defined herein.

41 No change for subd 4 to 5

270*#073S

42 270.073 EXAMINATIONS AND INVESTIGATIONS.

43 No change for subd 1

44 Subd. 2. For the purpose of making such examinations, the *
45 commissioner may appoint such persons as ~~he~~ the commissioner may *
46 deem necessary. Such persons shall have the rights and powers
47 with reference to the examining of books, papers, records, or
48 memoranda, and with reference to the subpoenaing of witnesses,
49 administering of oaths and affirmations, and taking of
50 testimony, which are conferred upon the commissioner hereby.
51 The clerk of any court of record, upon demand of any such
52 person, shall issue a subpoena for the attendance of any witness
53 or the production of any books, papers, records, or memoranda
54 before such person. The commissioner may also issue subpoenas
55 for the appearance of witnesses before ~~him~~ the commissioner or *
56 before such persons. Disobedience of subpoenas so issued shall
57 be punished by the district court of the district in which the
58 subpoena is issued as for a contempt of the district court.

59 Subd. 3. If any airline company shall refuse or neglect to
60 make the statement required by this section to the commissioner,
61 or shall refuse or neglect to permit an inspection and
62 examination of its property, its records, books, accounts or
63 other papers when requested by the commissioner, or shall refuse
64 or neglect to appear before the commissioner or a person
65 appointed under subdivision 2 when required so to do, the
66 commissioner shall assess the tax provided for by sections
67 270.071 to 270.079 against the airline company according to ~~his~~ *
68 the commissioner's best judgment on available information, and *
69 such airline company shall be estopped to question or impeach
70 the action or determination of the commissioner, except upon
71 proof of fraud on the part of the commissioner; and the
72 commissioner may add to the assessment a penalty not exceeding
73 ten percent of the assessment.

270*#074S

1 270.074 VALUATION OF FLIGHT PROPERTY; METHODS OF
 2 APPORTIONMENT; RATIO OF TAX.
 3 No change for subd 1
 4 Subd. 2. The method prescribed by subdivision 1 shall be
 5 presumed to determine fairly and correctly the value of the
 6 flight property of an airline allocable to this state. Any
 7 airline aggrieved by the valuation of the flight property or the
 8 application to its case of the apportionment methods prescribed
 9 by subdivision 1, may petition the commissioner for
 10 determination of the valuation or the apportionment thereof to
 11 this state by the use of some other method. Thereupon, if the
 12 commissioner finds that the application of the methods
 13 prescribed by subdivision 1 will be unjust to the airline, ~~he~~ *
 14 the commissioner may allow the use of the methods so petitioned *
 15 for by the airline, or may determine the valuation or
 16 apportionment thereof by other methods if satisfied that such
 17 other methods will fairly reflect such valuation or
 18 apportionment thereof.
 19 No change for subd 3

270*#078S

20 270.078 NOT TO CONFLICT WITH FEDERAL LAW.
 21 No change for subd 1
 22 Subd. 2. No provision of any law of the United States of
 23 America providing for or relating to the ad valorem taxation by
 24 a state of aircraft or flying equipment of an airline company
 25 shall be effective for the purposes of subdivision 1 until the
 26 attorney general of Minnesota shall have certified to the
 27 commissioner that in ~~his~~ the attorney general's opinion such *
 28 federal act is a valid exercise of federal authority under the
 29 Constitution of the United States.
 30 No change for subd 3

270*#083S

31 270.083 COMMISSIONER OF REVENUE TO EXAMINE; ATTORNEY
 32 GENERAL TO INSTITUTE ACTIONS.
 33 The commissioner of revenue, at least once a year, so far
 34 as practicable, shall visit all railroad and other corporations
 35 and companies which are required by law to pay taxes to the
 36 state upon a gross earnings basis, examine their books of
 37 account and all other records and papers bearing upon or
 38 evidencing their gross earnings upon which, under the law, taxes
 39 should be paid in this state; and ~~in case he shall discover~~ on *
 40 discovery of errors and omissions in their gross earnings, as *
 41 reported by such companies, ~~he~~ the commissioner shall certify *
 42 the amount of such omitted earnings, together with the
 43 additional taxes and penalties due for collection as provided by
 44 law. All evasions and violations of the law in respect to such
 45 gross earnings taxes ~~which he may discover he that are~~ *
 46 discovered shall ~~report~~ be reported to the governor and the *
 47 attorney general. The commissioner of revenue and the attorney
 48 general shall institute such proceedings as the law and the
 49 public interest require.

270*#084S

50 270.084 TRANSFERS.
 51 No change for subd 1
 52 Subd. 2. TRANSFER OF RECORDS. The public examiner
 53 shall transfer and deliver to the commissioner of revenue all
 54 contracts, books, maps, plans, papers, records, and property of
 55 every description within ~~his~~ the public examiner's jurisdiction *
 56 or control, and shall also transfer thereto any or all employees
 57 engaged in the exercise of such functions, powers or duties
 58 pertaining to the auditing of railroads and other corporations
 59 paying gross earnings taxes. The commissioner of revenue is
 60 hereby authorized to take possession of said property, and shall
 61 take charge of said employees and shall employ them in the
 62 exercise of their respective functions, powers and duties
 63 transferred as aforesaid, without reduction of compensation,
 64 subject to change or termination of employment or compensation
 65 as may be otherwise provided by law.

270*#10S

66 270.10 ORDERS, DECISIONS, REPORTS.
 67 Subdivision 1. IN WRITING; APPROVAL BY ATTORNEY
 68 GENERAL. All orders and decisions of the commissioner of
 69 revenue, or any ~~of his~~ subordinates, respecting any tax, *
 70 assessment, or other obligation, shall be in writing, filed in
 71 the offices of the department. No order or decision issued

1 after June 30, 1983, increasing or decreasing any tax,
 2 assessment, or other obligation by a sum exceeding \$1,000 on
 3 real or personal property, or the assessed valuation thereof, or
 4 other obligation relating thereto, the result of which is to
 5 increase or decrease the total amount payable including
 6 penalties and interest, by a sum exceeding \$1,000, and no order
 7 or decision increasing or decreasing any other tax by a sum
 8 exceeding \$1,000 exclusive of penalties and interest, shall be
 9 made without the written signature or facsimile signature of the
 10 commissioner, a deputy commissioner, assistant commissioner,
 11 division director, or acting division director in each case.
 12 Written notice of every order granting a reduction, abatement,
 13 or refundment exceeding \$5,000 of any tax exclusive of penalties
 14 and interest, shall be given within five days to the attorney
 15 general. The attorney general shall forthwith examine such
 16 order, and if ~~he deems the same~~ proper and legal ~~he shall~~,
 17 approve the same in writing, ~~and; the attorney general~~ may waive
 18 the right of appeal therefrom in behalf of the state; ~~otherwise~~
 19 ~~he shall take an or~~ appeal from the order in behalf of the state
 20 as herein provided; but written approval of the commissioner
 21 or ~~his~~ a deputy and written notice to the attorney general,
 22 shall not be required with respect to the following orders: (1)
 23 orders reducing assessed valuation of property by reason of its
 24 classification as a homestead; (2) orders not involving refunds
 25 which have the effect only of correcting income and franchise
 26 tax assessments to conform to the amounts shown on final returns
 27 filed as provided by section 290.42, clause (6); (3) original
 28 orders for the refundment of gasoline and special fuel taxes.

29 No change for subd 2

30 Subd. 3. REDUCTIONS, ABATEMENTS, REFUNDS; STATEMENT.

31 The commissioner shall maintain as a public record in the
 32 department a statement of all abatements, reductions, and
 33 refunds of assessments, taxes, or other obligations granted by
 34 the department during the biennium, which require the written
 35 approval of the commissioner or ~~his~~ a deputy, and of which
 36 written notice to the attorney general is required, under the
 37 provisions of subdivision 1; and, all reductions of assessed
 38 valuation of more than \$100,000 and all reductions, refunds, or
 39 abatements of real estate tax of more than \$1,000 shall be
 40 separately shown in such statement. Such statement shall show
 41 the names of all taxpayers or other persons concerned, the
 42 original amount of each assessment, tax, or other obligation,
 43 the amount of abatement, reduction, or refund allowed in each
 44 case, and the totals of the respective items, notwithstanding
 45 any provisions of law requiring secrecy to the contrary. The
 46 commissioner shall include in such statement the amount of all
 47 increases of taxes or assessments made by the department,
 48 classified in such manner as ~~he~~ the commissioner may deem
 49 proper, but not showing the names of taxpayers or other persons
 50 concerned or the amounts in individual cases.

51 Subd. 4. ORDERS ASSESSING PERSONAL LIABILITY. The

52 commissioner may, based upon information available to ~~him~~ the
 53 commissioner and within the prescribed period of limitations for
 54 assessing the underlying tax, assess personal liability against
 55 any officer, director, or employee of a corporation, or a member
 56 or employee of a partnership, who as an officer, director,
 57 employee, or member, falls within the personal liability
 58 provisions of section 290.92, chapter 296, or chapter 297A, for
 59 taxes arising thereunder which are due and owing by that
 60 corporation or partnership. An order assessing personal
 61 liability under this subdivision shall be appealable to the tax
 62 court without payment of the tax, penalty, or interest in the
 63 manner provided by law, but an appeal shall not preclude the
 64 commissioner from exercising any collection action ~~he~~ the
 65 commissioner deems necessary to preserve the interests of the
 66 state while the matter is pending.

270*#115

67 270.11 POWERS; MEETINGS.

68 No change for subd 1

69 Subd. 2. COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED

70 WITH COMMISSIONER. The commissioner of revenue may require
 71 the assessor of each county in the state to file with ~~him~~ the
 72 commissioner, on or before August 1, each year, complete
 73 abstracts of all real and personal property in the county, as
 74 equalized by the county board of equalization, and itemized by
 75 assessment districts, accompanied by a printed or typewritten

1 copy of the proceedings of the county board of equalization, and
 2 it shall be the duty of the county assessor to so report to the
 3 commissioner of revenue.

4 The final abstract of assessments after adjustments by the
 5 state board of equalization and inclusion of any omitted
 6 property shall be submitted to the commissioner of revenue on or
 7 before January 1 of each calendar year.

8 Subd. 3. SPECIAL ASSESSORS, DEPUTIES; REASSESSMENTS.

9 The commissioner of revenue shall appoint a special assessor
 10 and deputies ~~under him~~ and cause to be made, in any year, a *
 11 reassessment of all or any real and personal property, or *
 12 either, in any assessment district, when in ~~his~~ the *
 13 commissioner's judgment such reassessment is desirable or *
 14 necessary, to the end that any and all property in such district
 15 shall be assessed equitably as compared with like property in
 16 the county wherein such district is situated.

17 No change for subd 4 to 5

18 Subd. 6. CHANGE OF ASSESSED VALUATIONS. The
 19 commissioner of revenue shall raise or lower the assessed
 20 valuation of any real or personal property, including the power
 21 to raise or lower the assessed valuation of the real or personal
 22 property of any individual, copartnership, company, association,
 23 or corporation; provided, that before any such assessment
 24 against the property of any individual, copartnership, company,
 25 association, or corporation is so raised, notice of ~~his~~ an *
 26 intention to raise such assessed valuation and of the time and
 27 place at which a hearing thereon will be held shall be given to
 28 such person, by mail, addressed to ~~him~~ the person at ~~his~~ the *
 29 place of residence ~~as-the-same-appears~~ listed upon the *
 30 assessment book, at least five days before the day of such
 31 hearing.

32 All relevant and material evidence concerning the assessed
 33 valuation of the real or personal property shall be submitted at
 34 the hearing, and the hearing shall not be a "contested case"
 35 within the meaning of section 14.02, subdivision 3. The person
 36 notified of the hearing, or any other person having an interest
 37 in the property, may present evidence and argument bearing upon
 38 the assessed valuation of the property.

39 Subd. 7. APPEARANCES BEFORE THE COMMISSIONER. A
 40 property owner, other than a public utility or mining company,
 41 for which the original assessments are determined by the
 42 commissioner of revenue, may not appear before the commissioner
 43 for the purposes provided in subdivision 5 or 6 unless a timely
 44 appearance in person, by counsel, or by written communication
 45 has been made before the county board of equalization as
 46 provided in section 274.13, to appeal the assessment of the
 47 property, or that ~~he~~ the property owner can establish ~~that-he~~ *
 48 ~~did not receive~~ receiving notice of ~~his~~ market value at least *
 49 five days before the local board of review meeting.

50 The commissioner may refuse to hear an appeal that is
 51 within the jurisdiction of the small claims division of the tax
 52 court as stated in section 271.21, subdivision 2. The property
 53 owner shall be notified by the commissioner of the right to
 54 appeal to the small claims division whenever an appeal to the
 55 commissioner is denied.

270*#13S

56 270.13 RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION;
 57 DUTIES OF COUNTY AUDITOR.

58 A record of all proceedings of the commissioner of revenue
 59 affecting any change in the assessed valuation of any property,
 60 as revised by the state board of equalization, shall be kept by
 61 the commissioner of revenue and a copy thereof, duly certified,
 62 shall be mailed each year to the auditor of each county wherein
 63 such property is situated, on or before November 15 or 30 days
 64 after submission of the abstract required by section 270.11,
 65 subdivision 2, whichever is later. This record shall specify the
 66 amounts or amount, or both, added to or deducted from the
 67 valuation of the real property of each of the several towns and
 68 cities, and of the real property not in towns or cities, also
 69 the percent or amount of both, added to or deducted from the
 70 several classes of personal property in each of the towns and
 71 cities, and also the amount added to or deducted from the
 72 assessments of individuals, copartnerships, associations, or
 73 corporations. The county auditor shall add to or deduct from
 74 such tract or lot, or portion thereof, of any real property in
 75 ~~his~~ the county the required percent or amount, or both, on the *

1 valuation thereof as it stood after equalized by the county
 2 board, adding in each case a fractional sum of 50 cents or more,
 3 and deducting in each case any fractional sum of less than 50
 4 cents, so that no valuation of any separate tract or lot shall
 5 contain any fraction of a dollar; and add to, or deduct from,
 6 the several classes of personal property in ~~his~~ the county the *
 7 required percent or amount, or both, on the valuation thereof as
 8 it stood after equalized by the county board, adding or
 9 deducting in manner aforesaid any fractional sum so that no
 10 valuation of any separate class of personal property shall
 11 contain a fraction of a dollar, and add to or deduct from
 12 assessments of individuals, copartnerships, associations, or
 13 corporations, as they stood after equalization by the county
 14 board, the required amounts to agree with the assessments as
 15 returned by the commissioner of revenue.

270*#15S

16 270.15 WITNESSES, HOW SWORN; FAILURE TO TESTIFY OR
 17 PRODUCE.

18 Oaths to witnesses in any matter under the investigation or
 19 consideration of the commissioner of revenue may be administered
 20 by ~~his~~ the commissioner's secretary. In case any witness shall *
 21 fail to obey any summons or appear before the commissioner of
 22 revenue or refuse to testify or answer any material questions or
 23 to produce records, books, papers, or documents when required so
 24 to do, such failure or refusal shall be reported to the attorney
 25 general, who shall thereupon proceed in the proper court to
 26 compel obedience to any summons or order of the commissioner of
 27 revenue, or to punish witnesses for any such neglect or refusal.

270*#16S

28 270.16 PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT.

29 Subdivision 1. When it shall be made to appear to the
 30 commissioner of revenue, by complaint or by the finding of a
 31 court or of the legislature, or either body of the legislature,
 32 or any committee of the legislature, or any city council or
 33 county board, that any considerable amount of property has been
 34 improperly omitted from the tax list or assessment roll of any
 35 district or county for any year, or, if assessed, that the same
 36 has been undervalued or overvalued, as compared with like
 37 property in the same county or in the state so that the
 38 assessment for such year in such district or county is grossly
 39 unfair and inequitable, whether or not the same has been
 40 equalized by the county board of equalization or the
 41 commissioner of revenue, the commissioner of revenue shall
 42 examine into the facts in the matter and, if satisfied therefrom
 43 that it would be for the best interests of the state that a
 44 reassessment of such property be made, ~~he~~ the commissioner shall *
 45 appoint a special assessor and such deputy assessors as may be
 46 necessary and cause a reassessment to be made of all or any of
 47 the real and personal property, or either, in any such district
 48 or county as ~~he~~ the commissioner may deem best, to the end that *
 49 all property in such district or county shall be assessed
 50 equitably as compared with like property in such district or
 51 county.

52 No change for subd 2

270*#17S

53 270.17 QUALIFICATION OF ASSESSORS; REASSESSMENT, HOW
 54 MADE.

55 Every special assessor and deputy appointed under the
 56 provisions of section 270.16 shall subscribe and file with the
 57 commissioner of revenue ~~his~~ an oath to faithfully and fairly *
 58 perform the duties of ~~his~~ office. Such special assessor, *
 59 assisted by ~~his~~ deputies, shall thereupon proceed to carefully *
 60 examine and reassess the property so to be reassessed and
 61 prepare duplicate lists of such reassessment in such form as the
 62 commissioner of revenue may prescribe, showing the property or
 63 person so reassessed, the amount of the original assessment
 64 thereof made in such year, and opposite the same the
 65 reassessment so made by such special assessor. ~~He~~ The special *
 66 assessor shall file both copies of such list with the *
 67 commissioner of revenue; and the commissioner of revenue shall
 68 thereupon examine, equalize, and correct such reassessment so as
 69 to substantially conform with the assessment of like property
 70 throughout the state and transmit to the auditor of the county
 71 wherein such reassessment was so made one copy of such
 72 reassessment by ~~him~~ the commissioner so corrected and *
 73 equalized. Such list shall for all purposes supersede and be in

1 place of the original assessment made for such year upon such
 2 property and the county auditor, upon receipt thereof, shall
 3 extend and levy against such property so reassessed the taxes
 4 thereon for such year according to such reassessment in the same
 5 manner as though such list was the original assessment list of
 6 such property. Any person feeling ~~himself~~ aggrieved by an *
 7 assessment so made against ~~him~~ the person, or upon any property *
 8 at that time owned by ~~him~~ the person, may appeal therefrom to *
 9 the district court of the county in which such assessment is
 10 made. To render the appeal effective for any purpose, the
 11 appellant shall file a notice of the appeal with the auditor of
 12 such county within 30 days after the making of the assessment,
 13 which notice shall specify the ground upon which the appeal was
 14 taken, and no other or different service shall be required to
 15 perfect it. Upon the filing of the notice the county auditor
 16 shall make and file in the office of the clerk of the district
 17 court a certified copy of the notice and of the particular
 18 assessment appealed from and notify the county attorney of such
 19 county of the pendency of the appeal. Thereupon the district
 20 court shall be deemed to have acquired jurisdiction of the
 21 matter and proceed to hear and determine it in like manner as
 22 other tax matters are tried and determined in the district
 23 courts of this state. The county attorney of such county shall
 24 appear for and defend the interests of the state in such matter.
 270*#18S

25 270.18 REASSESSMENT; COMPENSATION; REIMBURSEMENT BY
 26 COUNTIES.

27 The compensation of each special assessor and ~~of-his~~ *
 28 deputies, appointed under the provisions of sections 270.11, *
 29 subdivision 3, and 270.16, and ~~his~~ the expenses as such, shall
 30 be fixed by the commissioner of revenue and paid out of money
 31 appropriated for operation of the department of revenue. The
 32 commissioner of revenue on October 1 shall notify the auditor of
 33 each affected county of the amount thereof paid on behalf of
 34 such county since October 1 of the preceding year, whereupon the
 35 county auditor shall levy a tax upon the taxable property in the
 36 assessment district or districts wherein such reassessment was
 37 made sufficient to pay the same. One-half of such tax shall be
 38 levied in the year in which the commissioner of revenue so
 39 notifies the county auditor and the remaining one-half shall be
 40 levied in the following year. The respective counties shall
 41 reimburse the state by paying one-half of the tax so assessed on
 42 or before July 1 and the remaining one-half on or before
 43 December 1 in the year in which the tax is payable by owner,
 44 whether or not the tax was collected by the county. The
 45 reimbursement shall be credited to the general fund. If any
 46 county fails to reimburse the state within the time specified
 47 herein, the commissioner of revenue is empowered to order
 48 withholding of state aids or distributions to such county equal
 49 to the amount delinquent.

270*#22S

50 270.22 FINDINGS OF FACT.

51 The commissioner of revenue shall determine the controversy
 52 upon the evidence produced at the hearing and shall make and
 53 file written findings of fact and ~~his~~ an order determining the *
 54 controversy. In the equalization and determination of
 55 valuations, the findings and values as given by the assessor of
 56 the local assessment district shall be considered as prima facie
 57 correct. Copies of the order and findings shall be mailed to
 58 all parties appearing at the hearing and to the auditor of the
 59 county in which the property is located. Any municipality which
 60 has appeared in the proceedings, and which is aggrieved by the
 61 order of the commissioner of revenue reducing the assessed
 62 valuation of any the property, or failing to increase the
 63 assessed valuation, may have the order of the commissioner of
 64 revenue reviewed by appeal to the court of appeals, on either of
 65 the following grounds: (a) that the determination of the
 66 commissioner of revenue was not in accordance with the laws
 67 relating to the assessment of property, or that the commissioner
 68 of revenue committed any other error of law; or (b) that the
 69 findings of fact and determination of value were unwarranted by
 70 or were contrary to the weight of the evidence.

71 Any owner of property who has appeared in the proceedings
 72 and who is aggrieved by the order of the commissioner of revenue
 73 raising the assessed valuation of the property, or failing to
 74 reduce the assessed valuation, may have the order of the

1 commissioner of revenue reviewed on appeal to the court of
2 appeals in like manner and upon the same grounds as provided for
3 review on the appeal of any municipality.

270*#24S

4 270.24 APPEAL NOT TO STAY COLLECTION.

5 The institution of any such appeal from the order of the
6 commissioner of revenue shall not operate to stay in any way
7 proceedings for the assessment or collection of taxes against
8 the property involved therein. Notwithstanding such appeal, the
9 commissioner of revenue shall file with the auditor of the
10 county in which such property is situated ~~his~~ an order *
11 confirming, increasing, decreasing, or determining the assessed
12 value thereof, and the county auditor shall extend and levy
13 against such property, or the owner thereof, the taxes thereupon
14 for such year according to such assessment, and all subsequent
15 proceedings for the determination of the taxes and the
16 collection thereof shall be taken as if no appeal from such
17 order were pending. When the matter is finally determined on
18 review a properly authenticated copy of the findings, order, or
19 judgment shall be filed with the auditor of the county in which
20 the land or property referred to in the proceedings is
21 situated. If such order or judgment lowers the taxable
22 valuation of the land or property referred to in the
23 proceedings, the commissioner of revenue, upon petition of the
24 owner, approved by the county board, shall abate so much of the
25 taxes against such property as is attributable to the excessive
26 valuation thereof. If such tax has been paid, the county
27 auditor, upon petition of the owner, approved by the county
28 board and the commissioner of revenue, shall refund so much of
29 such payment as is attributable to such excess valuation. Upon
30 such refund being made the county auditor shall charge the same
31 to the state and the various governmental subdivisions thereof
32 that participated in such excessive payment, in proportion to
33 their respective shares therein, and deduct the same in the next
34 tax apportionment.

270*#34S

35 270.34 AVERAGE ANNUAL GROWTH RATES, DETERMINATION.

36 The average annual growth rates to be used in determining
37 taxes applicable to property in each county under sections
38 270.31 to 270.39 shall be established by the county board of
39 each county desiring to use the provisions of sections 270.31 to
40 270.39. The rates shall be established with due regard for the
41 studies of average annual growth rates made by the division of
42 lands and forestry for the state of Minnesota and the north
43 central forest experiment station of the United States
44 department of agriculture. The rates may be determined by each
45 participating county after the passage of sections 270.31 to
46 270.39 and when determined and certified by the county board to
47 the county auditor, shall remain in effect in each county
48 without change until the calendar year 1966. In the calendar
49 year 1966 and at the end of each ten-year period thereafter, the
50 county board shall review and set such rates for the following
51 ten-year period in the same manner, provided, however, that any
52 mathematical or clerical errors in such rates may be corrected
53 by the county board as soon as such error is discovered. Rates
54 shall be certified by the county board to the county auditor and
55 shall take effect with the calendar year following that in which
56 the error is corrected. Any person aggrieved by a change of
57 rate determination of the county board hereunder may appeal to
58 the county board for readjustment. In the event of
59 disagreement, the aggrieved person may test the correctness of
60 the new rate or rates by applying directly to the commissioner
61 of revenue within one year of such change in accordance with the
62 provisions of section 270.07 and the commissioner shall have the
63 power to grant the changes of any rate or rates as ~~he~~ the
64 commissioner may deem just and equitable and to order the refund *
65 in whole or in part of any taxes, costs, penalties or interest *
66 thereon which have been erroneously or unjustly paid since the
67 changed rate. In the event of any change in rates on appeal
68 from the determination by the county board, the rate as so
69 changed shall remain in effect until the next revision period.

270*#35S

70 270.35 STUMPAGE VALUE, USE IN COMPUTING TAX.

71 The stumpage value for each species to be used in computing
72 the tax in any county shall be computed in each even numbered
73 year and shall be the average sale price received by the state

1 upon all of its sales of sound standing timber of the species
 2 during the previous two calendar years. In the event there have
 3 been no sales of the species or products within the county
 4 within the previous two calendar years, or less than 500 cords
 5 of the various products have been sold which is insufficient to
 6 estimate a fair and equitable stumpage price for the various
 7 products grown, the commissioner of natural resources shall set
 8 a stumpage price for such species, with the right of appeal by
 9 any aggrieved persons to the commissioner of revenue as set
 10 forth in section 270.34 in the event any such person ~~deems~~
 11 ~~himself-to-be~~ is aggrieved by such determination. *

270*#36S

12 270.36 COMPUTATION OF TAX.

13 Subdivision 1. After the county board has determined the
 14 average annual growth rates in accordance with section 270.34,
 15 they shall make an order and cause a resolution regarding such
 16 order to be published in the minutes of the county board
 17 meeting. The county board shall file the order with the county
 18 recorder. Thereafter the county auditor shall compute the
 19 values of the annual growth of the types of timber growing in
 20 the county as defined in section 270.33, subdivision 17, and
 21 shall post a tabulation of the values in ~~his~~ the auditor's *
 22 office and prepare copies of the same for dissemination to all
 23 persons who may request them.

24 Subd. 2. The forest lands made subject to taxation under
 25 sections 270.31 to 270.39 shall be taxed at the following rates:

26 1. Lands growing commercial forest type shall be taxed
 27 each year in the amount of 30 percent of the value of the
 28 estimated average annual growth as determined in accordance with
 29 sections 270.31 to 270.39.

30 2. Temporarily non-productive forest type shall be taxed
 31 five cents per acre per year, providing the owner complies with
 32 ~~his~~ an agreement for reforestation within the time specified in *
 33 the agreement. In the event of non-compliance, the land shall
 34 thereafter be subject to a 15 cents per acre per year tax.

35 3. Permanently non-productive lands shall be subject to a
 36 five cents per acre tax per year.

37 4. Lands described in this section and used for
 38 administrative or management purposes, such as roads, logging
 39 camps or worksites, and other harvest of timber, or for free
 40 public recreation shall be classified the same as adjoining
 41 lands under the tree growth tax law.

42 5. Camp buildings or any temporary buildings shall be
 43 taxed as personal property and taxed and classed for the purpose
 44 of taxation as class 3.

270*#37S

45 270.37 TAX CREDIT.

46 Subdivision 1. For each acre of land which shall have been
 47 planted and maintained with a minimum of 500 trees of commercial
 48 species, the owner may be allowed a credit against ~~his~~ taxes on *
 49 other lands within the same governmental subdivision on which
 50 the planting is made in the amount of 50 cents per acre per
 51 year. An application for such credit must accompany the annual
 52 report to the county board required by section 270.38,
 53 subdivision 3, and shall be handled in the same manner as other
 54 reclassification provided in said subdivision. The credit shall
 55 in no event exceed the amount of the tax due upon the land in
 56 such governmental subdivision. When the plantation is ten years
 57 old, the plantation shall be classified as a commercial forest
 58 type and taxed as such and the credit against tax set forth
 59 above shall cease.

60 No change for subd 2

270*#38S

61 270.38 APPLICATION TO COME UNDER TREE GROWTH TAX LAW.

62 Subdivision 1. Any owner of forest lands desiring to place
 63 any governmental subdivision or portion thereof containing not
 64 less than five acres of forest land ~~owned-by-him~~ of the owner *
 65 under the provisions of sections 270.31 to 270.39, shall make
 66 application in triplicate to the county board of the county in
 67 which the land is located upon a form prescribed by the
 68 commissioner of revenue specifying the legal description or list
 69 of descriptions of the land desired to be taxed under sections
 70 270.31 to 270.39 and listing the number of acres of each forest
 71 type and the dominant species of each type in each such
 72 governmental subdivision or portion thereof. The application
 73 shall contain the statement signed and sworn to by the applicant

1 that "while the land is under the tree growth tax law it will be
2 used exclusively for the growing of continuous forest crops in
3 accordance with sustained yield practice and will be open to use
4 by the public for hunting and fishing except within one-fourth
5 mile of a permanent dwelling or during periods of high fire
6 hazard as determined by the commissioner of natural resources."
7 The application shall be accompanied by a forest type map and a
8 statement concerning the owner's intentions with regard to
9 reforestation of any temporarily non-productive land. If a
10 tract under the tree growth tax law has any acreage devoted to
11 administrative or management purposes, such as roads, logging
12 camps, free public recreational areas, as shown on the map
13 accompanying the application, the lands so used shall be
14 classified the same as adjoining lands under this law.

15 Subd. 2. Within 90 days after the filing of any
16 application the county board shall make an order approving or
17 disapproving the application and file the order with the county
18 auditor. The county board may appoint and set the salary of a
19 qualified investigator to examine and review the applications
20 and report ~~his~~ findings for their guidance. The application
21 together with the county board's order approving the application
22 or applications shall constitute the agreement herein referred
23 to. The agreement shall be deemed a covenant running with the
24 land and shall be recorded in the office of the county recorder
25 by the county auditor within ten days after the approval
26 thereof. The expense of such recording shall be paid by the
27 owner. In the event an application is approved, the land shall
28 be deemed subject to sections 270.31 to 270.39 beginning with
29 the calendar year next succeeding the one in which the agreement
30 is recorded with the county recorder. If no action is taken by
31 the county board within 90 days after the filing of the
32 application, the applicant may submit the application to the
33 commissioner of revenue, who shall act on the application with
34 all the powers of the county board relative to such
35 application. An agreement may be amended or cancelled without
36 formal hearing by mutual agreement between the land owner and
37 the county board or by the following procedures in the absence
38 of mutual agreement. In the event the county board wishes to
39 amend or cancel an agreement, it may do so after a hearing held
40 by the county board, notice of which shall have been sent by
41 certified mail to the last owner of record at least 30 days
42 prior to the hearing. Failure of the owner to object to such
43 amendment or cancellation shall be deemed to be agreement in the
44 proposed amendment or cancellation. ~~In the event the An~~ owner
45 ~~who wishes to amend or cancel an agreement, he~~ shall file an
46 application with the county board. Within 90 days after the
47 filing of an application for amendment or cancellation the
48 county board shall make an order approving or disapproving such
49 application and file the order with the county auditor. If no
50 action is taken by the county board within 90 days of filing,
51 the applicant may submit the application for amendment or
52 cancellation to the commissioner of revenue who shall act on the
53 application with all the powers of the county board relative to
54 such application. Amendments or cancellations ordered by the
55 county board over objections from the owner may be subject to
56 review by the district court. Rejection by the county board of
57 an application for amendment or cancellation may be subject to
58 review by the district court. Amendments and cancellations of
59 agreements shall be recorded in the office of the county
60 recorder by the county auditor within ten days after action
61 thereon by the county board, with the filing fee to be paid by
62 the party originating the action, and changes shall become
63 effective with the beginning of the calendar year next
64 succeeding said recording.

65 Subd. 3. Repealed, 1967 c 285 s 2

66 No change for subd 4 to 5

67 Subd. 6. The county assessor or ~~his~~ a duly authorized
68 representative may enter and examine the forest lands brought
69 under sections 270.31 to 270.39 for tax purposes and may examine
70 into any information submitted by the owner in connection with
71 any application to enter any governmental subdivision for
72 purposes of taxation under sections 270.31 to 270.39 whereby the
73 county board has been deceived, and in the event any wilful
74 misrepresentation of facts is made in any such application under
75 sections 270.31 to 270.39, the county shall be entitled to
76 triple the amount of tree growth taxes which should have been

1 paid for all previous years as well as the current year in which
 2 such misrepresentation is discovered. In the event that such
 3 examination indicates that any such lands should be
 4 reclassified, the county board shall reclassify such lands and
 5 make such reclassification effective with the year in which the
 6 agreement containing such misrepresentation became effective.
 7 If any owner shall fail to comply with the requirements of
 8 sections 270.31 to 270.39, the county board may withdraw the
 9 land of such owner from taxation under sections 270.31 to 270.39
 10 after a hearing held by the county board, notice of which shall
 11 have been sent by registered mail to the last owner of record 30
 12 days prior to the hearing, but such action may be subject to
 13 review by the district court. Any lands so withdrawn from under
 14 sections 270.31 to 270.39 shall be withdrawn from such taxes at
 15 the end of the calendar year in which the actual withdrawal is
 16 made and in the succeeding calendar year shall be returned to
 17 taxation under the general provisions of the Minnesota Statutes
 18 relating to the taxation of lands.

19 No change for subd 7 to 9

270*#41S

20 270.41 BOARD OF ASSESSORS.

21 A board of assessors is hereby created. The board shall be
 22 for the purpose of establishing, conducting, reviewing,
 23 supervising, coordinating or approving courses in assessment
 24 practices, and establishing criteria for determining assessor's
 25 qualifications. The board shall also have authority and
 26 responsibility to consider other matters relating to assessment
 27 administration brought before it by the commissioner of
 28 revenue. The board shall consist of nine members, who shall be
 29 appointed by the commissioner of revenue, in the manner provided
 30 herein.

31 1. Two from the department of revenue,

32 2. Two county assessors,

33 3. Two assessors who are not county assessors, one of whom
 34 shall be a township assessor, and

35 4. One from the private appraisal field holding a
 36 professional appraisal designation,

37 5. Two public members as defined by section 214.02.

38 The appointment provided in 2 and 3 may be made from two
 39 lists of not less than three names each, one submitted to the
 40 commissioner of revenue by the Minnesota association of
 41 assessing officers or its successor organization containing
 42 recommendations for the appointment of appointees described in
 43 2, and one by the Minnesota association of assessors, inc. or
 44 its successor organization containing recommendations for the
 45 appointees described in 3. The lists must be submitted 30 days
 46 before the commencement of the term. In the case of a vacancy,
 47 a new list shall be furnished to the commissioner by the
 48 respective organization immediately. ~~In the event any~~ A member *
 49 of the board who shall no longer be engaged in the capacity *
 50 listed above, ~~he~~ shall automatically be disqualified from *
 51 membership in the board. *

52 The board shall annually elect a ~~chairman~~ chair and a *
 53 secretary of the board. *

270*#47S

54 270.47 RULES.

55 The board shall establish the rules necessary to accomplish
 56 the purpose of section 270.41, and shall establish criteria
 57 required of assessing officials in the state. Separate criteria
 58 may be established depending upon the responsibilities of the
 59 assessor. The board shall prepare and give examinations from
 60 time to time to determine whether assessing officials possess
 61 the necessary qualifications for performing the functions of ~~his~~ *
 62 the office. Such tests shall be given immediately upon *
 63 completion of courses required by the board, or to persons who
 64 already possess the requisite qualifications under the
 65 regulations of the board. Rules adopted by the board before
 66 July 1, 1981 to accomplish the purposes of sections 270.41 to
 67 270.53, including those relating to licensure, are valid without
 68 compliance with the administrative procedure act.

270*#48S

69 270.48 LICENSURE OF QUALIFIED PERSONS.

70 The board shall license persons as possessing the necessary
 71 qualifications of an assessing official. Different levels of
 72 licensure may be established as to classes of property which
 73 assessors may be certified to assess at the discretion of the

1 board. Every person, except a local or county assessor,
 2 regularly employed by the assessor to assist in making decisions
 3 regarding valuing and classifying property for assessment
 4 purposes shall be required to become licensed within three years
 5 of his the date of employment or June 1, 1975, whichever is *
 6 later. Licensure shall be required for local and county
 7 assessors as otherwise provided in sections 270.41 to 270.53.

270*#49S

8 270.49 OPTION OF MUNICIPALITY TO CONTINUE EXISTING
9 SYSTEM.

10 Notwithstanding any other provisions of law to the
 11 contrary, on or before April 1, 1972, the governing body of any
 12 township, city or statutory city of less than 10,000 population
 13 according to the latest federal census, which wishes to continue
 14 to employ an assessor must certify by resolution to the
 15 commissioner of revenue, in the form and containing the
 16 information he the commissioner shall specify, its intention to *
 17 employ or continue to employ, either singly or jointly with one
 18 or more other subdivisions, an accredited assessor and that they
 19 will bear the cost of any training courses on assessment
 20 practices and related expenses which are necessary to attain
 21 such certification. The commissioner of revenue shall notify,
 22 by January 1, 1972, the governing body of each affected township
 23 or city that they must file a certificate pursuant to sections
 24 270.41 to 270.53 if they wish to maintain the assessing
 25 function. If the governing body of any township, city or
 26 statutory city fails to make such certification, that
 27 subdivision shall not employ an assessor after November 30,
 28 1972, the assessor for the county in which the subdivision is
 29 located shall assume responsibility for the assessment of all
 30 real and personal property in the subdivision commencing
 31 December 1, 1972. The commissioner of revenue shall notify the
 32 county assessor of each county prior to June 1, 1972, as to
 33 which subdivisions of the county have certified such intent and
 34 which subdivisions have failed to certify such intent. Where a
 35 county assumes continuing authority and responsibility for the
 36 assessment of real and personal property under this subdivision,
 37 all assessment records of the local assessment district, shall
 38 become the property of the appropriate county assessor on
 39 December 1, 1972.

270*#50S

40 270.50 EMPLOYMENT OF LICENSED ASSESSORS.

41 Commencing June 15, 1975, no assessor shall be employed who
 42 has not been licensed as qualified by the board, provided the
 43 time to comply may be extended after application to the board
 44 upon a showing that licensed assessors are not available for
 45 employment. The board may license that a county or local
 46 assessor who has not received the training, but possesses the
 47 necessary qualifications for performing the functions of his the *
 48 office by the passage of an approved examination or may waive
 49 the examination if such person has demonstrated competence in *
 50 performing the functions of his the office for a period of time
 51 the board deems reasonable. The county or local assessing
 52 district shall assume the cost of training of its assessors in
 53 courses approved by the board for the purpose of obtaining the
 54 assessor's license to the extent of course fees, mileage, meals
 55 and lodging, and recognized travel expenses not paid by the
 56 state. If the governing body of any township or city fails to
 57 employ an assessor as required by sections 270.41 to 270.53, the
 58 assessment shall be made by the county assessor.

59 A town shall pay its assessor \$20 for each day the assessor
 60 is attending approved courses or taking the examination. In
 61 addition, the town shall pay its assessor \$10 for each approved
 62 course successfully completed and \$20 upon his licensure. The *
 63 maximum payable to an assessor for successful completion of
 64 courses and licensure shall not exceed \$50.

65 In the case of cities incorporated or townships organized
 66 after April 11, 1974 except cities or towns located in Ramsey
 67 county or which have elected a county assessor system in
 68 accordance with section 273.055, the board shall allow the city
 69 or town 90 days from the latter of June 3, 1977 or the date of
 70 incorporation or organization to employ a licensed assessor.

270*#66S

71 270.66 RIGHT OF SETOFF.

72 No change for subd 1 to 2
 73 Subd. 3. AGENCIES SHALL MAINTAIN RECORDS.

1 Notwithstanding any provision to the contrary, every person,
 2 organization, or corporation doing business (hereafter called
 3 vendor) with the state of Minnesota or any of its departments,
 4 agencies, or educational institutions including the University
 5 of Minnesota (all hereafter called agency) shall provide that
 6 agency with their social security number or Minnesota tax
 7 identification number. The agency shall maintain records of
 8 this information, and shall make these records available, on
 9 request, to the commissioner, ~~upon his request~~, for the sole
 10 purpose of identifying people who have not filed state tax
 11 returns or who have not paid uncontested state tax liabilities
 12 (hereafter called delinquent taxpayer). When an agency is
 13 notified by the commissioner that a vendor is a delinquent
 14 taxpayer, payments shall not be made by the agency to the vendor
 15 until the commissioner notifies the agency that the vendor no
 16 longer is a delinquent taxpayer. Furthermore, if the vendor has
 17 an uncontested delinquent tax liability, the setoff provided in
 18 subdivision 1 may be implemented. The commissioner shall
 19 determine that a vendor no longer is a delinquent taxpayer when
 20 the vendor has filed all delinquent state tax returns, paid all
 21 uncontested state tax liabilities or entered into an agreement
 22 with the commissioner which provides for the payment of these
 23 liabilities. The commissioner may notify an agency concerning a
 24 vendor, notwithstanding the provisions of sections 290.61 or
 25 297A.43.

270*#67S

26 270.67 AGREEMENTS REGARDING TAX LIABILITY OR EXTENSION
 27 OF PAYMENT OF TAX.

28 No change for subd 1

29 Subd. 2. EXTENSION AGREEMENTS. When any portion of
 30 any tax payable to the commissioner of revenue together with
 31 interest and penalty thereon, if any, has not been paid six
 32 months from the date prescribed by law for its payment, the
 33 commissioner may extend the time for payment for a further
 34 period not to exceed 36 months. When the authority of this
 35 section is invoked, the extension shall be evidenced by written
 36 agreement signed by the taxpayer and the commissioner, stating
 37 the amount of the tax with penalty and interest, if any, and
 38 providing for the payment of the amount in regular weekly,
 39 semimonthly or monthly installments. The agreement shall
 40 contain a confession of judgment for the amount and for any
 41 unpaid portion thereof and shall provide that the commissioner
 42 may forthwith enter judgment against the taxpayer in the
 43 district court of the county of ~~his~~ residence as shown upon ~~his~~
 44 the taxpayer's tax return for the unpaid portion of the amount
 45 specified in the extension agreement. The principal sum
 46 specified in the agreement shall bear interest at the rate
 47 specified in section 270.75 on all unpaid portions thereof until
 48 the same has been fully paid or the unpaid portion thereof has
 49 been entered as a judgment. The judgment shall bear interest at
 50 the rate specified in section 270.75. If it appears to the
 51 commissioner that the tax reported by the taxpayer is in excess
 52 of the amount actually owing by the taxpayer, the extension
 53 agreement or the judgment entered pursuant thereto shall be
 54 corrected. If after making the extension agreement or entering
 55 judgment with respect thereto, the commissioner determines that
 56 the tax as reported by the taxpayer is less than the amount
 57 actually due, the commissioner shall assess a further tax in
 58 accordance with the provisions of law applicable to the tax.
 59 The authority granted to the commissioner by this section is in
 60 addition to any other authority granted to the commissioner by
 61 law to extend the time of payment or the time for filing a
 62 return and shall not be construed in limitation thereof.

63 No change for subd 3

270*#68S

64 270.68 LEGAL ACTION; CONFESSION OF JUDGMENT.

65 Subdivision 1. LEGAL ACTION. In addition to all
 66 other methods authorized by law for the collection of tax, if
 67 any tax payable to the commissioner of revenue or to the
 68 department of revenue, including penalties and interest thereon,
 69 is not paid within 60 days after it is required by law to be
 70 paid, the commissioner of revenue may, within five years after
 71 the date of assessment of the tax, bring an action at law
 72 against the person liable for the payment or collection of the
 73 tax, in the name of the state, for the recovery of the tax and
 74 interest and penalties due in respect thereof. The action shall

1 under the provisions of section 270.67, subdivision 2, enter
 2 judgment on the confession of judgment contained within the
 3 agreement after ten days notice served upon the taxpayer at the
 4 address shown in the agreement. Such judgment shall be entered
 5 by the clerk of district court upon the filing of the agreement
 6 or a certified copy thereof along with a statement of the
 7 commissioner or ~~his~~ an agent that the tax has not been paid. *

270*#69S

8 270.69 LIEN FOR TAXES.

9 No change for subd 1 to 7

10 Subd. 8. FILING ENTITLEMENT. Execution of notices of
 11 liens or of other notices affecting state tax liens by the
 12 commissioner of revenue or ~~his~~ a delegate entitles them to be
 13 filed, and no other attestation, certification, or
 14 acknowledgement is necessary. *

15 No change for subd 9

270*#70S

16 270.70 LEVY AND DISTRAINT.

17 No change for subd 1 to 5

18 Subd. 6. BOND OR SECURITY TO RELEASE SEIZURE. The
 19 property seized shall be returned by the commissioner if the
 20 owner gives a surety bond equal to the appraised value of ~~his~~
 21 the owner's interest in the property, as determined by the
 22 commissioner, or deposits with the commissioner security in such
 23 form and amount as ~~he~~ the commissioner deems necessary to insure
 24 payment of the liability, but not more than twice the liability. *

25 No change for subd 7

26 Subd. 8. SURRENDER OF PROPERTY SUBJECT TO LEVY. Any
 27 person who fails or refuses to surrender without reasonable
 28 cause any property or rights to property subject to levy, upon
 29 demand by the commissioner, shall be liable ~~in-his-own-person~~
 30 personally to the state of Minnesota in an amount equal to the
 31 value of the property or rights not so surrendered, but not
 32 exceeding the amount of taxes for the collection of which such
 33 levy has been made. Any amount recovered under this subdivision
 34 shall be credited against the tax liability for the collection
 35 of which such levy was made. *

36 No change for subd 9

37 Subd. 10. PERSON DEFINED. The term "person" as used
 38 in subdivision 8 includes an officer or employee of a
 39 corporation or a member or employee of a partnership who, as
 40 such officer, employee or member is under a duty to surrender
 41 the property or rights to property or to discharge the
 42 obligation. The personal liability imposed by subdivision 8 and
 43 the penalty imposed by subdivision 9 may, after demand to honor
 44 a levy has been made, be assessed by the commissioner within 60
 45 days after service of the levy. An assessing tax order under
 46 this subdivision shall be appealable to the tax court without
 47 payment of the tax, penalty, or interest in the manner provided
 48 by law, but an appeal shall not preclude the commissioner from
 49 exercising any collection action ~~he~~ the commissioner deems
 50 necessary to preserve the interests of the state while the
 51 matter is pending. *

52 No change for subd 11 to 12

53 Subd. 13. LEVY AND SALE BY SHERIFF. If any tax
 54 payable to the commissioner of revenue or to the department of
 55 revenue is not paid as provided in subdivision 2, the
 56 commissioner may, within five years after the date of assessment
 57 of the tax, delegate the authority granted ~~to-him~~ by subdivision
 58 1, by means of issuing ~~his~~ a warrant to the sheriff of any
 59 county of the state commanding ~~him~~ the sheriff, as agent for the
 60 commissioner, to levy upon and sell the real and personal
 61 property of the person liable for the payment or collection of
 62 the tax and to levy upon the rights to property of that person
 63 within the county, or to levy upon and seize any property within
 64 the county on which there is a lien provided in section 270.69,
 65 and to return the warrant to the commissioner and pay to the
 66 commissioner the money collected by virtue thereof by a time to
 67 be therein specified not less than 60 days from the date of the
 68 warrant. The sheriff shall proceed thereunder to levy upon and
 69 seize any property of the person and to levy upon the rights to
 70 property of the person within the county (except ~~his~~ the
 71 person's homestead or that property which is exempt from
 72 execution pursuant to section 550.37), or to levy upon and seize
 73 any property within the county on which there is a lien provided
 74 in section 270.69. For purposes of the preceding sentence, the *

1 term "tax" shall include any penalty, interest and costs
 2 properly payable. The sheriff shall then sell so much of the
 3 property levied upon as is required to satisfy the taxes,
 4 interest, and penalties, together with ~~his~~ the sheriff's costs;
 5 but the sales, and the time and manner of redemption therefrom,
 6 shall, to the extent not provided in sections 270.701 to
 7 270.709, be governed by chapter 550. The proceeds of the sales,
 8 less the sheriff's costs, shall be turned over to the
 9 commissioner, who shall then apply the proceeds as provided in
 10 section 270.708.

11 No change for subd 14 to 16

270*#701S

12 270.701 SALE OF SEIZED PROPERTY.

13 Subdivision 1. NOTICE OF SEIZURE. As soon as
 14 practicable after seizure of property, notice in writing shall
 15 be given by the commissioner of revenue to the owner of the
 16 property (or, in the case of personal property, the possessor
 17 thereof), and shall be served in like manner as a summons in a
 18 civil action in the district court. If the owner cannot be
 19 readily located, or has no dwelling or place of business within
 20 this state, the notice may be mailed to ~~his~~ the last known
 21 address. The notice shall specify the sum demanded and shall
 22 contain, in the case of personal property, an account of the
 23 property seized and, in the case of real property, a description
 24 with reasonable certainty of the property seized.

25 No change for subd 2 to 5

270*#702S

26 270.702 SALE OF PERISHABLE GOODS.

27 If the commissioner determines that any property seized is
 28 liable to perish or become greatly reduced in price or value by
 29 keeping, or that the property cannot be kept without great
 30 expense, ~~he~~ the commissioner shall appraise the value of the
 31 property, and if the owner of the property can be readily found,
 32 the commissioner shall give the owner notice of the
 33 determination of the appraised value of the property. The
 34 property shall be returned to the owner if, within the time
 35 specified in the notice, the owner (a) pays to the commissioner
 36 an amount equal to the appraised value, or (b) gives bond in the
 37 form, with the sureties, and in the amount as the commissioner
 38 prescribes to pay the appraised amount at the time the
 39 commissioner determines to be appropriate in the circumstances.
 40 If the owner does not pay the amount or furnish the bond in
 41 accordance with this section, the commissioner shall as soon as
 42 practicable make public sale of the property in accordance with
 43 section 270.701.

270*#703S

44 270.703 REDEMPTION OF PROPERTY.

45 Subdivision 1. BEFORE SALE. Any person whose
 46 property has been levied upon shall have the right to pay the
 47 amount due, together with the expenses of the proceeding, if
 48 any, to the commissioner at any time prior to the sale thereof,
 49 and upon payment the commissioner shall restore the property to
 50 ~~him~~ the person, and all further proceedings in connection with
 51 the levy on the property shall cease from the time of payment.

52 Subd. 2. REDEMPTION OF REAL ESTATE AFTER SALE. The
 53 owners of any real property sold as provided in this section,
 54 their heirs, executors, or administrators, or any person having
 55 any interest therein, or a lien thereon, or any person in their
 56 behalf, shall be permitted to redeem the property sold, or any
 57 particular tract of the property, at any time within 6 months,
 58 or in case the real property sold exceeds 10 acres in size, at
 59 any time within 12 months, after the sale thereof. The property
 60 or tract of property shall be permitted to be redeemed upon
 61 payment to the purchaser (or ~~in case he cannot be~~ if not found
 62 in the county in which the property to be redeemed is situated,
 63 then to the commissioner, for the use of the purchaser, ~~his~~ or
 64 the purchaser's heirs, or assigns) of the amount paid by the
 65 purchaser together with interest at the rate specified in
 66 section 549.09 from the date of the sale.

67 No change for subd 3

270*#705S

68 270.705 EFFECT OF CERTIFICATE OF SALE.

69 Subdivision 1. PERSONAL PROPERTY. (a) In all cases
 70 of sale pursuant to section 270.701 of personal property, the
 71 certificate of sale given pursuant to section 270.704 shall be
 72 prima facie evidence of the right of the commissioner to make

1 the sale, and conclusive evidence of the regularity of ~~his~~ the *
 2 proceedings in making the sale. The certificate shall transfer
 3 to the purchaser all right, title, and interest of the party
 4 delinquent in and to the property sold.

5 (b) If the property consists of stocks, the certificate of
 6 sale shall be notice, when received, to any corporation,
 7 company, or association of the transfer, and shall be authority
 8 to the corporation, company, or association to record the
 9 transfer on its books and records in the same manner as if the
 10 stocks were transferred or assigned by the party holding the
 11 same, in lieu of any original or prior certificate, which shall
 12 be void, whether cancelled or not.

13 (c) If the subject of sale is securities or other evidences
 14 of debt, the certificate of sale shall be a good and valid
 15 receipt to the person holding the same, as against any person
 16 holding or claiming to hold possession of the securities or
 17 other evidences of debt.

18 (d) If the property consists of a motor vehicle, the
 19 certificate of sale shall be notice, when received, to the
 20 registrar of motor vehicles of this state of the transfer, and
 21 shall be authority to the registrar to record the transfer on
 22 ~~his~~ the books and records in the same manner as if the *
 23 certificate of title to the motor vehicle were transferred or
 24 assigned by the party holding the same, in lieu of any original
 25 or prior certificate, which shall be void, whether cancelled or
 26 not.

27 No change for subd 2 to 3

270*#71S

28 270.71 ACQUISITION AND RESALE OF SEIZED PROPERTY.

29 For the purpose of enabling the commissioner of revenue to
 30 purchase or redeem seized property in which the state of
 31 Minnesota has an interest arising from a lien for unpaid taxes,
 32 there is appropriated to the commissioner an amount representing
 33 the cost of such purchases or redemptions. Seized property
 34 acquired by the state of Minnesota to satisfy unpaid taxes shall
 35 be resold by the commissioner. The commissioner shall preserve
 36 the value of seized property while ~~it is under his~~ *
 37 ~~control~~ controlling it, including but not limited to the *
 38 procurement of insurance. For the purpose of refunding the
 39 proceeds from the sale of levied or redeemed property which are
 40 in excess of the actual tax liability plus costs of acquiring
 41 the property, there is hereby created a levied and redeemed
 42 property refund account in the agency fund. All amounts
 43 deposited into this account are appropriated to the commissioner
 44 of revenue. The commissioner shall report quarterly on the
 45 status of this program to the ~~chairmen~~ chairs of the house taxes *
 46 and appropriations committees and senate taxes and tax laws and
 47 finance committees.

270*#72S

48 270.72 TAX CLEARANCE; ISSUANCE OF LICENSES.

49 No change for subd 1 to 2

50 Subd. 3. NOTICE AND HEARING. ~~If~~ The commissioner *
 51 ~~notifies, on notifying~~ a licensing authority pursuant to *
 52 subdivision 1, ~~he~~ must send a copy of the notice to the *
 53 applicant. In the case of the renewal of a license if the *
 54 applicant requests, in writing, within 30 days of the receipt of
 55 the notice a hearing, a contested case hearing must be held.
 56 The hearing must be held within 45 days of the date the
 57 commissioner refers the case to the office of administrative
 58 hearings. The hearing must be held under the procedures
 59 provided by section 270A.09 and the administrative rules
 60 promulgated under chapter 270A.

61 Subd. 4. LICENSING AUTHORITY; DUTIES. All licensing *
 62 authorities must require the applicant to provide ~~his~~ the *
 63 applicant's social security number and Minnesota business *
 64 identification number on all license applications. Upon request
 65 of the commissioner, the licensing authority must provide the
 66 commissioner with a list of all applicants, including the name,
 67 address, business name and address, social security number, and
 68 business identification number of each applicant. The
 69 commissioner may request from a licensing authority a list of
 70 the applicants no more than once each calendar year.
 71 Notwithstanding sections 290.61 and 297A.43, the commissioner
 72 may release information necessary to accomplish the purpose of
 73 this section.

74 No change for subd 5

270*#81S

1 270.81 TAXATION AND ASSESSMENT OF RAILROAD COMPANY
 2 PROPERTY.
 3 No change for subd 1 to 2
 4 Subd. 3. The commissioner shall have exclusive primary
 5 jurisdiction to determine what is operating property and what is
 6 nonoperating property. In making such determination, the
 7 commissioner shall solicit information and opinions from outside
 8 ~~his~~ the department and afford all interested persons an *
 9 opportunity to submit data or views on the subject in writing or
 10 orally. Local assessors may submit written requests to the
 11 commissioner, asking ~~that he determine~~ for a determination of *
 12 the nature of specific property owned by a railroad and located
 13 within their assessing jurisdiction. Any determination made by
 14 the commissioner may be appealed by the assessor to the tax
 15 court pursuant to chapter 271.

16 No change for subd 4
 17 Subd. 5. Prior to the promulgation of permanent rules the
 18 commissioner may exercise emergency rulemaking authority as
 19 provided in sections 14.29 to 14.36, to implement the provisions
 20 of Laws 1979, chapter 303. The commissioner shall solicit
 21 information and opinions from outside ~~his~~ the department as *
 22 provided in section 15.0412, subdivision 6, before adopting
 23 these rules. Notwithstanding the provisions of section 15.0412,
 24 subdivision 5, rules adopted pursuant to this section shall be
 25 effective until permanent rules are adopted pursuant to chapter
 26 15 or until May 1, 1980, whichever occurs first.

270*#82S

27 270.82 REPORTS OF RAILROAD COMPANIES.
 28 Subdivision 1. Every railroad company doing business in
 29 Minnesota shall annually file with the commissioner on or before
 30 April 30 a report under oath setting forth the information
 31 prescribed by the commissioner to enable ~~him~~ the commissioner to *
 32 make the valuation and equalization required by Laws 1979,
 33 Chapter 303, Article 7, Sections 1 to 13.
 34 No change for subd 2

270*#83S

35 270.83 EXAMINATIONS AND INVESTIGATIONS.
 36 No change for subd 1
 37 Subd. 2. For the purpose of making such examinations, the
 38 commissioner may appoint such persons as ~~he~~ the commissioner may *
 39 deem necessary. Such persons shall have the rights and powers
 40 of the examining of books, papers, records or memoranda, and of
 41 subpoenaing witnesses, administering oaths and affirmations, and
 42 taking of testimony, which are conferred upon the commissioner
 43 hereby. The clerk of any court of record, upon demand of any
 44 such person, shall issue a subpoena for the attendance of any
 45 witness or the production of any books, papers, records, or
 46 memoranda before such person. The commissioner may also issue
 47 subpoenas for the appearance of witnesses before ~~him~~ the *
 48 commissioner or before such persons. Disobedience of subpoenas *
 49 so issued shall be punished by the district court of the
 50 district in which the subpoena is issued for a contempt of the
 51 district court.

52 Subd. 3. If any railroad company shall refuse or neglect
 53 to make the report required by this section to the commissioner,
 54 or shall refuse or neglect to permit an inspection and
 55 examination of its property, records, books, accounts or other
 56 papers when requested by the commissioner, or shall refuse or
 57 neglect to appear before the commissioner or a person appointed
 58 under subdivision 2 when required so to do, the commissioner
 59 shall make the valuation provided for by Laws 1979, Chapter 303,
 60 Article 7, Sections 1 to 13 against the railroad company
 61 according to ~~his~~ the commissioner's best judgment on available *
 62 information.

270*#84S

63 270.84 ANNUAL VALUATION OF OPERATING PROPERTY.
 64 Subdivision 1. The commissioner shall annually between
 65 April 30 and July 31 make a determination of the fair market
 66 value of the operating property of every railroad company doing
 67 business in this state as of January 2 of the year in which the
 68 valuation is made. In making this determination, the
 69 commissioner shall employ generally accepted appraisal
 70 principles and practices which may include the unit method of
 71 determining value. The commissioner may promulgate emergency
 72 rules adopting valuation procedures under sections 14.29 to

1 14.36.

2 The commissioner shall give a report to the legislature in
3 February 1985 and in February 1986 on the formula ~~which he has~~ *
4 used to determine the value of railroad operating property
5 pursuant to Laws 1984, chapter 502, article 9. This report
6 shall also contain the valuation for taxes payable 1985 and 1986
7 by company and the taxes payable in 1985 and 1986 by company
8 based upon the valuation of operating property. The legislature
9 may review the formula, the valuation, and the resulting taxes
10 and may make changes in the formula that it deems necessary.

11 Subd. 2. ~~After The commissioner has-determined, after~~ *
12 ~~determining~~ the fair market value of the operating property of *
13 each railroad company, ~~he~~ shall give notice by first class mail *
14 to the railroad company of the valuation.

270*#85S

15 270.85 REVIEW OF VALUATION.

16 A railroad company may within 15 days of receipt of the
17 notice of valuation file a written request for a conference with
18 the commissioner relating to the value of its operating
19 property. The commissioner shall thereupon designate a time and
20 place for the conference which ~~he~~ the commissioner shall *
21 conduct, upon commissioner's entire files and records and such
22 further information as may be offered. Said conference shall be
23 held no later than 30 days after mailing of the commissioner's
24 valuation notice. At a reasonable time after such conference
25 the commissioner shall make a final determination of the fair
26 market value of the operating property of the railroad company
27 and shall notify the company promptly thereof.

270*#86S

28 270.86 APPORTIONMENT AND EQUALIZATION OF VALUATION.

29 Subdivision 1. APPORTIONMENT OF VALUE. Upon
30 ~~determination-by-the-commissioner-of~~ determining the fair market *
31 value of the operating property of each railroad company, ~~he~~ the *
32 commissioner shall apportion such value to the respective *
33 counties and to the taxing districts therein in conformity with
34 fair and reasonable rules and standards to be established by the
35 commissioner pursuant to notice and hearing, except as provided
36 in section 270.81. In establishing such rules and standards the
37 commissioner may consider (a) the physical situs of all station
38 houses, depots, docks, wharves, and other buildings and
39 structures with an original cost in excess of \$10,000; (b) the
40 proportion that the length and type of all the tracks used by
41 the railroad in such county and taxing district bears to the
42 length and type of all the track used in the state; and (c)
43 other facts as will result in a fair and equitable apportionment
44 of value.

45 No change for subd 2

270*#87S

46 270.87 CERTIFICATION TO COUNTY ASSESSORS.

47 ~~When-the-commissioner-has-made-his~~ After making an annual *
48 determination of the equalized fair market value of the
49 operating property of each company in each of the respective
50 counties, and in the taxing districts therein, ~~he~~ the *
51 commissioner shall certify the equalized fair market value to *
52 the county assessor, which shall constitute the equalized fair
53 market value of the operating property of the railroad company
54 in such county and the taxing districts therein upon which taxes
55 shall be levied and collected in the same manner as on the
56 commercial and industrial property of such county and the taxing
57 districts therein.

270*#88S

58 270.88 PROCEEDINGS AND APPEALS.

59 The commissioner's final determination under section 270.85
60 and ~~his~~ certification to county assessors under section 270.87 *
61 shall be final orders appealable to the tax court in accordance
62 with chapter 271. Appeals by railroad companies under Laws
63 1979, Chapter 303 shall be taken against the commissioner and
64 not against the county or taxing district to which payment is
65 made. Upon the filing of any appeal by a railroad company, the
66 commissioner shall give notice thereof by first class mail to
67 each county which would be affected by the appeal.

270A#02S

68 270A.02 PURPOSE.

69 The purpose of this chapter is to establish a system of
70 collecting debts owed to state government, the University of
71 Minnesota, or to certain local governmental units by applying

1 any of the debtor's tax refunds to the amount of ~~his~~ the debt. *

2 To further this purpose a policy of cooperation is established

3 between the department of revenue and claimant agencies in

4 identifying individuals who both owe a claimant agency money and

5 qualify for a tax refund.

270A#08S

6 270A.08 NOTICE AND HEARING REQUIRED.

7 No change for subd 1

8 Subd. 2. (a) This written notice shall clearly and with

9 specificity set forth the basis for the claim to the refund

10 including the name of the benefit program involved if the debt

11 arises from a public assistance grant and the dates on which the

12 debt was incurred and, further, shall advise the debtor of the

13 claimant agency's intention to request set-off of the refund

14 against the debt.

15 (b) The notice will also advise the debtor of ~~his~~ the right *

16 to contest the validity of the claim at a hearing. The debtor

17 must assert this right by written request to the claimant

18 agency, which request the agency must receive within 45 days of

19 the mailing date of the original notice or of the corrected

20 notice, as required by subdivision 1. If the debtor has not

21 received the notice, the 45 days shall not commence until the

22 debtor has received actual notice. The debtor shall have the

23 burden of showing no notice and shall be entitled to a hearing

24 on the issue of notice as well as on the merits.

271*#01S

25 271.01 CREATION.

26 No change for subd 1

27 Subd. 4a. EXPENSES. Each judge of the tax court

28 shall receive ~~his~~ actual and necessary expenses paid or incurred *

29 in the performance of ~~his~~ duties as provided in section 43A.04, *

30 subdivision 3.

31 Subd. 5. JURISDICTION. The tax court shall have

32 statewide jurisdiction. Except for an appeal to the supreme

33 court or any other appeal allowed under this subdivision, the

34 tax court shall be the sole, exclusive, and final authority for

35 the hearing and determination of all questions of law and fact

36 arising under the tax laws of the state, as defined in this

37 subdivision, in those cases that have been appealed to the tax

38 court and in any case that has been transferred by the district

39 court to the tax court. The tax court shall have no

40 jurisdiction in any case that does not arise under the tax laws

41 of the state or in any criminal case or in any case determining

42 or granting title to real property or in any case that is under

43 the jurisdiction of the probate court. The small claims

44 division of the tax court shall have no jurisdiction in any case

45 dealing with property valuation or assessment for property tax

46 purposes until the taxpayer has appealed the valuation or

47 assessment to the town or city board of equalization and to the

48 county board of equalization, except for those taxpayers whose

49 original assessments are determined by the commissioner of

50 revenue. A property owner, other than a public utility, mining

51 company, or railroad company for which the original assessments

52 are determined by the commissioner of revenue, may not appear

53 before the tax court unless a timely appearance in person, by

54 counsel, or by written communication has been made before the

55 county board of equalization as provided in section 274.13, to

56 appeal the assessment of the property, or that ~~he~~ the property

57 owner can establish that-he-did-not-receive not having received *

58 notice of ~~his~~ market value at least ten days before the county

59 board of review meeting. Notwithstanding the provisions of this

60 section, if the market value of the property is increased or if

61 the classification of the property is changed after the notice

62 has been sent to the property owner, the property owner may

63 appear before the tax court without an appearance in person or

64 written communication to the county board of equalization. The

65 tax court shall have no jurisdiction in any case involving an

66 order of the state board of equalization unless a taxpayer

67 contests the valuation of ~~his~~ property. Only the taxes, aids *

68 and related matters contained in chapters 60A, 69, 124, 270,

69 272, 273, 274, 275, 276, 277, 278, 279, 285, 287, 288, 290,

70 290A, 291, 292, 293, 294, 295, 296, 297, 297A, 297B, 298, 299,

71 299F, 340, 473, 473F, and 477A shall be considered tax laws of

72 this state subject to the jurisdiction of the tax court. This

73 subdivision shall not be construed to prevent an appeal, as

74 provided by law, to an administrative agency, board of

1 equalization, or to the commissioner of revenue. Wherever used
 2 in chapter 271, the term commissioner shall mean the
 3 commissioner of revenue, unless otherwise specified.

4 No change for subd 6

271*#02S

5 271.02 OFFICERS.

6 The judges of the tax court shall choose a chief judge of
 7 the tax court. The chief judge of the tax court shall appoint
 8 one of the judges to serve as the administrator, who shall be
 9 custodian of the court's files and records and shall coordinate
 10 and make hearing assignments. The administrator may appoint
 11 employees who shall be in the unclassified service. The judge
 12 who is appointed the administrator may delegate ~~his~~
 13 administrative duties ~~as administrator~~ to the employees ~~whom he~~
 14 ~~has~~ appointed and may select one employee to act in ~~his the~~
 15 administrator's place as the assistant administrator. The clerk
 16 of district court in each county shall be the clerk of the tax
 17 court in that county. Filing fees and library fees deposited
 18 with the clerk of district court in ~~his the~~ capacity ~~as of~~ clerk
 19 of the tax court and in cases originally commenced in district
 20 court and transferred to the tax court shall be retained by the
 21 clerk of district court. The tax court clerk in each county
 22 shall be subject to the supervision of the administrator in tax
 23 court matters.

271*#06S

24 271.06 APPEALS FROM ORDERS.

25 No change for subd 1

26 Subd. 2. TIME; NOTICE; INTERVENTION. Except as
 27 otherwise provided by law, within 60 days after notice of the
 28 making and filing of an order of the commissioner of revenue,
 29 the appellant, or ~~his the~~ appellant's attorney, shall serve a
 30 notice of appeal upon the commissioner and file the original,
 31 with proof of such service, with the tax court administrator or
 32 with the clerk of district court acting as clerk of the tax
 33 court; provided, that a tax court judge, for cause shown, may by
 34 written order extend the time for appealing for an additional
 35 period not exceeding 30 days. The notice of appeal shall be in
 36 the form prescribed by the tax court. Within five days after
 37 receipt, the commissioner shall transmit a copy of the notice of
 38 appeal to the attorney general in all cases where the amount at
 39 issue exceeds \$100. The attorney general shall represent the
 40 commissioner, if requested, upon all such appeals except in
 41 cases where the attorney general has appealed in behalf of the
 42 state, or in other cases where ~~he the~~ attorney general deems it
 43 against the interests of the state to represent the
 44 commissioner, in which event the attorney general may intervene
 45 or be substituted as an appellant in behalf of the state at any
 46 stage of the proceedings.

47 Upon a final determination of any other matter concerning
 48 the tax laws listed in section 271.01, subdivision 5, the
 49 taxpayer or ~~his the~~ taxpayer's attorney shall file a petition or
 50 notice of appeal as provided by law with the clerk of district
 51 court, acting in the capacity of clerk of the tax court, with
 52 proof of service of the petition or notice of appeal as required
 53 by law and within the time required by law. As used in this
 54 subdivision, "final determination" includes a notice of
 55 assessment and equalization for the year in question received
 56 from the local assessor, an order of the local board of
 57 equalization, or an order of a county board of equalization.

58 The tax court shall prescribe a filing system so that the
 59 notice of appeal or petition filed with the tax court clerk is
 60 forwarded to the tax court administrator. In the case of an
 61 appeal or a petition concerning property valuation for which the
 62 assessor, a local board of equalization, a county board of
 63 equalization or the commissioner of revenue has issued an order,
 64 the officer issuing the order shall be notified of the filing of
 65 the appeal. The notice of appeal or petition shall be in the
 66 form prescribed by the tax court.

67 Subd. 3. PLEADINGS. Within 20 days after the
 68 service and filing of the notice of appeal, unless the appeal be
 69 theretofore dismissed, the commissioner or the appropriate unit
 70 of government shall make, certify, and file with the tax court a
 71 return comprising a copy of any application or petition by which
 72 the proceeding was instituted and of any other material paper
 73 preceding the order of the commissioner or the appropriate unit
 74 of government, a copy of the order appealed from, a statement of

1 each finding of fact and ruling of law made by the commissioner
2 or the appropriate unit of government in the matter, and a
3 denial, admission, or explanation with respect to each
4 allegation of fact in the notice so far as not covered by the
5 order or findings; provided, that any judge of the tax court,
6 for cause shown, may extend the time for filing such return for
7 an additional period not exceeding 30 days. Where the
8 commissioner is required to transmit a copy of the notice of
9 appeal to the attorney general, ~~he~~ the commissioner shall, *
10 within ten days after service of the notice of appeal upon the
11 commissioner, transmit to the attorney general a complete copy
12 of all papers required for the return. Allegations of new matter
13 in the return shall be deemed to be denied by the appellant.

14 No change for subd 4 to 5

15 Subd. 6. HEARINGS; DETERMINATION OF ISSUES; DEFAULT.

16 The tax court shall hear, consider, and determine without a jury
17 every appeal de novo. A tax court judge may empanel an advisory
18 jury upon ~~his~~ the judge's motion. The tax court shall hold a *
19 public hearing in every case. All such parties shall have an
20 opportunity to offer evidence and arguments at the hearing;
21 provided, that the order of the commissioner or the appropriate
22 unit of government in every case shall be prima facie valid.
23 When an appeal to the tax court has been taken from an order or
24 determination of the commissioner or from the appropriate unit
25 of government, the proceeding shall be an original proceeding in
26 the nature of a suit to set aside or modify the order or
27 determination. In case no appellant shall appear the tax court
28 shall enter its order affirming the order of the commissioner of
29 revenue or the appropriate unit of government from which the
30 appeal was taken. If the department of revenue's sales ratio
31 study is introduced in tax court as evidence, the sales ratio
32 data from the study shall be admissible as evidence only as
33 provided in section 278.05, subdivision 4.

34 No change for subd 7

271*#07S

35 271.07 STENOGRAPHIC REPORT; TRANSCRIPT.

36 Except in the small claims division, the tax court shall
37 provide for a verbatim stenographic report of all proceedings
38 had before it upon appeals, as required by the laws relating to
39 proceedings in district court. In case of a review by the
40 supreme court of an order of the tax court, transcripts of the
41 proceedings before the tax court shall be furnished to the tax
42 court, the commissioner, and the attorney general upon request,
43 and the cost thereof shall be paid out of funds appropriated
44 therefor upon such terms as the tax court may prescribe.
45 Transcripts shall be furnished to other parties by the reporter
46 at the same legal rates applicable at the time to the district
47 court reporters of the county in which the case was tried, but
48 no transcript shall be made for or delivered to such other party
49 unless ~~he~~ the party shall deposit the estimated cost thereof, in *
50 advance, with the clerk, subject to payment of the actual cost
51 therefrom as soon as determined.

271*#12S

52 271.12 WHEN ORDER EFFECTIVE.

53 No order for refundment by the commissioner of revenue, the
54 appropriate unit of government, or the tax court shall take
55 effect until the time for appeal therefrom or review thereof by
56 all parties entitled thereto has expired. Otherwise every order
57 of the commissioner, the appropriate unit of government, or the
58 tax court shall take effect immediately upon the filing thereof,
59 and no appeal therefrom or review thereof shall stay the
60 execution thereof or extend the time for payment of any tax or
61 other obligation unless otherwise expressly provided by law;
62 provided, that in case an order which has been acted upon, in
63 whole or in part, shall thereafter be set aside or modified upon
64 appeal, the determination upon appeal or review shall supersede
65 the order appealed from and be binding upon all parties affected
66 thereby, and such adjustments as may be necessary to give effect
67 thereto shall be made accordingly. If it be finally determined
68 upon such appeal or review that any person is entitled to
69 refundment of any amount which has been paid for a tax or other
70 obligation, such amount, unless otherwise provided by law, shall
71 be paid to ~~him~~ the person by the state treasurer, or other *
72 proper officer, out of funds derived from taxes of the same
73 kind, if available for the purpose, or out of other available
74 funds, if any, with interest at the rate specified in section

1 270.76 from the date of payment of the tax, unless a different
 2 rate of interest is otherwise provided by law, in which case
 3 such other rate shall apply, upon certification by the
 4 commissioner of revenue, the appropriate unit of government, the
 5 tax court or the supreme court. If any tax, assessment, or
 6 other obligation be increased upon such appeal or review, the
 7 increase shall be added to the original amount, and may be
 8 enforced and collected therewith.

271*#18S

9 271.18 EX-OFFICERS AND EX-EMPLOYEES NOT TO REPRESENT
 10 CLIENTS; EXCEPTION; VIOLATION.

11 No officer, judge, or employee of the department of
 12 revenue, or the tax court, except referees appointed for the
 13 small claims division, shall, within one year after ~~his~~ the *
 14 office or employment has terminated, act as counsel, attorney,
 15 or agent for a taxpayer in connection with any claim or
 16 proceeding pending in the department. No officer, judge,
 17 referee, or employee shall, at any time after the termination of
 18 ~~his~~ the office or employment, act as counsel, attorney, or agent *
 19 in connection with any claim or proceeding of which ~~he~~ the *
 20 person terminated has knowledge which was acquired in the course *
 21 of ~~his~~ a term of office or employment in the department or in *
 22 the tax court. Any violation of the provisions of this section
 23 shall be a gross misdemeanor.

271*#19S

24 271.19 COSTS AND DISBURSEMENTS.

25 Upon the determination of any appeal under this chapter
 26 before the tax court, or of any review hereunder by the supreme
 27 court, the costs and disbursements may be taxed and allowed in
 28 favor of the prevailing party and against the losing party as in
 29 civil actions. In any case where a person liable for a tax or
 30 other obligation has lost an appeal or review instituted by ~~him~~ *
 31 the person, and the tax court or court shall determine that ~~he~~ *
 32 the person instituted the same merely for the purposes of delay, *
 33 or that the taxpayer's position in the proceedings is frivolous,
 34 additional costs, commensurate with the expense incurred and
 35 services performed by the agencies of the state in connection
 36 with the appeal, but not exceeding \$5,000 in any case, may be
 37 allowed against ~~him~~ the taxpayer, in the discretion of the tax *
 38 court or court. Costs and disbursements allowed against any
 39 such person shall be added to the tax or other obligation
 40 determined to be due, and shall be payable therewith. Costs and
 41 disbursements allowed against the state or other public agencies
 42 shall be paid out of funds received from taxes or other
 43 obligations of the kind involved in the proceeding, or other
 44 funds of the agency concerned appropriated and available
 45 therefor. Witnesses in proceedings under this chapter shall
 46 receive like fees as in the district court, to be paid in the
 47 first instance by the parties by whom the witnesses were called,
 48 and to be taxed and allowed as herein provided.

271*#20S

49 271.20 DECISIONS FILED WITHIN THREE MONTHS.

50 All questions of fact and law and all matters submitted to
 51 the judges of the tax court shall be disposed of and their
 52 decision filed with the clerk of the tax court within three
 53 months after such submission, unless sickness or casualty shall
 54 prevent, or the time be extended by written consent of the
 55 parties. No part of the salary of any judge of the tax court
 56 shall be paid unless the voucher therefor be accompanied by the *
 57 judge's certificate of-the-judge-that-he-has-fully-complied of *
 58 full compliance with the requirements of this section. A tax *
 59 court judge shall devote ~~his~~ full time to the duties of ~~his~~ the *
 60 office and shall not engage in the practice of law.

271*#21S

61 271.21 SMALL CLAIMS DIVISION.

62 Subdivision 1. There shall be a division of the tax court
 63 known as the small claims division. The judges of the tax court
 64 shall sit as judges of the small claims division. Each judge
 65 shall have authority to hear and decide the cases ~~that-he-hears~~ *
 66 heard as small claims judge. *

67 No change for subd '2

68 Subd. 3. A taxpayer may elect to appeal in the small
 69 claims division instead of appealing to the regular division of
 70 the tax court. If the taxpayer elects to appeal to the small
 71 claims division, and 30 days have elapsed since the filing of
 72 the appeal, or briefs have been filed or a hearing held on the

1 matter, whichever occurs first, ~~he~~ the taxpayer shall not appeal *
 2 to the regular division in the same matter. ~~If he~~ A taxpayer *
 3 who elects to appeal to the regular division, ~~he~~ shall not *
 4 appeal to the small claims division in the same matter.

5 Subd. 4. At the same time that notice of the assessment,
 6 determination, or order of the commissioner or the appropriate
 7 unit of government is given to a taxpayer, the taxpayer shall be
 8 notified in writing of ~~his~~ the right to appeal to the tax court, *
 9 and if applicable, to the small claims division. In any notice
 10 of assessment, determination or order dealing with property
 11 valuation or assessment for property tax purposes, the taxpayer
 12 shall be notified in writing that ~~he~~ a taxpayer must appeal to *
 13 the town or city board of equalization and to the county board
 14 of equalization before ~~he may appeal~~ appealing to the small *
 15 claims division of the tax court, except for those taxpayers
 16 whose original assessments are determined by the commissioner of
 17 revenue.

18 No change for subd 5

19 Subd. 6. The hearing in the small claims division shall be
 20 informal and without a jury. The judge may hear any testimony
 21 and receive any evidence ~~he~~ the judge deems necessary or *
 22 desirable for a just determination of the case. Sales ratio
 23 studies published by the department of revenue may be admissible
 24 as a public record without foundation. All testimony shall be
 25 given under oath. A party may appear ~~on his own behalf~~ *
 26 personally or may be represented or accompanied by an attorney. *
 27 No transcript of the proceedings shall be kept.

28 No change for subd 7 to 9

29 Subd. 10. Whenever the small claims division trial docket
 30 becomes congested with appeals involving valuation,
 31 classification, and assessment of property for tax purposes, the
 32 judges of the tax court may appoint referees to hear the
 33 property tax cases appealed to the small claims division. Each
 34 referee shall have authority to hear and decide the cases ~~that~~ *
 35 ~~he hears~~ heard as small claims referee. Each referee shall be a *
 36 citizen of Minnesota and shall have experience with and
 37 knowledge of property taxation and property values. A referee
 38 shall be paid at a rate of 80 percent of the salary of the
 39 judges of the county court in that county, prorated by the
 40 length of time ~~that he serves~~ served as a referee. Each referee *
 41 shall receive ~~his~~ actual and necessary expenses paid or incurred *
 42 in the performance of ~~his~~ duties. *

43 No change for subd 11

271*#22S

44 271.22 JUDGES; APPOINTMENT.
 45 The governor may appoint the judges of the tax court
 46 serving on July 1, 1977 to serve on the tax court created by
 47 Laws 1977, Chapter 307, or ~~he~~ may appoint new judges who meet *
 48 the qualifications provided in section 271.01, subdivision 1.
 49 Cases tried before the current tax court shall be decided within
 50 three months after July 1, 1977 by the judges of the tax court
 51 who heard the case, and they shall be paid the salary specified
 52 before July 1, 1977, unless they are appointed to the tax court
 53 created by Laws 1977, Chapter 307. The provisions of Laws 1977,
 54 Chapter 307 will not bar or change any right provided prior to
 55 its enactment to the parties in matters that have been decided
 56 by the current tax court. Any matter not tried by the current
 57 tax court prior to July 1, 1977 shall be automatically
 58 transferred to the tax court created by Laws 1977, Chapter 307.
 59 The taxpayer shall be given an opportunity to make ~~his~~ an *
 60 election to appeal to the small claims division or to appeal to
 61 the regular division of the tax court.

272*#01S

62 272.01 PROPERTY SUBJECT TO TAXATION.

63 No change for subd 1 to 2

64 Subd. 3. The provisions of subdivision 2 shall not apply

65 to:

66 (a) Federal property for which payments are made in lieu of
 67 taxes in amounts equivalent to taxes which might otherwise be
 68 lawfully assessed;

69 (b) Real estate exempt from ad valorem taxes and taxes in
 70 lieu thereof which is leased, loaned, or otherwise made
 71 available to telephone companies or electric, light and power
 72 companies upon which personal property consisting of
 73 transmission and distribution lines is situated and assessed
 74 pursuant to sections 273.37, 273.38, 273.40 and 273.41, or upon

1 which are situated the communication lines of express, railway,
2 telephone or telegraph companies, and pipelines used for the
3 transmission and distribution of petroleum products;

4 (c) Property presently owned by any educational institution
5 chartered by the territorial legislature;

6 (d) Inventories of raw materials, work in process and
7 finished goods and machinery and equipment owned by the federal
8 government and leased, loaned or otherwise made available and
9 used by private individuals, associations or corporations in
10 connection with the production of goods for sale to the federal
11 government;

12 (e) Indian lands;

13 (f) Property of any corporation organized as a tribal
14 corporation under the Indian Reorganization Act of June 18,
15 1934, (48 Stat. 984);

16 (g) Real property owned by the state and leased pursuant to
17 section 161.23 and acts amendatory thereto;

18 (h) Real property owned by a seaway port authority on June
19 1, 1967 upon which there has been constructed docks, warehouses,
20 tank farms, administrative and maintenance buildings, railroad
21 and ship terminal facilities and other maritime and
22 transportation facilities or those directly related thereto,
23 together with facilities for the handling of passengers and
24 baggage and for the handling of freight and bulk liquids, and
25 personal property owned by a seaway port authority used or
26 usable in connection therewith, when said property is leased to
27 a private individual, association or corporation, but only when
28 such lease provides that the said facilities are available to
29 the public for the loading and unloading of passengers and their
30 baggage and the handling, storage, care, shipment and delivery
31 of merchandise, freight and baggage and other maritime and
32 transportation activities and functions directly related
33 thereto, but not including property used for grain elevator
34 facilities; it being the declared policy of this state that such
35 property when so leased is public property used exclusively for
36 a public purpose, notwithstanding the three year limitation in
37 the provisions of section 273.19.

38 (i) Notwithstanding the provisions of clause (h), when the
39 annual rental received by a seaway port authority in any
40 calendar year for such leased property exceeds an amount
41 reasonably required for administrative expense of the authority
42 per year, plus promotional expense for the authority not to
43 exceed the sum of \$100,000 per year, to be expended when and in
44 the manner decided upon by the commissioners, plus an amount
45 sufficient to pay all installments of principal and interest
46 due, or to become due, during such calendar year and the next
47 succeeding year on any revenue bonds issued by the authority,
48 plus 25 percent of the gross annual rental to be retained by the
49 authority for improvement, development or other contingencies,
50 the authority shall make a payment in lieu of real and personal
51 property taxes of a reasonable portion of the remaining annual
52 rental to the county treasurer of the county in which such
53 seaway port authority is principally located. Any such payments
54 to the county treasurer shall be disbursed by ~~him~~ the treasurer *
55 on the same basis as real estate taxes are divided among the
56 various governmental units, but if such port authority shall
57 have received funds from the state of Minnesota and funds from
58 any city and county pursuant to Laws 1957, Chapters 648, 831 and
59 849 and acts amendatory thereof, then such disbursement by the
60 county treasurer shall be on the same basis as real estate taxes
61 are divided among the various governmental units, except that
62 the portion of such payments which would otherwise go to other
63 taxing units shall be divided equally among the state of
64 Minnesota and said county and city.

65 No change for subd 4

272*#02S

66 272.02 EXEMPT PROPERTY.

67 Subdivision 1. All property described in this section to
68 the extent herein limited shall be exempt from taxation:

69 (1) All public burying grounds;

70 (2) All public schoolhouses;

71 (3) All public hospitals;

72 (4) All academies, colleges, and universities, and all
73 seminaries of learning;

74 (5) All churches, church property, and houses of worship;

75 (6) Institutions of purely public charity except parcels of

1 property containing structures and the structures assessed as
2 class 7(a), (b), (c), or (d);

3 (7) All public property exclusively used for any public
4 purpose;

5 (8) Except for the taxable personal property enumerated
6 below, all personal property and the property described in
7 section 272.03, subdivision 1, paragraphs (c) and (d) shall be
8 exempt.

9 The following personal property shall be taxable:

10 (a) personal property which is part of an electric
11 generating, transmission, or distribution system or a pipeline
12 system transporting or distributing water, gas, crude oil, or
13 petroleum products or mains and pipes used in the distribution
14 of steam or hot or chilled water for heating or cooling
15 buildings and structures;

16 (b) railroad docks and wharves which are part of the
17 operating property of a railroad company as defined in section
18 270.80;

19 (c) personal property defined in section 272.03,
20 subdivision 2, clause (3);

21 (d) leasehold or other personal property interests which
22 are taxed pursuant to section 272.01, subdivision 2; 273.124,
23 subdivision 7; or 273.19, subdivision 1; or any other law
24 providing the property is taxable as if the lessee or user were
25 the fee owner;

26 (e) manufactured homes and sectional structures; and

27 (f) flight property as defined in section 270.071.

28 (9) Real and personal property used primarily for the
29 abatement and control of air, water, or land pollution to the
30 extent that it is so used, other than real property used
31 primarily as a solid waste disposal site.

32 Any taxpayer requesting exemption of all or a portion of
33 any equipment or device, or part thereof, operated primarily for
34 the control or abatement of air or water pollution shall file an
35 application with the commissioner of revenue. The equipment or
36 device shall meet standards, regulations or criteria prescribed
37 by the Minnesota pollution control agency, and must be installed
38 or operated in accordance with a permit or order issued by that
39 agency. The Minnesota pollution control agency shall upon
40 request of the commissioner furnish information or advice to the
41 commissioner. ~~if the commissioner determines~~ On determining
42 ~~that property qualifies for exemption, he the commissioner~~ shall
43 issue an order exempting the property from taxation. The
44 equipment or device shall continue to be exempt from taxation as
45 long as the permit issued by the Minnesota pollution control
46 agency remains in effect.

*

*

47 (10) Wetlands. For purposes of this subdivision,
48 "wetlands" means (1) land described in section 105.37,
49 subdivision 15, or (2) land which is mostly under water,
50 produces little if any income, and has no use except for
51 wildlife or water conservation purposes, provided it is
52 preserved in its natural condition and drainage of it would be
53 legal, feasible, and economically practical for the production
54 of livestock, dairy animals, poultry, fruit, vegetables, forage
55 and grains, except wild rice. "Wetlands" shall include adjacent
56 land which is not suitable for agricultural purposes due to the
57 presence of the wetlands. "Wetlands" shall not include woody
58 swamps containing shrubs or trees, wet meadows, meandered water,
59 streams, rivers, and floodplains or river bottoms. Exemption of
60 wetlands from taxation pursuant to this section shall not grant
61 the public any additional or greater right of access to the
62 wetlands or diminish any right of ownership to the wetlands.

63 (11) Native prairie. The commissioner of the department of
64 natural resources shall determine lands in the state which are
65 native prairie and shall notify the county assessor of each
66 county in which the lands are located. Pasture land used for
67 livestock grazing purposes shall not be considered native
68 prairie for the purposes of this clause and section 273.116.
69 Upon receipt of an application for the exemption and credit
70 provided in this clause and section 273.116 for lands for which
71 the assessor has no determination from the commissioner of
72 natural resources, the assessor shall refer the application to
73 the commissioner of natural resources who shall determine within
74 30 days whether the land is native prairie and notify the county
75 assessor of ~~his~~ the decision. Exemption of native prairie
76 pursuant to this clause shall not grant the public any

*

1 additional or greater right of access to the native prairie or
2 diminish any right of ownership to it.

3 (12) Property used in a continuous program to provide
4 emergency shelter for victims of domestic abuse, provided the
5 organization that owns and sponsors the shelter is exempt from
6 federal income taxation pursuant to section 501(c)(3) of the
7 Internal Revenue Code of 1954, as amended through December 31,
8 1982, notwithstanding the fact that the sponsoring organization
9 receives funding under section 8 of the United States Housing
10 Act of 1937, as amended.

11 (13) If approved by the governing body of the municipality
12 in which the property is located, property not exceeding one
13 acre which is owned and operated by any senior citizen group or
14 association of groups that in general limits membership to
15 persons age 55 or older and is organized and operated
16 exclusively for pleasure, recreation, and other nonprofit
17 purposes, no part of the net earnings of which inures to the
18 benefit of any private shareholders; provided the property is
19 used primarily as a clubhouse, meeting facility or recreational
20 facility by the group or association and the property is not
21 used for residential purposes on either a temporary or permanent
22 basis.

23 (14) To the extent provided by section 295.44, real and
24 personal property used or to be used primarily for the
25 production of hydroelectric or hydromechanical power on a site
26 owned by the state or a local governmental unit which is
27 developed and operated pursuant to the provisions of section
28 105.482, subdivisions 1, 8 and 9.

29 (15) If approved by the governing body of the municipality
30 in which the property is located, and if construction is
31 commenced after June 30, 1983:

32 (a) a "direct satellite broadcasting facility" operated by
33 a corporation licensed by the federal communications commission
34 to provide direct satellite broadcasting services using direct
35 broadcast satellites operating in the 12-ghz. band;

36 (b) a "fixed satellite regional or national program service
37 facility" operated by a corporation licensed by the federal
38 communications commission to provide fixed satellite-transmitted
39 regularly scheduled broadcasting services using satellites
40 operating in the 6-ghz. band; and

41 (c) a facility at which a licensed Minnesota manufacturer
42 produces distilled spirituous liquors, liqueurs, cordials, or
43 liquors designated as specialties regardless of alcoholic
44 content, but not including ethyl alcohol, distilled with a
45 majority of the ingredients grown or produced in Minnesota.

46 An exemption provided by paragraph (15) shall apply for a period
47 not to exceed five years. When the facility no longer qualifies
48 for exemption, it shall be placed on the assessment rolls as
49 provided in subdivision 4. Before approving a tax exemption
50 pursuant to this paragraph, the governing body of the
51 municipality shall provide an opportunity to the members of the
52 county board of commissioners of the county in which the
53 facility is proposed to be located and the members of the school
54 board of the school district in which the facility is proposed
55 to be located to meet with the governing body. The governing
56 body shall present to the members of those boards its estimate
57 of the fiscal impact of the proposed property tax exemption.
58 The tax exemption shall not be approved by the governing body
59 until the county board of commissioners has presented its
60 written comment on the proposal to the governing body, or 30
61 days has passed from the date of the transmittal by the
62 governing body to the board of the information on the fiscal
63 impact, whichever occurs first.

64 (16) Real and personal property owned and operated by a
65 private, nonprofit corporation exempt from federal income
66 taxation pursuant to United States Code, title 26, section
67 501(c)(3), primarily used in the generation and distribution of
68 hot water for heating buildings and structures.

69 (17) Notwithstanding section 273.19, state lands that are
70 leased from the department of natural resources under section
71 92.46.

72 No change for subd 1a to 6

272*#025S

73 272.025 FILING REQUIREMENT.

74 Subdivision 1. Except as provided in subdivision 3, a
75 taxpayer claiming an exemption from taxation on property

1 described in section 272.02, subdivision 1, clauses (1) to (7),
 2 except churches and houses of worship and property solely used
 3 for educational purposes by academies, colleges, universities or
 4 seminaries of learning and property owned by the state of
 5 Minnesota or any political subdivision thereof, shall file a
 6 statement of exemption with the assessor of the assessment
 7 district in which the property is located on or before February
 8 15 of each year for which the taxpayer claims an exemption. In
 9 case of sickness, absence or other disability or ~~when-in-his~~ *
 10 ~~judgment for~~ good cause exists, the assessor may extend the time *
 11 for filing the statement of exemption for a period not to exceed
 12 60 days. The commissioner of revenue shall prescribe the form
 13 and contents of the statement of exemption.

14 No change for subd 2 to 4

272*#03S

15 272.03 DEFINITIONS.

16 No change for subd 1

17 Subd. 2. PERSONAL PROPERTY. For the purposes of
 18 taxation, "personal property" includes:

- 19 (1) All goods, chattels, money and effects;
- 20 (2) All ships, boats, and vessels belonging to inhabitants
 21 of this state and all capital invested therein;
- 22 (3) All improvements upon land the fee of which is vested
 23 in the United States, and all improvements upon land the title
 24 to which is vested in any corporation whose property is not
 25 subject to the same mode and rule of taxation as other property;
- 26 (4) All stock of ~~nurserymen~~ nursery operators, growing or *
 27 otherwise;
- 28 (5) All gas, electric, and water mains, pipes, conduits,
 29 subways, poles, and wires of gas, electric light, water, heat,
 30 or power companies, and all tracks, roads, conduits, poles, and
 31 wires of street railway, plank road, gravel road, and turnpike
 32 companies;
- 33 (6) All credits over and above debts owed by the creditor;
- 34 (7) The income of every annuity, unless the capital of the
 35 annuity is taxed within this state;
- 36 (8) All public stocks and securities;
- 37 (9) All personal estate of moneyed corporations, whether
 38 the owners reside within or without the state;
- 39 (10) All shares in foreign corporations owned by residents
 40 of this state; and
- 41 (11) All shares in banks organized under the laws of the
 42 United States or of this state.

43 No change for subd 3 to 9

44 Subd. 10. MERCHANT. "Merchant" includes every
 45 person who owns, or ~~has-in-his-possession-or-subject-to-his~~ *
 46 ~~control~~ possesses or controls with authority to sell, any goods, *
 47 merchandise, or other personal property within the state,
 48 purchased within or without the state with a view to sale at an
 49 advanced price or profit, or which has been consigned to ~~him~~ the *
 50 person from any place without the state for sale within the *
 51 state.

52 No change for subd 11

272*#115S

53 272.115 CERTIFICATE OF VALUE; FILING.

54 Subdivision 1. Whenever any real estate is sold on or
 55 after January 1, 1978 for a consideration in excess of \$1,000,
 56 whether by warranty deed, quitclaim deed, contract for deed or
 57 any other method of sale, the grantor, grantee or ~~his~~ the legal *
 58 agent of either shall file a certificate of value with the *
 59 county auditor in the county in which the property is located.
 60 Value shall, in the case of any deed not a gift, be the amount
 61 of the full actual consideration thereof, paid or to be paid,
 62 including the amount of any lien or liens assumed. The
 63 certificate of value shall include the classification to which
 64 the property belongs for the purpose of determining the fair
 65 market value of the property. The certificate shall include
 66 financing terms and conditions of the sale which are necessary
 67 to determine the actual, present value of the sale price for
 68 purposes of the sales ratio study. The commissioner of revenue
 69 shall promulgate administrative rules specifying the financing
 70 terms and conditions which must be included on the certificate.

71 No change for subd 2 to 4

272*#12S

72 272.12 CONVEYANCES, TAXES PAID BEFORE RECORDING.

73 When a deed or other instrument conveying land, or a plat

1 of any town site or addition thereto, or a survey required
 2 pursuant to section 508.47, is presented to the county auditor
 3 for transfer, he the auditor shall ascertain from his the *
 4 records if there be taxes delinquent upon the land described
 5 therein, or if it has been sold for taxes. If there are taxes
 6 delinquent, he the auditor shall certify to the same; and upon *
 7 payment of such taxes, or in case no taxes are delinquent, he *
 8 shall transfer the land upon the books of his the auditor's *
 9 office, and note upon the instrument, over his official *
 10 signature, the words, "no delinquent taxes and transfer
 11 entered," or, if the land described has been sold or assigned to
 12 an actual purchaser for taxes, the words "paid by sale of land
 13 described within;" and, unless such statement is made upon such
 14 instrument, the county recorder or the registrar of titles shall
 15 refuse to receive or record the same; provided, that sheriff's
 16 or referees' certificates of sale on execution or foreclosure of
 17 a lien or mortgage, deeds of distribution made by a personal
 18 representative in probate proceedings, decrees and judgments,
 19 receivers receipts, patents, and copies of town or statutory
 20 city plats, in case the original plat filed in the office of the
 21 county recorder has been lost or destroyed, and the instruments
 22 releasing, removing and discharging reversionary and forfeiture
 23 provisions affecting title to land and instruments releasing,
 24 removing or discharging easement rights in land or building or
 25 other restrictions, may be recorded without such certificate;
 26 and, provided that instruments conveying land and, as
 27 appurtenant thereto an easement over adjacent tract or tracts of
 28 land, may be recorded without such certificate as to the land
 29 covered by such easement; and provided further, that any
 30 instrument granting an easement made in favor of any public
 31 utility or pipe line for conveying gas, liquids or solids in
 32 suspension, in the nature of a right of way over, along, across
 33 or under a tract of land may be recorded without such
 34 certificate as to the land covered by such easement. Any
 35 instrument amending or restating the declarations, bylaws, or
 36 other enabling documents governing homeowners associations of
 37 condominiums, townhouses, and other planned unit developments
 38 may be recorded without the auditor's certificate.

39 A deed of distribution made by a personal representative in
 40 a probate proceeding, a decree, or a judgment that conveys land
 41 shall be presented to the county auditor, who shall transfer the
 42 land upon the books of his the auditor's office and note upon *
 43 the instrument, over his official signature, the words, *
 44 "transfer entered", and the instrument may then be recorded. A
 45 decree or judgment that affects title to land but does not
 46 convey land may be recorded without presentation to the auditor.

47 A violation of this section by the county recorder or the
 48 registrar of titles shall be a gross misdemeanor, and, in
 49 addition to the punishment therefor, he the recorder or *
 50 registrar shall be liable to the grantee of any instrument so *
 51 recorded for the amount of any damages sustained.

52 When, as a condition to permitting the recording of deed or
 53 other instrument affecting the title to real estate previously
 54 forfeited to the state under the provisions of sections 281.16
 55 to 281.27, county officials, after such real estate has been
 56 purchased or repurchased, have required the payment of taxes
 57 erroneously assumed to have accrued against such real estate
 58 after forfeiture and before the date of purchase or repurchase,
 59 the sum required to be so paid shall be refunded to the persons
 60 entitled thereto out of moneys in the funds in which the sum so
 61 paid was placed. Delinquent taxes are those taxes deemed
 62 delinquent under section 279.02.

272*#14S

63 272.14 TRANSFER OF UNDIVIDED INTEREST.

64 Upon presentation of a deed or other instrument conveying
 65 an undivided part of a parcel of land, and upon payment of an
 66 equivalent proportional part of the taxes delinquent thereon,
 67 according to the records of the county auditor the county
 68 auditor shall endorse his a certificate thereon, as prescribed *
 69 in section 272.12. Delinquent taxes are those taxes deemed
 70 delinquent under section 279.02.

272*#15S

71 272.15 DEED TO CORRECT TITLE.

72 When a deed purporting to convey or quitclaim any parcel of
 73 land, the record title to which appears to be in two or more
 74 persons, is presented to the county attorney, accompanied by an

1 abstract of title to such land, ~~he~~ the attorney shall examine *
 2 such deed and abstract, upon tender of a fee of \$5 therefor. ~~if~~ *
 3 ~~he finds~~ On finding that such deed is given for the purpose of *
 4 correcting a defect in the title, or on account of a technical *
 5 error in a prior conveyance, ~~he~~ the attorney shall so certify *
 6 upon the deed; and thereupon the county recorder shall record *
 7 it, if otherwise entitled to record, notwithstanding that there
 8 are unpaid taxes or assessments upon such land.

272*#16S

9 272.16 TRANSFER OF SPECIFIC PART.

10 When any part less than the whole of any parcel of land, as
 11 charged in the tax lists, is conveyed, the county auditor shall
 12 transfer the same whenever the seller and purchaser agree, in a
 13 writing signed by them, or personally appear before the county
 14 auditor and agree, upon the amount of the assessed valuation to
 15 be transferred therewith; but, if the seller and purchaser do
 16 not so agree, the county auditor shall make such division of the
 17 assessed valuation as may appear to ~~him~~ the auditor just. If *
 18 the county auditor is satisfied that the proportion of the
 19 valuation so agreed to be transferred is greater than the
 20 proportional value of the land to be transferred therewith, and
 21 that such agreement was made by collusion of the parties, and
 22 with a view fraudulently to evade payment of taxes assessed on
 23 the entire parcel, ~~he~~ the auditor may refuse to make such *
 24 transfer; and, when any such transfer has already been procured *
 25 by fraudulent agreement, ~~he~~ the auditor shall cancel the same, *
 26 and the land so transferred shall be charged with taxes in the
 27 same manner as though the transfer had not been made.

272*#162S

28 272.162 RESTRICTIONS ON TRANSFERS OF SPECIFIC PARTS.

29 Subdivision 1. CONDITIONS RESTRICTING TRANSFER. When
 30 a deed or other instrument conveying a parcel of land is
 31 presented to the county auditor for transfer or division under
 32 sections 272.12, 272.16, and 272.161, the auditor shall not
 33 transfer or divide the land or its assessed valuation in ~~his~~ the *
 34 official records and shall not certify the instrument as
 35 provided in section 272.12, if:

36 (a) The land conveyed is less than a whole parcel of land
 37 as charged in the tax lists;

38 (b) The part conveyed appears within the area of
 39 application of municipal subdivision regulations adopted and
 40 filed under section 462.36, subdivision 1; and

41 (c) The part conveyed is part of or constitutes a
 42 subdivision as defined in section 462.352, subdivision 12.

43 No change for subd 2 to 3

272*#17S

44 272.17 LIST OF CERTIFICATES OF SALE FILED WITH AUDITOR.

45 On February first of each year, the county recorder and
 46 registrar of titles shall make out from ~~his~~ the records and file *
 47 with the county auditor a list of all sheriff's or referee's
 48 certificates of sale on execution or foreclosure of mortgages,
 49 upon which the period of redemption has expired during the
 50 preceding year. The county auditor shall thereupon make the
 51 proper entries upon ~~his~~ the transfer records and tax lists to *
 52 conform with the list so filed.

272*#19S

53 272.19 PLATTING OF IRREGULAR TRACTS.

54 Where any tract or lot of land is divided into parcels of
 55 irregular shape, which cannot be described except by metes and
 56 bounds, the owners thereof, upon notice thereof being given by
 57 the county auditor, which notice shall be served upon such owner
 58 personally or by certified mail, shall have such land platted
 59 into lots, a survey being made when necessary, and the plat
 60 recorded, and a duplicate filed with the county auditor. If the
 61 owner fails so to do within 30 days after such notice, the
 62 county surveyor, upon the request of the county auditor, shall
 63 make such plat. Where such lands proposed to be platted are
 64 wholly within the limits of any incorporated city or statutory
 65 city, adjacent to any city of the first class, and such city
 66 maintains a registered land surveyor, the county auditor shall
 67 direct such registered land surveyor to make such plat. Such
 68 plat shall be made from the records of the county recorder, if
 69 practicable; but, if not practicable, the county surveyor, or if
 70 such lands are within the limits of any incorporated city or
 71 statutory city adjacent to a city of the first class, the
 72 registered land surveyor, if one is maintained by such city,

1 shall make and certify the necessary survey and plat, which the
2 county auditor shall file for record with the county recorder,
3 and a duplicate thereof shall be filed in ~~his~~ the auditor's *
4 office. The description of the property in accordance with such
5 recorded plats shall be valid. When the owners fail to comply
6 with this section the costs of surveying, platting, and
7 recording shall be paid by the county upon allowance by the
8 county board and the amount thereof added to the next tax upon
9 such lots and when collected, shall be credited to the county
10 revenue fund; provided, however, that whenever the county board
11 shall determine that it is for the best interests of the county
12 to have any particular tract of land platted into an auditor's
13 plat, and shall adopt a resolution so stating, it may direct the
14 county auditor to have such work done. The county auditor may
15 then employ any registered land surveyor to make the necessary
16 survey and prepare the plat. If there shall be any variation
17 between the measurements of the tract as actually surveyed and
18 the measurements stated in the instruments of conveyance with
19 respect to any lot to be outlined upon such plat, the registered
20 land surveyor shall note such variation on the lots affected on
21 said plat and shall state in ~~his~~ the certificate, endorsed upon *
22 the plat, the extent of such variation and the action taken
23 by ~~him~~ the surveyor to reconcile such difference for the purpose *
24 of outlining such lot or lots upon the plat. The county auditor
25 shall file such plat for record with the county recorder and a
26 duplicate thereof shall be filed in ~~his~~ the auditor's office. *
27 After a tract of land has once been surveyed and platted into an
28 auditor's plat and the owner of any lot situated therein shall
29 thereafter convey a portion of lot, which is described by metes
30 and bounds, the county auditor may have such plat revised or
31 amended so as to currently show thereon each parcel of land
32 contained within said tract, by lot or revised lot number. When
33 a plat is thus revised it shall not be necessary to make a new
34 survey, but the registered land surveyor employed for said
35 purpose shall revise the existing plat, from the data contained
36 in the instrument of conveyance, by outlining thereon a new lot,
37 drawn according to the scale used for said plat, of the land
38 conveyed by such instrument. The remaining portion of such lot
39 shall retain its original number, and all new lots created by
40 such revisions shall be progressively numbered and shall be
41 known as "Revised Lot Number" If there shall be
42 any variation between the measurements of said lot as shown on
43 said plat and the measurements stated in the instrument of
44 conveyance, the registered land surveyor shall note such
45 variation on the plat and shall state in ~~his~~ the certificate, *
46 endorsed upon the plat, the extent of such variation and the
47 action taken by ~~him~~ the surveyor to reconcile such difference *
48 for the purpose of outlining such revised lot upon the plat.
49 The registered land surveyor shall make and endorse on said plat
50 a certificate which shall read substantially as follows: "I,
51 , a registered land surveyor, do hereby
52 certify that I have this day revised this plat by outlining
53 thereon Revised Lot Number, which covers that parcel of
54 land conveyed on the day of,
55 19....., by, Grantor, to
56, Grantee, as recorded in book
57 of deeds, on page thereof. It conforms to the
58 measurements of said lot as shown on the plat, except as
59 follows: In witness whereof I have hereunto subscribed my name
60 this day of, 19.....

61 Signed.....
62 Registered Land Surveyor."

63 Such revision and certificate shall also be entered upon
64 the duplicate plat on file in the office of the county auditor.
65 Any parcel of land which is described by lot or revised lot
66 number of an auditor's plat, made by a registered land surveyor
67 under authority of a resolution by the county board, as herein
68 provided, shall be a valid description of such parcel of land
69 for taxation purposes. Immediately after the filing of a new
70 auditor's plat or the revision of an existing plat, as herein
71 provided, the county auditor shall give notice by certified mail
72 to each property owner whose land has been affected by such
73 platting or revision, if the address of such owner can be
74 ascertained from the tax duplicates in the office of the county
75 treasurer. Such notice shall describe the land as the same
76 appeared upon the tax lists of the county prior to such platting

1 or revision and shall also give the description of the land
 2 according to the new or revised plat, and shall state that such
 3 parcel of land will thereafter be described, for taxation
 4 purposes, according to the description shown on said plat. The
 5 county auditor shall make an affidavit of mailing such notices,
 6 stating therein the name and address of each owner to whom such
 7 notice was mailed as well as the description of the land owned
 8 by him according to said plat. Such affidavit shall be filed in *
 9 the auditor's office. Whenever any plat is made pursuant to a
 10 resolution of the county board, all expenses incurred in
 11 connection with such plattings or revisions shall be paid by the
 12 county and not by the land owners.

272*#192S

13 272.192 RECORDS.

14 The county auditor shall keep a record of all parcels of
 15 land which have been coded under this system. In such record he *
 16 the auditor shall enter the description of the land as described *
 17 in the instrument of conveyance of record in the office of the
 18 county recorder or registrar of titles, or the description of
 19 the land as then carried on the assessment and tax rolls of the
 20 county, and immediately following such description he shall *
 21 enter the code number assigned to said parcel of land.

272*#193S

22 272.193 NUMBERING TRACTS.

23 All parcels of land included in the code system of any
 24 county shall be numbered progressively or by a separate number
 25 series beginning with No. 1 in each forty, government lot, or
 26 platted tract. The code assigned to a parcel of land shall give
 27 the code number assigned to it, the name of the owner, the
 28 section, township and range numbers, and if unplatted the number
 29 of acres contained in said parcel, and if platted, or if
 30 situated within the incorporated limits of a city, the lot or
 31 lots and block numbers, the name of the addition or subdivision
 32 under which it was platted and the name of the city in which it
 33 is situated as well as the book and page of the record in which
 34 the instrument conveying title to such parcel of land is
 35 recorded in the office of the county recorder. If the owner of
 36 a parcel of land, which has theretofore been coded under the
 37 county code system, as hereinbefore provided, shall convey a
 38 portion of such parcel of land, which is described by metes and
 39 bounds, the county auditor shall cancel the original code number
 40 and assign a new number and code to the remaining portion. He *
 41 The auditor shall assign a code number or numbers to the portion *
 42 or portions conveyed in the same manner, as herein provided for
 43 assigning an original code number to a parcel. When a code is
 44 canceled the county auditor shall write opposite such code
 45 number the word "canceled" and shall note on the record the new
 46 code numbers subsequently assigned to said parcel of land.

47 The code to be used for any parcel of land, as provided
 48 herein, shall substantially conform to one of the following
 49 illustrations:

50 "Revised Description Number 1, John Doe, a specific part of
 51 Section 10, Township 128, Range 46, 31.40 Acres, as described in
 52 Book 12 of Deeds, at Page 46, in the office of the county
 53 recorder."

54 "Revised Description Number 4, Richard Roe, a specific part
 55 of Section 12, City of Wheaton, 11.20 Acres, as described in
 56 Book 48 of Deeds, at Page 12, in the office of the county
 57 recorder."

58 "Revised Description Number 6, John Doe, a specific part of
 59 Lot 1, Auditor's Plat 14, Township 128, Range 46, as described
 60 in Book 84 of Deeds, at Page 2, in the office of the county
 61 recorder."

62 "Revised Description Number 8, John Doe, a specific part of
 63 Lot 6, Block 4, S. C. Odenburg's First Addition to the City of
 64 Wheaton, as described in Book 93 of Deeds, at Page 43, in the
 65 office of the county recorder."

66 "Revised Description No. 1 of the NE 1/4 of NE 1/4, Section
 67 1, Township 55, Range 25, as described in Deed Book 83, Page 10,
 68 in the office of the county recorder."

69 "Revised Description No. 1 of Government Lot 1, Section 2,
 70 Township 55, Range 25, as described in Deed Book 84, Page 27."

71 "Revised Description No. 2 of Outlot A of Auditor's
 72 Subdivision No. 56, as described in Deed Book 75, Page 32."

272*#194S

73 272.194 NOTICES.

1 Immediately after a parcel of land has been coded under the
 2 county code system, the county auditor shall give notice by
 3 certified mail, except in cases where the owner acknowledges in
 4 writing ~~that-he-has~~ having been informed of the code number, to
 5 the owner of the land, if the address of the owner can be
 6 ascertained from the tax duplicates in the office of the county
 7 treasurer. Such notice shall describe the land according to the
 8 description used in the instrument of conveyance, of record in
 9 the office of the county recorder or registrar of titles, or the
 10 description of the land as then carried on the assessment and
 11 tax rolls of the county, and shall also give the code number
 12 assigned to such parcel of land under the county code system,
 13 and shall further state that such parcel of land will thereafter
 14 be described, for taxation purposes, by said code number. The
 15 county auditor shall make an affidavit of mailing such notice,
 16 stating therein the name and address of the owner to whom such
 17 notice was mailed. Such affidavit shall be filed in the office
 18 of the county auditor. When a deed or other instrument
 19 conveying land is presented to the county auditor for transfer,
 20 as provided by section 272.12, if such land has theretofore been
 21 coded under the county code system, or if the land conveyed in
 22 such instrument is described by metes and bounds and the county
 23 auditor determines that it should be coded under the county code
 24 system, the county auditor, instead of giving notice to the
 25 owner by certified mail, as hereinbefore provided, may note upon
 26 said instrument, over ~~his~~ official signature, the words "the
 27 land described within has been coded and is described for
 28 taxation purposes, as follows: (here enter the coded
 29 description assigned to said parcel of land in full.)"

272*#20S

30 272.20 RAILROAD LANDS BECOMING TAXABLE; LISTS OF LANDS
 31 REVERTING TO RAILROADS.

32 The commissioner of revenue shall annually compile a list
 33 of railroad operating property which is sold or otherwise
 34 becomes nonoperating property. On or before December 15 in each
 35 year ~~he~~ the commissioner shall certify the lands for taxation to
 36 the auditors of the counties in which such lands lie. At the
 37 same time ~~he~~ the commissioner shall obtain lists of lands
 38 reverting to and being used as operating property by the
 39 railroad companies by reason of the forfeiture of contracts, and
 40 certify the same to the county auditors, who shall thereupon
 41 remove such lands from the tax lists; but nothing herein shall
 42 be construed to relieve such forfeited lands from any lien for
 43 taxes or assessments accruing thereon during the life of such
 44 contract. The railroad companies shall report such sales and
 45 forfeitures to the commissioner of revenue December 1 in each
 46 year, and at other times when ~~required-by-him~~ the commissioner
 47 requires. All forfeited lands not so reported shall be held for
 48 all taxes accruing thereon.

272*#29S

49 272.29 GOVERNOR MAY SUSPEND OR REMOVE.

50 The governor may remove from office any officer charged
 51 with duties under sections 272.20 to 272.30 when it is made to
 52 appear to ~~him~~ the governor by competent evidence that such
 53 officer has been guilty of malfeasance or non-feasance in the
 54 performance of ~~his~~ official duties; first giving to such officer
 55 a copy of the charges ~~against-him~~, and an opportunity to be
 56 heard in ~~his~~ defense against them. ~~He~~ The governor may suspend
 57 any such officer against whom such charges have been preferred
 58 pending ~~his~~ investigation thereof, when, in ~~his~~ the governor's
 59 opinion, the public interest may require. The provisions of law
 60 applicable to the removal from office of a county auditor in
 61 force at the time when such charges are preferred shall apply to
 62 and govern removals from office under this section.

272*#30S

63 272.30 ACTIONS AGAINST OFFICERS; EXPENSE OF COUNTY.

64 When a civil action is commenced against a county
 65 treasurer, county auditor, or person holding any town or
 66 district office, for performing or attempting to perform any
 67 duty authorized or directed by statute for the collection of the
 68 public revenue, such officer may, in the discretion of the
 69 court, by an order entered in the minutes thereof, be allowed
 70 reasonable counsel fees and other expenses for defending such
 71 action, and the amount of any damage and costs adjudged against
 72 ~~him~~ the officer, to be paid from the county revenue fund.

272*#38S

1 272.38 STRUCTURES, STANDING TIMBER, OR MINERALS NOT TO
2 BE REMOVED.

3 No change for subd 1

4 Subd. 2. AGREEMENTS FOR REMOVAL. The county auditor
5 may enter into an agreement with the taxpayer for the removal of
6 any structures, standing timber, minerals, sand, gravel, peat,
7 subsoil, or top-soil from the property of the taxpayer upon
8 which taxes are due and payable, which agreement shall provide
9 that the entire sale price thereof, or the reasonable market
10 value thereof, whichever is the greater, or if the property is
11 not sold, then the fair market value thereof is to be paid to
12 the county treasurer to be applied upon the taxes on the
13 property, penalties, costs, and interests, in the inverse order
14 to that in which such taxes were levied, to be applied as
15 follows: (1) upon the penalties, costs and interest, (2) upon
16 the taxes levied; and the same procedure shall be followed for
17 each year's taxes until the entire sum so paid shall have been
18 applied; provided, that if the judgment for any such delinquent
19 taxes shall have been partially paid, it shall not affect the
20 right of the state to forfeit the title to such lands in the
21 event of the failure to redeem the same. The contract between
22 the county auditor and the taxpayer shall provide that the
23 contract shall be fully completed prior to the time that the
24 title to the property would otherwise forfeit to the state. The
25 county auditor may, ~~if-in-his-opinion~~ on finding it is necessary *
26 to protect the state, demand that the taxpayer make, execute,
27 and deliver a bond to the state in such an amount as may be
28 necessary in the opinion of the county auditor to protect the
29 state, to insure the payment to the county treasurer of the
30 purchase price or the reasonable market value of the property
31 removed from the land under the agreements. Nothing herein
32 shall be construed as prohibiting the removal of such sand,
33 gravel, peat, subsoil, or top-soil as may be incidental to the
34 erection of structures on the land or the grading of the land
35 when such removal or grading shall result in enhancing the value
36 thereof; nor shall anything herein be construed as prohibiting
37 the removal of the overburden on mine properties. The removal
38 of any structures, standing timber, minerals, sand, gravel,
39 peat, subsoil, or top-soil under such agreements with the county
40 auditor shall not be construed to be in violation of this
41 section.

272*#41S

42 272.41 STANDING TIMBER; TAXES OR ASSESSMENTS UNPAID;
43 PERSONS CUTTING FOR COMMERCIAL PURPOSES TO GIVE NOTICE TO COUNTY
44 AUDITOR.

45 All persons cutting standing timber in this state for
46 commercial purposes from land on which taxes or special
47 assessments remain unpaid shall, at or before the time of the
48 commencement of logging operations, file a notice in writing
49 with the auditor of the county wherein the land is situate,
50 which notice shall contain the name of the owner of the land,
51 the owner of the timber, the legal description of the premises,
52 the kind and approximate amount of timber proposed to be cut and
53 removed in the particular logging operation, the person, if any,
54 to whom the timber has been contracted to be delivered, and the
55 proposed place of landing. This notice shall be preserved by
56 the county auditor with whom filed and neither it nor its
57 contents shall be disclosed by ~~him~~ the auditor or by any person *
58 to whom made known except to the extent only that may be
59 required in collecting the taxes and assessments aforesaid or by
60 order of a court of competent jurisdiction.

272*#45S

61 272.45 TAXES PAID BY TENANT OR OTHER PERSON BECOME LIEN,
62 UPON NOTICE FILED WITH COUNTY RECORDER.

63 When any tax on land is paid by or collected from any
64 occupant or tenant, or any other person, which, by agreement or
65 otherwise, ought to have been paid by the owner, lessor, or
66 other party in interest, such occupant, tenant, or other person
67 may recover by action the amount which such owner, lessor, or
68 party in interest ought to have paid, with interest thereon at
69 the rate of 12 percent, per annum, or ~~he~~ may retain the same from *
70 any rent due or accruing from ~~him~~ the person to such owner or *
71 lessor for land on which such tax is so paid. Any such person
72 making such payment may file with the county recorder of the
73 proper county a notice stating the amount and date of such
74 payment, and whether paid as occupant, tenant, or otherwise,

1 with a description of the land against which the taxes were
 2 charged; and the same shall thereupon be a lien upon such land
 3 in favor of the person paying the same until the same is paid.
 4 The county recorder shall record such notice in ~~his~~ the book of
 5 miscellaneous records. Upon the payment of any such lien, the
 6 person filing such notice shall satisfy the same of record.

272*#46S

7 272.46 AUDITOR TO FURNISH STATEMENT OF TAX LIENS AND TAX
 8 SALES; FEES; APPLICATION.

9 Subdivision 1. CERTIFICATION OF TAX LIENS. The
 10 county auditor, upon written application of any person, shall
 11 make search of the records of ~~his~~ the auditor's office, and
 12 ascertain the existence of all tax liens and tax sales as to any
 13 lands described in the application, and certify the result of
 14 such search under ~~his~~ the auditor's hand and the official seal
 15 ~~of-his-office~~, giving the description of the land and all tax-
 16 liens and tax sales shown by such records, and the amount
 17 thereof, the year of tax covered by such lien, the date of tax
 18 sale, and the name of the purchaser at such tax sale.

19 For such service the county auditor shall charge a fee not
 20 to exceed \$5 for each lot or tract of land described in the
 21 certificate. The amount of the fee will be established by the
 22 county board on or before July 1 of each year. Any number of
 23 contiguous tracts of land not exceeding one section, assessed as
 24 broad acres, or adjoining lots in the same block, in the city,
 25 shall be considered as one lot or parcel within the meaning of
 26 this section. The provisions of this section shall not apply to
 27 counties having a population of more than 225,000.

28 No change for subd 2

272*#47S

29 272.47 COUNTY TREASURER, CERTIFICATE OF CURRENT TAXES;
 30 FEE.

31 The county treasurer, upon written application of any
 32 person, shall make search of the tax duplicates and records of
 33 ~~his~~ the treasurer's office and ascertain the amount of current
 34 tax against any lot or parcel of land described in the
 35 application, and shall certify the result of such search
 36 under ~~his~~ the treasurer's hand and official seal ~~of-office~~,
 37 giving the description of land, year of tax and amount, if any,
 38 and for such certificate ~~he~~ the treasurer shall be entitled to
 39 charge the applicant a fee not to exceed \$5. The amount of the
 40 fee will be established by the county board on or before July 1
 41 of each year. The definition of "lot or parcel," for the
 42 purposes of this section, shall be the same as set forth in
 43 section 272.46.

44 This section shall not authorize such treasurer to charge
 45 any amount for certifying to taxes on a deed to be recorded or
 46 for information with reference to the current tax on any
 47 subdivision of land in ~~his~~ the county, where no certificate
 48 thereof is necessary or required. The provisions of this
 49 section shall not apply to counties having a population of more
 50 than 200,000.

272*#482S

51 272.482 EXECUTION OF NOTICES AND CERTIFICATES.

52 Certification of notices of liens, certificates, or other
 53 notices affecting federal liens by the secretary of the treasury
 54 of the United States or ~~his~~ a delegate, or by any official or
 55 entity of the United States responsible for filing or certifying
 56 of notice of any other lien, entitles them to be filed and no
 57 other attestation, certification, or acknowledgment is necessary.

272*#483S

58 272.483 DUTIES OF FILING OFFICER.

59 (a) If a notice of federal lien, a refiling of a notice of
 60 federal lien, or a notice of revocation of any certificate
 61 described in clause (b) is presented to a filing officer who is:

62 (1) the secretary of state, ~~he~~ the secretary shall cause
 63 the notice to be marked, held, and indexed in accordance with
 64 the provisions of section 336.9-403, clause (4) of the uniform
 65 commercial code as if the notice were a financing statement
 66 within the meaning of that code; or

67 (2) any other officer described in section 272.481, ~~he~~ the
 68 officer shall endorse ~~thereon-his~~ identification thereon and the
 69 date and time of receipt and forthwith file it alphabetically or
 70 enter it in an alphabetical index showing the name and address
 71 of the person named in the notice, the date and time of receipt,
 72 the file number ~~of~~ the lien, and the total amount appearing on

1 the notice of lien.

2 (b) If a certificate of release, nonattachment, discharge,
 3 or subordination of any lien is presented to the secretary of
 4 state for filing ~~he~~ the secretary shall: *

5 (1) cause a certificate of release or nonattachment to be
 6 marked, held, and indexed as if the certificate were a
 7 termination statement within the meaning of the uniform
 8 commercial code, but the notice of lien to which the certificate
 9 relates may not be removed from the files; and

10 (2) cause a certificate of discharge or subordination to
 11 be marked, held, and indexed as if the certificate were a
 12 release of collateral within the meaning of the uniform
 13 commercial code.

14 (c) If a refiled notice of federal lien referred to in
 15 clause (a) or any of the certificates or notices referred to in
 16 clause (b) is presented for filing to any other filing officer
 17 specified in section 272.481, ~~he~~ the officer shall permanently *
 18 attach the refiled notice or the certificate to the original
 19 notice of lien and enter the refiled notice or the certificate
 20 with the date of filing in any alphabetical lien index on the
 21 line where the original notice of lien is entered.

22 (d) Upon request of any person, the filing officer shall
 23 issue ~~his~~ a certificate showing whether there is on file, on the *
 24 date and hour stated therein, any notice of lien or certificate
 25 or notice affecting any lien filed on or after July 1, 1971,
 26 naming a particular person, and if a notice or certificate is on
 27 file, giving the date and hour of filing of each notice or
 28 certificate. The fee for a certificate shall be that provided
 29 by section 336.9-407 or 357.18, subdivision 1, clause (3). Upon
 30 request, the filing officer shall furnish a copy of any notice
 31 of federal lien, or notice or certificate affecting a federal
 32 lien, for a fee of 50 cents per page.

272*#50S

33 272.50 LIEN OF TAXES ON PERSONAL PROPERTY; NATURE,
 34 EXTENT, PRIORITY; DISTRAINT; NOTICE; PAYMENT BY OTHER LIEN
 35 HOLDER; FORECLOSURE.

36 The taxes assessed upon personal property, with lawful
 37 penalties, interest, and costs, shall be a first and perpetual
 38 lien, superior and paramount to all other liens or encumbrances
 39 thereon, except the vendor's interest in conditional sales
 40 contracts, whether prior or subsequent in point of time, upon
 41 all of the personal property then owned by the person assessed
 42 from and including January 2 in the year in which they are
 43 levied, until they are paid; provided, such lien shall not
 44 continue on items of personal property sold at wholesale or
 45 retail in the ordinary course of business.

46 Immediately after distraining any personal property for
 47 taxes, whether under section 277.03 or 272.51, the sheriff, in
 48 addition to all other notices now required by law, and before
 49 giving any such notices, shall give written notice of such
 50 distraint by certified mail to all persons holding a lien or

1 belongs, as described in the notice of appeal. The clerk of the
 2 city shall furnish the appellant certified copies of all
 3 proceedings and records in ~~his~~ the clerk's custody which are *
 4 reasonably required to present the appeal. The appeal shall be
 5 placed upon the calendar of the next general term commencing
 6 more than ten days after the date of serving the notice and
 7 shall be tried in accordance with the provisions of the district
 8 court rules of civil procedure. If the appellant does not
 9 prevail upon the appeal, the costs incurred shall be taxed by
 10 the court and judgment entered therefor. All objections to the
 11 ordinance or amendment shall be deemed waived unless presented
 12 on such appeal; except that any person having any estate, right,
 13 title, or interest in or lien upon any parcel of land, who
 14 claims that any provision of the ordinance is unreasonable and
 15 that, by reason of such provision, any tax upon such parcel
 16 exceeds the amount which would be taxable thereon but for such
 17 provision, may have the validity of ~~his~~ the claim determined by *
 18 the district court in the manner provided in chapter 278, if ~~he~~ *
 19 the claimant alleges and proves to the satisfaction of the court *
 20 that ~~he~~ the claimant had no actual notice of the hearing held *
 21 thereon pursuant to this section, and ~~his~~ the claimant's rights *
 22 were not adequately protected as a member of any class of *
 23 persons for whom an appeal was taken pursuant to this section.
 24 No change for subd. 5 to 8

1 for the amount so paid, together with interest thereon at the
 2 rate of eight percent per annum from the date of such payment,
 3 superior and paramount to all other liens or encumbrances,
 4 except the vendor's interest in conditional sales contracts,
 5 upon all of the personal property of the person assessed, owned
 6 by him the person at the time of the assessment, whether all of *
 7 such property was distrained or not, and may foreclose such lien
 8 by action, with the same right of redemption in the person *
 9 assessed or those lawfully claiming under him the person as is
 10 provided for mortgagors and those claiming under them in the
 11 case of foreclosure of chattel mortgages. Upon the trial of such
 12 action the receipt of the sheriff, or a certified copy thereof,
 13 shall be prima facie evidence of the amount and validity of the
 14 taxes, penalties, interest, and costs so paid, of the fact of
 15 such payment, and of the ownership of the property therein
 16 described by the person assessed at the time of the assessment.

17 The failure of any person to pay any tax assessed upon his *
 18 personal property before any penalty, interest, or costs shall
 19 accrue for non-payment thereof, shall constitute a default in
 20 all liens or encumbrances upon any personal property owned by
 21 him the person at the time of such assessment, and shall *
 22 authorize the holder of such lien or encumbrance to forthwith
 23 foreclose the same.

272*#51S

24 272.51 DISTRESS FOR TAXES DUE ON PROPERTY ABOUT TO BE
 25 SOLD OR REMOVED; PAYMENT OF TAXES AND RELEASE FROM LIEN; NOTICE.

26 If the personal property assessed in any year is being, or
 27 about to be, sold in bulk, or at auction sale, or is being, or
 28 is about to be, removed from the county in which it is assessed
 29 before the taxes are paid, such taxes shall immediately become
 30 due and collectible. It shall be the duty of the assessor, when *
 31 he-has-knowledge on learning of such intended sale or removal, *
 32 to notify the county auditor of such intention, and thereupon
 33 the county auditor shall proceed by distress to restrain such
 34 sale or removal of the property and to secure the payment or
 35 lien of the taxes due or to become due. If at the time of such
 36 distress the levy for the year is unknown the county auditor
 37 shall determine the amount of the taxes by applying the rate of
 38 levy of the preceding year to the assessment of the current
 39 year, and upon payment to the county treasurer of the amount so
 40 ascertained the county auditor shall make a certificate
 41 releasing the property from the lien of such taxes.

42 Upon determination of the date of any such sale, the clerk
 43 in charge thereof shall give written notice to the county
 44 auditor stating the date and place of sale, the name of the
 45 person or persons whose property is to be sold and the township
 46 or statutory city wherein the property is located.

272*#53S

47 272.53 BOND FOR RELEASE OF PROPERTY.

48 ~~Should~~ The owner of the property at the time of the
 49 distress ~~so elect, he~~ may elect to file a good and sufficient *
 50 bond with the county auditor, such bond to be approved by the *
 51 auditor, obligating all parties thereto to pay all taxes due on
 52 said property when the same are payable under the law, and
 53 thereupon the county auditor shall make a certificate releasing
 54 the property from the lien of such taxes.

272*#67S

55 272.67 DIVISION OF LAND IN CITIES INTO RURAL AND URBAN
 56 DISTRICTS.

57 No change for subd 1 to 3

58 Subd. 4. At or after the hearing the governing body shall
 59 modify the ordinance in any respect and to any extent which it
 60 considers equitable, and shall cause it to be published in the
 61 form in which it is finally adopted, and a copy mailed to each
 62 person entitled to appear at the hearing who has requested a
 63 copy at the hearing or by written notice to the clerk. Within
 64 30 days after the publication of the ordinance or amendment, any
 65 person entitled to appear at the hearing may appeal to the
 66 district court by serving a notice upon the clerk of the city,
 67 stating the grounds for such appeal, specifying the provisions
 68 of the ordinance or amendment which are claimed to be
 69 unreasonable, and alleging the facts on the basis of which such
 70 claim is made. The notice shall be filed with the clerk of the
 71 district court within ten days after its service. It may be
 72 filed by the appellant not only for himself the appellant but *
 73 also on behalf of all others of the class to which the appellant

1 belongs, as described in the notice of appeal. The clerk of the
 2 city shall furnish the appellant certified copies of all
 3 proceedings and records in ~~his~~ the clerk's custody which are *
 4 reasonably required to present the appeal. The appeal shall be
 5 placed upon the calendar of the next general term commencing
 6 more than ten days after the date of serving the notice and
 7 shall be tried in accordance with the provisions of the district
 8 court rules of civil procedure. If the appellant does not
 9 prevail upon the appeal, the costs incurred shall be taxed by
 10 the court and judgment entered therefor. All objections to the
 11 ordinance or amendment shall be deemed waived unless presented
 12 on such appeal; except that any person having any estate, right,
 13 title, or interest in or lien upon any parcel of land, who
 14 claims that any provision of the ordinance is unreasonable and
 15 that, by reason of such provision, any tax upon such parcel
 16 exceeds the amount which would be taxable thereon but for such
 17 provision, may have the validity of ~~his~~ the claim determined by *
 18 the district court in the manner provided in chapter 278, if ~~he~~ *
 19 the claimant alleges and proves to the satisfaction of the court *
 20 that ~~he~~ the claimant had no actual notice of the hearing held *
 21 thereon pursuant to this section, and ~~his~~ the claimant's rights *
 22 were not adequately protected as a member of any class of
 23 persons for whom an appeal was taken pursuant to this section.

24 No change for subd 5 to 8

273*#01S

25 273.01 LISTING AND ASSESSMENT, TIME.

26 All real property subject to taxation shall be listed and
 27 at least one-fourth of the parcels listed shall be appraised
 28 each year with reference to their value on January 2 preceding
 29 the assessment so that each parcel shall be reappraised at
 30 maximum intervals of four years. All real property becoming
 31 taxable in any year shall be listed with reference to its value
 32 on January 2 of that year. Except for the corrections permitted
 33 herein, all real property assessments shall be completed two
 34 weeks prior to the date scheduled for the local board of review
 35 or equalization and no valuations entered thereafter shall be of
 36 any force and effect. In the event a valuation and
 37 classification is not placed on any real property by the dates
 38 scheduled for the local board of review or equalization the
 39 valuation and classification determined in the preceding
 40 assessment shall be continued in effect and the provisions of
 41 section 273.13 shall, in such case, not be applicable, except
 42 with respect to real estate which has been constructed since the
 43 previous assessment. The county assessor or any assessor in any
 44 city of the first class may either before or after the dates
 45 specified herein correct any errors in valuation of any parcels
 46 of property, that may have been incurred in the assessment;
 47 provided, that in the case of such correction it increases the
 48 valuation of any parcel of property, the assessor shall notify
 49 the owner of record or the person to whom the tax statement is
 50 mailed. Not more than two percent of the total number of
 51 parcels in ~~his~~ the assessor's jurisdiction may be corrected *
 52 after the dates specified herein and in the event of any
 53 corrections in excess of the authorized number of such
 54 corrections, all corrections shall be void. Real property
 55 containing iron ore, the fee to which is owned by the state of
 56 Minnesota, shall, if leased by the state after January 2 in any
 57 year, be subject to assessment for that year on the value of any
 58 iron ore removed under said lease prior to January 2 of the
 59 following year. Personal property subject to taxation shall be
 60 listed and assessed annually with reference to its value on
 61 January 2; and, if acquired on that day, shall be listed by or
 62 for the person acquiring it.

273*#02S

63 273.02 OMITTED PROPERTY.

64 Subdivision 1. DISCOVERY. If any real or personal
 65 property be omitted in the assessment of any year or years, and
 66 the property thereby escape taxation, or if any real property be
 67 undervalued by reason of failure to take into consideration the
 68 existence of buildings or improvements thereon, or be
 69 erroneously classified as a homestead, when such omission,
 70 undervaluation or erroneous classification is discovered the
 71 county auditor shall in the case of omitted property enter such
 72 property on the assessment and tax books for the year or years
 73 omitted, and in the case of property undervalued by reason of
 74 failure to take into consideration the existence of buildings or

1 improvements thereon, or property erroneously classified as a
 2 homestead, shall correct the valuation or classification thereof
 3 on the assessment and tax books, and he shall assess the
 4 property, and extend against the same on the tax list for the
 5 current year all arrearage of taxes properly accruing against
 6 it, including therein, in the case of personal property taxes,
 7 interest thereon at the rate of seven percent per annum from the
 8 time such taxes would have become delinquent, when the omission
 9 was caused by the failure of the owner to list the same. If any
 10 tax on any property liable to taxation is prevented from being
 11 collected for any year or years by reason of any erroneous
 12 proceedings, undervaluation by reason of failure to take into
 13 consideration the existence of buildings or improvements,
 14 erroneous classification as a homestead, or other cause, the
 15 amount of such tax which such property should have paid shall be
 16 added to the tax on such property for the current year.

17 No change for subd 2 to 6

273*#03S

18 273.03 REAL ESTATE; ASSESSMENT; METHOD.

19 Subdivision 1. The county auditor shall annually provide
 20 the necessary assessment books and blanks at the expense of the
 21 county, for and to correspond with each assessment district. He
 22 The auditor shall make out, in the real property assessment
 23 book, complete lists of all lands or lots subject to taxation,
 24 showing the names of the owners, if ~~to-him~~ known; and, if
 25 unknown, so stated opposite each tract or lot, the number of
 26 acres, and the lots or parts of lots or blocks, included in each
 27 description of property. The list of real property becoming
 28 subject to assessment and taxation may be appended to the
 29 personal property assessment book. The assessment books and
 30 blanks for real and personal property shall be in readiness for
 31 delivery to the assessors on or before the first Monday in
 32 December of each year.

33 Subd. 2. Any county in this state which employs a county
 34 assessor who maintains ~~in-his-office~~ a unit card ledger system
 35 or similar system of real estate and the market and assessed
 36 valuations ascertained by ~~him~~ the assessor affecting such real
 37 estate, and which county has established an electronic data
 38 processing system or similar system to perform the processing of
 39 assessment and tax accounting, may discontinue the preparation
 40 of assessment books as provided in subdivision 1. The election
 41 to discontinue the preparation of assessment books as defined in
 42 subdivision 1 shall be made by the county auditor with the
 43 written approval of the commissioner of revenue.

44 No change for subd 3

273*#05S

45 273.05 ASSESSORS; APPOINTMENT, TERM, AND OATH.

46 No change for subd 1

47 Subd. 2. OATH OF ASSESSORS. Every person elected or
 48 appointed to the office of assessor, at or before the time of
 49 receiving the assessment books, shall take and subscribe an oath
 50 ~~that-he-will~~ to be diligent, faithful, and impartial in
 51 performance of the duties enjoined on ~~him~~ the assessor by law.
 52 Failure to take the oath within the time prescribed shall be
 53 deemed a refusal to serve.

273*#053S

54 273.053 ASSESSMENT; EXPENSES.

55 Any county electing in accordance with section 273.052 is
 56 authorized and empowered to appropriate sufficient money to
 57 defray the expenses of making a proper assessment of all
 58 property in such county for the purpose of general taxation.
 59 The county board shall by resolution authorize the county
 60 assessor to employ such additional deputies, clerks, ~~fieldmen~~
 61 field workers, appraisers, and employees as it may deem
 62 necessary for the proper performance of the duties of the office
 63 of county assessor; such expenditure to include the hiring of
 64 experts in property valuation for any period deemed necessary,
 65 the payment of the transportation expense of such experts or
 66 other employees in traveling from place to place in the county,
 67 and generally any expense reasonably and directly tending to the
 68 procurement of a fair and true assessment of property within
 69 such county; but all such shall be made under the supervision
 70 of, and with the consent of, the county assessor.

273*#06S

71 273.06 DEPUTY ASSESSORS.

72 Any assessor who deems it necessary to ~~enable-him-to~~

1 complete the listing and valuation of the property of ~~his~~ the *
 2 town or district within the time prescribed, with the
 3 approbation of the county auditor, may appoint a well-qualified
 4 citizen of ~~his~~ the town or district to act as ~~his~~ assistant or *
 5 deputy, and may assign to ~~him~~ that person such portion of ~~his~~ *
 6 the district as ~~he~~ the assessor thinks proper. Each assistant *
 7 so appointed, after taking the required oath, shall perform,
 8 under the direction of the assessor, all the duties imposed upon
 9 assessors by this chapter.

273*#061S

10 273.061 ESTABLISHMENT OF OFFICE FOR EACH COUNTY.

11 Subdivision 1. OFFICE CREATED; APPOINTMENT,
 12 QUALIFICATIONS. Every county in this state shall have a
 13 county assessor. The county assessor shall be appointed by the
 14 board of county commissioners and shall be a resident of this
 15 state. ~~He~~ The assessor shall be selected and appointed because *
 16 of ~~his~~ knowledge and training in the field of property taxation *
 17 and appointment shall be approved by the commissioner of revenue
 18 before the same shall become effective. Upon receipt by the
 19 county commissioners of the commissioner of revenue's refusal to
 20 approve an appointment, the term of the appointee shall
 21 terminate at the end of that day.

22 Subd. 2. TERM; VACANCY. (a) The terms of county
 23 assessors appointed under this section shall be four years. A
 24 new term shall begin on January 1 of every fourth year after
 25 1973. When any vacancy in the office occurs, the board of
 26 county commissioners, within 30 days thereafter, shall fill the
 27 same by appointment for the remainder of the term, following the
 28 procedure prescribed in subdivision 1. The term of the county
 29 assessor may be terminated by the board of county commissioners
 30 at any time, on charges of inefficiency or neglect of ~~his~~ duty *
 31 by the commissioner of revenue. If the board of county
 32 commissioners does not intend to reappoint a county assessor who
 33 has been certified by the state board of assessors, the board
 34 shall present written notice to the county assessor not later
 35 than 90 days prior to the termination of ~~his~~ the assessor's *
 36 term, that it does not intend to reappoint ~~him~~ the assessor. If *
 37 written notice is not timely made ~~to~~, the county assessor, ~~he~~ *
 38 will automatically be reappointed by the board of county
 39 commissioners.

40 (b) In the event of a vacancy in the office of county
 41 assessor, through death, resignation or other reasons, the
 42 deputy (or chief deputy, if more than one) shall perform the
 43 functions of the office. If there is no deputy, the county
 44 auditor shall designate a person to perform the duties of the
 45 office until an appointment is made as provided in clause (a).
 46 Such person shall perform the duties of the office for a period
 47 not exceeding 30 days during which the county board must appoint
 48 a county assessor. Such 30-day period may, however, be extended
 49 by written approval of the commissioner of revenue.

50 Subd. 3. OATH. Every county assessor, before
 51 entering upon ~~his~~ duties, shall take and subscribe the oath *
 52 required of public officials.

53 Subd. 4. ASSISTANTS. With the approval of the board
 54 of county commissioners, the county assessor may employ one or
 55 more assistants and sufficient clerical help to ~~enable him to~~ *
 56 perform the duties of ~~his~~ the assessor's office. *

57 Subd. 5. OFFICES; SUPPLIES. The board of county
 58 commissioners shall provide suitable office space and equipment
 59 at the county seat for the county assessor, ~~his~~ assistants and *
 60 clerical help, and shall furnish such books, maps, stationery,
 61 postage and supplies as may be necessary for the discharge of
 62 ~~his~~ the duties of the office. *

63 Subd. 6. SALARIES; EXPENSES. The salaries of the
 64 county assessor and ~~his~~ assistants and clerical help, shall be *
 65 fixed by the board of county commissioners and shall be payable
 66 in monthly installments out of the general revenue fund of the
 67 county. In counties with a population of less than 50,000
 68 inhabitants, according to the then last preceding federal
 69 census, the board of county commissioners shall not fix the
 70 salary of the county assessor at an amount below the following
 71 schedule:

72 In counties with a population of less than 6,500, \$5,900;

73 In counties with a population of 6,500 but less than

74 12,000, \$6,200;

75 In counties with a population of 12,000 but less than

- 1 16,000, \$6,500;
- 2 In counties with a population of 16,000 but less than
- 3 21,000, \$6,700;
- 4 In counties with a population of 21,000 but less than
- 5 30,000, \$6,900;
- 6 In counties with a population of 30,000 but less than
- 7 39,500, \$7,100;
- 8 In counties with a population of 39,500 but less than
- 9 50,000, \$7,300;
- 10 In counties with a population of 50,000 or more, \$8,300.

11 In addition to their salaries, the county assessor and ~~his~~ *
 12 assistants shall be allowed their expenses for reasonable and
 13 necessary travel in the performance of their duties, including
 14 necessary travel, lodging and meal expense incurred by them
 15 while attending meetings of instructions or official hearings
 16 called by the commissioner of revenue. These expenses shall be
 17 payable out of the general revenue fund of the county, and shall
 18 be allowed on the same basis as such expenses are allowed to
 19 other county officers.

20 Subd. 7. DIVISION OF DUTIES BETWEEN LOCAL AND COUNTY
 21 ASSESSOR. The duty of the duly appointed local assessor
 22 shall be to view and appraise the value of all property as
 23 provided by law, but all the book work shall be done by the
 24 county assessor, or ~~his~~ the assessor's assistants, and the value *
 25 of all property subject to assessment and taxation shall be
 26 determined by the county assessor, except as otherwise
 27 hereinafter provided.

28 NOTE: Laws 1971, Chapter 434, Section 5, reads as follows:
 29 "Sec. 5. This act shall not apply to cities or villages
 30 whose assessors have the powers and duties of a county assessor
 31 pursuant to Minnesota Statutes, Section 273.063."

32 Subd. 8. POWERS AND DUTIES. The county assessor
 33 shall have the following powers and duties:

34 (1) ~~He shall~~ To call upon and confer with the township and *
 35 city assessors in ~~his~~ the county, and advise and give them the *
 36 necessary instructions and directions as to their duties under
 37 the laws of this state, to the end that a uniform assessment of
 38 all real property in the county will be attained.

39 (2) ~~He shall~~ To assist and instruct the local assessors in *
 40 the preparation and proper use of land maps and record cards, in
 41 the property classification of real and personal property, and
 42 in the determination of proper standards of value.

43 (3) ~~He shall~~ To keep the local assessors in ~~his~~ the county *
 44 advised of all changes in assessment laws and all instructions *
 45 which ~~he~~ the assessor receives from the commissioner of revenue *
 46 relating to their duties.

47 (4) ~~He shall~~ To have authority to require the attendance of *
 48 groups of local assessors at sectional meetings called by ~~him~~ *
 49 the assessor for the purpose of giving them further assistance *
 50 and instruction as to their duties.

51 (5) ~~He shall~~ To immediately commence the preparation of a *
 52 large scale topographical land map of the county, in such form *
 53 as may be prescribed by the commissioner of revenue, showing *
 54 thereon the location of all railroads, highways and roads,
 55 bridges, rivers and lakes, swamp areas, wooded tracts, stony
 56 ridges and other features which might affect the value of the
 57 land. Appropriate symbols shall be used to indicate the best,
 58 the fair and the poor land of the county. For use in connection
 59 with the topographical land map, ~~he~~ the assessor shall prepare *
 60 and keep available in ~~his~~ the assessor's office tables showing *
 61 fair average minimum and maximum market values per acre of
 62 cultivated, meadow, pasture, cut-over, timber and waste lands of
 63 each township. ~~He~~ The assessor shall keep the map and tables *
 64 available in ~~his~~ the office for the guidance of town assessors, *
 65 boards of review, and the county board of equalization.

66 (6) ~~He shall~~ To also prepare and keep available in ~~his~~ the *
 67 office for the guidance of town assessors, boards of review and *
 68 the county board of equalization, a land valuation map of the *
 69 county, in such form as may be prescribed by the commissioner of
 70 revenue. This map, which shall include the bordering tier of
 71 townships of each county adjoining, shall show the average
 72 market value per acre, both with and without improvements, as
 73 finally equalized in the last assessment of real estate, of all
 74 land in each town or unorganized township which lies outside the
 75 corporate limits of cities.

76 (7) ~~He shall~~ To regularly examine all conveyances of land *

1 outside the corporate limits of cities of the first and second
 2 class, filed with the county recorder of ~~his~~ the county, and *
 3 keep a file, by descriptions, of the considerations shown
 4 thereon. From the information obtained by comparing the
 5 considerations shown with the market values assessed, ~~he~~ the *
 6 assessor shall make recommendations to the county board of *
 7 equalization of necessary changes in individual assessments or
 8 aggregate valuations.

9 (8) ~~He shall~~ To prepare annually and keep available in *
 10 ~~his~~ the assessor's office for the guidance of boards of review *
 11 and the county board of equalization, a table showing the market
 12 value per capita of all personal property in each assessment
 13 district in the county as finally equalized in the last previous
 14 assessment of personal property. For the guidance of the county
 15 board of equalization, ~~he~~ the assessor shall also add to the *
 16 table the market value per capita of all personal property of
 17 each assessment district for the current year as equalized by
 18 the local board of review.

19 (9) ~~He shall familiarize himself~~ To become familiar with *
 20 the values of the different items of personal property so that *
 21 ~~he will~~ as to be in a position when called upon to advise the *
 22 boards of review and the county board of equalization concerning
 23 property, market values thereof.

24 (10) While the county board of equalization is in session,
 25 ~~he shall~~ to give it every possible assistance to enable it to *
 26 perform its duties. ~~He~~ The assessor shall furnish the board *
 27 with all necessary charts, tables, comparisons and data which it
 28 requires in its deliberations, and shall make whatever
 29 investigations the board may desire.

30 (11) At the request of either the board of county
 31 commissioners or the commissioner of revenue, ~~he shall~~ to *
 32 investigate applications for reductions of valuation and
 33 abatements and settlements of taxes, examine the real or
 34 personal property involved, and submit written reports and
 35 recommendations with respect to the applications, in such form
 36 as may be prescribed by the board of county commissioners and
 37 commissioner of revenue.

38 (12) ~~He shall~~ To make diligent search each year for real *
 39 and personal property which has been omitted from assessment
 40 in ~~his~~ the county, and report all such omissions to the county *
 41 auditor.

42 (13) ~~He shall~~ To render such other services pertaining to *
 43 the assessment of real and personal property in ~~his~~ the county *
 44 as are not inconsistent with the duties set forth in this
 45 section, and as may be required ~~of him~~ by the board of county *
 46 commissioners or by the commissioner of revenue.

47 Subd. 9. ADDITIONAL GENERAL DUTIES. Additional
 48 duties of the county assessor shall be as follows: (a) to make
 49 all assessments, based upon the appraised values reported ~~to him~~ *
 50 by the local assessors or ~~his~~ assistants and ~~his~~ the county *
 51 assessor's own knowledge of the value of the property assessed; *
 52 (b) to personally view and determine the value of any property
 53 which because of its type or character may be difficult for the
 54 local assessor to appraise; (c) to make all changes ordered by
 55 the local boards of review, relative to the assessed value of
 56 the property of any individual, firm or corporation after notice
 57 has been given and hearings held as provided by law. A local
 58 board of review shall have the power to reduce assessments upon
 59 petition of the taxpayer but the total of such adjustments shall
 60 not reduce the aggregate assessment made by the county assessor
 61 by more than one percent of said aggregate assessment. If the
 62 total of such adjustments would lower the aggregate assessments
 63 made by the county assessor by more than one percent, none of
 64 such adjustments shall be allowed. The assessor shall correct
 65 any clerical errors or double assessments discovered by the
 66 board of review without affecting the one percent referred to
 67 above; (d) to enter all assessments in the assessment books,
 68 furnished ~~him~~ by the county auditor, with each book and the *
 69 tabular statements for each book in correct balance; (e) to
 70 prepare all assessment cards, charts, maps and any other forms
 71 prescribed by the commissioner of revenue; (f) to attend the
 72 meeting of the county board of equalization; to investigate and
 73 report on any assessment ordered by said board; to enter all
 74 changes made by said board in the assessment books and prepare
 75 the abstract of assessments for the commissioner of revenue; to
 76 enter all changes made by the state board of equalization in the

1 assessment books; to deduct all exemptions authorized by law
 2 from each assessment and certify to the county auditor the
 3 taxable value of each parcel of land, as described and listed in
 4 the assessment books by the county auditor, and the taxable
 5 value of the personal property of each person, firm, or
 6 corporation assessed; (g) to investigate and make
 7 recommendations relative to all applications for the abatement
 8 of taxes or applications for the reduction of the assessed
 9 valuation of any property; (h) to perform all other duties
 10 relating to the assessment of property for the purpose of
 11 taxation which may be required ~~of him~~ by the commissioner of
 12 revenue. *

13 Subd. 10. ASSESSOR IN UNORGANIZED TERRITORY. In
 14 counties having unorganized territory divided into one or more
 15 assessment districts, the board of county commissioners may
 16 appoint the county assessor for all such districts. In such
 17 case the assessor shall receive no compensation for performing
 18 the duties of assessor. He The assessor shall, however, be
 19 allowed ~~his~~ expenses for reasonable and necessary travel in the
 20 performance of ~~his~~ duties. Such expenses shall be payable out
 21 of the general revenue fund of the county. *

22 Subd. 11. Repealed, 1Sp1981 c 4 art 1 s 189

273*#062S

23 273.062 VALUATION AND ASSESSMENT OF PERSONAL PROPERTY.

24 The county assessor, or city assessor in a city with
 25 population of 30,000 or more shall value and assess all personal
 26 property. He The assessor shall make an alphabetical list of
 27 the names of all persons in ~~his~~ the town or district liable to
 28 an assessment of personal property, and shall call at the office
 29 or place of business or residence of each person required by
 30 this chapter to list property, and shall list ~~his~~ the person's
 31 name, and shall require each person to make and deliver a
 32 correct list and statement of such property, according to the
 33 prescribed form, which shall be subscribed and sworn to by the
 34 person listing; and the assessor shall thereupon determine the
 35 value of the property in such statement, and enter the same
 36 in ~~his~~ the assessment books, opposite the name of the person
 37 assessed, with the name and post-office address of the person
 38 listing the property; and, if such person reside in a city, the
 39 street and number, or other brief description, of ~~his~~ the
 40 person's residence or place of business. If any property is
 41 listed or assessed on or after the last Monday in February, and
 42 before the return of the assessor's books, the same shall be as
 43 legal and binding as if listed and assessed before that time. *

44 Such county or city assessor shall have power and authority
 45 to summon witnesses to appear and give testimony, and to produce
 46 books, records, papers and documents relating to the listing of
 47 personal property. *

273*#065S

48 273.065 DELIVERY OF ASSESSMENT APPRAISAL RECORDS;
 49 EXTENSIONS.

50 Assessment districts shall complete the assessment
 51 appraisal records on or before May 1. The records shall be
 52 delivered to the county assessor as of that date and any work
 53 which is the responsibility of the local assessor which is not
 54 completed by May 1 shall be accomplished by the county assessor
 55 or persons employed by ~~him~~ the county assessor and the cost of
 56 such work shall be charged against the assessment district as
 57 provided in section 273.064. Extensions of time to complete the
 58 assessment appraisal records may be granted to the local
 59 assessor by the county assessor if such extension is approved by
 60 the county board. *

273*#072S

61 273.072 AGREEMENTS FOR JOINT ASSESSMENT.

62 No change for subd 1

63 Subd. 2. The agreement may provide for the abolition of
 64 the office of local assessor in any contracting unit when the
 65 assessment of property within it is to be made under the
 66 agreement by another assessor. In such case, the office of
 67 assessor in that unit shall cease to exist upon the date fixed
 68 in the agreement but ~~not~~ before the end of the term of the
 69 incumbent, if ~~he-is~~ serving for a fixed term, or when an earlier
 70 vacancy occurs. *

71 Subd. 3. When the agreement provides for joint employment
 72 of an assessor, ~~he~~ the assessor shall be appointed and removed
 73 in a manner and shall hold office for such term as is provided *

1 in the agreement, notwithstanding charter or other statutory
2 provisions for election or appointment of an assessor for a
3 prescribed term.

4 No change for subd 4 to 6

273*#11S

5 273.11 VALUATION OF PROPERTY.

6 Subdivision 1. GENERALLY. Except as provided in
7 subdivisions 6, 8, and 9 or section 273.17, subdivision 1, all
8 property shall be valued at its market value. The market value
9 as determined pursuant to this section shall be stated such that
10 any amount under \$100 is rounded up to \$100 and any amount
11 exceeding \$100 shall be rounded to the nearest \$100. In
12 estimating and determining such value, the assessor shall not
13 adopt a lower or different standard of value because the same is
14 to serve as a basis of taxation, nor shall he the assessor adopt *
15 as a criterion of value the price for which such property would
16 sell at a forced sale, or in the aggregate with all the property
17 in the town or district, but he the assessor shall value each *
18 article or description of property by itself, and at such sum or
19 price as he the assessor believes the same to be fairly worth in *
20 money. In assessing any tract or lot of real property, the
21 value of the land, exclusive of structures and improvements,
22 shall be determined, and also the value of all structures and
23 improvements thereon, and the aggregate value of the property,
24 including all structures and improvements, excluding the value
25 of crops growing upon cultivated land. In valuing real property
26 upon which there is a mine or quarry, it shall be valued at such
27 price as such property, including the mine or quarry, would sell
28 for a fair, voluntary sale, for cash. In valuing real property
29 which is vacant, the fact that such property is platted shall
30 not be taken into account. An individual lot of such platted
31 property shall not be assessed in excess of the assessment of
32 the land as if it were unplatted until the lot is improved with
33 a permanent improvement all or a portion of which is located
34 upon the lot, or for a period of three years after final
35 approval of said plat whichever is shorter. When a lot is sold
36 or construction begun, the assessed value of that lot or any
37 single contiguous lot fronting on the same street shall be
38 eligible for reassessment. All property, or the use thereof,
39 which is taxable under sections 272.01, subdivision 2, or
40 273.19, shall be valued at the market value of such property and
41 not at the value of a leasehold estate in such property, or at
42 some lesser value than its market value.

43 Subd. 2. Repealed, 1979 c 303 art 2 s 38

44 Subd. 3. Repealed, 1975 c 437 art 8 s 10

45 Subd. 4. Repealed, 1976 c 345 s 3

46 No change for subd 5 to 9

273*#1104S

47 273.1104 IRON ORE, VALUE.

48 No change for subd 1

49 Subd. 2. On or before October 1 in each year, the
50 commissioner shall send to each person subject to the tax on
51 unmined iron ores and to each taxing district affected, a notice
52 of the assessed valuation of the unmined ores as determined by
53 the commissioner. Said notice shall be sent by mail directed to
54 such person at the address given in the report filed ~~by him~~ and *
55 the assessor of such taxing district, but the validity of the
56 tax shall not be affected by the failure of the commissioner of
57 revenue to mail such notice or the failure of the person subject
58 to the tax to receive it.

59 On the first secular day following the tenth day of
60 October, the commissioner of revenue shall hold a hearing which
61 may be adjourned from day to day. All relevant and material
62 evidence having probative value with respect to the issues shall
63 be submitted at the hearing and such hearing shall not be a
64 "contested case" within the meaning of section 14.02,
65 subdivision 3. Every person subject to such tax may at such
66 hearing present evidence and argument on any matter bearing upon
67 the validity or correctness of the tax determined to be due ~~from~~ *
68 ~~him~~, and the commissioner of revenue shall review ~~his~~ the *
69 determination of such tax.

273*#111S

70 273.111 AGRICULTURAL PROPERTY TAX.

71 No change for subd 1 to 2

72 Subd. 3. Real estate consisting of ten acres or more shall
73 be entitled to valuation and tax deferral under this section

1 only if it is actively and exclusively devoted to agricultural
 2 use as defined in subdivision 6 and either (1) is the homestead
 3 of the owner, or of a surviving spouse, child, or sibling of the
 4 owner or is real estate which is farmed with the real estate
 5 which contains the homestead property, or (2) has been in
 6 possession of the applicant, ~~his~~ the applicant's spouse, parent, *
 7 or sibling, or any combination thereof, for a period of at least
 8 seven years prior to application for benefits under the
 9 provisions of Laws 1969, chapter 1039, or (3) is the homestead
 10 of a shareholder in a family farm corporation as defined in
 11 section 500.24, notwithstanding the fact that legal title to the
 12 real estate may be held in the name of the family farm
 13 corporation. Valuation of real estate under this section is
 14 limited to parcels the ownership of which is in noncorporate
 15 entities except for family farm corporations organized pursuant
 16 to section 500.24. Corporate entities who previously qualified
 17 for tax deferment pursuant to this section and who continue to
 18 otherwise qualify under subdivisions 3 and 6 for a period of at
 19 least three years following the effective date of this section
 20 will not be required to make payment of the previously deferred
 21 taxes, notwithstanding the provisions of subdivision 9. Sale of
 22 the land prior to the expiration of the three-year period shall
 23 result in payment of deferred taxes as follows: sale within the
 24 first year requires payment of payable 1980, 1981, and 1982
 25 deferred taxes; sale during the second year requires payment of
 26 payable 1981 and 1982 taxes deferred; and sale at any time
 27 during the third year will require payment of payable 1983 taxes
 28 deferred. Deferred taxes shall be paid even if the land
 29 qualifies pursuant to subdivision 11a. Special assessments are
 30 payable at the end of the three-year period or at time of sale,
 31 whichever comes first.

32 No change for subd 4 to 14

273*#115S

33 273.115 STATE PAID WETLANDS CREDIT.

34 Subdivision 1. The county auditor shall annually reduce
 35 the tax liability of each owner of wetlands exempt from property
 36 taxation pursuant to section 272.02, subdivision 1, clause (10),
 37 by an amount equal to one-half of one percent of the average
 38 level of estimated market value of an acre of tillable land in
 39 the township, city or unorganized territory in which the
 40 qualifying wetland is located, multiplied by the number of acres
 41 of wetlands ~~he-owns~~ owned. Any excess of credit over tax *
 42 liability shall not be paid to the property owner but shall be
 43 applied to the tax liability of the owner of the wetlands for *
 44 any parcel ~~he-owns~~ owned which is contiguous to the parcel
 45 containing the wetlands.

46 Subd. 2. The total amounts of credits allowed pursuant to
 47 subdivision 1 and the total amounts of revenue lost as a result
 48 of the exemption provided in section 272.02, subdivision 1,
 49 clause (15), shall be submitted by the county auditor to the
 50 commissioner of revenue as part of the abstracts of tax lists
 51 required to be filed with the commissioner under the provisions
 52 of section 275.29. The amount of revenue lost as a result of
 53 the exemption shall be computed each year by applying the
 54 current mill rates of the taxing jurisdictions in which the
 55 wetlands are located to the assessed valuation of the wetlands
 56 for purposes of taxes levied in 1979, payable in 1980. Provided
 57 that payment to the county for lost revenue shall not be less
 58 than the revenue which would have been received in taxes if the
 59 wetlands had an assessed value of \$5 per acre. The commissioner
 60 of revenue shall review such certifications to determine their
 61 accuracy. ~~He~~ The commissioner may make such changes in the *
 62 certification as ~~he-may-deem~~ are deemed necessary or return a *
 63 certification to the county auditor for corrections.

64 No change for subd 3 to 4

65 Subd. 5. In order to receive the wetlands credit provided
 66 in this section, an owner of wetlands shall agree not to drain
 67 the wetlands during the year for which ~~he~~ the owner receives the *
 68 credit. To initially qualify for the credit, the agreement
 69 shall be made by a date set by the county board. After initial
 70 qualification, an owner of wetlands shall not be required to
 71 reapply to receive the credit for subsequent years. The
 72 agreement shall remain in effect until the wetlands are
 73 drained. The credit shall not be available (a) for any year
 74 prior to which a timely agreement has been made or (b) for any
 75 year in which the owner drains the wetlands. The local assessor

1 shall certify that each land owner receiving the credit has so
2 agreed.

3 No change for subd 6 to 7

273*#116S

4 273.116 STATE PAID NATIVE PRAIRIE CREDIT.

5 Subdivision 1. The county auditor shall annually reduce
6 the tax liability of each owner of native prairie exempt from
7 property taxation pursuant to section 272.02, subdivision 1,
8 clause (11), by an amount equal to 1-1/2 percent of the average
9 level of estimated market value of an acre of tillable land in
10 the township, city or unorganized territory in which the
11 qualifying native prairie is located, multiplied by the number
12 of acres of native prairie ~~he-owns~~ owned. Any excess of credit *
13 over tax liability shall not be paid to the property owner but
14 shall be applied to the tax liability of the owner of the native *
15 prairie for any parcel ~~he-owns~~ owned which is contiguous to the *
16 parcel containing the native prairie or if the owner of the *
17 native prairie does not own any contiguous parcel to which the
18 credit can be applied, the credit shall be applied to ~~his~~ the
19 owner's tax liability for any parcel ~~he-owns~~ owned which is *
20 located in the same township or city or not farther than two *
21 townships or cities or combination thereof from the native
22 prairie.

23 Subd. 2. The total amounts of credits allowed pursuant to
24 subdivision 1 and the total amounts of revenue lost as a result
25 of the exemption provided in section 272.02, subdivision 1,
26 clause (16), shall be submitted by the county auditor to the
27 commissioner of revenue as part of the abstracts of tax lists
28 required to be filed with the commissioner under the provisions
29 of section 275.29. The amount of revenue lost as a result of
30 the exemption shall be computed each year by applying the
31 current mill rates of the taxing jurisdictions in which the
32 native prairie is located to the assessed valuation of the
33 native prairie for purposes of taxes levied in 1979, payable in
34 1980. Provided that payment to the county for lost revenue
35 shall not be less than the revenue which would have been
36 received in taxes if the native prairie had an assessed value of
37 \$5 per acre. The commissioner of revenue shall review such
38 certifications to determine their accuracy. ~~He~~ The commissioner *
39 may make any changes in the certification ~~he-may-deem~~ deemed *
40 necessary or return a certification to the county auditor for
41 corrections.

42 No change for subd 3 to 4

43 Subd. 5. In order to receive the native prairie credit
44 provided in this section, an owner of native prairie shall agree
45 to preserve the prairie in its natural state during the year for
46 which ~~he-receives~~ the credit is received. To initially qualify *
47 for the credit, the agreement shall be made by a date set by the
48 county board. After initial qualification, an owner of native
49 prairie shall not be required to reapply to receive the credit
50 for subsequent years. The agreement shall remain in effect
51 until the native prairie is no longer maintained in its natural
52 state. The credit shall not be available (a) for any year prior
53 to which a timely agreement has been made or (b) for any year in
54 which the owner ceases to maintain the native prairie in its
55 natural state. The local assessor shall certify that each land
56 owner receiving the credit has so agreed.

57 No change for subd 6 to 7

273*#118S

58 273.118 TAX PAID IN RECOGNITION OF CONGRESSIONAL MEDAL
59 OF HONOR.

60 An owner of homestead property who submits to the
61 commissioner of revenue ~~his~~ a property tax statement and *
62 reasonable proof that the owner of the property:
63 (a) is a veteran as defined in section 197.447;
64 (b) was a resident of this state for at least six months
65 before entering military service, or has been a resident of this
66 state for five consecutive years before submitting the statement
67 and proof; and
68 (c) has been awarded the congressional medal of honor;
69 shall be paid by the commissioner of revenue, within 30
70 days after the commissioner receives the statement and proof,
71 the amount of the owner's property tax liability as shown on the
72 statement, up to \$2,000. The surviving spouse of a property
73 owner who has received a payment under this section may receive
74 payment of property taxes under this section as long as the

1 spouse continues to own and occupy the property for which the
 2 taxes were paid under this section and the property continues to
 3 be a homestead. Property taxes paid under this section reduce
 4 property taxes payable for purposes of chapter 290A.

273*#121S

5 273.121 VALUATION OF REAL PROPERTY, NOTICE.

6 Any county assessor or city assessor having the powers of a
 7 county assessor, valuing or classifying taxable real property
 8 shall in each year notify those persons whose property is to be
 9 assessed or reclassified that year if the person's address is
 10 known to the assessor, otherwise the occupant of the property.
 11 In the case of property owned by a married couple in joint
 12 tenancy or tenancy in common, the assessor shall not deny
 13 homestead treatment in whole or in part if only one of the
 14 spouses is occupying the property and the other spouse is absent
 15 due to divorce or separation, or is a resident of a nursing home
 16 or a boarding care facility. The notice shall be in writing and
 17 shall be sent by ordinary mail at least ten days before the
 18 meeting of the local board of review or equalization. It shall
 19 contain the amount of the valuation in terms of market value,
 20 the new classification, the assessor's office address, and the
 21 dates, places, and times set for the meetings of the local board
 22 of review or equalization and the county board of equalization.
 23 If the assessment roll is not complete, the notice shall be sent
 24 by ordinary mail at least ten days prior to the date on which
 25 the board of review has adjourned. The assessor shall attach to
 26 the assessment roll a statement that the notices required by
 27 this section have been mailed. Any assessor who is not provided
 28 sufficient funds from ~~his~~ the assessor's governing body to *
 29 provide such notices, may make application to the commissioner
 30 of revenue to finance such notices. The commissioner of revenue *
 31 shall conduct an investigation and, if ~~he is~~ satisfied that the *
 32 assessor does not have the necessary funds, issue ~~his~~ a *
 33 certification to the commissioner of finance of the amount
 34 necessary to provide such notices. The commissioner of finance
 35 shall issue a warrant for such amount and shall deduct such
 36 amount from any state payment to such county or municipality.
 37 The necessary funds to make such payments are hereby
 38 appropriated. Failure to receive the notice shall in no way
 39 affect the validity of the assessment, the resulting tax, the
 40 procedures of any board of review or equalization, or the
 41 enforcement of delinquent taxes by statutory means.

273*#124S

42 273.124 HOMESTEAD DETERMINATION; SPECIAL RULES.

43 No change for subd 1

44 Subd. 2. TOWNHOUSES; COMMON AREAS; CONDOMINIUMS;
 45 COOPERATIVES. (a) The total value of townhouse property,
 46 including the value added as provided in this paragraph, must
 47 have the benefit of homestead treatment or other special
 48 classification if the townhouse otherwise qualifies. The value
 49 of townhouse property must be increased by the value added by
 50 the right to use any common areas in connection with the
 51 townhouse development. The common areas of the development must
 52 not be separately taxed.

53 (b) Condominium property qualifying as a homestead under
 54 section 515A.1-105 and property owned by a cooperative
 55 association that qualifies as a homestead must have the benefit
 56 of homestead treatment or other special classification if the
 57 condominium or cooperative association property otherwise
 58 qualifies.

59 (c) If the condominium, townhouse, or cooperative
 60 association property is owned by the occupant and used for the
 61 purposes of a homestead but is located upon land which is
 62 leased, that leased land must be valued and assessed as if it
 63 were homestead property within class 1 if all of the following
 64 criteria are met:

65 (1) the occupant is using the property as ~~his~~ a permanent *
 66 residence;

67 (2) the occupant or the cooperative association is paying
 68 the ad valorem property taxes and any special assessments levied
 69 against the land and structure;

70 (3) the occupant or the cooperative association has signed
 71 a land lease; and

72 (4) the term of the land lease is at least 50 years,
 73 notwithstanding the fact that the amount of the rental payment
 74 may be renegotiated at shorter intervals.

1 No change for subd 3 to 6

2 Subd. 7. LEASED BUILDINGS OR LAND. For purposes of
3 class 1 determinations, homesteads include:

4 (a) buildings and appurtenances owned and used by the
5 occupant as a permanent residence which are located upon land
6 the title to which is vested in a person or entity other than
7 the occupant;

8 (b) all buildings and appurtenances located upon land owned
9 by the occupant and used for the purposes of a homestead
10 together with the land upon which they are located, if all of
11 the following criterial are met:

12 (1) the occupant is using the property as ~~his~~ a permanent *
13 residence;

14 (2) the occupant is paying the property taxes and any
15 special assessments levied against the property;

16 (3) the occupant has signed a lease which has an option to
17 purchase the buildings and appurtenances; and

18 (4) the term of the lease is at least five years.

19 Any taxpayer meeting all the requirements of this paragraph
20 must notify the county assessor, or the assessor who has the
21 powers of the county assessor pursuant to section 273.063, in
22 writing, as soon as possible after signing the lease agreement
23 and occupying the buildings as ~~his~~ a homestead. *

24 No change for subd 8 to 11

25 Subd. 12. HOMESTEAD OF MEMBER OF UNITED STATES ARMED
26 FORCES. Real estate actually occupied and used for the
27 purpose of a homestead by a member of the armed forces of the
28 United States, or by a member of ~~his~~ that person's immediate *
29 family shall, notwithstanding the absence of the person, while *
30 on active duty with the armed forces of the United States or ~~his~~ *
31 the family under such conditions, be classified as a homestead *
32 provided that absence of the owner is solely by reason of *
33 service in the armed forces, and that ~~he~~ the owner intends to *
34 return as soon as discharged or relieved from service, and *
35 claims it as ~~his~~ a homestead. Every person who, for the purpose *
36 of obtaining or aiding another in obtaining any benefit under *
37 this subdivision, shall knowingly make or submit to any assessor
38 any affidavit or other statement which is false in any material
39 matter shall be guilty of a felony.

273*#13S

40 273.13 CLASSIFICATION OF PROPERTY.

41 No change for subd 1 to 4

42 Subd. 6. CLASS 3B. Agricultural land, except as
43 provided by class 1, which is used for the purposes of a
44 homestead shall constitute class 3b and shall be valued and
45 assessed as follows: the first \$64,000 of market value shall be
46 valued and assessed at 14 percent; the remaining market value
47 shall be valued and assessed at 18 percent. The maximum amount
48 of the market value of the homestead bracket subject to the 14
49 percent rate shall be adjusted by the commissioner of revenue as
50 provided in section 273.1311. The property tax to be paid on
51 class 3b property as otherwise determined by law less any
52 reduction received pursuant to sections 124.2137, 273.123, and
53 473H.10 shall be reduced by 54 percent of the tax. The amount
54 of the reduction shall not exceed \$700. Noncontiguous land
55 shall constitute class 3b only if the homestead is classified as
56 class 3b and the detached land is located in the same township
57 or city or not farther than two townships or cities or
58 combination thereof from the homestead.

59 Agricultural land as used herein, and in section 124.2137,
60 shall mean contiguous acreage of ten acres or more, primarily
61 used during the preceding year for agricultural purposes.
62 Agricultural use may include pasture, timber, waste, unusable
63 wild land and land included in federal farm programs.

64 Real estate of less than ten acres used principally for
65 raising poultry, livestock, fruit, vegetables or other
66 agricultural products, shall be considered as agricultural land,
67 if it is not used primarily for residential purposes.

68 The assessor shall determine and list separately on ~~his~~ the *
69 assessor's records the market value of the homestead dwelling *
70 and the one acre of land on which that dwelling is located. If
71 any farm buildings or structures are located on this homesteaded
72 acre of land, their market value shall not be included in this
73 separate determination.

74 Agricultural land used for purposes of a homestead and
75 actively farmed by a person holding a vested remainder interest

1 in it must be classified class 3b. If agricultural land is
2 classified class 3b, any other dwellings on the land used for
3 purposes of a homestead by persons holding vested remainder
4 interests who are actively engaged in farming the property, and
5 up to one acre of the land surrounding each homestead and
6 reasonably necessary for the use of the dwelling as a home, must
7 also be assessed class 3b and is entitled to the homestead
8 credit.

9 NOTE: Subdivision 6 is repealed by Laws 1985, First
10 Special Session chapter 14, article 4, section 98 effective for
11 taxes levied in 1986, payable in 1987 and thereafter. See
12 subdivision 23.

13 Subd. 6a. Repealed, 1Sp1985 c 14 art 4 s 98

14 NOTE: For taxes levied in 1986 and payable in 1987 and
15 thereafter, see section 273.124.

16 Subd. 7. CLASS 3C, 3CC. All other real estate and
17 class 2a property, except as provided by classes 1 and 3cc,
18 which is used for the purposes of a homestead, shall constitute
19 class 3c, and shall be valued and assessed as follows: the
20 first \$64,000 of market value shall be valued and assessed at 18
21 percent; and the remaining market value shall be valued and
22 assessed at 29 percent for taxes levied in 1985 and payable in
23 1986, and at 28 percent for taxes levied in 1986 and payable in
24 1987 and thereafter. The maximum amounts of the market value of
25 the homestead brackets subject to the 18 percent rate shall be
26 adjusted by the commissioner of revenue as provided in section
27 273.1311. The property tax to be paid on class 3c property as
28 otherwise determined by law, less any reduction received
29 pursuant to sections 273.123 and 473H.10 shall be reduced by 54
30 percent of the tax imposed on the first \$68,000 of market
31 value. The amount of the reduction shall not exceed \$700.

32 Class 3cc property shall include real estate or
33 manufactured homes used for the purposes of a homestead by (a)
34 any blind person, if the blind person is the owner thereof or if
35 the blind person and ~~his-or-her~~ a spouse are the sole owners *
36 thereof; or (b) any person (hereinafter referred to as veteran)
37 who: (1) served in the active military or naval service of the
38 United States and (2) is entitled to compensation under the laws
39 and regulations of the United States for permanent and total
40 service-connected disability due to the loss, or loss of use, by
41 reason of amputation, ankylosis, progressive muscular
42 dystrophies, or paralysis, of both lower extremities, such as to
43 preclude motion without the aid of braces, crutches, canes, or a
44 wheelchair, and (3) with assistance by the administration of
45 veterans affairs has acquired a special housing unit with
46 special fixtures or movable facilities made necessary by the
47 nature of the veteran's disability, or the surviving spouse of
48 the deceased veteran for as long as the surviving spouse retains
49 the special housing unit as ~~his-or-her~~ a homestead; or (c) any *
50 person who: (1) is permanently and totally disabled and (2) *
51 receives 90 percent or more of ~~his~~ total income from (i) aid
52 from any state as a result of that disability, or (ii)
53 supplemental security income for the disabled, or (iii) workers'
54 compensation based on a finding of total and permanent
55 disability, or (iv) social security disability, including the
56 amount of a disability insurance benefit which is converted to
57 an old age insurance benefit and any subsequent cost of living
58 increases, or (v) aid under the Federal Railroad Retirement Act
59 of 1937, United States Code Annotated, title 45, section
60 228b(a)5, or (vi) a pension from any local government retirement
61 fund located in the state of Minnesota as a result of that
62 disability. Property shall be classified and assessed pursuant
63 to clause (a) only if the commissioner of human services
64 certifies to the assessor that the owner of the property
65 satisfies the requirements of this subdivision. The
66 commissioner of human services shall provide a copy of the
67 certification to the commissioner of revenue. Class 3cc
68 property shall be valued and assessed as follows: in the case
69 of agricultural land, including a manufactured home, used for a
70 homestead, the first \$32,000 of market value shall be valued and
71 assessed at five percent, the next \$32,000 of market value shall
72 be valued and assessed at 14 percent, and the remaining market
73 value shall be valued and assessed at 18 percent; and in the
74 case of all other real estate and manufactured homes, the first
75 \$32,000 of market value shall be valued and assessed at five
76 percent, the next \$32,000 of market value shall be valued and

1 assessed at 18 percent, and the remaining market value shall be
 2 valued and assessed at 29 percent for taxes levied in 1985 and
 3 payable in 1986, and at 28 percent for taxes levied in 1986 and
 4 payable in 1987 and thereafter. In the case of agricultural
 5 land including a manufactured home used for purposes of a
 6 homestead, the commissioner of revenue shall adjust, as provided
 7 in section 273.1311, the maximum amount of the market value of
 8 the homestead brackets subject to the five percent and 14
 9 percent rates; and for all other real estate and manufactured
 10 homes, the commissioner of revenue shall adjust, as provided in
 11 section 273.1311, the maximum amount of the market value of the
 12 homestead brackets subject to the five percent and 18 percent
 13 rates. Permanently and totally disabled for the purpose of this
 14 subdivision means a condition which is permanent in nature and
 15 totally incapacitates the person from working at an occupation
 16 which brings him the person an income. The property tax to be *
 17 paid on class 3cc property as otherwise determined by law, shall
 18 be reduced by 54 percent of the tax imposed on the first \$68,000
 19 of market value. The amount of the reduction shall not exceed
 20 \$700.

21 For purposes of this subdivision, homestead property which
 22 qualifies for the classification ratios and credits provided in
 23 this subdivision shall include property which is used for
 24 purposes of the homestead but is separated from the homestead by
 25 a road, street, lot, waterway, or other similar intervening
 26 property. The term "used for purposes of the homestead" shall
 27 include but not be limited to uses for gardens, garages, or
 28 other outbuildings commonly associated with a homestead, but
 29 shall not include vacant land held primarily for future
 30 development. In order to receive homestead treatment for the
 31 noncontiguous property, the owner shall apply for it to the
 32 assessor by July 1 of the year when the treatment is initially
 33 sought. After initial qualification for the homestead
 34 treatment, additional applications for subsequent years are not
 35 required.

36 NOTE: Subdivision 7 is repealed by Laws 1985, First
 37 Special Session chapter 14, article 4, section 98 effective for
 38 taxes levied in 1986 and payable in 1987 and thereafter. See
 39 subdivision 22 and section 273.124.

40 No change for subd 7a to 14a

41 Subd. 15a. GENERAL FUND, REPLACEMENT OF REVENUE. (1)
 42 Payment from the general fund shall be made, as provided herein,
 43 for the purpose of replacing revenue lost as a result of the
 44 reduction of property taxes provided in subdivisions 22 and 23.

45 (2) Each county auditor shall certify, not later than May 1
 46 of each year to the commissioner of revenue the amount of
 47 reduction resulting from subdivisions 22 and 23 in his the *
 48 auditor's county. This certification shall be submitted to the *
 49 commissioner of revenue as part of the abstracts of tax lists
 50 required to be filed with the commissioner under the provisions
 51 of section 275.29. Any prior year adjustments shall also be
 52 certified in the abstracts of tax lists. The commissioner of
 53 revenue shall review such certifications to determine their
 54 accuracy. He The commissioner may make such changes in the *
 55 certification as he-may-deem are deemed necessary or return a *
 56 certification to the county auditor for corrections.

57 (3) Based on current year tax data reported in the
 58 abstracts of tax lists, the commissioner of revenue shall
 59 annually determine the taxing district distribution of the
 60 amounts certified under clause (2). The commissioner of revenue
 61 shall pay to each taxing district, other than school districts,
 62 its total payment for the year in equal installments on or
 63 before July 15, August 15, September 15, October 15, November
 64 15, and December 15 of each year.

65 Subd. 15b. Repealed, 1983 c 342 art 2 s 30

66 Subd. 16. Repealed, 1Sp1985 c 14 art 4 s 98

67 NOTE: For taxes levied in 1986, payable in 1987 and
 68 thereafter, see section 273.124.

69 Subd. 17. Repealed, 1Sp1985 c 14 art 4 s 98

70 Subd. 17a. Repealed, 1Sp1985 c 14 art 4 s 98

71 NOTE: Subdivisions' 17 and 17a are repealed effective for
 72 taxes levied in 1986, payable in 1987 and thereafter. See
 73 subdivision 28.

74 No change for subd 17b

75 Subd. 19. CLASS 3D, 3DD. Residential real estate
 76 containing four or more units, other than seasonal residential,

1 recreational and homesteads shall be classified as class 3d
2 property and shall have a taxable value equal to 34 percent of
3 market value. Residential real estate containing three or less
4 units, other than seasonal residential, recreational and
5 homesteads, shall be classified as class 3dd property and shall
6 have a taxable value equal to 28 percent of market value.

7 Residential real estate as used in this subdivision means
8 real property used or held for use by the owner thereof, or by
9 ~~his~~ the owner's tenants or lessees as a residence for rental *
10 periods of 30 days or more, but shall not include homesteads, or
11 real estate devoted to temporary or seasonal residential
12 occupancy for recreational purposes. Where a portion of a
13 parcel of property qualified for class 3d or 3dd and a portion
14 does not qualify for class 3d or 3dd the valuation shall be
15 apportioned according to the respective uses.

16 Residential real estate containing less than four units
17 when entitled to homestead classification for one or more units
18 shall be classed as 3b, 3c or 3cc according to the provisions of
19 subdivisions 6 and 7. A single rented or leased dwelling unit
20 located within or attached to a private garage or similar
21 structure owned by the owner of a homestead and located on the
22 premises of that homestead must be classified as 3b, 3c, or 3cc
23 as part of the owner's homestead according to the provisions of
24 subdivisions 6 and 7. If more than one dwelling unit is
25 attached to the structure, the units must be assessed as class
26 3d or 3dd property.

27 For purposes of this subdivision, class 3d also includes
28 hospitals licensed under sections 144.50 to 144.56, other than
29 hospitals exempt under section 272.02, and contiguous property
30 used for hospital purposes, without regard to whether the
31 property has been platted or subdivided.

32 For purposes of this subdivision, class 3dd shall also
33 include post-secondary student housing not to exceed one acre of
34 land which is owned by a nonprofit corporation organized under
35 chapter 317 and is used exclusively by a sorority or fraternity
36 organization for housing.

37 NOTE: Subdivision 19 is repealed by Laws 1985, First
38 Special Session chapter 14, article 4, section 98 effective for
39 taxes levied in 1986 and payable in 1987 and thereafter. See
40 subdivisions 25 and 26.

41 Subd. 20. Repealed, 1Sp1985 c 14 art 4 s 98

42 NOTE: For taxes levied in 1986 and payable in 1987 and
43 thereafter, see subdivision 26.

44 Subd. 21. Repealed, 1Sp1985 c 14 art 4 s 98

45 NOTE: For taxes levied in 1986 and payable in 1987 and
46 thereafter, see section 273.124.

47 Subd. 22. CLASS 1. (a) Except as provided in
48 subdivision 23, real estate which is residential and used for
49 homestead purposes is class 1. The market value of class 1a
50 property must be determined based upon the value of the house,
51 garage, and land.

52 The first \$64,000 of market value of class 1a property must
53 be assessed at 18 percent of its market value. The homestead
54 value of class 1a property that exceeds \$64,000 must be assessed
55 at 28 percent of its value.

56 (b) Class 1b property includes real estate or manufactured
57 homes used for the purposes of a homestead by

58 (1) any blind person, if the blind person is the owner
59 thereof or if the blind person and ~~his-or-her~~ the blind person's *
60 spouse are the sole owners thereof; or

61 (2) any person, hereinafter referred to as "veteran," who:

62 (i) served in the active military or naval service of the
63 United States; and

64 (ii) is entitled to compensation under the laws and
65 regulations of the United States for permanent and total
66 service-connected disability due to the loss, or loss of use, by
67 reason of amputation, ankylosis, progressive muscular
68 dystrophies, or paralysis, of both lower extremities, such as to
69 preclude motion without the aid of braces, crutches, canes, or a
70 wheelchair; and

71 (iii) with assistance by the administration of veterans
72 affairs has acquired a special housing unit with special
73 fixtures or movable facilities made necessary by the nature of
74 the veteran's disability, or the surviving spouse of the
75 deceased veteran for as long as the surviving spouse retains the
76 special housing unit as ~~his-or-her~~ a homestead; or *

- 1 (3) any person who:
 2 (i) is permanently and totally disabled and
 3 (ii) receives 90 percent or more of ~~his-or-her~~ total income *
 4 from
 5 (A) aid from any state as a result of that disability; or
 6 (B) supplemental security income for the disabled; or
 7 (C) workers' compensation based on a finding of total and
 8 permanent disability; or
 9 (D) social security disability, including the amount of a
 10 disability insurance benefit which is converted to an old age
 11 insurance benefit and any subsequent cost of living increases;
 12 or
 13 (E) aid under the Federal Railroad Retirement Act of 1937,
 14 United States Code Annotated, title 45, section 228b(a)5; or
 15 (F) a pension from any local government retirement fund
 16 located in the state of Minnesota as a result of that disability.

17 Property is classified and assessed pursuant to clause (1)
 18 only if the commissioner of human services certifies to the
 19 assessor that the owner of the property satisfies the
 20 requirements of this subdivision. The commissioner of human
 21 services shall provide a copy of the certification to the
 22 commissioner of revenue.

23 Class 1b property is valued and assessed as follows: in
 24 the case of agricultural land, including a manufactured home,
 25 used for a homestead, the first \$32,000 of market value shall be
 26 valued and assessed at five percent, the next \$32,000 of market
 27 value shall be valued and assessed at 14 percent, and the
 28 remaining market value shall be valued and assessed at 18
 29 percent; and in the case of all other real estate and
 30 manufactured homes, the first \$32,000 of market value shall be
 31 valued and assessed at five percent, the next \$32,000 of market
 32 value shall be valued and assessed at 18 percent, and the
 33 remaining market value shall be valued and assessed at 28
 34 percent. In the case of agricultural land including a
 35 manufactured home used for purposes of a homestead, the
 36 commissioner of revenue shall adjust, as provided in section
 37 273.1311, the maximum amount of the market value of the
 38 homestead brackets subject to the five percent and 18 percent
 39 rates; and for all other real estate and manufactured homes, the
 40 commissioner of revenue shall adjust, as provided in section
 41 273.1311, the maximum amount of the market value of the
 42 homestead brackets subject to the five percent and 18 percent
 43 rates. Permanently and totally disabled for the purpose of this
 44 subdivision means a condition which is permanent in nature and
 45 totally incapacitates the person from working at an occupation
 46 which brings him the person an income. *

47 (c) Class 1c property is commercial use real property that
 48 abuts a lakeshore line and is devoted to temporary and seasonal
 49 residential occupancy for recreational purposes but not devoted
 50 to commercial purposes for more than 200 days in the year
 51 preceding the year of assessment, and that includes a portion
 52 used as a homestead by the owner. It must be assessed at 12
 53 percent of market value with the following limitation: the area
 54 of the property must not exceed 100 feet of lakeshore footage
 55 for each cabin or campsite located on the property up to a total
 56 of 800 feet and 500 feet in depth, measured away from the
 57 lakeshore.

58 (d) The tax to be paid on class 1a or class 1b property,
 59 less any reduction received pursuant to sections 273.123 and
 60 473H.10, shall be reduced by 54 percent of the tax imposed on
 61 the first \$68,000 of market value. The amount of the reduction
 62 shall not exceed \$700.

63 NOTE: This subdivision is effective for taxes levied in
 64 1986 and payable in 1987 and thereafter. See Laws 1985, First
 65 Special Session chapter 14, article 4, section 99.

66 Subd. 23. CLASS 2. (a) Class 2a property is
 67 agricultural land that is homesteaded, together with the house
 68 and garage. The first \$64,000 of market value of an
 69 agricultural homestead is valued at 14 percent. The remaining
 70 value of class 2a property is assessed at 18 percent of market
 71 value.

72 Noncontiguous land shall constitute class 2a only if the
 73 homestead is classified as class 2a and the detached land is
 74 located in the same township or city or not farther than two
 75 townships or cities or combination thereof from the homestead.

76 Agricultural land used for purposes of a homestead and

1 actively farmed by a person holding a vested remainder interest
 2 in it must be classified class 2a. If agricultural land is
 3 classified class 2a, any other dwellings on the land used for
 4 purposes of a homestead by persons holding vested remainder
 5 interests who are actively engaged in farming the property, and
 6 up to one acre of the land surrounding each homestead and
 7 reasonably necessary for the use of the dwelling as a home, must
 8 also be assessed class 2a and is entitled to the homestead
 9 credit.

10 The tax to be paid on class 2a property, less any reduction
 11 received pursuant to sections 124.2137, 273.123, and 473H.10
 12 shall be reduced by 54 percent of the tax. The amount of the
 13 reduction shall not exceed \$700.

14 (b) Class 2b property is real estate, rural in character
 15 and used exclusively for growing trees for timber, lumber, and
 16 wood and wood products. It is assessed at 18 percent of market
 17 value.

18 (c) Class 2c Property is real estate that is nonhomestead
 19 agricultural land. It is assessed at 18 percent of market value.

20 Agricultural land as used in this section shall mean
 21 contiguous acreage of ten acres or more, primarily used during
 22 the preceding year for agricultural purposes. Agricultural use
 23 may include pasture, timber, waste, unusable wild land and land
 24 included in federal farm programs.

25 Real estate of less than ten acres used principally for
 26 raising poultry, livestock, fruit, vegetables or other
 27 agricultural products, shall be considered as agricultural land,
 28 if it is not used primarily for residential purposes.

29 The assessor shall determine and list separately on ~~his~~ the *
 30 records the market value of the homestead dwelling and the one
 31 acre of land on which that dwelling is located. If any farm
 32 buildings or structures are located on this homesteaded acre of
 33 land, their market value shall not be included in this separate
 34 determination.

35 NOTE: This subdivision is effective for taxes levied in
 36 1986 and payable in 1987 and thereafter. See Laws 1985, First
 37 Special Session chapter 14, article 4, section 99.

38 No change for subd 24 to 31

273*#1312S

39 273.1312 DESIGNATION OF ENTERPRISE ZONES.

40 Subdivision 1. DEFINITIONS. For purposes of this
 41 section:

42 (1) "Commissioner" means the commissioner of energy and
 43 economic development.

44 (2) "Enterprise zone" means an area in the state designated
 45 as such by the commissioner upon proper application by the
 46 governing body of the area in which it is located.

47 (3) "Governing body" means the county board of a county
 48 except with respect to an area in a city, whose governing body
 49 is the city council or other body designated by its charter, or
 50 an area constituting part or all of an Indian reservation, whose
 51 governing body is that tribal or federal agency recognized as
 52 such by the United States secretary of the interior.

53 (4) "HUD" means the United States secretary of housing and
 54 urban development or ~~his~~ the secretary's delegate or successor. *

55 (5) "Indian reservation" means an area determined to be
 56 such by the United States secretary of the interior.

57 (6) "SMSA" means a standard metropolitan statistical area
 58 as defined in section 103A(1)(4)(B) of the Internal Revenue Code
 59 of 1954, as amended through December 31, 1981.

60 No change for subd 2 to 5

273*#1313S

61 273.1313 TAX CLASSIFICATION OF INDUSTRIAL EMPLOYMENT
 62 PROPERTY.

63 No change for subd 1

64 Subd. 2. PROGRAM. (a) The governing body of any
 65 municipality which contains a designated enterprise zone as
 66 provided by section 273.1312 shall by resolution establish a
 67 program for classification of new property or improvements to
 68 existing property as employment property pursuant to the
 69 provisions of this section. Applications for classification
 70 under the program shall be filed with the municipal clerk or
 71 auditor in a form prescribed by the commissioner, with additions
 72 as may be prescribed by the municipal governing body. The
 73 application shall contain, where appropriate, a legal
 74 description of the parcel of land on which the facility is to be

1 situated or improved; a general description of the facility or
 2 improvement and its proposed use, the probable time schedule for
 3 undertaking any construction or improvement, and information
 4 regarding the matters referred to in paragraph (d); the market
 5 value and the assessed value of the land and of all other
 6 taxable property then situated on it, according to the most
 7 recent assessment; and if the property is to be improved or
 8 expanded, an estimate of the probable cost of the new
 9 construction or improvement and the market value of the new or
 10 improved facility (excluding land) when completed.

11 (b) Upon receipt of an application the municipal clerk or
 12 auditor, subject to any prior approval required by the
 13 resolution establishing the program, shall furnish a copy to the
 14 assessor for the property and to the governing body of each
 15 school district and other public body authorized to levy taxes
 16 on the property, and shall publish a notice in the official
 17 newspaper of the time and place of a hearing to be held by the
 18 governing body on the application, not less than 30 days after
 19 the notice is published, stating that the applicant, the
 20 assessor, representatives of the affected taxing authorities,
 21 and any taxpayer of the municipality may be heard or may present
 22 their views in writing at or before the hearing. The hearing
 23 may be adjourned from time to time, but the governing body shall
 24 take action on the application by resolution within 30 days
 25 after the hearing. If disapproved, the reasons shall be set
 26 forth in the resolution, and the applicant may appeal to the
 27 commissioner within 30 days thereafter, but only on the ground
 28 that the determination is arbitrary, in relation to prior
 29 determinations as to classification under the program, or based
 30 upon a mistake of law. If approved, the resolution shall
 31 include determinations as to the matters set forth in paragraph
 32 (d), and the clerk or auditor shall transmit it to the
 33 commissioner.

34 (c) Within 60 days after receipt of an approved application
 35 or an appeal from the disapproval of an application, the
 36 commissioner shall take action on it. The commissioner shall
 37 approve each application approved by the governing body if he
 38 finds on finding that it complies with the provisions of this
 39 section. If he the commissioner disapproves the application, or
 40 finds grounds exist for appeal of a disapproved application, he
 41 the commissioner shall transmit the finding to the governing
 42 body and the applicant. When grounds for appeal have been
 43 determined to exist, the governing body shall reconsider and
 44 take further action on the application within 30 days after
 45 receipt of the commissioner's notice and serve written notice of
 46 the action upon the applicant. The applicant, within 30 days
 47 after receipt of notice of final disapproval by the commissioner
 48 or the governing body, may appeal from the disapproval to a
 49 court of competent jurisdiction.

*
*
*
*
*

50 (d) In the case of enterprise zones qualifying pursuant to
 51 section 273.1312, subdivision 4, paragraph (c), clause (1), an
 52 application shall not be approved unless the governing body
 53 finds and determines that the construction or improvement of the
 54 facility:

- 55 (1) is reasonably likely to create new employment or
- 56 prevent a loss of employment in the municipality;
- 57 (2) is not likely to have the effect of transferring
- 58 existing employment from one or more other municipalities within
- 59 the state;
- 60 (3) is not likely to cause the total market value of
- 61 employment property within the municipality to exceed five
- 62 percent of the total market value of all taxable property within
- 63 the municipality; or if it will, the resulting limitation upon
- 64 the increase of the assessed value of all taxable property
- 65 within the municipality, considering the amount of additional
- 66 municipal services likely to be required for the employment
- 67 property, is not likely to substantially impede the operation or
- 68 the financial integrity of the municipality or any other public
- 69 body levying taxes on property in the municipality; and
- 70 (4) will not result in the reduction of the assessed value
- 71 of existing property within the municipality owned by the
- 72 applicant, through abandonment, demolition, or otherwise,
- 73 without provision for the restoration of the existing property
- 74 within a reasonable time in a manner sufficient to restore the
- 75 assessed valuation.

76 (e) In the case of enterprise zones qualifying pursuant to

1 section 273.1312, subdivision 4, paragraph (c), clause (3), an
 2 application for assessment as employment property under section
 3 273.13, subdivision 24, paragraph (b), or for a tax reduction
 4 pursuant to section 273.1314, subdivision 9, may not be approved
 5 unless the governing body finds and determines that the
 6 construction or improvement of the facility is not likely to
 7 have the effect of transferring existing employment from one or
 8 more other municipalities within the state.

9 No change for subd 3 to 6

273*#1314S

10 273.1314 SELECTION OF ENTERPRISE ZONES.

11 No change for subd 1 to 3

12 Subd. 4. EVALUATION OF APPLICATIONS. The
 13 commissioner shall review and evaluate the applications
 14 submitted pursuant to subdivision 3 and shall determine whether
 15 each area is eligible for designation as an enterprise zone. If
 16 the department of energy and economic development no longer
 17 exists as presently constituted, the commissioner shall consult
 18 with the successor to the responsibilities of the planning
 19 division of that department in making this determination. In
 20 determining whether an area is eligible under section 273.1312,
 21 subdivision 4, paragraph (c), if unemployment, employment,
 22 income or other necessary data are not available for the area
 23 from the federal departments of labor or commerce or the state
 24 demographer, the commissioner may rely upon other data submitted
 25 by the municipality ~~if he determines~~ on determining that it is *
 26 statistically reliable or accurate. The commissioner, in
 27 conjunction with the commissioner of revenue, shall prepare an
 28 estimate of the amount of state tax revenue which will be
 29 foregone for each application if the area is designated as a
 30 zone.

31 Except for designations under section 273.1312, subdivision
 32 4, paragraph (c), clause (4), on or before October 1 of each
 33 year, the commissioner shall submit to the legislative advisory
 34 commission a list of the areas eligible for designation as
 35 enterprise zones, along with ~~his~~ recommendations for designation *
 36 and supporting documentation. In making recommendations for
 37 designation, the commissioner shall consider and evaluate the
 38 applications pursuant to the following criteria:

39 (a) the pervasiveness of poverty, unemployment, and general
 40 distress in the area;

41 (b) the extent of chronic abandonment, deterioration or
 42 reduction in value of commercial, industrial or residential
 43 structures in the area and the extent of property tax arrearages
 44 in the area;

45 (c) the prospects for new investment and economic
 46 development in the area with the tax reductions proposed in the
 47 application relative to the state and local tax revenue which
 48 would be foregone;

49 (d) the competing needs of other areas of the state;

50 (e) the municipality's proposed use of other state and
 51 federal development funds or programs to increase the
 52 probability of new investment and development occurring;

53 (f) the extent to which the projected development in the
 54 zone will provide employment to residents of the economic
 55 hardship area, and particularly individuals who are unemployed
 56 or who are economically disadvantaged as defined in the federal
 57 Job Training Partnership Act of 1982, 96 Statutes at Large 1322;

58 (g) the funds available pursuant to subdivision 8; and

59 (h) other relevant factors ~~which he specifies~~ specified in
 60 ~~his~~ the recommendations. *
 *

61 The commissioner shall submit a separate list of the areas
 62 entitled to designation as enterprise zones under section
 63 273.1312, subdivision 4, paragraph (c), clauses (2) and (3),
 64 along with ~~his~~ recommendations for the amount of funds to be *
 65 allocated to each area.

66 No change for subd 4a to 17

273*#1315S

67 273.1315 CERTIFICATION OF 1B PROPERTY.

68 Any property owner seeking classification and assessment of
 69 ~~his~~ the owner's homestead as class 1b property pursuant to *
 70 section 273.13, subdivision 22, paragraph (b), clause (2) or
 71 (3), shall file with the commissioner of revenue for each
 72 assessment year a 1b homestead declaration, on a form prescribed
 73 by the commissioner. The declaration shall contain the
 74 following information:

1 (a) the information necessary to verify that the property
2 owner or ~~his~~ the owner's spouse satisfies the requirements of *
3 section 273.13, subdivision 22, for 1b classification;

4 (b) the property owner's household income, as defined in
5 section 290A.03, for the previous calendar year; and

6 (c) any additional information prescribed by the
7 commissioner.

8 The declaration shall be filed on or before March 1 of each
9 year to be effective for property taxes payable during the
10 succeeding calendar year. The declaration and any supplementary
11 information received from the property owner pursuant to this
12 section shall be subject to section 290A.17.

13 The commissioner shall provide to the assessor on or before
14 April 1 a listing of the parcels of property qualifying for 1b
15 classification.

273*#135S

16 273.135 HOMESTEAD PROPERTY TAX RELIEF.

17 No change for subd 1 to 2

18 Subd. 3. Not later than December 1 of each year, each
19 county auditor having jurisdiction over one or more tax relief
20 areas shall certify to the commissioner of revenue ~~his~~ an *
21 estimate of the total amount of the reduction, determined under
22 subdivision 2, in taxes payable the next succeeding year with
23 respect to all tax relief areas in ~~his~~ the county. *

24 Subd. 4. Repealed, 1Sp1981 c 1 art 10 s 30

25 No change for subd 5

273*#136S

26 273.136 TACONITE PROPERTY TAX RELIEF FUND; REPLACEMENT
27 OF REVENUE.

28 No change for subd 1

29 Subd. 2. The commissioner of revenue shall determine, not
30 later than May 1 of each year, the amount of reduction resulting
31 from section 273.135 in each county containing a tax relief area
32 as defined by section 273.134, basing ~~his~~ determinations on a *
33 review of abstracts of tax lists submitted by the county
34 auditors pursuant to section 275.29. He The commissioner may *
35 make changes in the abstracts of tax lists as ~~he deems~~ deemed *
36 necessary. The commissioner of revenue, after such review,
37 shall submit to the St. Louis county auditor, on or before June
38 1, the amount of the first half payment payable hereunder and on
39 or before October 15 the amount of the second half payment.

40 No change for subd 3

41 Subd. 4. The county treasurer shall distribute the funds
42 received ~~by him~~ as if they had been collected as a part of the *
43 property tax reduced by section 273.135.

273*#138S

44 273.138 ATTACHED MACHINERY AID.

45 No change for subc 2 to 3

46 Subd. 5. The commissioner of revenue shall calculate the
47 aids pursuant to subdivisions 2 and 3, basing all necessary
48 calculations on the abstracts of assessment of real property for
49 assessment year 1972 transmitted to the commissioner of revenue
50 pursuant to section 270.11 as equalized by the state board of
51 equalization pursuant to sections 270.11 and 270.12, and the
52 1973 abstracts of tax lists transmitted by the county auditors
53 pursuant to section 275.29. He The commissioner shall pay *
54 directly to the affected taxing authorities their total payment
55 for the year at the time distributions are made pursuant to
56 section 273.13, subdivision 15a.

57 No change for subd 6

273*#1391S

58 273.1391 SUPPLEMENTARY HOMESTEAD PROPERTY TAX RELIEF.

59 No change for subd 1 to 2

60 Subd. 3. Not later than December 1, each county auditor
61 having jurisdiction over one or more tax relief areas defined in
62 subdivision 2 shall certify to the commissioner of revenue ~~his~~ *
63 an estimate of the total amount of the reduction, determined *
64 under subdivision 2, in taxes payable the next succeeding year
65 with respect to all tax relief areas in ~~his~~ the auditor's county. *

66 No change for subd 4 to 5

273*#16S

67 273.16 DETERMINATION OF CLASSIFICATION.

68 The classification of iron-bearing formations under the
69 provisions of sections 273.14 to 273.16 shall be determined in
70 the manner provided. Any person engaged in the business of
71 mining, whose management recovery of iron ore concentrates for a

1 taxable year in producing concentrates from the iron-bearing
 2 material entering the beneficiating plant has been less than 50
 3 percent, may file a petition with the commissioner of revenue
 4 requesting classification of the deposit under the provisions of
 5 sections 273.14 to 273.16. The taxpayer shall furnish any
 6 available data and information concerning the operation of the
 7 deposit as the commissioner of revenue requires. The
 8 commissioner shall, upon receipt of it, submit the petition and
 9 data to the University of Minnesota mines experiment station.
 10 The mines experiment station shall consider the deposit referred
 11 to in the petition as a unified commercial operation. Based on
 12 all engineering data and information furnished, it shall file a
 13 written report with the commissioner of revenue, who, after
 14 hearing, shall approve or disapprove the report. If a
 15 classification is made covering the deposit and property, the
 16 commissioner of revenue shall give appropriate notice of it to
 17 the taxing districts affected by it. If the commissioner of
 18 revenue disapproves of the classification, ~~his~~ the
 19 commissioner's findings and order on it may be reviewed by the
 20 court of appeals on petition of the party aggrieved presented to
 21 the court within 30 days after the date of the order. The
 22 classifications shall also be subject to further review by the
 23 mines experiment station, from time to time, upon request of the
 24 commissioner of revenue or upon further petition by the
 25 taxpayer. Valuations determined hereunder shall be subject to
 26 the provisions of sections 270.19 to 270.26.

273*#17S

27 273.17 ASSESSMENT OF REAL PROPERTY.

28 Subdivision 1. In every year, on January 2, the assessor
 29 shall also assess all real property that may have become subject
 30 to taxation since the last previous assessment, including all
 31 real property platted since the last real estate assessment, and
 32 all buildings or other structures of any kind, whether completed
 33 or in process of construction, of over \$1,000 in value, the
 34 value of which has not been previously added to or included in
 35 the valuation of the land on which they have been erected. He
 36 The assessor shall make return thereof to the county auditor,
 37 with ~~his~~ a return of personal property, showing the tract or lot
 38 on which each structure has been erected and the market value
 39 added thereto by such erection. Every assessor shall list,
 40 without revaluing, in each year, on a form to be prescribed by
 41 the commissioner of revenue, all parcels of land that shall have
 42 become homesteads or shall have ceased to be homesteads for
 43 taxation purposes since the last real estate assessment, and
 44 other parcels of land when the use of the land requires a change
 45 in classification or the land has been incorrectly classified in
 46 a previous assessment.

47 The county auditor shall note such change in the assessed
 48 valuation upon the tax lists, caused by a change in
 49 classification, and shall calculate the taxes for such year on
 50 such changed valuation. In case of the destruction by fire,
 51 flood, or otherwise of any building or structure, over \$100 in
 52 value, which has been erected previous to the last valuation of
 53 the land on which it stood, or the value of which has been added
 54 to any former valuation, the assessor shall determine, as nearly
 55 as practicable, how much less such land would sell for at
 56 private sale in consequence of such destruction, and make return
 57 thereof to the auditor.

58 No change for subd 2

273*#20S

59 273.20 ASSESSOR MAY ENTER DWELLINGS, BUILDINGS, OR
 60 STRUCTURES.

61 Any officer authorized by law to assess property for
 62 taxation may, when necessary to the proper performance of ~~his~~
 63 duties, enter any dwelling-house, building, or structure, and
 64 view the same and the property therein.

273*#21S

65 273.21 NEGLECT BY AUDITOR OR ASSESSOR; PENALTY.

66 Every county auditor and every town or district assessor
 67 who in any case refuses or knowingly neglects to perform any
 68 duty enjoined ~~on him~~ by this chapter, or who consents to or
 69 connives at any evasion of its provisions whereby any proceeding
 70 required by this chapter is prevented or hindered, or whereby
 71 any property required to be listed for taxation is unlawfully
 72 exempted, or entered on the tax list at less than its market
 73 value, shall, for every such neglect, refusal, consent, or

1 connivance, forfeit and pay to the state not less than \$200, nor
2 more than \$1,000, to be recovered in any court of competent
3 jurisdiction.

273*#22S

4 273.22 PERSONAL PROPERTY LISTED.

5 Personal property shall be listed in the manner following:

6 (1) Every person of full age and sound mind, being a
7 resident of this state, shall list all his that person's taxable
8 personal property; *

9 (2) He The person shall also list separately, and in the
10 name of its owner, all taxable personal property invested,
11 loaned, or otherwise controlled by him the person as the agent,
12 trustee, guardian, receiver, or attorney for, or on account of,
13 any other person, estate, trust company, or corporation. *

273*#25S

14 273.25 LISTS TO BE VERIFIED.

15 Every person required to list property for taxation shall
16 make out and deliver to the assessor, upon blanks furnished by
17 him the assessor, a verified statement of all personal property
18 owned by-him on January 2 of the current year. He The person
19 shall also make separate statements in like manner of all
20 personal property in-his-possession-or-under-his-control-which
21 by-this-chapter-he-is possessed or controlled by the person and
22 required by this chapter to list be listed for taxation as agent
23 or attorney, guardian, parent, trustee, executor, administrator,
24 receiver, accounting officer, partner, factor, or in any other
25 capacity; but no person shall be required to include in his the
26 statement any share of the capital stock of any company or
27 corporation which it is required to list and return as its
28 capital and property for taxation in this state. *

273*#46S

29 273.46 ASSIGNEES AND RECEIVERS.

30 Personal property in the hands of an assignee or receiver
31 shall be listed and assessed at the place of listing before his
32 the appointment of the assignee or receiver. *

273*#47S

33 273.47 PROPERTY MOVED BETWEEN JANUARY AND MARCH.

34 The owner of personal property, removing from one county,
35 town, or district to another between January 2 and March 1,
36 shall be assessed in either in which he the owner is first
37 called upon by the assessor. A person moving into this state
38 from another state between those dates shall list the
39 property owned-by-him the person owns on January 2 of such year
40 in the county, town, or district in which he the person resides,
41 unless he-shall-make it appear appears to the assessor that he
42 the person is held for tax of the current year on the property
43 in another state. *

273*#49S

44 273.49 FORMS FOR LISTING; ASSESSOR TO VALUE.

45 The commissioner of revenue shall prepare suitable forms
46 for the listing of personal property, each year. He The
47 commissioner may arrange and classify the items of such property
48 in such groups and classes and, from time to time, change,
49 separate, or consolidate the same as he-may-deem deemed
50 advisable for securing more accurate information concerning and
51 the more perfect listing and valuation of such property. The
52 assessor shall determine and fix the market value of all items
53 of personal property included in any such list and enter the
54 same opposite such items, respectively, and the same shall be
55 assessed for purposes of taxation according to law, so that when
56 completed such statement shall truly and distinctly set forth
57 the market value and also the assessed valuation for taxation of
58 such personal property, as required by law. *

273*#50S

59 273.50 LISTS MAY BE DESTROYED.

60 The county auditor may destroy any list or statement of
61 personal property on file in his the auditor's office after the
62 expiration of six years from the date when the taxes thereon
63 have been paid or become delinquent. If any proceeding has been
64 begun to enforce payment of such taxes, such list or statement
65 shall not be destroyed before the expiration of one year from
66 the return of an execution unsatisfied, or the termination of
67 the proceeding. *

273*#65S

68 273.65 FAILURE TO LIST; EXAMINATION UNDER OATH; DUTIES
69 OF ASSESSOR.

1 When the assessor shall be of opinion that the person
 2 listing property for ~~himself~~ that person, or for any other *
 3 person, company, or corporation, has not made a full, fair, and
 4 complete list thereof, ~~he~~ the assessor may examine such person, *
 5 under oath, in regard to the amount of the property ~~he is~~ *
 6 required to ~~list~~ be listed; and, if such person shall refuse to *
 7 make full discovery under oath, the assessor may list the
 8 property of such person, or ~~his~~ the person's principal, *
 9 according to ~~his~~ the assessor's best judgment and information. *

273*#66S

10 273.66 OWNER ABSENT OR SICK.

11 If any person required to list property be sick or absent
 12 when the assessor calls for a list thereof, the assessor shall
 13 leave at the office or usual place of residence or business of
 14 such person a written or printed notice requiring such person to
 15 make out and leave at a place, and on or before a day named
 16 therein, the statement or list required by this chapter. The
 17 date of leaving such notice, and the name of the person so
 18 required to list, shall be noted by the assessor in ~~his~~ the *
 19 assessment book. *

273*#67S

20 273.67 PROCEDURE WHEN OWNER DOES NOT LIST OR IS NOT
21 SWORN.

22 When any person whose duty it is to list shall refuse or
 23 neglect to list personal property when called on by the
 24 assessor, or to take and subscribe the required oath in regard
 25 to the truth of ~~his~~ a statement, or any part thereof, the *
 26 assessor shall enter opposite the name of such person, in an
 27 appropriate column, the words "refused to list," or "refused to
 28 swear," as the case may be; and when any person whose duty it is
 29 to list is absent, or unable from sickness to list, the assessor
 30 shall enter opposite the name of such person, in an appropriate
 31 column, the word "absent" or "sick." The assessor may
 32 administer oaths to all persons who by this chapter are required
 33 to swear, or whom ~~he~~ the assessor may require to testify, and ~~he~~ *
 34 may examine, upon oath, any person ~~whom he may suppose~~ supposed *
 35 to have knowledge of the amount or value of the personal
 36 property of any person refusing to list or to verify ~~his~~ a list *
 37 of personal property. *

273*#68S

38 273.68 FAILURE TO OBTAIN LIST.

39 In case of failure to obtain a statement of personal
 40 property, the assessor shall ascertain the amount and value of
 41 such property, and assess the same at such amount as ~~he~~ the *
 42 assessor believes to be the market value thereof. When *
 43 requested, ~~he~~ the assessor shall sign and deliver to the person *
 44 assessed a copy of the statement showing the valuation of the
 45 property so listed. *

274*#01S

46 274.01 BOARD OF REVIEW.

47 Subdivision 1. (a) The town board of each town, the
 48 council or other governing body of each city, except in cities
 49 whose charters provide for a board of equalization, shall be a
 50 board of review. The county assessor shall fix a day and time
 51 when each of such boards and the board of equalization of any
 52 city whose charter provides for a board of equalization shall
 53 meet in the several assessment districts of the county, and
 54 shall on or before April 1st of each year give written notice
 55 thereof to the clerk. Such meetings notwithstanding the
 56 provisions of any charter to the contrary shall be held between
 57 April 1st and June 30th in each year, and the clerk shall give
 58 published and posted notice of such meeting at least ten days
 59 prior to the date fixed. Such board shall meet at the office of
 60 the clerk to review the assessment and classification of
 61 property in such town or district, and immediately proceed to
 62 examine and see that all taxable property in the town or
 63 district has been properly placed upon the list, and duly valued
 64 by the assessor. In case any property, real or personal shall
 65 have been omitted, the board shall place it upon the list with
 66 its market value, and correct the assessment so that each tract
 67 or lot of real property, and each article, parcel, or class of
 68 personal property, shall be entered on the assessment list at
 69 its market value; but no assessment of the property of any
 70 person shall be raised until ~~he~~ the person has been duly *
 71 notified of the intent of the board so to do. On application of
 72 any person feeling aggrieved, the board shall review the

1 assessment or classification or both, and correct it as shall
 2 appear just. A majority of the members may act at such meeting,
 3 and adjourn from day to day until they finish the hearing of all
 4 cases presented. The assessor shall attend, with ~~his~~ the *
 5 assessment books and papers, and take part in the proceedings,
 6 but shall not vote. The county assessor, or an assistant *
 7 delegated by ~~him~~ the county assessor shall attend such *
 8 meetings. The board shall list separately, on a form appended
 9 to the assessment book, all omitted property added to the list
 10 by the board and all items of property increased or decreased,
 11 with the market value of each item of property, added or changed
 12 by the board, placed opposite such item. The county assessor
 13 shall enter all changes made by the board in the assessment book.

14 (b) If a person fails to appear in person, by counsel, or
 15 by written communication before the board after being duly
 16 notified of the board's intent to raise the assessment of ~~his~~ *
 17 the property, or if a person feeling aggrieved by an assessment *
 18 or classification fails to apply for a review of the assessment *
 19 or classification, ~~he~~ the person may not appear before the *
 20 county board of equalization for a review of ~~his~~ the assessment *
 21 or classification, except when an assessment was made subsequent
 22 to the meeting of the board, as provided in section 273.01, or
 23 that ~~he~~ the person can establish ~~that he did not receive not~~ *
 24 having received notice of ~~his~~ market value at least five days *
 25 before the local board of review meeting.

26 The board of review, and the board of equalization of any
 27 city, unless a longer period is approved by the commissioner of
 28 revenue, shall complete its work and adjourn within 20 days from
 29 the time of convening specified in the notice of the clerk and
 30 no action taken subsequent to such date shall be valid. All
 31 complaints in reference to any assessment or classification made
 32 after the meeting of such board, shall be heard and determined
 33 by the county board of equalization. Any non-resident may, at
 34 any time, before the meeting of the board of review file written
 35 objections to ~~his~~ an assessment or classification with the *
 36 county assessor and if any such objections are filed they shall
 37 be presented to the board of review at its meeting by the county
 38 assessor for its consideration.

39 No change for subd 2

274*#04S

40 274.04 ASSESSOR'S RETURN TO AUDITOR.

41 Subdivision 1. The assessor shall foot each column in ~~his~~ *
 42 the assessment books, and make in each book, under proper *
 43 headings, a tabular statement showing the footings of the *
 44 several columns upon each page. ~~He~~ The assessor shall also foot *
 45 the total amounts of the several columns under the respective *
 46 headings. On or before the first Monday of May ~~he~~ the assessor *
 47 shall return to the county auditor ~~his~~ the assessment books, and *
 48 deliver therewith the lists and statements of all persons *
 49 assessed, all of which shall be preserved in the office of the *
 50 auditor. Such return shall be verified by ~~his~~ affidavit, *
 51 substantially in the following form: *

52
 53 "State of Minnesota)
 54) ss.
 55 County of)

56 I,, assessor of, do solemnly swear
 57 that the book to which this is attached contains a correct and
 58 full list of all the real property (or personal property, as the
 59 case may be) subject to taxation in, so far as I have
 60 been able to ascertain the same, and that the market value and
 61 the assessed value set down in the proper column, opposite the
 62 several kinds and descriptions of property, is in each case the
 63 market and the assessed value of such property, to the best of
 64 my knowledge and belief (where the assessment has been corrected
 65 by the town board, "except as corrected by the town board"), and
 66 that the footings of the several columns in said book, and the
 67 tabular statement returned herewith, are correct, as I verily
 68 believe.

69
 70 Assessor.
 71 Subscribed and sworn to before me this day of
 72, 19....
 73
 74 Auditor of County."
 75 Subd. 2. In counties where the county auditor has elected

1 to come under the provisions of section 273.03, subdivision 2,
 2 the county assessor shall prepare recapitulations in such form
 3 as is prescribed by the commissioner of revenue, of the total
 4 amount of market and assessed valuations by subdivisions of
 5 government within ~~his~~ the county as of January 2 of each year. *
 6 Such recapitulation shall be submitted on or before the fourth
 7 Monday of June and shall be verified by the assessor's
 8 affidavit, substantially in the following form:

9
 10 "State of Minnesota)
 11) ss.
 12 County of)
 13 I,, assessor of, do solemnly swear
 14 that the recapitulation attached hereto contains a correct and
 15 full statement of market and assessed valuations of real estate
 16 for the year 19.....
 17
 18 Assessor
 19 Subscribed and sworn to before me this day of
 20, 19.....
 21
 22 Auditor of County."
 23 A true copy of this recapitulation shall be certified by
 24 the county assessor and promptly forwarded to the commissioner
 25 of revenue.

274*#05S

26 274.05 AUDITOR'S CERTIFICATE; WHERE FILED.
 27 Subdivision 1. Upon the return of the assessment books, as
 28 provided for in section 274.04, the county auditor shall examine
 29 such assessment books; and, if found in proper form, shall issue
 30 ~~his~~ a certificate to the assessor, setting forth the fact that *
 31 such books are conformable to the provisions of section 274.04. *
 32 The assessor shall file such certificate with the clerk of ~~his~~ *
 33 the town, and no compensation shall be allowed such assessor, by *
 34 the town board, for ~~his~~ services until the provisions of this *
 35 section shall have been complied with.
 36 Subd. 2. Upon receipt of the recapitulations of market and
 37 assessed valuations provided for in section 274.04, subdivision
 38 2, the county auditor shall examine such recapitulations; and,
 39 if found in proper form, shall issue ~~his~~ a certificate to the *
 40 assessor, setting forth the fact that such recapitulations are
 41 conformable to the provisions of section 274.04, subdivision 2.

274*#07S

42 274.07 LIST BY PERSON SICK OR ABSENT.
 43 If any person required to list property for taxation is
 44 prevented by sickness or absence from giving to the assessor
 45 such statement, such person, or ~~his~~ the person's agent having *
 46 charge of such property, may, at any time before the extension
 47 of taxes thereon by the county auditor, make and deliver a
 48 statement of the same, as required by this chapter, to the
 49 auditor, who shall make an entry thereof, and correct the
 50 corresponding items in the return made by the assessor, as the
 51 case may require; but no such statement shall be received from
 52 any person who refused or neglected to make oath to ~~his~~ the *
 53 statement when required by the assessor; nor from any person,
 54 unless ~~he~~ the person makes and files therewith an affidavit that *
 55 he-was-absent of absence from ~~his~~ the town or district without *
 56 design to avoid the listing of ~~his~~ the property, or was *
 57 prevented by sickness from giving to the assessor the required
 58 statement when called on for that purpose.

274*#08S

59 274.08 CORRECTION OF BOOKS.
 60 The county auditor shall carefully examine the assessment
 61 books returned ~~to him~~. If any property has been omitted, ~~he~~ the *
 62 auditor shall enter the same upon the proper list, and forthwith *
 63 notify the assessor making such omission, who shall immediately
 64 ascertain the value thereof and correct ~~his~~ the original *
 65 return. In case of the inability or neglect of the assessor to
 66 perform this duty, the auditor shall ascertain the value of such
 67 property and make the necessary corrections.

274*#09S

68 274.09 CORRECTION OF FALSE LISTS AND RETURNS.
 69 If the county auditor has reason to believe or is informed
 70 that any person has given to the assessor a false statement of
 71 ~~his~~ personal property, or that the assessor has not returned the *
 72 full amount of all property required to be listed in ~~his~~ the *

1 assessor's town or district, or has omitted, or made an *
 2 erroneous return of, any property subject to taxation, he the *
 3 auditor shall proceed, at any time before the final settlement *
 4 with the county treasurer, to correct the return of the
 5 assessor, and to charge the owners of such property on the tax
 6 lists with the proper amount of taxes. For such purpose the
 7 county auditor may issue compulsory process, require the
 8 attendance of any person ~~whom-he-may-suppose~~ supposed to have a *
 9 knowledge of the property, or its value, and may examine such
 10 person, on oath, in relation to such statement or return. In
 11 all such cases, before making the entry on the tax list, the
 12 county auditor shall notify the person required to list ~~that-he~~ *
 13 may of the right to have an opportunity to show that his the *
 14 person's statement or the return of the assessor is correct; and *
 15 the county auditor shall file in his the auditor's office a *
 16 statement of the facts or evidence upon which ~~he the auditor~~ *
 17 made such corrections. In no case shall the county auditor
 18 reduce the amount returned by the assessor without the written
 19 consent of the commissioner of revenue, on a statement of the
 20 case submitted by the county auditor or the party aggrieved.

274*#10S

21 274.10 PROPERTY OMITTED OR UNDERVALUED.

22 Subdivision 1. EXAMINER; APPOINTMENT, DUTIES. When
 23 it shall be made to appear to the governor by verified
 24 complaint, or by the finding of a court or of the legislature,
 25 or any committee thereof, that any considerable amount of
 26 property in any county has been improperly omitted from the tax
 27 lists and assessment roll of such county for any year; or, if
 28 assessed, that the same has been grossly undervalued by the
 29 assessor or other county officials, whether or not such
 30 assessment has been reviewed by the county board of
 31 equalization, he the governor shall appoint, in writing, some *
 32 competent citizen of the state, not a resident of such county,
 33 as examiner, to ascertain the character, location, value, and
 34 ownership of the real and personal property in such county so
 35 omitted or undervalued, who, before entering upon his duties, *
 36 shall take an oath faithfully to perform such duties. Such
 37 person shall forthwith examine the subject, and prepare a
 38 report, in duplicate, attaching thereto a list showing the
 39 character, location, ownership, and valuation of all such
 40 property, with the year or years for which the same, or any part
 41 thereof, has been omitted or undervalued. Such list shall also
 42 show opposite each piece or parcel of land or item of personal
 43 property undervalued, the amount of the assessment, and the
 44 actual and market value thereof at the time the same should have
 45 been assessed, and the difference between the assessed and the
 46 actual value thereof as so found. On or before January first,
 47 in the year in which any such assessment is to be made, he the *
 48 examiner shall file one duplicate report and list with the *
 49 auditor of such county, and the other with the commissioner of
 50 finance. Such lists shall be verified substantially, as follows:

51 "I,, do solemnly swear that I
 52 have personally examined the real and personal property in the
 53 foregoing list described, and that the same is a correct and
 54 full list of all the real and personal property subject to
 55 taxation in said county, and omitted from taxation for the years
 56 therein stated, or, if assessed for said years, grossly
 57 undervalued, so far as I have been able to ascertain the same,
 58 and that the character, location, ownership, and valuation
 59 thereof as set down in the proper column, opposite the several
 60 kinds and pieces of property, are just and true, to the best of
 61 my knowledge and belief."

62 Subd. 2. DEPUTIES; APPOINTMENT, DUTIES. Such *
 63 examiner, when necessary to ~~enable-him~~ properly to perform his *
 64 duties within the time prescribed by law, with the approval of
 65 the governor, may appoint one or more well-qualified citizens of
 66 the state as deputies to assist him in the performance of his *
 67 examiner's duties. These deputies shall perform such duties as *
 68 shall be assigned them by the examiner, first taking an oath
 69 faithfully to perform such duties.

70 Subd. 3. COMPENSATION OF EXAMINER AND DEPUTIES.
 71 Such examiner shall receive for his services \$3, and each ~~of-his~~ *
 72 deputies deputy \$2, for every day in which they are necessarily *
 73 employed in the performance of their duties, and their necessary
 74 expenses. Upon the approval by the governor, such compensation
 75 and expenses shall be paid out of the general fund in the state

1 treasury. The respective counties shall reimburse the state
 2 therefor two years after the same are incurred. The state
 3 auditor shall notify the auditor of such county of the amount
 4 thereof, whereupon the county auditor shall levy a tax on the
 5 taxable property in his the county sufficient to pay the same;
 6 and, when collected, the proceeds thereof shall be forthwith
 7 paid into the state treasury in the same manner as other state
 8 taxes.

274*#12S

9 274.12 DUTIES OF AUDITOR AND ASSESSORS.

10 Upon the receipt of any such examiner's list, the county
 11 auditor shall enter the property therein described in the real
 12 and personal property assessment books; and, upon receiving such
 13 books from the auditor, the assessor shall assess the property
 14 so entered at its market value as shown by such list, a copy of
 15 which shall be furnished to him the assessor with the assessment
 16 books of his the district. He The assessor shall also make the
 17 necessary corrections in any assessment theretofore made so as
 18 to make the same correspond with the market value of the
 19 property as returned in such list, and correct his the returns
 20 accordingly. The auditor shall proceed thereon as provided by
 21 sections 273.02 and 274.09. ~~When the auditor shall find~~ On
 22 finding from any such list that any property has been omitted
 23 from or undervalued in the lists of any prior year or years, he
 24 the auditor shall forthwith enter the same on the assessment and
 25 tax books for the year or years in which the same was omitted or
 26 undervalued, and shall assess such omitted and undervalued
 27 property at the valuation and amounts so shown, and extend the
 28 arrearages of taxes on such property accruing against the same
 29 upon the tax list for the current year, and collect the same as
 30 other taxes. Any assessor or county auditor who shall neglect
 31 to perform any duty required by this section shall be guilty of
 32 a misdemeanor; and, in addition to the usual penalty, shall be
 33 liable on his official bond for all taxes on any and all
 34 property named in such examiner's list.

274*#13S

35 274.13 COUNTY BOARD OF EQUALIZATION.

36 Subdivision 1. (a) The county commissioners, or a majority
 37 of them, with the county auditor, or, if he the auditor cannot
 38 be present, the deputy county auditor, or, if there be no such
 39 deputy, the clerk of the district court, shall form a board for
 40 the equalization of the assessment of the property of the
 41 county, including the property of all cities whose charters
 42 provide for a board of equalization. The board shall meet
 43 annually, on the date specified in section 274.14, at the office
 44 of the auditor and, each member having taken an oath fairly and
 45 impartially to perform his duties as such, shall examine and
 46 compare the returns of the assessment of property of the several
 47 towns or districts, and equalize the same so that each tract or
 48 lot of real property and each article or class of personal
 49 property shall be entered on the assessment list at its market
 50 value, subject to the following rules:

51 (1) The board shall raise the valuation of each tract or
 52 lot of real property which in its opinion is returned below its
 53 market value to such sum as is believed to be the market value
 54 thereof; first, giving notice of intention to do so to the
 55 person in whose name it is assessed, if a resident of the
 56 county, which notice shall fix a time and place when and where a
 57 hearing will be had;

58 (2) The board shall reduce the valuation of each tract or
 59 lot which in its opinion is returned above its market value to
 60 such sum as is believed to be the market value thereof;

61 (3) The board shall raise the valuation of each class of
 62 personal property which in its opinion is returned below its
 63 market value to such sum as is believed to be the market value
 64 thereof; and shall raise the aggregate value of the personal
 65 property of individuals, firms, or corporations, when it
 66 believes that such aggregate valuation, as returned, is less
 67 than the market value of the taxable personal property possessed
 68 by such individuals, firms, or corporations, to such sum as it
 69 believes to be the market value thereof; first giving notice to
 70 such persons of intention to do so, which notice shall fix a
 71 time and place when and where a hearing will be had;

72 (4) The board shall reduce the valuation of each class of
 73 personal property enumerated in section 273.49 which is returned
 74 above its market value to such sum as it believes to be the

1 market value thereof; and, upon complaint of any party
 2 aggrieved, the board shall reduce the aggregate valuation of the
 3 personal property of such individual, or of any class of
 4 personal property for which he the individual is assessed, which *
 5 in its opinion has been assessed at too large a sum, to such sum *
 6 as it believes was the market value of his the individual's
 7 personal property of such class;

8 (5) The board shall not reduce the aggregate value of all
 9 the property of its county, as submitted to the county board of
 10 equalization, with the additions made thereto by the auditor as
 11 in this chapter required, by more than one percent of the whole
 12 valuation thereof; but the board may raise the aggregate
 13 valuation of such real property, and of each class of personal
 14 property, of the county, or of any town or district thereof,
 15 when it believes the same is below the market value of the
 16 property, or class of property, to such aggregate amount as it
 17 believes to be the market value thereof;

18 (6) The board shall change the classification of any
 19 property which in its opinion is not properly classified;

20 (b) If a person, other than a public utility, mining
 21 company or the metropolitan airport commission for which the
 22 original assessments are determined by the commissioner of
 23 revenue, fails to appear in person, by counsel, or by written
 24 communication before the county board after being duly notified
 25 of the board's intent to raise the assessment of his the *
 26 person's property, or if a person fails to appeal a decision of *
 27 the board of review as described in section 274.01 subsequent *
 28 to his appearance before the local board, he the person may not
 29 appear before the commissioner of revenue as provided for in
 30 section 270.11, subdivisions 5 and 6, to contest the valuation.

31 No change for subd 2

274*#16S

32 274.16 CORRECTED LISTS, ABSTRACTS.
 33 The county assessor or, in Ramsey county, the official
 34 designated by the board of county commissioners shall calculate
 35 the changes of the assessment lists determined by the county
 36 board of equalization, and make corrections accordingly, in the
 37 real or personal lists, or both, and shall make duplicate
 38 abstracts of the same; one shall be filed in his the assessor's *
 39 office, and one shall be forwarded to the commissioner of
 40 revenue on or before August 1.

274*#17S

41 274.17 RECORD; ABSTRACT TO COUNTY AUDITORS.
 42 The secretary shall keep a record of the proceedings of the
 43 county board of equalization, which shall be published in the
 44 annual report of the commissioner of finance, and upon final *
 45 adjournment he shall transmit to each county auditor an abstract *
 46 of such proceedings, specifying the percent added to or deducted
 47 from the valuation of the real property of each of the several
 48 towns and cities, and of the real property not in towns or
 49 cities, in case an equal percent has not been added to or
 50 deducted from each; and specifying also the percent added to or
 51 deducted from the several classes of personal property in each
 52 of the towns and cities; and specifying also the amounts added
 53 to the assessments of individuals, firms, or corporations. The
 54 county auditor shall add to or deduct from each tract or lot of
 55 real property in his the county the required percent on the *
 56 valuation thereof, as it stood after equalization by the county
 57 board, adding in each case any fractional sum of 50 cents or
 58 more, and deducting in each case any fractional sum of less than
 59 50 cents, so that no valuation of any separate tract or lot
 60 shall contain a fraction of a dollar; and shall also add to or
 61 deduct from the several classes of personal property in his the *
 62 county the required percent on the valuation thereof, as it
 63 stood after equalization by the county board, adding or
 64 deducting in manner aforesaid any fractional sum, so that no
 65 valuation of any separate class of personal property shall
 66 contain a fraction of a dollar; and shall also add to the
 67 assessments of individuals, firms, and corporations, as they
 68 stood after equalization by the county board, the required
 69 amounts.

274*#18S

70 274.18 ABSTRACT OF REALTY ASSESSMENT ROLL TO TOWN CLERKS.
 71 On or before the first Tuesday of March, in each year, the
 72 county auditor shall make out and transmit to each town clerk in
 73 his the county a certified copy or abstract of the real estate *

1 assessment roll of such town, as equalized by the county and
2 state boards of equalization.

274*#19S

3 274.19 ASSESSMENT OF MANUFACTURED HOMES.

4 No change for subd 1

5 Subd. 2. On or before May 1, the assessor shall return to
6 the county auditor ~~his~~ the assessment books relating to the *
7 assessment of manufactured homes. After receiving the
8 assessment books, the county auditor shall determine the tax to
9 be due by applying the rate of levy of the preceding year and
10 shall transmit a list of the taxes to the county treasurer not
11 later than May 30.

12 No change for subd 3

13 Subd. 4. Any person who claims that ~~his~~ the person's *
14 manufactured home has been unfairly or unequally assessed, or
15 that such property has been assessed at a valuation greater than
16 its real or actual value, or that the tax levied against the
17 same is illegal, in whole or in part, or has been paid, or that
18 the property is exempt from the tax so levied, may have the
19 validity of ~~his~~ the claim, defense or objection determined by *
20 the district court of the county in which the tax is levied or
21 by the tax court by filing a petition for such determination, in
22 the office of the clerk of the district court on or before the
23 first day of September of the year in which such tax becomes
24 payable. A petition for determination under this section may be
25 transferred by the district court to the tax court.

26 No change for subd 5 to 8

275*#08S

27 275.08 AUDITOR TO FIX RATE.

28 No change for subd 1 to 3

29 Subd. 4. SUBSEQUENT ADJUSTMENT. After the correct
30 mill rate or assessed value has been certified, the amount of
31 taxes over or under levied shall be computed and notice sent to
32 each affected taxing district. If the estimated tax levy
33 exceeds the correct tax levy based on actual assessed value and
34 mill rate, the county treasurer shall remit any amount of excess
35 ~~which-he-collects~~ collected to the affected taxing district. In *
36 the following levy year, the estimating county auditor shall
37 adjust the levy of the affected taxing district to compensate
38 for the amount of variance.

39 In the event that the estimated tax levy is less than the
40 correct tax levy based on actual assessed value and mill rate,
41 the auditor shall adjust the levy of the affected taxing
42 district as provided in section 275.075.

275*#125S

43 275.125 TAX LEVY, SCHOOL DISTRICTS.

44 No change for subd 1 to 9b

45 Subd. 10. CERTIFICATION OF LEVY LIMITATIONS. The
46 commissioner shall certify to the county auditors the levy
47 limits for all school districts headquartered in the respective
48 counties together with adjustments for errors in levies not
49 penalized pursuant to subdivision 15 as well as adjustments to
50 final pupil unit counts.

51 A school district shall have the right to require the
52 commissioner to review ~~his~~ the certification and to present *
53 evidence in support of modification of ~~his~~ the certification. *

54 The county auditor shall reduce levies for any excess of
55 levies over levy limitations pursuant to section 275.16. Such
56 reduction in excess levies may at the discretion of the school
57 district be spread over not to exceed two calendar years.

58 Subd. 11. Repealed, 1976 c 271 s 98 subd 1

59 No change for subd 11a to 21

275*#26S

60 275.26 EXCESSIVE LEVY; INJUNCTION.

61 When any county board shall levy taxes for any purpose in
62 excess of the amount allowed by law, any taxpayer thereby
63 affected, personally and for ~~himself-and~~ all other interested *
64 taxpayers in the county, may bring an action against the
65 treasurer, the auditor, and the board of such county, to enjoin
66 the collection of such taxes, and for an order requiring the
67 defendants, or either of them, to correct the levy, and for such
68 other order as may be proper for the correction and adjustment
69 of such taxes and levy, notwithstanding that such taxpayers have
70 a speedy and adequate remedy in the ordinary course of law.
71 When so corrected and adjusted, the taxes may be collected as
72 other taxes.

275*#27S

1 275.27 CONTRACTS IN EXCESS VOID; LIABILITY OF OFFICERS.
 2 It shall be unlawful for the authorities of any county,
 3 town, city, or school district, unless expressly authorized by
 4 law, to contract any debt or incur any pecuniary liability for
 5 the payment of either the principal or the interest of which,
 6 during the current or any subsequent year, it shall be necessary
 7 to levy a rate of taxes higher than the maximum prescribed by
 8 law. Every such contract shall be null and void in regard to
 9 any obligation thereby sought to be imposed upon such
 10 corporation; but every officer, agent, or member thereof who
 11 participates in or authorizes the making of such contract shall
 12 be individually liable for its performance. Every such officer
 13 or agent who is present when such contract is made or authorized
 14 shall be deemed to participate in or authorize the making
 15 thereof, as the case may be, unless he the officer or agent
 16 enter or cause to be entered ~~his~~ a dissent therefrom in the
 17 records of such corporation.

*
*

275*#28S

18 275.28 TAX LISTS.
 19 No change for subd 1 to 3
 20 Subd. 4. UNIT CARD LEDGER COUNTIES. In any county
 21 in this state in which the county auditor has elected to come
 22 under the provisions of section 273.03, subdivision 2, he the
 23 auditor shall cause to be prepared a record to be known as "Real
 24 estate assessment and tax list for the year" In
 25 addition to the information provided for in subdivision 1, to be
 26 shown in tax lists, there shall also be included the amount of
 27 market value of land, building, and machinery, if any, and the
 28 total market value assessed against each parcel of real estate
 29 contained in such lists.

*
*

30 In such counties the auditor shall make in each list a
 31 certificate in the following form:
 32 "I,, auditor of county and
 33 State of Minnesota, do hereby certify that the following is a
 34 correct list of the taxes levied on the real property, based on
 35 the total market value indicated therein, in the (town or
 36 district, as the case may be) of for the year
 37 19.. .
 38 Witness my hand and official seal this
 39 day of 19..
 40
 41 County Auditor."

275*#55S

42 275.55 STATE REVIEW AND REGULATION OF LEVIES.
 43 The commissioner of revenue, or ~~his~~ designees, shall
 44 establish procedures by which levies of all governmental units
 45 shall be periodically reviewed. The commissioner shall be
 46 empowered to order withholding of state aids where such
 47 penalties are authorized by law, to issue, in accordance with
 48 chapter 14, rulings interpreting sections 275.50 to 275.56, and
 49 to take such other administrative actions as he the commissioner
 50 deems necessary in order to carry out the provisions of sections
 51 275.50 to 275.56. If the commissioner of revenue takes
 52 administrative action or any other action authorized by this
 53 section to enforce the provisions of sections 275.50 to
 54 275.56, he the commissioner shall give written notice of such
 55 action to the governmental subdivision affected. Such notice
 56 shall specify the actual or impending violations by the
 57 governmental subdivision of sections 275.50 to 275.56 or the
 58 rules and regulations of the department of revenue pertaining
 59 thereto, describe the corrective action required, including, in
 60 the case of an excess levy, reduction of the governmental
 61 subdivision's levy in the next succeeding levy year in an amount
 62 equal to the amount of the excess levy, set a reasonable period
 63 of time within which the governmental subdivision shall correct
 64 the specified actual or impending violations and caution the
 65 governmental subdivision that if the specified correction is not
 66 made within the time allowed, the state aids to the governmental
 67 subdivision pursuant to sections 477A.011 to 477A.014 and
 68 298.282, as amended, will be reduced as provided in section
 69 275.51, subdivision 4. The time period first allowed for
 70 correction may be extended by the commissioner if ~~he finds~~ there
 71 is a reasonable basis for delay. County auditors, in addition
 72 to duties otherwise provided by law, shall cooperate with the
 73 commissioner in establishing such procedures and enforcing the

*
*
*
*
*
*

1 provisions of sections 275.50 to 275.56.

276*#01S

2 276.01 DELIVERY OF LISTS TO TREASURER.

3 On or before the first business day in January in each
4 year, the county auditor shall deliver the lists of the several
5 districts of the county to the county treasurer, taking therefor
6 ~~his~~ the treasurer's receipt, showing the total amount of taxes *
7 due upon the lists. Where the names of taxpayers appear in the
8 property tax lists, the county auditor shall show the addresses
9 of such taxpayers. Such lists shall be authority for the
10 treasurer to receive and collect taxes therein levied.

11 In counties in which ~~the auditor has elected~~ an election *
12 has been made to come under the provisions of section 273.03, *
13 subdivision 2, ~~he~~ the auditor shall, during the year in which *
14 such lists as provided for in section 275.28, subdivision 3, are
15 in the possession of the county treasurer, have access thereto
16 for the purposes of changing market valuations and the
17 classifications of real estate contained therein which ~~he~~ the *
18 auditor would have been required to change or otherwise amend in *
19 the assessment books provided for in section 273.03, subdivision
20 1, except for ~~his~~ the election to discontinue the preparation of *
21 such assessment books. The county auditor shall be the official
22 custodian of such lists after the year during which they are in
23 the county treasurer's possession. *

276*#02S

24 276.02 TREASURER TO BE COLLECTOR.

25 The county treasurer shall be the receiver and collector of
26 all the taxes extended upon the tax lists of the county, whether
27 levied for state, county, city, town, school, poor, bridge,
28 road, or other purposes and of all fines, forfeitures, or
29 penalties received by any person or officer for the use of the
30 county. ~~He~~ The treasurer shall proceed to collect the same *
31 according to law and place the same when collected to the credit
32 of the proper funds. This section shall not apply to fines and
33 penalties accruing to municipal corporations for the violation
34 of their ordinances which are recoverable before a city
35 justice. The county board may by resolution authorize the
36 treasurer to impose a charge for any dishonored checks.

276*#03S

37 276.03 TREASURER TO COLLECT LOCAL ASSESSMENTS.

38 Any county treasurer in this state now empowered by law to
39 collect local assessments made or levied by any city in this
40 state is hereby required to collect all assessments for local
41 improvements made or levied and certified to ~~him~~ the treasurer *
42 by any such city against any specific tract or parcel of land at *
43 the same time that ~~he collects~~ any taxes are collected which
44 have been or may be levied against the same tract or parcel of
45 land under the general laws of this state.

276*#04S

46 276.04 NOTICE OF RATES; PROPERTY TAX STATEMENTS.

47 On receiving the tax lists from the county auditor, the
48 county treasurer shall, if directed by the county board, give
49 three weeks' published notice in a newspaper specifying the
50 rates of taxation for all general purposes and the amounts
51 raised for each specific purpose. ~~He~~ The treasurer shall, *
52 whether or not directed by the county board, cause to be printed
53 on all tax statements, or on an attachment, a tabulated
54 statement of the dollar amount due to each taxing authority from
55 the parcel of real property for which a particular tax statement
56 is prepared. The dollar amounts due the county, township or
57 municipality and school district shall be separately stated but
58 the amounts due other taxing districts, if any, may be
59 aggregated. The dollar amounts, including the dollar amount of
60 any special assessments, may be rounded to the nearest even
61 whole dollar. For purposes of this section whole odd-numbered
62 dollars may be adjusted to the next higher even-numbered
63 dollar. The statement shall include the following sentence,
64 printed in upper case letters in bold face print: "THE STATE OF
65 MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE
66 OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND
67 REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax
68 statements for manufactured homes and sectional structures taxed
69 as personal property shall contain the same information that is
70 required on the tax statements for real property. The county
71 treasurer shall mail to taxpayers statements of their personal
72 property taxes due, such statements to be mailed not later than

1 February 15 (except in the case of manufactured homes and
2 sectional structures taxed as personal property), statements of
3 the real property taxes due shall be mailed not later than
4 January 31; provided, that the validity of the tax shall not be
5 affected by failure of the treasurer to mail such statement.
6 The taxpayer is defined as the owner who is responsible for the
7 payment of the tax. Such real and personal property tax
8 statements shall contain the market value, as defined in section
9 272.03, subdivision 8, used in determining the tax. The
10 statement shall show the amount attributable to section 124.2137
11 as "state paid agricultural credit" and the amount attributable
12 to section 273.13, subdivisions 22 and 23 as "state paid
13 homestead credit." If so directed by the county board, the
14 treasurer shall visit places in the county as he the treasurer
15 deems expedient for the purpose of receiving taxes and the
16 county board is authorized to pay the expenses of such visits
17 and of preparing duplicate tax lists. Failure to mail the tax
18 statement shall not be deemed a material defect to affect the
19 validity of any judgment and sale for delinquent taxes.

276*#041S

20 276.041 FILING TO RECEIVE NOTICE OF DELINQUENT TAXES.
21 Fee owners, vendees, mortgagees, lienholders, and lessees
22 may file their names and current mailing addresses with the
23 county auditor in the county in which the land is located for
24 the purpose of receiving notices affecting such land that are
25 issued pursuant to sections 276.04, 281.23, and section
26 279.091. Each person filing ~~his name and address~~ shall pay a
27 filing fee of \$15 to the county auditor for each parcel. The
28 filing shall expire after three years. Persons may refile their
29 names and addresses for additional three-year periods, and a fee
30 of \$15 shall be paid with each refile. The county auditor
31 shall furnish a copy of the list of names and addresses to the
32 county treasurer. Taxpayers of record with the county auditor
33 and mortgagees who remit taxes on their behalf shall receive tax
34 statements and other notices as otherwise provided by law and
35 shall not be required to file and pay fees under this section.

276*#05S

36 276.05 ADDRESSES OF PAYER GIVEN ON TAX RECEIPTS.
37 ~~At his option~~ The county treasurer may issue receipts
38 showing payment of the tax except that upon the payment of any
39 tax in currency or if the payer requests a receipt, the county
40 treasurer shall give to the person paying a receipt therefor,
41 showing the name and post-office address of the person, the
42 amount and date of payment, the land, lot, or other property on
43 which the tax was levied, according to its description on the
44 tax list or in some other sufficient manner, and the year or
45 years for which the tax was levied. If for current taxes on
46 real estate, the receipt shall have written or stamped across
47 its face, "taxes for" (giving the year in figures), or "first
48 half of taxes for" (giving the year in figures), or "last half
49 of taxes for" (giving the year in figures), as the case may be.
50 If land has been sold for taxes either to a purchaser, or to the
51 state, and the time for redemption from such sale has not
52 expired, the receipt for such taxes shall have written or
53 stamped across the face, "sold for taxes." The treasurer shall
54 make duplicates of all receipts and return all such duplicates
55 at the end of each month to the county auditor, who shall file
56 and preserve them in ~~his~~ the auditor's office, charging the
57 treasurer with the amount thereof.

276*#07S

58 276.07 UNDIVIDED INTEREST; PAYMENT AND RECEIPT.
59 Any person holding an undivided interest in any property in
60 this state listed for taxation, including mortgagees, lessees,
61 and others, who by law or contract are required or entitled to
62 pay taxes to protect any right, title, interest, claim, or lien
63 held by them in, to, or upon undivided interests in land, may
64 pay the taxes on such undivided interests, and on such payment
65 the county treasurer may ~~give his~~ issue a receipt for the amount
66 so paid and specify the interest so paid on, and shall enter
67 on ~~his~~ the tax list the name of the person who paid such taxes
68 and the interest paid, and shall report to the county auditor
69 the payment of such taxes upon such undivided interests.
70 Thereupon such undivided interests shall be exempt from
71 proceedings to enforce the collection of the same tax against
72 other undivided interests upon which such tax has not been paid,
73 and the collection of such tax upon the undivided interests upon

1 which the taxes have not been paid shall be proceeded with in
2 the same manner as to such undivided interests as though it were
3 a separate description.

276*#08S

4 276.08 ORDERS RECEIVED FOR TAXES.

5 The county treasurer shall receive in payment of taxes
6 orders on the several funds for which taxes may be levied, to
7 the amount of the tax for such fund, without regard to priority
8 of the numbers of such orders, except when otherwise provided by
9 law, and he shall write or stamp across the face of all such *
10 orders the date of their receipt, and the name of the person
11 from whom received.

276*#09S

12 276.09 SETTLEMENT BETWEEN AUDITOR AND TREASURER.

13 On the fifth day of March and the 20th day of May, and
14 October of each year, the county treasurer shall make full
15 settlement with the county auditor of all receipts collected by *
16 him for all purposes, from the date of the last settlement up to *
17 and including each day mentioned. The county auditor shall,
18 within 30 days after each settlement, send an abstract of same
19 to the state auditor in the form prescribed by the state
20 auditor. At each settlement the treasurer shall make complete
21 returns of the receipts on the current tax list, showing the
22 amount collected on account of the several funds included in the
23 list.

24 For purposes of this section, "receipts" shall include all
25 tax payments received by the county treasurer on or before the
26 settlement date.

276*#10S

27 276.10 APPORTIONMENT AND DISTRIBUTION OF FUNDS.

28 On the settlement day in March, May, and October of each
29 year, the county auditor and county treasurer shall distribute
30 all undistributed funds in the treasury, apportioning them, as
31 provided by law, and placing them to the credit of the state,
32 town, city, school district, special district and each county
33 fund. Within 20 days after the distribution is completed, the
34 county auditor shall make a report of it to the state auditor in
35 the form prescribed by the state auditor. The county auditor
36 shall issue ~~his~~ a warrant for the payment of moneys in the *
37 county treasury to the credit of the state, town, city, school
38 district, or special districts on application of the persons
39 entitled to receive them. The county auditor may apply the mill
40 rate from the year previous to the year of distribution when
41 apportioning and distributing delinquent tax proceeds, provided
42 that the composition of the previous year's mill rate between
43 taxing districts is not significantly different than that which
44 existed for the year of the delinquency.

276*#12S

45 276.12 AUDITOR TO KEEP ACCOUNTS.

46 The county auditor shall keep accounts with the state, the
47 county, and each of the funds of such county, and each town,
48 city, and school district, and with the county treasurer, making
49 daily entries of the charges and credits to the treasurer; and,
50 immediately after each distribution of taxes, he shall credit *
51 the collections to the proper funds. He The auditor shall give *
52 a warrant on the county treasurer for the amount due any town,
53 city, or school district, upon application of its treasurer, and
54 upon the filing of a certificate of its clerk that the person
55 applying is such treasurer, duly elected or appointed, and he *
56 ~~shall~~ charge such body with the amount of the warrant. *

277*#011S

57 277.011 DEFENSE OR OBJECTION TO TAX ON PERSONAL PROPERTY.

58 Subdivision 1. SERVICE AND FILING OF PETITION. Any
59 person ~~who-claims-that-his~~ whose personal property has is *
60 claimed to have been unfairly or unequally assessed, or that *
61 such property has been assessed at a valuation greater than its
62 real or actual value, or that the tax levied against the same is
63 illegal, in whole or in part, or has been paid, or that the
64 property is exempt from the tax so levied, may have the validity
65 of ~~his~~ the claim, defense or objection determined by the *
66 district court of the county in which the tax is levied or by
67 the tax court by serving two copies of a petition for such
68 determination upon the county auditor and one copy each on the
69 county treasurer and the county attorney and filing the same,
70 with proof of such service, in the office of the clerk of the
71 district court on or before the first day of July of the year in

1 which such tax becomes payable. The county auditor shall
 2 immediately forward one copy of the petition to the appropriate
 3 governmental authority in a home rule charter or statutory city
 4 or town in which the property is located, if that city or town
 5 employs its own certified assessor. A petition for
 6 determination under this section may be transferred by the
 7 district court to the tax court.

8 No change for subd 2 to 4

9 Subd. 5. TRIAL OF ISSUES. Such petition, without
 10 any answer, return, or other pleadings thereto, shall stand for
 11 trial at any general term in session when the same is filed; or,
 12 if the court be not then in session, at the next general or
 13 special term appointed to be held in the county; and, if no such
 14 term be appointed to be held within 30 days thereafter, the same
 15 shall be brought to trial at any general term appointed to be
 16 held within the judicial district upon ten days notice. If the
 17 property on which the taxes have been levied is located in a
 18 home rule charter or statutory city or town, which employs its
 19 own certified assessor, the attorney for that governmental unit
 20 may, within 20 days after receipt by the governmental unit of
 21 the copy of the petition forwarded by the county auditor, give
 22 notice to the county attorney and to the petitioner or ~~his~~ the
 23 petitioner's attorney that the home rule charter or statutory
 24 city or town is taking charge of and prosecuting the
 25 proceeding. If the attorney for the home rule charter or
 26 statutory city or town does not give such notice, the attorney
 27 of the county in which these taxes are levied shall take charge
 28 of and prosecute such proceedings, but the county board may
 29 employ any other attorney to assist ~~him~~ the county attorney. At
 30 the term at which such petition comes on for trial it shall take
 31 precedence of all other business before the court. The court
 32 shall without delay summarily hear and determine the claims,
 33 objections, or defenses made by the petition and shall direct
 34 judgment accordingly, and the trial thereof shall disregard all
 35 technicalities and matters of form not affecting the substantial
 36 merits.

37 No change for subd 6 to 8

38 Subd. 9. REFUNDS OF OVERPAYMENT. If upon final
 39 determination the petitioner has paid more than the amount so
 40 determined to be due, judgment shall be entered in favor of the
 41 petitioner for such excess, and upon filing a copy thereof with
 42 the county auditor ~~he~~, the auditor shall forthwith draw a
 43 warrant upon the county treasurer for the payment thereof;
 44 provided that, with the consent of the petitioner, the county
 45 auditor may, in lieu of drawing such warrant, issue to the
 46 petitioner a certificate stating the amount of such judgment,
 47 which amount may be used to apply upon any taxes due or to
 48 become due for the taxing district or districts whose taxes or
 49 assessments are reduced, or their successors in the event of a
 50 reorganization or reincorporation of any such taxing district.
 51 In the event the auditor shall issue a warrant for refund or
 52 certificates, ~~he shall charge~~ the amount thereof shall be
 53 charged to the taxing districts in proportion to the amount of
 54 their respective taxes included in the levy and deduct the same
 55 in the subsequent distribution of any tax proceeds to taxing
 56 districts, and upon receiving any such certificate in payment of
 57 other taxes, the amount thereof shall be distributed to the
 58 state and other taxing districts in proportion to the amount of
 59 their respective taxes included in the levy; provided that if in
 60 the judgment the levy of one or more of the districts be found
 61 to be illegal, to the extent that the tax so levied is reduced
 62 on account of the illegal levies, the amount to be charged back
 63 shall be charged to the districts and the amount thereof
 64 deducted from any distributions thereafter made to them.

65 No change for subd 10

277*#02S

66 277.02 DELINQUENT LIST FILED IN COURT.

67 On the last secular day of July, of each year, the county
 68 treasurer shall make a list of all personal property taxes
 69 remaining delinquent July first, and shall immediately certify
 70 to and file the same with the clerk of the district court of ~~his~~
 71 the county, and upon such filing the list shall be prima facie
 72 evidence that all of the provisions of law in relation to the
 73 assessment and levy of such taxes have been complied with.

277*#03S

74 277.03 DISTRESS AND SALE.

1 Upon the tenth secular day next after the filing of such
 2 list the clerk of the district court shall issue ~~his~~ warrants to *
 3 the sheriff of the county as to all the taxes and penalties
 4 embraced in the list, except those as to which a petition has
 5 been filed, pursuant to section 277.011, directing ~~him~~ the *
 6 sheriff to proceed to collect the same. If such taxes are not *
 7 paid upon demand, the sheriff shall distrain sufficient goods
 8 and chattels belonging to the person charged with such taxes, if
 9 found within the county, to pay the same, with the said penalty
 10 of eight percent and all accruing costs, together with a fee as
 11 set by the county board to cover administrative costs from each
 12 delinquent, as compensation to the clerk of the district court.
 13 Immediately after making distress, the sheriff shall give at
 14 least ten days' posted notice in the town or district where the
 15 property is taken, stating that the property, or so much thereof
 16 as will be sufficient to pay the taxes for which it is
 17 distrained, with penalty and costs of distress and sale, will be
 18 sold at public vendue at a place and time therein designated,
 19 which time shall not be less than ten days after such taking.
 20 If such taxes and penalties and accrued costs are not paid
 21 before the day designated, the sheriff or ~~his~~ a deputy shall *
 22 proceed to sell the property pursuant to the notice.

277*#05S

23 277.05 SHERIFF TO FILE LIST OF UNCOLLECTED TAXES.
 24 If the sheriff is unable, for want of goods and chattels
 25 whereon to levy, to collect by a distress, or otherwise, the
 26 taxes, or any part thereof, assessed upon the personal property
 27 of any persons, ~~he~~ the sheriff shall file with the clerk of the *
 28 district court, on September first following, a list of such
 29 taxes, with an affidavit of ~~himself~~ the sheriff, or of the *
 30 deputy sheriff entrusted with the collection thereof, stating
 31 that ~~he~~ the affiant has made diligent search and inquiry for *
 32 goods and chattels from which to collect such taxes, and is
 33 unable to collect the same. ~~He~~ The sheriff shall note on the *
 34 margin of such list the place to which any delinquent taxpayer
 35 may have removed, with the date of ~~his~~ removal, if ~~he is able to~~ *
 36 ~~ascertain the fact~~ known. At the time of filing the list ~~he~~ the *
 37 sheriff shall also return all the warrants with endorsements *
 38 thereon showing ~~his~~ the doings of the sheriff or deputy in the *
 39 premises, and the clerk shall file and preserve the same. On or
 40 before September tenth thereafter, the clerk shall deliver such
 41 list and affidavit to the county treasurer, who shall, by
 42 comparison of such list with the tax duplicates in ~~his~~ the *
 43 treasurer's office, ascertain whether or not all personal *
 44 property taxes reported by ~~him~~ the treasurer to the clerk as *
 45 delinquent, except those included in such list, have been paid
 46 into the treasurer's office, and shall attach to the list ~~his~~ a *
 47 certificate stating whether or not all taxes reported by ~~him~~ the *
 48 treasurer to the clerk as delinquent and not included in the *
 49 list have been received ~~by him~~, and stating the items of such *
 50 taxes, if any, as have been received. The treasurer shall *
 51 deliver such list and affidavit, with ~~his~~ the certificate *
 52 attached, to the county board at its first session thereafter,
 53 which shall cancel such taxes as it is satisfied cannot be
 54 collected. A copy of the tax list so revised, and also a
 55 separate list of the taxes so canceled, shall be included in the
 56 records of the proceedings of the board, and published in full,
 57 as a part of the proceedings.

277*#06S

58 277.06 CITATION TO DELINQUENTS; DEFAULT JUDGMENT.
 59 On October 20, or within ten days after the adjournment of
 60 the county board, whichever occurs first, the county auditor
 61 shall file a copy of such revised list with the clerk of the
 62 district court, and within ten days thereafter the clerk shall
 63 issue a citation to each delinquent named in the list, stating
 64 the amount of tax and penalty, and requiring such delinquent to
 65 appear on a day to be set by the district court in the county,
 66 appointed to be held at a time not less than 30 days after the
 67 issuance of such citation, and show cause, if any there be, why
 68 ~~he~~ the delinquent should not pay the tax and penalty. The *
 69 citation shall be delivered for service to the sheriff of the
 70 county where such person may at the time reside or be. If such
 71 person, after service of the citation, fails to pay such tax,
 72 penalty, and costs to the sheriff before the first day of the
 73 term, or on such day to show cause as aforesaid, the court shall
 74 direct judgment against ~~him~~ the person for the amount of such *

1 tax, penalty, and costs. When ~~the sheriff is~~ unable to serve
 2 the citation, he the sheriff shall return the same to the clerk,
 3 with ~~his a~~ return thereto to that effect, and thereupon, or if
 4 the court decides that the service of such citation made or
 5 attempted to be made, or the issuance thereof by the clerk, was
 6 illegal, the clerk shall issue another like citation, requiring
 7 such delinquent to appear on the first day of the next general
 8 term to be held in the county, and show cause as aforesaid, and
 9 if he the delinquent fails to pay or to show cause, the court
 10 shall direct judgment as aforesaid. Whenever the sheriff has
 11 been unable to serve any such citation theretofore issued in any
 12 year or years, or whenever the court decides that the service of
 13 any such citation theretofore made or attempted to be made, or
 14 the issuance thereof by the clerk, was illegal, the clerk shall
 15 issue another like citation requiring such delinquent to appear,
 16 as in the case last provided, and with like effect; provided,
 17 that all citations other than the first shall be issued only on
 18 the request of the county attorney.

277*#07S

19 277.07 CITATION TO DISTRIBUTEES.

20 When the person against whom such tax is assessed has died,
 21 and ~~his the~~ estate has been administered and assigned, or where
 22 an executor or administrator, or an assignee for the benefit of
 23 creditors, or any other person acting in the capacity of
 24 trustee, against whom such tax is assessed, has been discharged
 25 from ~~his the~~ trust by a court of competent jurisdiction before
 26 the total amount of such tax has been ascertained and levied, a
 27 citation shall issue to the persons to whom the trust estate or
 28 the residue of the estate has been assigned, except that no
 29 citation shall issue to creditors in assignments for benefit of
 30 creditors.

277*#11S

31 277.11 SHERIFF'S FEES.

32 The sheriff, or ~~his a~~ deputy, shall be allowed the same
 33 fees for collecting such taxes, and for making distress and sale
 34 of goods and chattels for the payment of taxes, as are allowed
 35 by law to constables for making levy and sale of property on
 36 execution; traveling fees to be computed from the county-seat to
 37 the place of making distress, unless such distress is made by
 38 ~~his the~~ deputy, in which case the same shall be computed from
 39 the residence of such deputy. Such fees shall be added to the
 40 tax, and collected by the sheriff.

277*#12S

41 277.12 NEGLECT OF SHERIFF.

42 ~~If the~~ A sheriff who shall refuse or neglect to collect any
 43 tax assessed upon personal property where the same is
 44 collectible, or to file the delinquent tax list and affidavit,
 45 as herein provided, ~~he~~ shall be held liable for the whole amount
 46 of such taxes uncollected, and the same shall be deducted from
 47 any bills presented by ~~him the~~ sheriff to and allowed by the
 48 county board, and applied to the several funds for which they
 49 were levied.

277*#13S

50 277.13 REMOVAL OF DELINQUENT; DUTY OF COUNTY AUDITOR.

51 Within 30 days after June first, in each year, the county
 52 auditor shall make out and forward to the clerk of the district
 53 court of any county to which any delinquent personal property
 54 taxpayer may have removed a statement of such delinquent taxes,
 55 specifying the value of the property on which such taxes were
 56 levied and the amount of the taxes, to which he the auditor
 57 shall add an amount equal to 25 percent on the taxes levied if
 58 such delinquent taxpayer left the county in which the taxes were
 59 levied after the day upon which they became due, but not
 60 otherwise. On receipt of such statement or account, the clerk
 61 shall issue ~~his a~~ warrant to the sheriff of ~~his the~~ county, who
 62 shall immediately proceed to collect the same of the person so
 63 charged with the taxes and percent, together with a clerk's fee
 64 of 25 cents for each warrant so issued. The sheriff shall
 65 deliver such warrant, with ~~his the~~ doings thereunder, to the
 66 clerk, together with the amount of ~~his~~ collections thereon. The
 67 clerk shall remit all taxes thus collected to the treasurer of
 68 the county to which they belong, and at the same time shall
 69 return the original statement to the auditor of such county,
 70 certifying the amount of such collections, and, if any taxes
 71 remain unpaid, the reason why they could not be collected. The
 72 auditor shall charge the treasurer to whom such remittance is

1 made with the amount thereof, and cancel such taxes from the
 2 list. Receipts shall be issued to the sheriff for delinquent
 3 taxes collected ~~by him~~ and the payment shall be made in the
 4 manner provided in section 276.05. *

278*#01S

5 278.01 DEFENSE OR OBJECTION TO TAX ON LAND; SERVICE AND
 6 FILING.

7 Subdivision 1. DETERMINATION OF VALIDITY. Any person
 8 having any estate, right, title, or interest in or lien upon any
 9 parcel of land, who claims that such property has been
 10 partially, unfairly, or unequally assessed in comparison with
 11 other property in the city or county, or that the parcel has
 12 been assessed at a valuation greater than its real or actual
 13 value, or that the tax levied against the same is illegal, in
 14 whole or in part, or has been paid, or that the property is
 15 exempt from the tax so levied, may have the validity of ~~his~~ the
 16 claim, defense, or objection determined by the district court of
 17 the county in which the tax is levied or by the tax court by
 18 serving two copies of a petition for such determination upon the
 19 county auditor and one copy each on the county treasurer and the
 20 county attorney and filing the same, with proof of service, in
 21 the office of the clerk of the district court before the 16th
 22 day of May of the year in which the tax becomes payable. A
 23 property owner, other than a public utility, mining company, or
 24 the railroad company for which the original assessments are
 25 determined by the commissioner of revenue, may not appear before
 26 the district court or tax court unless a timely appearance in
 27 person, by counsel, or by written communication has been made
 28 before the county board of equalization as provided in section
 29 274.13, to appeal the assessment of the property, or that ~~he~~ the
 30 property owner can establish ~~that he did not receive~~ not having
 31 received notice of ~~his~~ market value at least ten days before the
 32 county board of review meeting. Notwithstanding the provisions
 33 of this section, if the market value of the property is
 34 increased or if the classification of the property is changed
 35 after the notice has been sent to the property owner, the
 36 property owner may appear before the district court or tax court
 37 without an appearance in person or written communication to the
 38 county board of equalization. The county auditor shall
 39 immediately forward one copy of the petition to the appropriate
 40 governmental authority in a home rule charter or statutory city
 41 or town in which the property is located if that city or town
 42 employs its own certified assessor. A copy of the petition
 43 shall also be sent to the school board of the school district in
 44 which the property is located. A petition for determination
 45 under this section may be transferred by the district court to
 46 the tax court. An appeal may also be taken to the tax court
 47 under chapter 271 at any time following receipt of the valuation
 48 notice required by section 273.121 but prior to May 16 of the
 49 year in which the taxes are payable. *

50 Subd. 2. HOMESTEADS. Any person having any estate,
 51 right, title or interest in or lien upon any parcel which is
 52 classified as homestead under the provisions of section 273.13,
 53 subdivision 22 or 23, who claims that said parcel has been
 54 assessed at a valuation which exceeds by ten percent or more the
 55 valuation which the parcel would have if it were valued at the
 56 average assessment/sales ratio for real property in the same
 57 class, in that portion of the county in which that parcel is
 58 located, for which the commissioner is able to establish and
 59 publish a sales ratio study as determined by the applicable real
 60 estate assessment/sales ratio study published by the
 61 commissioner of revenue, may have the validity of ~~his~~ the claim,
 62 defense, or objection determined by the district court of the
 63 county in which the tax is levied or by the tax court by serving
 64 two copies of a petition for such determination upon the county
 65 auditor and one copy each on the county treasurer and the county
 66 attorney and filing the same, with proof of such service, in the
 67 office of the clerk of the district court before the 16th day of
 68 May of the year in which such tax becomes payable. The county
 69 auditor shall immediately forward one copy of the petition to
 70 the appropriate governmental authority in a home rule charter or
 71 statutory city or town in which the property is located if that
 72 city or town employs its own certified assessor. A copy of the
 73 petition shall also be sent to the school board of the school
 74 district in which the property is located. A petition for
 75 determination under this section may be transferred by the

1 district court to the tax court.

2 No change for subd 3

278*#05S

3 278.05 TRIAL OF ISSUES.

4 No change for subd 1

5 Subd. 2. RESPONSIBLE ATTORNEY; SCHOOL DISTRICT

6 REPRESENTATIVES. If the property on which the taxes have been
7 levied is located in a home rule charter or statutory city or
8 town which employs its own certified assessor, the attorney for
9 that governmental unit may, within 20 days after receipt by the
10 governmental unit of the copy of the petition forwarded by the
11 county auditor, give notice to the county attorney and to the
12 petitioner or ~~his~~ the petitioner's attorney that the home rule
13 charter or statutory city or town is taking charge of and
14 prosecuting the proceeding. If the attorney for the home rule
15 charter or statutory city or town does not give notice, the
16 attorney of the county in which these taxes are levied shall
17 take charge of and prosecute the proceedings, but the county
18 board may employ any other attorney to assist ~~him~~ the county
19 attorney. If the school board has responded within 30 days of
20 receipt to a notice provided pursuant to section 278.01,
21 indicating that it desires to be notified of further proceedings
22 in the case, a representative of the school district in which
23 the property is located shall be notified of all proceedings and
24 all offers to reduce valuations and shall be given an
25 opportunity to appear and testify on any trial of the issues
26 raised.

*
*
*

27 No change for subd 3 to 4

28 Subd. 5. Any time after the filing of the petition and
29 before the trial of the issues raised thereby, when the defense
30 or claim presented is that the property has been partially,
31 unfairly, or unequally assessed, or that the parcel has been
32 assessed at a valuation greater than its real or actual value,
33 or that a parcel which is classified as homestead under the
34 provisions of section 273.13, subdivision 22 or 23, has been
35 assessed at a valuation which exceeds by ten percent or more the
36 valuation which the parcel would have if it were valued at the
37 average assessment/sales ratio for real property in the same
38 class in that portion of the county in which the parcel is
39 located, for which the commissioner is able to establish and
40 publish a sales ratio study, the attorney representing the
41 state, county, city or town in the proceedings may serve on the
42 petitioner, or ~~his~~ the petitioner's attorney, and file with the
43 clerk of the district court, an offer to reduce the valuation of
44 any tract or tracts to a valuation set forth in the offer. If,
45 within ten days thereafter, the petitioner, or ~~his~~ the attorney,
46 gives notice in writing to the county attorney, or the attorney
47 for the city or town, that the offer is accepted, ~~he~~ the
48 official notified may file the offer with proof of notice, and
49 the clerk shall enter judgment accordingly. Otherwise, the
50 offer shall be deemed withdrawn and evidence thereof shall not
51 be given; and, unless a lower valuation than specified in the
52 offer is found by the court, no costs or disbursements shall be
53 allowed to the petitioner, but the costs and disbursements of
54 the state, county, city or town, including interest at six
55 percent on the tax based on the amount of the offer from and
56 after the 16th day of October of the year the taxes are payable,
57 shall be taxed in its favor and included in the judgment and
58 when collected shall be credited to the county revenue fund,
59 unless the taxes were paid in full before the 16th day of
60 October of the year in which the taxes were payable, in which
61 event interest shall not be taxable.

*
*
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278*#10S

62 278.10 TO BE ENTERED IN JUDGMENT BOOK.

63 If such judgment has not then been paid, the county auditor
64 shall enter the same in the certified copy of the real estate
65 tax judgment book received by ~~him~~ the auditor pursuant to
66 section 279.23 for the year for which such taxes were levied,
67 with the same effect as if judgment had been entered in the
68 proceedings, adding thereto any interest or penalties that have
69 accrued to the date of such entry, and in the event such
70 judgment shall be entered subsequent to the publication of the
71 notice of sale of the taxes on such delinquent list, and if such
72 judgment shall remain unpaid for 30 days thereafter, then the
73 parcel of land, against which such judgment was entered, shall
74 be immediately advertised and sold.

*

278*#12S

1 278.12 REFUNDS OF OVERPAYMENT.
2 If upon final determination the petitioner has paid more
3 than the amount so determined to be due, judgment shall be
4 entered in favor of the petitioner for such excess, and upon
5 filing a copy thereof with the county auditor ~~he~~ the auditor *
6 shall forthwith draw a warrant upon the county treasurer for the
7 payment thereof; provided that, with the consent of the
8 petitioner, the county auditor may, in lieu of drawing such
9 warrant, issue to the petitioner a certificate stating the
10 amount of such judgment, which amount may be used to apply upon
11 any taxes due or to become due for the taxing district or
12 districts whose taxes or assessments are reduced, or their
13 successors in the event of a reorganization or reincorporation
14 of any such taxing district. In the event the auditor shall
15 issue a warrant for refund or certificates, ~~he shall charge~~ *
16 amount thereof shall be charged to the state and other taxing *
17 districts in proportion to the amount of their respective taxes
18 included in the levy and deduct the same in the subsequent
19 distribution of any tax proceeds to the state or such taxing
20 districts, and upon receiving any such certificate in payment of
21 other taxes, the amount thereof shall be distributed to the
22 state and other taxing districts in proportion to the amount of
23 their respective taxes included in the levy; provided that if in
24 the judgment the levy of one or more of the districts be found
25 to be illegal, to the extent that the tax so levied is reduced
26 on account of the illegal levies, the amount to be charged back
27 shall be charged to the districts and the amount thereof
28 deducted from any distributions thereafter made to them.

279*#01S

29 279.01 DUE DATE; PENALTIES, INTEREST.
30 Subdivision 1. On May 16, of each year, with respect to
31 property actually occupied and used as a homestead by the owner
32 of the property, a penalty of three percent shall accrue and
33 thereafter be charged upon all unpaid taxes on real estate on
34 the current lists in the hands of the county treasurer, and a
35 penalty of seven percent on nonhomestead property, except that
36 this penalty shall not accrue until June 1 of each year on
37 commercial use real property used for seasonal residential
38 recreational purposes and classified as class 1c, 2c, or 6a, and
39 on other commercial use real property classified as class 3a,
40 provided that over 60 percent of the gross income earned by the
41 enterprise on the class 3a property is earned during the months
42 of May, June, July, and August. Any property owner of such
43 class 3a property who pays the first half of the tax due on the
44 property after May 15 and before June 1 shall attach an
45 affidavit to ~~his~~ the payment attesting to compliance with the *
46 income provision of this subdivision. Thereafter, for both
47 homestead and nonhomestead property, on the 16th day of each
48 month, up to and including October 16 following, an additional
49 penalty of one percent for each month shall accrue and be
50 charged on all such unpaid taxes. When the taxes against any
51 tract or lot exceed \$50, one-half thereof may be paid prior to
52 May 16; and, if so paid, no penalty shall attach; the remaining
53 one-half shall be paid at any time prior to October 16
54 following, without penalty; but, if not so paid, then a penalty
55 of four percent shall accrue thereon for homestead property and
56 a penalty of four percent on nonhomestead property. Thereafter,
57 for homestead property, on the 16th day of each month up to and
58 including December 16 following, an additional penalty of two
59 percent for each month shall accrue and be charged on all such
60 unpaid taxes. Thereafter, for nonhomestead property, on the
61 16th day of each month up to and including December 16
62 following, an additional penalty of four percent for each month
63 shall accrue and be charged on all such unpaid taxes. If
64 one-half of such taxes shall not be paid prior to May 16, the
65 same may be paid at any time prior to October 16, with accrued
66 penalties to the date of payment added, and thereupon no penalty
67 shall attach to the remaining one-half until October 16
68 following; provided, also, that the same may be paid in
69 installments as follows: One-fourth prior to March 16;
70 one-fourth prior to May 16; one-fourth prior to August 16; and
71 the remaining one-fourth prior to October 16, subject to the
72 aforesaid penalties. Where the taxes delinquent after October
73 16 against any tract or parcel exceed \$100, upon resolution of
74 the county board, they may be paid in installments of not less

1 than 25 percent thereof, together with all accrued penalties and
 2 costs, up to the next tax judgment sale, and after such payment,
 3 penalties, interest, and costs shall accrue only on the sum
 4 remaining unpaid. Any county treasurer who shall make out and
 5 deliver or countersign any receipt for any such taxes without
 6 including all of the foregoing penalties therein, shall be
 7 liable to the county for the amount of such penalties.

8 Subd. 2. In the case of any tax on homestead property paid
 9 within 30 days after the due date specified in this section, the
 10 county board may, with the concurrence of the county treasurer,
 11 delegate to the county treasurer the power to abate the penalty
 12 provided for late payment. Notwithstanding section 270.07, if
 13 any county board so elects, the county treasurer may abate the
 14 penalty ~~if-in-his-judgment~~ on finding that the imposition of the
 15 penalty would be unjust and unreasonable. *

279*#02S

16 279.02 DUTIES OF COUNTY AUDITOR AND TREASURER.

17 On the first business day in January, of each year, the
 18 county treasurer shall return the tax lists ~~in-his-hands~~ on hand *
 19 to the county auditor, who shall compare the same with the
 20 statements receipted for by the treasurer on file in the
 21 auditor's office and each tract or lot of real property against
 22 which the taxes, or any part thereof, remain unpaid, shall be
 23 deemed delinquent, and thereupon an additional penalty of two
 24 percent on the amount of the original tax remaining unpaid shall
 25 immediately accrue and thereafter be charged upon all such
 26 delinquent taxes; and any auditor who shall make out and deliver
 27 any statement of delinquent taxes without including therein the
 28 penalties imposed by law, and any treasurer who shall receive
 29 payment of such taxes without including in such payment all
 30 items as shown on the auditor's statement, shall be liable to
 31 the county for the amounts of any items omitted.

279*#05S

32 279.05 DELINQUENT LIST, FILING, EFFECT.

33 On or before February 15th, in each year, the county
 34 auditor shall file with the clerk of the district court of the
 35 county a list of the delinquent taxes upon real estate within
 36 ~~his~~ the county, which list shall contain a description of each *
 37 parcel of land on which such taxes shall be so delinquent,
 38 except such parcels as shall have theretofore been bid in by the
 39 state and not redeemed. The list shall contain the following
 40 information:

41 (a) a legal description of the land and tax parcel or
 42 identification number of each parcel of land on which taxes
 43 shall be so delinquent except those parcels as shall have
 44 theretofore been bid in by the state and not redeemed;

45 (b) names of the taxpayers and fee owners and in addition
 46 those parties who have filed their addresses pursuant to section
 47 276.041, and, at the election of the county auditor, the current
 48 filed addresses; and

49 (c) the total amount of taxes and penalties, with the years
 50 for which the same are delinquent, set opposite the description.

51 The filing of such list shall have the effect of filing a
 52 complaint in an action by the county against each parcel of land
 53 therein described, to enforce payment of the taxes and penalties
 54 therein appearing against it, and shall be deemed the
 55 institution of such action, and the same shall operate as notice
 56 of the pendency thereof. The auditor shall verify the list by
 57 affidavit. The affidavit shall be substantially in the
 58 following form:

59 State of Minnesota)
 60) ss.
 61 County of)

62, being by me first duly sworn, deposes,
 63 and says that ..he is the auditor of the county of *
 64; that ..he has examined the foregoing list, *
 65 and knows the contents thereof; and that the same is true and
 66 correct.

67 Subscribed and sworn to before me this
 68 day of, 19.....

279*#06S

69 279.06 COPY OF LIST AND NOTICE.

70 Within five days after the filing of such list, the clerk
 71 shall return a copy thereof to the county auditor, with a notice
 72 prepared and signed by him the clerk, and attached thereto, *
 73 which may be substantially in the following form:

1 State of Minnesota)
 2) ss.
 3 County of)
 4 District Court
 5 Judicial District.

6 The state of Minnesota, to all persons, companies, or
 7 corporations who have or claim any estate, right, title, or
 8 interest in, claim to, or lien upon, any of the several parcels
 9 of land described in the list hereto attached:

10 The list of taxes and penalties on real property for the
 11 county of remaining delinquent
 12 on the first Monday in January, 19....., has been filed in the
 13 office of the clerk of the district court of said county, of
 14 which that hereto attached is a copy. Therefore, you, and each
 15 of you, are hereby required to file in the office of said clerk,
 16 on or before the 20th day after the publication of this notice
 17 and list, your answer, in writing, setting forth any objection
 18 or defense you may have to the taxes, or any part thereof, upon
 19 any parcel of land described in the list, in, to, or on which
 20 you have or claim any estate, right, title, interest, claim, or
 21 lien, and, in default thereof, judgment will be entered against
 22 such parcel of land for the taxes on such list appearing against
 23 it, and for all penalties, interest, and costs. Based upon said
 24 judgment, the land shall be sold to the state of Minnesota on
 25 the second Monday in May, 19... The period of redemption for
 26 all lands sold to the state at a tax judgment sale shall be
 27 three years from the date of sale to the state of Minnesota if
 28 the land is within an incorporated area unless it is: (a)
 29 homesteaded land as defined in section 273.13, subdivision 22;
 30 (b) homesteaded agricultural land as defined in section 273.13,
 31 subdivision 23, paragraph (a); or (c) seasonal recreational land
 32 as defined in section 273.13, subdivision 22, paragraph (c) or
 33 subdivision 27, paragraph (a), in which event the period of
 34 redemption is five years from the date of sale to the state of
 35 Minnesota.

36 The period of redemption for all other lands sold to the
 37 state at a tax judgment sale shall be five years from the date
 38 of sale.

39 Inquiries as to the proceedings set forth above can be made
 40 to the county auditor of county whose address is

41 (Signed)
 42 Clerk of the District Court of the County
 43 of
 44 (Here insert list.)

45 The list referred to in the notice shall be substantially
 46 in the following form:

47 List of real property for the county of
 48, on which taxes remain delinquent on the
 49 first Monday in January, 19...:

50 Town of (Fairfield),
 51 Township (40), Range (20),
 52 Names (and

53 Current Filed
 54 Addresses) for
 55 the Taxpayers
 56 and Fee Owners
 57 and in Addition
 58 Those Parties
 59 Who Have Filed

60 Their Addresses
 61 Pursuant to Subdivision of Tax
 62 section 276.041 Section Section Parcel Total Tax
 63 and Penalty
 \$ cts.

64 John Jones S.E. 1/4 of S.W. 1/4 10 23101 2.20
 65 (825 Fremont
 66 Fairfield, MN
 67 55000)

68 Bruce Smith That part of N.E. 1/4
 69 (2059 Hand of S.W. 1/4 desc. as
 70 Fairfield, follows: Beg. at the
 71 MN 55000) S.E. corner of said
 72 and N.E. 1/4 of S.W. 1/4;
 73 Fairfield thence N. along the E.
 74 State Bank line of said N.E. 1/4
 75 (100 Main of S.W. 1/4 a distance
 76 Street of 600 ft.; thence W.

1 Fairfield, parallel with the S.
 2 MN 55000) line of said N.E. 1/4
 3 of S.W. 1/4 a distance
 4 of 600 ft.; thence S.
 5 parallel with said E.
 6 line a distance of 600
 7 ft. to S. line of said
 8 N.E. 1/4 of S.W. 1/4;
 9 thence E. along said S.
 10 line a distance of 600
 11 ft. to the point of
 12 beg. 21 33211 3.15

13 As to platted property, the form of heading shall conform
 14 to circumstances and be substantially in the following form:

15 City of (Smithtown)
 16 Brown's Addition, or Subdivision
 17 Names (and
 18 Current Filed
 19 Addresses) for
 20 the Taxpayers
 21 and Fee Owners
 22 and in Addition
 23 Those Parties
 24 Who have Filed
 25 Their Addresses

Pursuant to section 276.041	Lot	Block	Tax Parcel Number	Total Tax and Penalty \$ cts
29 John Jones 30 (825 Fremont 31 Fairfield, 32 MN 55000)	15	9	58243	2.20
33 Bruce Smith 34 (2059 Hand 35 Fairfield, 36 MN 55000) 37 and 38 Fairfield 39 State Bank 40 (100 Main Street 41 Fairfield, 42 MN 55000)	16	9	58244	3.15

43 The names, descriptions, and figures employed in
 44 parentheses in the above forms are merely for purposes of
 45 illustration.

46 The name of the town, township, range or city, and addition
 47 or subdivision, as the case may be, shall be repeated at the
 48 head of each column of the printed lists as brought forward from
 49 the preceding column.

50 Errors in the list shall not be deemed to be a material
 51 defect to affect the validity of the judgment and sale.

279*#07S

52 279.07 PUBLICATION, BIDS.

53 Prior to the day on which the county board designates a
 54 newspaper for the publication of the notice and list, any
 55 publisher or proprietor of a legal newspaper, as defined by law,
 56 may file with the county auditor an offer to publish such notice
 57 and list in such paper, stating the rate ~~at which he will make~~
 58 charged for making such publication. The board may in its
 59 discretion receive offers presented to it at any time prior to
 60 the time when designation is made.

279*#08S

61 279.08 NEWSPAPER, DESIGNATION.

62 At their annual meeting in January, and prior to the
 63 designation, the county board shall open, examine, and consider
 64 all offers for publication filed or presented as provided in
 65 section 279.07, and shall thereupon award the publication of the
 66 notice and list to the publisher or proprietor of the newspaper
 67 whose offer is found to be the lowest. The board may reject any
 68 offer, if in its judgment the public interest so requires, and
 69 thereupon designate a newspaper without regard to any rejected
 70 offer. In counties now or hereafter having a population of
 71 450,000 or more, the board shall designate a daily newspaper of
 72 general circulation throughout such county. If no such daily
 73 newspaper submits a bid at the rate herein provided, the board
 74 may designate a weekly newspaper of general circulation

1 throughout the county. In any county in which there is no legal
 2 newspaper, the board shall designate any such newspaper printed
 3 in the judicial district in which the county is situated, and
 4 circulating in the county. Every such designation shall be by
 5 resolution, which shall be substantially in the following form:

6 "Resolved, that (here state the name of the
 7 newspaper) is hereby designated by the county board of the
 8 county of as the newspaper in which the notice
 9 and list of the real estate remaining delinquent on the first
 10 Monday of January, 19....., shall be published."

11 A copy of the resolution certified by the auditor shall be
 12 filed with the clerk of the district court. If, for any reason,
 13 the board fails to designate a newspaper, or the proprietor of
 14 the newspaper fails to give the required bond, the auditor shall
 15 thereupon designate the same in writing and immediately file
 16 such writing in ~~his~~ the auditor's office and a certified copy
 17 thereof with such clerk. *

279*#10S

18 279.10 PUBLICATION CORRECTED.

19 Immediately after preparing ~~his~~ forms for printing such
 20 notice and list, and at least five days before the first day for
 21 the publication thereof, every such publisher shall furnish
 22 proof of the proposed publication to the county auditor for
 23 correction. When such copy has been corrected ~~by~~, the auditor
 24 ~~he~~ shall return the same to the printer, who shall publish it as
 25 corrected. On the first day on which such notice and list are
 26 published, the publisher shall mail a copy of the newspaper
 27 containing the same to the auditor. If during the publication
 28 of the notice and list, or within ten days after the last
 29 publication thereof, the auditor shall discover that such
 30 publication is invalid, ~~he~~ the auditor shall forthwith direct
 31 the publisher to republish the same as corrected for an
 32 additional period of two weeks. ~~If such republication is~~
 33 ~~necessary by reason of the neglect of the publisher, he shall~~
 34 ~~receive no further compensation therefor; otherwise, he~~ The
 35 publisher, if not neglectful, shall be entitled to the same
 36 compensation as allowed by law for the original publication, but
 37 shall receive no further compensation therefor if such
 38 republication is necessary by reason of the neglect of the
 39 publisher. *

279*#12S

40 279.12 CERTIFICATE BEFORE PAYMENT.

41 Before ~~such publisher shall be being~~ entitled to the fees
 42 for publishing such notice and list, ~~he~~ the publisher shall
 43 obtain from the county attorney and file with the county auditor
 44 a certificate that the publication was made according to law;
 45 and any auditor paying for such publication without such
 46 certificate being filed shall be liable to the county for the
 47 amount so paid. If there be no county attorney, or if upon
 48 application ~~he~~ the county attorney refuses to give such
 49 certificate, the publisher may apply to the attorney general, on
 50 five days' notice to the county auditor and to the county
 51 attorney, if any, of such application; and, on filing with the
 52 auditor the certificate of the attorney general that such
 53 publication was made according to law, the auditor shall issue a
 54 warrant for the payment of such fees. *

279*#13S

55 279.13 AFFIDAVIT OF PUBLICATION.

56 The owner, publisher, manager, or foreman lead supervisor
 57 in the printing office of the newspaper in which such notice and
 58 list have been published shall forthwith make and file with the
 59 clerk of the district court an affidavit of such publication,
 60 stating the days on which such publication was made and shall
 61 also file with the clerk three copies of each number of the
 62 paper and supplement, if any, in which the notice and list have
 63 appeared. The publication may be made in such newspaper, or
 64 partly therein and partly in a supplement issued therewith. The
 65 affidavit shall be substantially in the following form:

66 State of Minnesota)
 67)
 68) ss.
 69 County of)

70 , being first duly sworn, deposes and says
 71 that he is the (here state whether
 72 affiant is owner, publisher, manager, or foreman lead
 73 supervisor) of (here state name

1 of newspaper in which was printed the notice and list of real
 2 estate remaining delinquent in county on
 3 the first Monday of January, 19.....; that the notice and list
 4 were duly printed and published in the newspaper on each of the
 5 following days: On (day of week), the
 6 day of, 19.....,
 7 and (day of week), the
 8 day of, 19.....;
 9 and that each of the days on which the notice and list were so
 10 published was the usual and regular day of the issuance and
 11 publication of the newspaper.

12
 13 Subscribed and sworn to before me this
 14 day of
 15, 19.....

279*#15S

16 279.15 WHO MAY ANSWER; FORM.

17 Any person having any estate, right, title, or interest in,
 18 or lien upon, any parcel of land embraced in such list as
 19 published, within 20 days after the last publication of the
 20 notice, may file with the clerk of the district court an answer
 21 setting forth ~~his~~ a defense or objection to the tax or penalty *
 22 against such parcel of land. The answer need not be in any
 23 particular form, but shall clearly refer to the parcel of land
 24 intended, and set forth in concise language the facts
 25 constituting the defense or objection to such tax or penalty;
 26 and, if the list shall embrace the taxes for two or more years,
 27 the defense or objection may be to the taxes or penalty for one
 28 or more of such years. The answer may embrace ~~his~~ the defense *
 29 or objection to any number of parcels of land in or upon
 30 which ~~he~~ the person has any estate, right, title, interest, or *
 31 lien.

279*#16S

32 279.16 JUDGMENT WHEN NO ANSWER; FORM; ENTRY.

33 Upon the expiration of 20 days from the later of the filing
 34 of the affidavit of publication or the filing of the affidavit
 35 of mailing pursuant to section 279.131, the clerk shall enter
 36 judgment against each and every such parcel as to which no
 37 answer has been filed, which judgment shall include all such
 38 parcels, and shall be substantially in the following form:
 39 State of Minnesota) District Court,
 40) ss.
 41 County of) Judicial District.
 42 In the matter of the proceedings to enforce payment of the
 43 taxes on real estate remaining delinquent on the first Monday in
 44 January, 19....., for the county of, state
 45 of Minnesota.

46 A list of taxes on real property, delinquent on the first
 47 Monday in January, 19....., for said county of,
 48 having been duly filed in the office of the clerk of this court,
 49 and the notice and list required by law having been duly
 50 published and mailed as required by law, and more than 20 days
 51 having elapsed since the last publication of the notice and
 52 list, and no answer having been filed by any person, company, or
 53 corporation to the taxes upon any of the parcels of land
 54 hereinafter described, it is hereby adjudged that each parcel of
 55 land hereinafter described is liable for taxes, penalties, and
 56 costs to the amount set opposite the same, as follows:

57 Description. Parcel Number. Amount.

58 The amount of taxes, penalties, and cost to which, as
 59 hereinbefore stated, each of such parcels of land is liable, is
 60 hereby declared a lien upon such parcel of land as against the
 61 estate, right, title, interest, claim, or lien, of whatever
 62 nature, in law or equity, of every person, company, or
 63 corporation; and it is adjudged that, unless the amount to which
 64 each of such parcels is liable be paid, each of such parcels be
 65 sold, as provided by law, to satisfy the amount to which it is
 66 liable.

67 Dated this day of, 19.....

68
 69 Clerk of the District Court,
 70 County of

71 The judgment shall be entered by the clerk in a book to be
 72 kept by ~~him~~ the clerk, to be called the real estate tax judgment *
 73 book, and signed by the clerk. The judgment shall be written
 74 out on the left-hand pages of the book, leaving the right-hand

1 pages blank for the entries in this chapter hereinafter
2 provided; and the same presumption in favor of the regularity
3 and validity of the judgment shall be deemed to exist as in
4 respect to judgments in civil actions in such court, except
5 where taxes have been paid before the entry of judgment, or
6 where the land is exempt from taxation, in which cases the
7 judgment shall be prima facie evidence only of its regularity
8 and validity.

279*#17S

9 279.17 PROCEEDINGS ON ANSWER.

10 If answers be filed within the time hereinbefore
11 prescribed, the issues raised thereby shall stand for trial at
12 any general term of the district court in the county where such
13 proceedings are pending in session when the time to file answers
14 shall expire, or, if the court be not then in session, then at
15 the next general or special term appointed to be held in such
16 county; and, if no such term be appointed to be held within 30
17 days thereafter, then the same shall be brought to trial at any
18 general term appointed to be held within the judicial district,
19 upon ten days notice. The county attorney of the county in
20 which such taxes are levied shall take charge of and prosecute
21 such proceedings, but the county board may employ any other
22 attorney to assist him the county attorney. At the term at *
23 which the proceedings come on for trial, they shall take
24 precedence of all other business before the court. The court
25 shall, without delay and summarily, hear and determine the
26 objections or defenses made by the answers, and shall direct
27 judgment accordingly, and in the trial thereof shall disregard
28 all technicalities and matters of form not affecting the
29 substantial merits.

279*#25S

30 279.25 PAYMENT BEFORE JUDGMENT.

31 Before sale any person may pay the amount adjudged against
32 any parcel of land. If payment is made before entry of
33 judgment, and the delinquent list has been filed with the clerk,
34 the county auditor shall immediately certify such payment to the
35 clerk, who shall note the same on such delinquent list; and all
36 proceedings pending against such parcel shall thereupon be
37 discontinued. If payment is made after judgment is entered and
38 before sale, the auditor shall certify such payment to the
39 clerk, who, upon production of such certificate and the payment
40 of a fee of ten cents, shall enter on the right-hand page of the
41 real estate tax judgment book, and opposite the description of
42 such parcel, satisfaction of the judgment against the same. The
43 auditor shall make proper entries-in-his-books records of all *
44 payments made under this section.

279*#34S

45 279.34 APPLICATION BY OWNER.

46 The owner at the time of forfeiture or someone authorized
47 to act in his the owner's behalf shall file an application for *
48 cancelation with the county auditor submitting therewith a
49 statement of the facts of the case and satisfactory proof that
50 the supposed forfeiture was erroneous upon one or more of the
51 grounds stated in section 279.33. Such application may be made
52 by the county auditor when he the auditor has knowledge of the *
53 facts. Such application shall be considered by the county board
54 and the county auditor as in the case of application under
55 section 270.07, and shall thereafter be submitted to the
56 commissioner of revenue with the recommendation of the county
57 board and the county auditor. The commissioner of revenue shall
58 consider the application and if-he-determines on determining *
59 that the supposed forfeiture was erroneous upon such grounds he *
60 shall order the county auditor to record and file in the manner
61 in which the original certificate of forfeiture was recorded and
62 filed a certificate of cancelation, specifically describing the
63 land which did not in fact forfeit, which shall refer to the
64 original certificate, the provisions of sections 279.33 and
65 279.34, and the proceedings taken pursuant thereto, and state
66 that the original certificate is void, as to such lands, upon
67 the grounds so determined. Upon compliance with such order by
68 the county auditor, the supposed forfeiture and original
69 certificate thereof, as to lands included therein but which the
70 commissioner found by order did not in fact forfeit, shall be
71 void. Unless exempt, the lands affected by such cancelation
72 shall be deemed to have been subject to taxation as if the
73 supposed forfeiture had not occurred, and all taxes and

1 assessments which have been canceled or omitted be reinstated or
2 levied and assessed as in the case of omitted taxes, as the case
3 may require.

279*#37S

4 279.37 CONFESSION OF JUDGMENT FOR DELINQUENT TAXES.

5 No change for subd 1 to 1a

6 Subd. 2. INSTALLMENT PAYMENTS. The owner of any such
7 parcel, or any person to whom the right to pay taxes has been
8 given by statute, mortgage, or other agreement, may make and
9 file with the county auditor of the county wherein the parcel is
10 located a written offer to pay the current taxes each year
11 before they become delinquent, or to contest the taxes under
12 Minnesota Statutes 1941, Sections 278.01 to 278.13, and agree to
13 confess judgment for the amount hereinbefore provided, as
14 determined by the county auditor, and shall thereby waive all
15 irregularities in connection with the tax proceedings affecting
16 the parcel and any defense or objection which he the owner may *
17 have to the proceedings, and shall thereby waive the
18 requirements of any notice of default in the payment of any
19 instalment or interest to become due pursuant to the composite
20 judgment to be so entered, and shall tender therewith one-tenth
21 of the amount of the delinquent taxes, costs, penalty, and
22 interest, and agree therein to pay the balance in nine equal
23 instalments, with interest as provided in section 279.03,
24 payable annually on instalments remaining unpaid from time to
25 time, on or before December 31 of each year following the year
26 in which judgment was confessed, which offer shall be
27 substantially as follows:

28 "To the clerk of the district court of county,
29 I,, owner of the following described
30 parcel of real estate situate in county,
31 Minnesota, to-wit: upon which
32 there are delinquent taxes for the year, and prior
33 years, as follows: (here insert year of delinquency and the
34 total amount of delinquent taxes, costs, interest, and penalty)
35 do hereby offer to confess judgment in the sum of \$..... and
36 hereby waive all irregularities in the tax proceedings affecting
37 such taxes and any defense or objection which I may have
38 thereto, and direct judgment to be entered for the amount hereby
39 confessed, less the sum of \$....., hereby tendered, being
40 one-tenth of the amount of said taxes, costs, penalty, and
41 interest; I agree to pay the balance of said judgment in nine
42 equal, annual instalments, with interest as provided in section
43 279.03, payable annually, on the instalments remaining unpaid
44 from time to time, said instalments and interest to be paid on
45 or before December 31 of each year following the year in which
46 this judgment is confessed and current taxes each year before
47 they become delinquent, or within 30 days after the entry of
48 final judgment in proceedings to contest such taxes under
49 Minnesota Statutes 1941, Sections 278.01 to 278.13.

50 Dated this, 19....."

51 Subd. 3. Upon the receipt of the offer and payment of the
52 sum required, the auditor shall notify the county board of the
53 offer. The auditor shall note record it upon-his-records and *
54 shall file the offer and confession of judgment with the clerk
55 of the district court of the county who is directed to enter
56 judgment in accordance with the offer.

57 Subd. 4. The auditor shall immediately deliver to the
58 treasurer the initial payments received by him the auditor. The *
59 judgment so rendered shall not constitute a personal judgment
60 against the party or parties therein and shall be a judgment in
61 rem. For the purpose of computing the applicable period of
62 redemption pursuant to section 281.17, lands included in a
63 confession of judgment will be deemed to be sold to the state at
64 the first tax judgment sale following the entry of judgment.

65 No change for subd 5

66 Subd. 6. The county auditor shall give notice by mail not
67 later than November 30 of each year to the person or persons
68 making such confession of judgment at the address given therein
69 of the payment due under the confession on the following
70 December 31. If the county auditor has not received the
71 installment payment by December 31, he the auditor shall give *
72 notice by certified mail at the last known address of the person
73 making the confession of judgment, without regard to the county
74 or state of his the person's residency. This notice shall state *
75 that the property shall be subject to the tax forfeiture laws if

1 payment is not made within 60 days from the preceding December
 2 31. Failure to send or receive the notice shall not operate to
 3 postpone any payment or excuse any default under the confession
 4 of judgment. Proof of such mailing shall be made by the
 5 certificate of the auditor filed in ~~his~~ the auditor's office. *

6 No change for subd 7 to 9

7 Subd. 10. Not more than two confessions of judgment and
 8 agreement to pay in instalments under this section affecting the
 9 same taxes or any portion thereof may be made by or on behalf of
 10 any owner of any particular right, title, interest in, or lien
 11 upon, any given parcel of land, ~~his~~ or the owner's heirs,
 12 representatives, or assigns. *

280*#02S

13 280.02 PUBLIC VENDUE.

14 The county auditor shall sell, at public vendue, each
 15 parcel of land separately in the order described in the judgment
 16 and by the description therein; but, if the sum bid for any
 17 parcel shall not be paid on the day of the sale thereof, ~~he~~ the
 18 county auditor shall again offer the same for sale. In offering
 19 the lands for sale, ~~he~~ the auditor shall state the amount for
 20 which each parcel is to be sold, and shall then sell the same to
 21 the person who shall offer to pay the amount for which the same
 22 is to be sold, at the lowest annual rate of interest on such
 23 amount. No bid shall be accepted when the proposed rate of
 24 interest exceeds 12 percent per annum. All bids for any
 25 fractional part of one percent shall be a decimal part thereof,
 26 and not less than one-tenth of one percent. If no bidder shall
 27 bid an amount equal to that for which the parcel is to be sold,
 28 at a rate of interest not exceeding 12 percent per annum, then
 29 the auditor shall bid in the same for the state at such amount.
 30 The county treasurer shall attend the sale and receive all
 31 moneys paid thereon. *

280*#03S

32 280.03 CERTIFICATE OF SALE.

33 The county auditor shall execute to the purchaser of each
 34 parcel a certificate which may be substantially in the following
 35 form:

36 "I,, auditor of the county of, state
 37 of Minnesota, do hereby certify that at the sale of lands
 38 pursuant to the real estate tax judgment entered in the district
 39 court in the county of, on the day of
 40, 19...., in proceedings to enforce the payment of
 41 taxes delinquent on real estate for the years, for
 42 the county of, which sale was held at
 43, in said county of, on the day
 44 of, 19...., the following described parcel of land,
 45 situate in said county of, state of Minnesota:
 46 (insert description), was offered for sale to the bidder who
 47 should offer to pay the amount for which the same was to be
 48 sold, at the lowest annual rate of interest on such amount; and
 49 at said sale I did sell the said parcel of land to
 50 for the sum of dollars, with interest at
 51 percent per annum on such amount, that being the sum for which
 52 the same was to be sold, and such rate of interest being the
 53 lowest rate percent per annum bid on such sum; and, ~~he~~ having
 54 paid-such-sum the sum having been paid, I do therefore, in
 55 consideration thereof, and pursuant to the statute in such case
 56 made and provided, convey the said parcel of land, in fee
 57 simple, subject to easements and restrictions of record at the
 58 date of the tax judgment sale, including, but without
 59 limitation, permits for telephone, telegraph and electric power
 60 lines either by underground cable or conduit or otherwise, sewer
 61 and water lines, highways, railroads, and pipe lines for gas,
 62 liquids, or solids in suspension, to said, ~~his~~ and
 63 the heirs and assigns of, forever, subject to redemption
 64 as provided by law. *

65 Witness my hand and official seal this day of
 66, 19..... .
 67

68 County Auditor."

69 If the land shall not be redeemed as provided in chapter
 70 281, such certificate shall pass to the purchaser an estate
 71 therein, in fee simple, without any other act or deed whatever
 72 subject to easements and restrictions of record at the date of
 73 the tax judgment sale, including, but without limitation,
 74 permits for telephone, telegraph, and electric power lines

1 either by underground cable or conduit or otherwise, sewer and
 2 water lines, highways, railroads, and pipe lines for gas,
 3 liquids, or solids in suspension. Such certificate may be
 4 recorded, after the time for redemption shall have expired, as
 5 other deeds of real estate, and with like effect. If any
 6 purchaser at such sale shall purchase more than one parcel, the
 7 auditor shall issue to ~~him~~ the purchaser a certificate for each
 8 parcel so purchased.

280*#04S

9 280.04 WHO MAY PURCHASE.

10 All persons, except as provided in section 280.05, may
 11 become purchasers at such sale. If the owner purchase, the sale
 12 shall have the effect to pass to ~~him~~ the owner, subject to
 13 redemption as provided in chapter 281, every right, title, and
 14 interest of any and every person, company, or corporation, free
 15 from any claim, lien, or encumbrance, except such right, title,
 16 interest, lien, or encumbrance as such owner may be legally or
 17 equitably bound to protect against such sale, or the taxes for
 18 which such sale was made.

280*#05S

19 280.05 PROHIBITED PURCHASERS.

20 ~~No~~ A county auditor, county treasurer, clerk of the
 21 district court, or county assessor, or deputy or clerk or
 22 employee of such officer, and ~~no~~ a commissioner for tax
 23 forfeited lands or assistant to such commissioner, may ~~become-a~~
 24 purchaser not purchase at such sale, or procure an assignment of
 25 the right acquired by the state in lands bid in for it at such
 26 sale, as in this chapter provided in sections 280.06 to 280.12,
 27 either ~~in-his-own-behalf~~ personally, or as agent or attorney for
 28 any other person, except that such officer, deputy, clerk,
 29 employee or commissioner for tax forfeited lands or assistant to
 30 such commissioner, if an owner or lienholder of the lands, may
 31 purchase the lands owned-by-him-or-on-which-he-has-a-lien, or
 32 procure such assignment of the state's right in such lands.

280*#07S

33 280.07 ENTRIES IN JUDGMENT BOOKS AFTER SALE.

34 Immediately after such sale the county auditor shall set
 35 out in the copy judgment book that all parcels were bid in for
 36 the state. ~~He~~ The county auditor shall thereupon deliver such
 37 book to the clerk of the court, who shall forthwith enter on the
 38 right-hand page of the real estate tax judgment book, opposite
 39 the description of each parcel sold, the words "bid in for the
 40 state," and ~~he-shall~~ thereupon redeliver the copy judgment book
 41 to the auditor. Upon redemption the auditor shall make a note
 42 thereon in the copy judgment book, opposite the parcel redeemed.

280*#08S

43 280.08 RECORD OF ASSIGNMENT.

44 The assignee or transferee of a certificate or deed issued
 45 upon the sale of land for general taxes or for special
 46 assessments for local improvements shall present the instrument
 47 of transfer and a copy thereof to the official custodian of the
 48 record of such sale. Such officer shall thereupon certify such
 49 copy to be correct and shall file the same ~~in-his-office~~ and
 50 note such transfer upon the record. The record as herein
 51 provided of any such instrument shall be taken and deemed notice
 52 to parties. The recording in the office of the county recorder
 53 of any such assignment or any quitclaim deed transferring any
 54 interest in such land shall have the same force and effect as
 55 the record above provided.

280*#09S

56 280.09 FAILURE TO RECORD.

57 Every such assignment or transfer not so recorded shall be
 58 void as against any subsequent purchaser, for a valuable
 59 consideration, who has caused a record of the that transfer to
 60 ~~him~~ to be made in the manner above provided, before the
 61 recording of the prior transfer, and as against any party
 62 claiming under a judgment or decree of a court of competent
 63 jurisdiction heretofore entered or hereafter to be entered in an
 64 action in which the party appearing to be the owner or holder of
 65 such certificate or deed, as shown by the record in the office
 66 of such official custodian, was made a party and was bound by
 67 the judgment or decree.

280*#11S

68 280.11 LANDS BID IN FOR STATE.

69 At any time after any parcel of land has been bid in for
 70 the state, the same not having been redeemed, the county auditor

1 shall assign and convey the same, and all the right of the state
 2 therein acquired at such sale, to any person who shall pay the
 3 amount for which the same was bid in, with interest at the rate
 4 of 12 percent per annum, and the amount of all subsequent
 5 delinquent taxes, penalties, costs, and interest at such rate
 6 upon the same from the time when such taxes became delinquent.
 7 He The county auditor shall execute to such person a certificate *
 8 for such parcel, which may be substantially in the following
 9 form:

10 "I,, auditor of the county of, state
 11 of Minnesota, do hereby certify that at the sale of lands
 12 pursuant to the real estate tax judgment entered in the district
 13 court in the county of, on the day of
 14, 19....., in proceedings to enforce the payment of
 15 taxes delinquent upon real estate for the years for
 16 the county of, which sale was held at, in
 17 said county of, on the day of,
 18 19....., the following described parcel of land, situate in said
 19 county of, state of Minnesota: (insert description),
 20 was duly offered for sale; and, no one bidding upon such offer
 21 an amount equal to that for which the parcel was subject to be
 22 sold, the same was then bid in for the state at such amount,
 23 being the sum of dollars; and the same still
 24 remaining unredeemed, and on this day having paid
 25 into the treasury of the county the amount for which the same
 26 was so bid in, and all subsequent delinquent taxes, penalties,
 27 costs, and interest, amounting in all to dollars,
 28 therefore, in consideration thereof, and pursuant to the statute
 29 in such case made and provided, I do hereby assign and convey
 30 this parcel of land, in fee simple, subject to easements and
 31 restrictions of record at the date of the tax judgment sale,
 32 including but without limitation, permits for telephone,
 33 telegraph, and electric power lines either by underground cable
 34 or conduit or otherwise, sewer and water lines, highways,
 35 railroads, and pipe lines for gas, liquids, or solids in
 36 suspension, with all the right, title and interest of the state
 37 acquired therein at such sale to, his and the heirs *
 38 and assigns of, forever, subject to redemption as *
 39 provided by law.

40 Witness my hand and official seal this day of
 41, 19....
 42,
 43 County Auditor."

44 If the land shall not be redeemed, as provided in chapter
 45 281, such certificate shall pass to the purchaser or assignee an
 46 estate therein, in fee simple, without any other act or deed
 47 whatever subject to easements and restrictions of record at the
 48 date of the tax judgment sale, including, but without
 49 limitation, permits for telephone, telegraph and electric power
 50 lines either by underground cable or conduit or otherwise, sewer
 51 and water lines, highways, railroads, and pipe lines for gas,
 52 liquids, or solids in suspension. Such certificate or
 53 conveyance may be recorded, after the time for redemption shall
 54 have expired, as other deeds of real estate, and with like
 55 effect. No assignment of the right of the state shall be given
 56 pursuant to this section after January 1, 1972.

280*#13S

57 280.13 UNREDEEMED LANDS.

58 No change for subd 1 to 3

59 Subd. 4. PAYMENT; CERTIFICATE. The purchaser shall
 60 forthwith pay the amount of his the bid to the county treasurer *
 61 and the officer conducting the sale shall give to him the *
 62 purchaser a certificate in a form prescribed by the attorney *
 63 general, in which shall be set forth the name of the purchaser,
 64 a description of the land sold, the price paid, and the date and
 65 place of sale. The auditor and treasurer of the county shall
 66 attend such sale, the former to make a record of all sales
 67 thereat and the latter to receive all moneys paid on account
 68 thereof. The proceeds of the sale of any parcel of land at any
 69 such sale, for whatever amount sold, shall be distributed among
 70 the taxing districts interested in the taxes and assessments on
 71 the parcel at the date of such sale in the proportions of their
 72 respective interests; provided that the provisions of this
 73 section as to the amount of any ditch lien or special assessment
 74 which shall be included in the minimum cash amount for which any
 75 parcel may be sold shall fix the amount applicable to such ditch

1 lien or special assessment in the distribution of the proceeds
2 of such sale.

280*#25S

3 280.25 PURCHASER TO RECEIVE DEED.

4 Any person, or ~~his~~ the heirs or assigns of the person, *
5 receiving the certificate described in section 280.13 shall be
6 entitled to a deed from the state 60 days after the service of a
7 notice of expiration of time from redemption and filing proof of
8 such service, which notice shall be substantially as provided in
9 section 281.13 and until the expiration of such time for
10 redemption the land described in such certificate shall be
11 subject to redemption in the manner provided in section 281.02
12 and upon the expiration of such redemption period, upon
13 presentation of such certificate to the commissioner of revenue,
14 ~~he~~ the commissioner shall be authorized to execute a deed in the *
15 name of the state to the person entitled thereto, conveying the
16 lands therein described; and every such deed shall vest the
17 grantee with complete title to such lands, subject to the
18 defenses that the tract or parcel was exempt from taxation or
19 that the taxes for which such tract or parcel was sold at that
20 tax sale had been paid. Such deed may be recorded as other
21 deeds of real estate and the record thereof shall have the same
22 force and effect in all respects as the record of such deeds and
23 shall be evidence in like manner.

280*#26S

24 280.26 HOW AND WHEN PURCHASER TO GET DEED.

25 Any person, or ~~his~~ the heirs or assigns of the person, *
26 receiving the certificate described in section 280.13 shall be
27 entitled to a deed from the state and, upon presentation of such
28 certificate to the commissioner of revenue, ~~he~~ the commissioner *
29 shall be authorized to execute a deed in the name of the state
30 to the person entitled thereto, conveying the lands therein
31 described, and every such deed shall vest the grantee with
32 complete title to such lands, subject to the defenses that the
33 tract or parcel was exempt from taxation or that the taxes had
34 been paid for which such tract or parcel was sold at the said
35 tax sale. Such deed may be recorded as other deeds of real
36 estate and the record thereof shall have the same force and
37 effect in all respects as the record of such other deeds and
38 shall be evidence in like manner. Any one having any interest
39 in any such tract or parcel of land shall have the right to
40 redeem the land, as provided in chapter 281, and no such tax
41 deed shall be issued, nor shall the full period of redemption
42 expire until 60 days shall have elapsed after the filing of
43 proof of service of notice; made in the same manner as provided
44 in Laws 1902, Chapter 2, Sections 47 and 48.

280*#27S

45 280.27 APPLICATIONS FOR STATE TAX DEEDS.

46 All applications for tax deeds under this chapter shall be
47 made to the commissioner of revenue and the applicant shall
48 present to such official the original tax certificate and
49 certified copy of the notice of expiration of redemption, with
50 proof of service thereof and of the filing of such proof in the
51 office of the county auditor, and certificate of such auditor
52 that the time of redemption has expired and that no redemption
53 has been made, and such other proof as the commissioner of
54 revenue may require. All of these papers shall be filed in the
55 office of the commissioner of revenue, and shall remain therein
56 as permanent records. If the original tax certificate, or any
57 assignment thereof, has been lost or destroyed, the county
58 auditor shall issue a duplicate thereof, upon proof of such loss
59 or destruction, by the filing in ~~his~~ the auditor's office of an *
60 affidavit by such owner or some other person having knowledge of
61 the facts and upon the giving of a bond, with good and
62 sufficient sureties approved by the county auditor, in double
63 the amount due on such certificate, payable to the county
64 treasurer, for the benefit of all persons who may be damaged by
65 the issuance of a duplicate certificate or assignment,
66 conditioned for the payment of any damage to any such person
67 resulting from such issuance. Any such duplicate certificate or
68 assignment shall be of the same force and effect as if it were
69 an original.

280*#28S

70 280.28 FEES.

71 Subdivision 1. The county auditor shall be entitled to
72 collect a fee of 50 cents from such applicant for each certified

1 copy of a notice of expiration of redemption and the preparation
2 of the other necessary papers and information in connection
3 therewith, which fee shall be retained by such auditor in
4 addition to ~~his~~ the salary provided by law. *

5 No change for subd 2

280*#35S

6 280.35 INVALID CERTIFICATE.

7 If any certificate issued pursuant to sections 280.03,
8 280.11, and 280.13 to an actual purchaser prove to be invalid
9 for any other cause than that the land described therein was not
10 subject to taxation, or that the taxes had been paid prior to
11 the sale, or that the assessment or levy was void, the lien of
12 the state on the parcel of land sold, as provided in section
13 272.31 shall be transferred, without any act whatever, to, and
14 vested in, the holder of such certificate, ~~his~~ or the holder's *
15 personal representatives, heirs, or assigns. Such holder, *
16 or ~~his~~ the personal representatives, heirs, or assigns of the *
17 holder, may collect out of the property covered by such lien, by *
18 sale thereof by foreclosure, or other proper action or
19 proceeding, the amount of taxes, penalties, and interest due
20 thereon at the time of such sale, with interest thereon at the
21 rate of 12 percent per annum, together with the amount of all
22 subsequent taxes paid, with interest thereon at said rate, and
23 the costs and expenses of such action.

280*#37S

24 280.37 ENDORSEMENT BEFORE RECORD.

25 Before any certificate of sale or of assignment provided
26 for in this chapter shall be recorded, the holder thereof shall
27 present the same to the county auditor, who shall endorse
28 thereon ~~his~~ a certificate that the property therein described *
29 remains unredeemed, and that the period of redemption has
30 expired; and no such certificate shall be recorded unless such
31 endorsement is made.

280*#38S

32 280.38 LANDS BID IN FOR THE STATE; ATTACHMENTS.

33 When any parcel of land is bid in for the state, until the
34 land be redeemed, the sale shall not operate as a payment of the
35 amount for which the same is sold, but at any time after such
36 sale the county auditor may make and file with the clerk where
37 the judgment is entered an affidavit stating the date of the
38 sale, the amount for which such parcel was bid in for the state,
39 and the amount of all subsequent delinquent taxes, that there
40 has been no redemption, and that the land is rented, in whole or
41 in part, and produces rent, and giving the names of the persons
42 paying rent. Upon presentation of such affidavit, the judge or
43 court commissioner for the county shall endorse thereon an order
44 directing an attachment to issue to attach the rents of such
45 lands. The clerk shall thereupon issue a writ directing the
46 sheriff to attach the rents accruing for such land from any
47 person, and to collect therefrom the amount for which the same
48 was bid in for the state, and the amount of all subsequent
49 delinquent taxes, stating such amount and the date of sale, with
50 penalties and interest accruing thereon, and ~~his~~ the sheriff's *
51 fees, and \$1 for the costs of the affidavit and attachment. The
52 sheriff shall serve such writ by serving a copy thereof on each
53 tenant or person in possession of such land paying rent
54 therefor, or for any part thereof, and such service shall
55 operate as an attachment of all rents accruing from the person
56 served. The sheriff shall receive such rents as they become
57 due, and may bring suit in ~~his~~ the sheriff's own name to collect *
58 the same, and shall pay into the county treasury the amount
59 collected. No payment of rents by any person so served after
60 such service, or prior thereto for the purpose of defeating such
61 attachment, shall be valid against such attachment. The clerk
62 shall be allowed for issuing the writ, including the filing of
63 the affidavit, order of allowance, writ, and return, 50 cents,
64 to be paid to ~~him~~ the clerk by the county in which the taxes are *
65 levied; provided, that in counties whose population exceeds
66 150,000 such fees shall be paid into the county treasury to the
67 use of the county. The sheriff shall be allowed for serving the
68 writ and collecting the money the same fees as are allowed by
69 law upon an execution in a civil action; and, if ~~he~~ the sheriff *
70 brings suit, such additional compensation as the court may
71 allow, not exceeding one-half of the fees allowed by law for
72 like services in ordinary cases.

73 If, at any time while the sheriff is collecting such rent,

1 described in the writ of attachment are paid.

280*#385S

2 280.385 ACQUISITION OF TAX DELINQUENT LAND BEFORE
3 FORFEITURE.

4 No change for subd 1 to 2

5 Subd. 3. PROCEDURE IF TITLE FAILS. If the title of
6 the state under such conveyance should for any reason be finally
7 adjudged void or subject to any encumbrance, the county auditor,
8 upon the filing in ~~his~~ the auditor's office of a certified copy *
9 of such judgment, shall reinstate all taxes, penalties, and
10 interest which were a lien upon said lands at the time such
11 conveyance was made, and shall assess as omitted the taxes for
12 the years subsequent thereto. Such lands shall thereupon be
13 subject to forfeiture or other proceedings upon such taxes as
14 provided by law as if no conveyance to the state had been made.

281*#03S

15 281.03 AUDITOR'S CERTIFICATE.

16 The county auditor shall certify to the amount due on such
17 redemption, and, on payment of the same to the county treasurer,
18 ~~he~~ shall make duplicate receipts for the certified amount, *
19 describing the property redeemed, one of which shall be filed
20 with the auditor. Such receipts shall be governed by the
21 provisions of this chapter regulating the payment of current
22 taxes and such payment shall have the effect to annul the sale.
23 If the amount certified by the auditor and received in payment
24 for redemption be less than that required by law, it shall not
25 invalidate the redemption. On redemption being made, the
26 auditor shall enter upon the copy of the tax judgment book,
27 opposite the description of the parcel redeemed, the word,
28 "redeemed."

281*#05S

29 281.05 REDEMPTION WHEN OWNER DIES.

30 When the owner of lands sold for taxes dies after such sale
31 and before the expiration of the period of redemption, a
32 personal representative or any person interested in ~~his~~ the *
33 owner's estate as heir, devisee, legatee, or creditor, may *
34 redeem from such sale during the period for redemption. If such *
35 redemption be made by a personal representative, ~~he~~ the *
36 representative shall at the time thereof produce to the county *
37 auditor ~~his~~ letters issued pursuant to chapter 524. If made by *
38 any other person, ~~he~~ the person shall make and file with the *
39 county auditor an affidavit stating under what right or claim *
40 such redemption is made. The auditor shall make and deliver to
41 the person making such redemption a certificate containing the
42 name of the person redeeming, a statement of the claim or right
43 upon which such redemption was made, the amount paid to redeem,
44 a description of the lands redeemed, the date of the sale, and
45 the year in which the taxes for which such sale was made were
46 levied, which certificate shall have the effect to annul such
47 sale, and may be recorded as other deeds of real estate, and
48 with the like effect. If such redemption be made by a creditor,
49 the amount paid to effect such redemption, with interest thereon
50 at the rate provided in section 279.03, shall constitute a valid
51 claim against the estate of the deceased.

281*#06S

52 281.06 UNDIVIDED PART.

53 Any person claiming an undivided part of any parcel of land
54 sold for taxes may redeem the same on paying such proportion of
55 the amount required for redemption as the part so claimed ~~by-him~~ *
56 bears to the whole.

281*#07S

57 281.07 UNDIVIDED SHARE.

58 Any person claiming an undivided share in any parcel of
59 land out of which an undivided part has been sold for taxes may
60 redeem ~~his~~ the undivided share claimed by paying such proportion *
61 of the amount required for redemption as the undivided share
62 claimed ~~by-him~~ bears to such undivided part. *

281*#08S

63 281.08 SPECIFIC PART.

64 Any person claiming a specific part of any parcel of land
65 sold for taxes may redeem ~~his~~ the specific part by paying such *
66 proportion of the amount required for redemption as the value of
67 such specific part bears to the whole.

281*#09S

68 281.09 SPECIFIC PART OF UNDIVIDED PART.

69 Any person claiming a specific part of any parcel of land

1 out of which an undivided part has been sold for taxes charged
 2 on the whole parcel may redeem ~~his~~ the specific part by paying
 3 such proportion of the amount required for redemption as the
 4 value of such specific part bears to the value of the whole of
 5 such parcel.

281*#10S

6 281.10 AUDITOR TO DETERMINE PROPORTION.
 7 When a partial redemption is asked for pursuant to section
 8 281.08 or section 281.09, the county auditor, after notice to
 9 all parties interested, shall determine the proportion to be
 10 paid by the person applying to redeem and ~~his~~ the auditor's
 11 decision shall be final thereon. Such notice shall be given by
 12 delivering a copy of the notice to the party to be notified, or,
 13 if ~~he~~ the party cannot be found in the county, by leaving a copy
 14 thereof at ~~his~~ the party's residence or usual place of business
 15 therein; but, if ~~he~~ the party have no such residence or place of
 16 business, and cannot be found in the county, of which facts, or
 17 either of them, the affidavit of the person appointed by the
 18 auditor to give such notice shall be evidence, the auditor shall
 19 give two weeks published notice thereof; the last publication to
 20 be not less than ten days prior to the day fixed by the auditor
 21 for the determination of such matter. The auditor shall not be
 22 required to proceed under this section until the applicant pay
 23 to ~~him~~ the auditor such sum as shall be reasonably sufficient to
 24 reimburse ~~him~~ the auditor for expenses necessarily to be
 25 incurred ~~by-him~~ in giving or publishing such notice.

281*#11S

26 281.11 TAXPAYER MAY PAY TAXES ON PART.
 27 Any person holding an interest in a tract of land which
 28 forms a part less than the whole of a tract of land as listed
 29 for taxation, including mortgagees, lessees, and others, who by
 30 law or contract are required or entitled to pay taxes to protect
 31 any right, title, interest, claim, or lien held by them in, to,
 32 or upon such tract less than the whole so listed, may pay such
 33 portion of the taxes assessed against the whole tract of land as
 34 may be determined as the proper proportion of such taxes to be
 35 apportioned against the lesser tract by the county auditor,
 36 after notice to all parties interested given in the manner
 37 provided by section 281.10. The county auditor shall give
 38 notice as provided by section 281.10, and not less than 10, nor
 39 more than 20, days after such notice, shall determine the
 40 portion of the tax on the whole tract to be charged to such
 41 lesser tract, and any person may pay such portion to the county
 42 treasurer, and upon payment to the county treasurer of the
 43 amount so charged to such lesser tract the treasurer shall give
 44 ~~his~~ a receipt for the amount so paid and specify the tract so
 45 paid on, and enter on ~~his~~ the tax list the name of the person
 46 who paid such taxes and the tract on which the tax was so paid,
 47 and report to the auditor the payment of such taxes on such
 48 tract. Thereupon the tract shall be exempt from proceedings to
 49 enforce the collection of the tax against the remaining tract
 50 upon which such tax has not been paid and the collection of such
 51 tax upon the remaining tract upon which the taxes have not been
 52 paid shall be proceeded within the same manner as to such
 53 remaining tract as though it were listed as a separate
 54 description.

281*#12S

55 281.12 LAND HELD JOINTLY.
 56 When the land of any person is sold for taxes assessed
 57 conjointly on such land and the land of another person, and such
 58 other person shall not ~~pay-his-due-proportion~~ make a
 59 proportional payment, the person whose land is sold may redeem
 60 the same by paying the amount required to redeem, and he may
 61 recover from such other person whose land was assessed ~~with-his~~
 62 conjointly a just proportion of the redemption money so paid,
 63 with interest from the time of such redemption. Such just
 64 proportion and interest shall be a lien upon the land of such
 65 other person so sold and, after expiration of the time allowed
 66 for redemption, may be collected out of such land by sale
 67 thereof, by foreclosure or other proper action or proceeding;
 68 provided, that the same shall not be a lien until the person
 69 paying the same, ~~his~~ or the person's agent or attorney, shall
 70 make and file for record with the county recorder of the county
 71 where the land lies an affidavit, stating the amount paid ~~by-him~~
 72 for which such other person is liable, and that ~~he~~ the payer
 73 claims a lien therefor.

281*#13S

1 281.13 NOTICE OF EXPIRATION OF REDEMPTION.
 2 Every person holding a tax certificate after expiration of
 3 three years after the date of the tax sale under which the same
 4 was issued, may present such certificate to the county auditor;
 5 and thereupon the auditor shall prepare, under his the auditor's
 6 hand and official seal, a notice, directed to the person or
 7 persons in whose name such lands are assessed, specifying the
 8 description thereof, the amount for which the same was sold, the
 9 amount required to redeem the same, exclusive of the costs to
 10 accrue upon such notice, and the time when the redemption period
 11 will expire. If, at the time when any tax certificate is so
 12 presented, such lands are assessed in the name of the holder of
 13 the certificate, such notice shall be directed also to the
 14 person or persons in whose name title in fee of such land
 15 appears of record in the office of the county recorder. The
 16 auditor shall deliver such notice to the party applying
 17 therefor, who shall deliver it to the sheriff of the proper
 18 county for service. Within 20 days after ~~its receipt-by-him~~
 19 receiving it, the sheriff shall serve such notice upon the
 20 persons to whom it is directed, if to be found in his the
 21 sheriff's county, in the manner prescribed for serving a summons
 22 in a civil action; if not so found, then upon the person in
 23 possession of the land, and make return thereof to the auditor.
 24 In the case of land held in joint tenancy the notice shall be
 25 served upon each joint tenant. If one or more of the persons to
 26 whom the notice is directed cannot be found in the county, and
 27 there is no one in possession of the land, of each of which
 28 facts the return of the sheriff so specifying shall be prima
 29 facie evidence, service shall be made upon those persons that
 30 can be found and service shall also be made by three weeks'
 31 published notice, proof of which publication shall be filed with
 32 the auditor.

33 When the records in the office of the county recorder show
 34 that any lot or tract of land is encumbered by an unsatisfied
 35 mortgage or other lien, and show the post-office address of the
 36 mortgagee or lienee, or if the same has been assigned, the
 37 post-office address of the assignee, the person holding such tax
 38 certificate shall serve a copy of such notice upon such
 39 mortgagee, lienee, or assignee by certified mail addressed to
 40 such mortgagee, lienee, or assignee at the post-office address
 41 of the mortgagee, lienee, or assignee as disclosed by the
 42 records in the office of the county recorder, at least 60 days
 43 prior to the time when the redemption period will expire.

44 The notice herein provided for shall be sufficient if
 45 substantially in the following form:

46 "NOTICE OF EXPIRATION OF REDEMPTION
 47 Office of the County Auditor
 48 County of, State of Minnesota.
 49 To

50 You are hereby notified that the following described piece
 51 or parcel of land, situated in the county of
 52, and State of Minnesota, and known and
 53 described as follows:
 54
 55, is now assessed in your name; that on the
 56 day of May,, at
 57 the sale of land pursuant to the real estate tax judgement, duly
 58 given and made in and by the district court in and for said
 59 county of, on the
 60 day of March,,
 61 in proceedings to enforce the payment of taxes delinquent upon
 62 real estate for the year for said county of
 63 the above described piece
 64 or parcel of land was sold for the sum of \$....., and
 65 the amount required to redeem such piece or parcel of land from
 66 such sale, exclusive of the cost to accrue upon this notice, is
 67 the sum of \$....., and interest at the rate of
 68 percent per annum from said
 69 day of,
 70, to the day such redemption is made, and
 71 that the tax certificate has been presented to me by the holder
 72 thereof, and the time for redemption of such piece or parcel of
 73 land from such sale will expire 60 days after the service of
 74 this notice and proof thereof has been filed in my office.

75 Witness my hand and official seal this

*
*
*
*

1 day of,
 2
 3
 4 (OFFICIAL SEAL)
 5 County Auditor of
 6 County, Minnesota."

281*#23S

7 281.23 NOTICE.
 8 No change for subd 1
 9 Subd. 2. MAY COVER PARCELS BID IN AT SAME TAX SALE.
 10 All parcels of land bid in at the same tax judgment sale and
 11 having the same period of redemption shall be covered by a
 12 single posted notice, but a separate notice may be posted for
 13 any parcel which may be omitted. Such notice shall be
 14 sufficient if substantially in the following form:

15 "NOTICE OF EXPIRATION OF REDEMPTION
 16 Office of the County Auditor
 17 County of, State of Minnesota.
 18 To all persons interested in the lands hereinafter
 19 described:

20 You are hereby notified that the parcels of land
 21 hereinafter described, situated in the county of
 22, state of Minnesota, were bid
 23 in for the state on the day of
 24, 19....., at the tax judgment sale of
 25 land for delinquent taxes for the year 19.....; that the
 26 legal descriptions and tax parcel identification numbers of such
 27 parcels and names of the taxpayers and fee owners and in
 28 addition those parties who have filed their addresses pursuant
 29 to section 276.041, and the amount necessary to redeem as of the
 30 date hereof and, at the election of the county auditor, the
 31 current filed addresses of any such persons, are as follows:

32 Names (and
 33 Current Filed
 34 Addresses) for
 35 the Taxpayers
 36 and Fee Owners
 37 and in Addition
 38 Those Parties
 39 Who Have Filed
 40 Their Addresses
 41 Pursuant to
 42 section 276.041

Legal Description	Tax Parcel Number	Amount Necessary to Redeem as of Date Hereof
.....
.....

43
 44

45 That the time for redemption of such lands from such sale
 46 will expire 60 days after service of notice and the filing of
 47 proof thereof in my office, as provided by law. The redemption
 48 must be made in my office.

49 FAILURE TO REDEEM SUCH LANDS PRIOR TO THE EXPIRATION OF
 50 REDEMPTION WILL RESULT IN THE LOSS OF THE LAND AND FORFEITURE OF
 51 SAID LAND TO THE STATE OF MINNESOTA.

52 Inquiries as to the proceedings set forth above can be made
 53 to the County Auditor for the County of, whose
 54 address is set forth below.

55 Witness my hand and official seal this
 56 day of, 19.....
 57

58 County Auditor
 59 (OFFICIAL SEAL)
 60
 61 (Address)
 62
 63 (Telephone)."

64 Such notice shall be posted by the auditor in ~~his~~ the
 65 auditor's office, subject to public inspection, and shall remain
 66 so posted until at least one week after the date of the last
 67 publication of notice, as hereinafter provided. Proof of such
 68 posting shall be made by the certificate of the auditor, filed
 69 in ~~his~~ the auditor's office.

70 No change for subd '3 to 4
 71 Subd. 5. MAILING OF NOTICE. Forthwith after the
 72 commencement of such publication, the county auditor shall cause
 73 the notice of expiration of redemption to be mailed by certified
 74 mail, return receipt requested, to all real property taxpayers
 75 and fee owners and in addition to those parties who have filed

1 their addresses pursuant to section 276.041. Proof of such
 2 mailing shall be made by the certificate of the auditor filed in
 3 ~~his~~ the auditor's office. Failure to receive the notice shall *
 4 not operate to postpone or excuse any default.

5 Subd. 6. SERVICE BY SHERIFF. Forthwith after the
 6 commencement of such publication the county auditor shall
 7 deliver to the sheriff of the county a sufficient number of
 8 copies of such notice of expiration of redemption for service
 9 upon the persons in possession of all parcels of such land as
 10 are actually occupied. Within 30 days after receipt thereof,
 11 the sheriff shall make such investigation as may be necessary to
 12 ascertain whether the parcels covered by such notice are
 13 actually occupied or not, and shall serve a copy of such notice
 14 of expiration of redemption upon the person in possession of
 15 each parcel found to be so occupied, in the manner prescribed
 16 for serving summons in a civil action. The sheriff shall make
 17 prompt return to the auditor as to all notices so served and as
 18 to all parcels found vacant and unoccupied. Such return shall
 19 be made upon a copy of such notice and shall be prima facie
 20 evidence of the facts therein stated. Unless compensation for
 21 such services is otherwise provided by law, the sheriff shall
 22 receive from the county, in addition to ~~his~~ other compensation *
 23 prescribed by law, such fees and mileage for service on persons
 24 in possession as are prescribed by law for such service in other
 25 cases, and shall also receive such compensation for making
 26 investigation and return as to vacant and unoccupied lands as
 27 the county board may fix, subject to appeal to the district
 28 court as in case of other claims against the county. As to
 29 either service upon persons in possession or return as to vacant
 30 lands, the sheriff shall charge mileage only for one trip if the
 31 occupants of more than two tracts are served simultaneously, and
 32 in such case mileage shall be prorated and charged equitably
 33 against all such owners.

34 No change for subd 7 to 9

281*#273S

35 281.273 SERVICE OF NOTICE OF EXPIRATION OF TIME OF
 36 REDEMPTION ON LANDS IN WHICH PERSONS IN MILITARY SERVICE ARE
 37 INTERESTED.

38 Whenever the sheriff of any county serves notice of
 39 expiration of the time for redemption of any parcel of real
 40 property from delinquent taxes thereon upon any occupant of any
 41 such real property, ~~he~~ the sheriff shall inquire of such *
 42 occupant and otherwise as ~~he~~ the sheriff may deem proper whether *
 43 such real property was owned and occupied for dwelling,
 44 professional, business or agricultural purposes by a person in
 45 the military service of the United States as defined in the
 46 Soldiers' and Sailors' Civil Relief Act of 1940, as amended,
 47 or ~~his~~ the person's dependents at the commencement of ~~his~~ the *
 48 period of military service and is still occupied for such
 49 purposes by ~~his~~ the person's dependents or employees. ~~If the~~ *
 50 ~~sheriff finds~~ On finding that such real property is so owned and *
 51 occupied, ~~he~~ the sheriff shall make a certificate thereof to the *
 52 county auditor, setting forth the description of the property,
 53 the name of the owner, the particulars of ~~his~~ the owner's *
 54 military service so far as ascertained or claimed, the name of *
 55 the present occupant and ~~his~~ relationship to the owner, and the *
 56 names and addresses of the persons of whom the sheriff made
 57 inquiry. Such certificate shall be filed with the county
 58 auditor and shall be prima facie evidence of the facts therein
 59 stated. If the real property, described in any such certificate
 60 becomes forfeited to the state, it shall be withheld from sale
 61 or conveyance as tax-forfeited property in accordance with and
 62 subject to the provisions of the Soldiers' and Sailors' Civil
 63 Relief Act of 1940, as amended, but no longer than is required
 64 by said act or acts amendatory thereof or supplementary
 65 thereto. If upon further investigation the sheriff finds at any
 66 time that any such certificate is erroneous in any
 67 particular, ~~he~~ the sheriff shall file a supplemental certificate *
 68 referring to the matter in error and stating the facts as *
 69 found ~~by him~~. Such supplemental certificate shall be prima
 70 facie evidence of the facts therein stated, and shall supersede
 71 any prior certificate so far as in conflict therewith. If it
 72 appears from such supplemental certificate that the owner of the
 73 real property affected is not entitled to have the same withheld
 74 from sale under the Soldiers' and Sailors' Civil Relief Act of
 75 1940, as amended, the property shall not be withheld further

1 hereunder.

281*#274S

2 281.274 MAY BE WITHHELD FROM SALE, PAYMENTS.

3 Subdivision 1. The owner of any real property withheld
 4 from sale pursuant to section 281.273, or ~~his~~ the owner's agent *
 5 or representative, may at any time while ~~he is~~ entitled to have *
 6 the same withheld from sale under the Soldiers' and Sailors'
 7 Civil Relief Act of 1940, as amended, pay the aggregate amount
 8 of all delinquent taxes and assessments as provided in
 9 subdivision 2 in one payment without penalties, interest or
 10 costs or in ten instalments as provided in subdivision 3. Upon
 11 full payment of such aggregate amount of all delinquent taxes
 12 and assessments, the forfeiture shall be canceled and of no
 13 effect, and the county auditor shall certify to the commissioner
 14 of revenue the following facts: The description of the real
 15 property, the name of the owner thereof, the particulars of ~~his~~ *
 16 the owner's military service for the United States, so far as *
 17 known, the payment in full of the aggregate amount of such taxes
 18 and assessments, and the date thereof. Upon receipt of such
 19 certificate from the county auditor, such owner shall receive a
 20 quitclaim deed to such property from the state executed by the
 21 commissioner of revenue.

22 No change for subd 2

23 Subd. 3. When any person accorded the right in subdivision
 24 2 to pay taxes makes application to the county auditor to pay
 25 the aggregate amount of such taxes and assessments in
 26 instalments, ~~he~~ the person shall pay one-tenth of the aggregate *
 27 amount of such taxes and assessments at the time of ~~his~~ *
 28 application and the balance thereof in nine equal annual
 29 instalments, with the privilege of paying the unpaid balance in
 30 full at any time, with interest at the rate of four percent on
 31 the balance remaining unpaid each year, the first instalment of
 32 principal and interest to become due and payable on October 31
 33 of the year following the year in which the application was
 34 made, the remaining instalments to become due and payable on
 35 October 31 of each year thereafter until fully paid. Failure to
 36 make any payment herein required within 60 days from the date on
 37 which payment was due shall constitute default and upon such
 38 default the right, title, and interest of such person in the
 39 military service or ~~his~~ the person's heirs, representatives or *
 40 assigns in such real property shall terminate without the doing
 41 by the state of any act or thing.

281*#29S

42 281.29 STATEMENT TO BE FILED WITH COUNTY AUDITOR.

43 Each such statement so filed in the office of the county
 44 auditor in this state shall be immediately numbered and filed in
 45 ~~his~~ the auditor's office by such auditor consecutively in the *
 46 order in which it is received and ~~he~~ the auditor shall, at the *
 47 same time, enter consecutively in the order in which such *
 48 statement is received, in a book to be kept ~~by him~~ for that *
 49 purpose, first, the file number of such statement; second, the *
 50 date when such statement is received and filed ~~by him~~; third, *
 51 the name of the person or corporation named in such statement as
 52 having some right, title, or interest in land or real property,
 53 with the post office address of such person or corporation, if
 54 given in such statement; and, fourth, the name of the person or
 55 corporation named in such statement as the one upon whom or upon
 56 which a personal service of notice may be made. At the same
 57 time the auditor shall enter the file number of such statement
 58 in ~~his~~ the real estate transfer book or books under each piece *
 59 or parcel of land described in such statement. For the duties *
 60 required of the auditor by sections 281.28 to 281.30 ~~he~~ the *
 61 auditor shall be paid, by the person presenting such statement *
 62 to be filed, a fee as set by the county board to cover
 63 administrative costs for each piece or parcel of land described
 64 in such statement. Each such statement shall cease to be valid
 65 and effectual as such for any and all purposes of sections
 66 281.28 to 281.30 at the expiration of five years from the date
 67 of its filing, or when the person named therein as the one upon
 68 whom a personal service of notices may be made dies or ceases to
 69 be a resident of such county, or when the corporation named
 70 therein as the one upon which a personal service of notices may
 71 be made ceases to have an office or place of business within
 72 such county. The person or corporation named in a statement
 73 filed under the provision of sections 281.28 to 281.30 as having
 74 such right, title, or interest may file in the same office in

1 which such statement is filed an instrument releasing any
2 particular piece or parcel of land or real property described in
3 such statement from the effect of such statement, such releasing
4 instrument to be executed with the same formalities as are
5 necessary to entitle conveyances of real estate to record. Such
6 releasing instrument shall be, by the auditor, immediately
7 attached to and filed with such statement affected thereby.
8 Every person or corporation filing such releasing instrument
9 shall, before such releasing instrument is filed, pay to the
10 auditor, for ~~his~~ the auditor's own use, a fee of ten cents for *
11 each such releasing instrument. From the time such releasing
12 instrument is so filed such statement affected thereby shall
13 cease to be valid and effectual as to such particular piece or
14 parcel of land or real property so released, but shall
15 nevertheless be and remain valid and effectual as such for any
16 and all the purposes of sections 281.28 to 281.30 as to each and
17 every other piece or parcel of land or real property therein
18 described.

281*#327S

19 281.327 CANCELTION OF CERTIFICATE UPON JUDICIAL ORDER.
20 Upon the petition of any person interested in the land
21 covered by a real estate tax sale certificate, state assignment
22 certificate, or forfeited tax sale certificate and, upon the
23 giving of such notice to the holder of such certificate as may
24 be ordered, the district court, in the proceedings resulting in
25 the judgment upon which a real estate tax judgment sale
26 certificate, state assignment certificate, or forfeited tax sale
27 certificate is based, may order the cancelation of a real estate
28 tax judgment sale certificate, state assignment certificate, or
29 forfeited tax sale certificate upon which notice of expiration
30 of time of redemption has been issued when the certificate or a
31 deed issued thereon has not been recorded in the office of the
32 county recorder or filed in that of the registrar of titles, if
33 the land is registered, within seven years after the date of the
34 issuance of such certificate; the county auditor, on the filing
35 of the order, shall make an entry in the proper copy real estate
36 tax judgment book, opposite the description of the land,
37 "canceled by order of court"; and the rights of the holder under *
38 ~~his~~ the certificate shall thereupon be terminated of record in
39 the office of the county auditor.

281*#328S

40 281.328 STATE ASSIGNMENT CERTIFICATES; VALIDATING.
41 Subdivision 1. Any state assignment certificate duly
42 issued prior to January 1, 1972, for which the time for
43 redemption expired as certified by the county auditor of the
44 county issuing the certificate, and the person to whom the
45 certificate was issued, ~~his~~ or the person's heirs and assigns, *
46 paid the taxes on the real property described in the certificate
47 since the date thereof, is hereby validated and legalized as
48 against the objection that such certificate was not recorded or
49 filed in the office of the county recorder or registrar of
50 titles within seven years from the date of the certificate, as
51 provided by this chapter. Any such state assignment certificate
52 may after April 6, 1979 be recorded or filed in the office of
53 the proper county recorder or registrar of titles.

54 No change for subd 2

281*#35S

55 281.35 FRAUD IN THE SERVICE; LIMITATION FOR BRINGING
56 ACTION.
57 When any notice of expiration of redemption is served upon
58 the person named therein, and it shall be made to appear that
59 such person was at the time of the service not the real owner of
60 the lands described in such notice, and had no interest therein
61 for more than two years prior to such service, although the
62 lands were assessed in ~~his~~ that person's name, and that such *
63 person fraudulently caused or permitted such service to be
64 made ~~upon-him-personally~~, and thereby prevented the service of *
65 such notice upon the occupant of such lands, or upon the real
66 owner thereof, and thereby prevented the service of such notice
67 by publication, then such notice and the service thereof shall
68 be void, and the right of redemption shall continue in the owner
69 of such lands as if no service had been made; provided, that the
70 action in which such claim is made or defense interposed shall
71 be brought within two years after such attempted service.

281*#38S

72 281.38 REDEMPTION MONEY TO PURCHASER; LOST CERTIFICATE.

1 When the owner of any tax certificate is entitled to any
 2 money paid into the county treasury for redemption from any tax
 3 sale, the county auditor may draw ~~his~~ a warrant upon the county
 4 treasurer in favor of such person for the amount to which ~~he~~ the
 5 person is so entitled. All moneys so paid shall be charged to
 6 the proper funds. If such certificate, or any assignment
 7 thereof, has been lost or destroyed, the auditor shall not give
 8 such warrant until the person entitled to such money make and
 9 file with ~~him~~ the auditor an affidavit ~~that he is~~ of being the
 10 owner of such certificate, and that the same or such assignment
 11 is lost or destroyed; and, if the amount of such redemption
 12 money shall exceed \$5, the affiant shall give a bond, with
 13 surety, approved by the auditor, in double the amount of such
 14 redemption money, payable to the treasurer, conditioned that if
 15 such certificate or assignment is produced to the auditor by any
 16 other person entitled to such redemption money as owner thereof,
 17 and a warrant demanded for such money, the affiant shall, on
 18 demand, refund the same to the treasurer.

282*#01S

19 282.01 TAX-FORFEITED LANDS.

20 Subdivision 1. CLASSIFICATION; USE; EXCHANGE. It is
 21 the general policy of this state to encourage the best use of
 22 tax-forfeited lands, recognizing that some lands in public
 23 ownership should be retained and managed for public benefits
 24 while other lands should be returned to private ownership. All
 25 parcels of land becoming the property of the state in trust
 26 under the provisions of any law now existing or hereafter
 27 enacted declaring the forfeiture of lands to the state for
 28 taxes, shall be classified by the county board of the county
 29 wherein such parcels lie as conservation or nonconservation.
 30 Such classification shall be made with consideration, among
 31 other things, to the present use of adjacent lands, the
 32 productivity of the soil, the character of forest or other
 33 growth, accessibility of lands to established roads, schools,
 34 and other public services, their peculiar suitability or
 35 desirability for particular uses and the suitability of the
 36 forest resources on the land for multiple use, sustained yield
 37 management. Such classification, furthermore, shall aid: to
 38 encourage and foster a mode of land utilization that will
 39 facilitate the economical and adequate provision of
 40 transportation, roads, water supply, drainage, sanitation,
 41 education, and recreation; to facilitate reduction of
 42 governmental expenditures; to conserve and develop the natural
 43 resources; and to foster and develop agriculture and other
 44 industries in the districts and places best suited thereto.

45 In making such classification the county board may make use
 46 of such data and information as may be made available by any
 47 office or department of the federal, state, or local
 48 governments, or by any other person or agency possessing
 49 information pertinent thereto at the time such classification is
 50 made. Such lands may be reclassified from time to time as the
 51 county board may deem necessary or desirable, except as to
 52 conservation lands held by the state free from any trust in
 53 favor of any taxing district.

54 If any such lands are located within the boundaries
 55 of any organized town, with taxable valuation in excess of
 56 \$20,000, or incorporated municipality, the classification or
 57 reclassification and sale shall first be approved by the town
 58 board of such town or the governing body of such municipality
 59 insofar as the lands located therein are concerned. The town
 60 board of the town or the governing body of the municipality will
 61 be deemed to have approved the classification or
 62 reclassification and sale if the county board is not notified of
 63 the disapproval of the classification or reclassification and
 64 sale within 90 days of the date the request for approval was
 65 transmitted to the town board of the town or governing body of
 66 the municipality. If the town board or governing body desires
 67 to acquire any parcel lying in the town or municipality by
 68 procedures authorized in this subdivision, it shall, within 90
 69 days of the request for classification or reclassification and
 70 sale, file a written application with the county board to
 71 withhold the parcel from public sale. The county board shall
 72 then withhold the parcel from public sale for one year.

73 Any tax-forfeited lands may be sold by the county board to
 74 any organized or incorporated governmental subdivision of the
 75 state for any public purpose for which such subdivision is

1 authorized to acquire property or may be released from the trust
2 in favor of the taxing districts upon application of any state
3 agency for any authorized use at not less than their value as
4 determined by the county board. The commissioner of revenue
5 shall have power to convey by deed in the name of the state any
6 tract of tax-forfeited land held in trust in favor of the taxing
7 districts, to any governmental subdivision for any authorized
8 public use, provided that an application therefor shall be
9 submitted to the commissioner with a statement of facts as to
10 the use to be made of such tract and the need therefor and the
11 recommendation of the county board. The deed of conveyance
12 shall be upon a form approved by the attorney general and shall
13 be conditioned upon continued use for the purpose stated in the
14 application, provided, however, that if the governing body of
15 such governmental subdivision by resolution determines that some
16 other public use shall be made of such lands, and such change of
17 use is approved by the county board and an application for such
18 change of use is made to, and approved by, the commissioner, ~~and~~ *
19 ~~approved-by-him,~~ such changed use may be made of such lands *
20 without the necessity of the governing body conveying the lands
21 back to the state and securing a new conveyance from the state
22 to the governmental subdivision for such new public use.

23 Whenever any governmental subdivision to which any
24 tax-forfeited land has been conveyed for a specified public use
25 as provided in this section shall fail to put such land to such
26 use, or to some other authorized public use as provided herein,
27 or shall abandon such use, the governing body of the subdivision
28 shall authorize the proper officers to convey the same, or such
29 portion thereof not required for an authorized public use, to
30 the state of Minnesota, and such officers shall execute a deed
31 of such conveyance forthwith, which conveyance shall be subject
32 to the approval of the commissioner and in form approved by the
33 attorney general, provided, however, that a sale, lease,
34 transfer or other conveyance of such lands by a housing and
35 redevelopment authority as authorized by sections 462.411 to
36 462.705 shall not be an abandonment of such use and such lands
37 shall not be reconveyed to the state nor shall they revert to
38 the state. A certificate made by a housing and redevelopment
39 authority referring to a conveyance by it and stating that the
40 conveyance has been made as authorized by sections 462.411 to
41 462.705 may be filed with the county recorder or registrar of
42 titles, and the rights of reverter in favor of the state
43 provided by this subdivision will then terminate. No vote of
44 the people shall be required for such conveyance. In case any
45 such land shall not be so conveyed to the state, the
46 commissioner of revenue shall by written instrument, in form
47 approved by the attorney general, declare the same to have
48 reverted to the state, and shall serve a notice thereof, with a
49 copy of the declaration, by certified mail upon the clerk or
50 recorder of the governmental subdivision concerned, provided,
51 that no declaration of reversion shall be made earlier than five
52 years from the date of conveyance for failure to put such land
53 to such use or from the date of abandonment of such use if such
54 lands have been put to such use. The commissioner shall file
55 the original declaration in ~~his~~ the commissioner's office, with *
56 verified proof of service as herein required. The governmental
57 subdivision may appeal to the district court of the county in
58 which the land lies by filing with the clerk of court a notice
59 of appeal, specifying the grounds of appeal and the description
60 of the land involved, mailing a copy thereof by certified mail
61 to the commissioner of revenue, and filing a copy thereof for
62 record with the county recorder or registrar of titles, all
63 within 30 days after the mailing of the notice of reversion.
64 The appeal shall be tried by the court in like manner as a civil
65 action. If no appeal is taken as herein provided, the
66 declaration of reversion shall be final. The commissioner of
67 revenue shall file for record with the county recorder or
68 registrar of titles, of the county within which the land lies, a
69 certified copy of the declaration of reversion and proof of
70 service.

71 Any city of the first class now or hereafter having a
72 population of 450,000, or over, or its board of park
73 commissioners, which has acquired tax-forfeited land for a
74 specified public use pursuant to the terms of this section, may
75 convey said land in exchange for other land of substantially
76 equal worth located in said city of the first class, provided

1 that the land conveyed to said city of the first class now or
 2 hereafter having a population of 450,000, or over, or its board
 3 of park commissioners, in exchange shall be subject to the
 4 public use and reversionary provisions of this section; the
 5 tax-forfeited land so conveyed shall thereafter be free and
 6 discharged from the public use and reversionary provisions of
 7 this section, provided that said exchange shall in no way affect
 8 the mineral or mineral rights of the state of Minnesota, if any,
 9 in the lands so exchanged.

10 Subd. 2. CONSERVATION LANDS UNDER SUPERVISION OF COUNTY
 11 BOARD. Lands classified as conservation lands, unless
 12 reclassified as non-conservation lands, sold to a governmental
 13 subdivision of the state, designated as lands primarily suitable
 14 for forest production and sold as hereinafter provided, or
 15 released from the trust in favor of the taxing districts, as
 16 herein provided, will be held under the supervision of the
 17 county board of the county within which such parcels lie.

18 The county board may, by resolution duly adopted, declare
 19 lands classified as conservation lands as primarily suitable for
 20 timber production and as lands which should be placed in private
 21 ownership for such purposes. If such action be approved by the
 22 commissioner of natural resources, the lands so designated, or
 23 any part thereof, may be sold by the county board in the same
 24 manner as provided for the sale of lands classified as
 25 non-conservation lands. Such county action and the approval of
 26 the commissioner shall be limited to lands lying within areas
 27 zoned for restricted uses under the provisions of Laws 1939,
 28 Chapter 340, or any amendments thereof.

29 The county board may, by resolution duly adopted, resolve
 30 that certain lands classified as conservation lands shall be
 31 devoted to conservation uses and may submit such resolution to
 32 the commissioner of natural resources. If, upon investigation,
 33 the commissioner of natural resources determines that the lands
 34 covered by such resolution, or any part thereof, can be managed
 35 and developed for conservation purposes, he the commissioner *
 36 shall make a certificate describing the lands and reciting the
 37 acceptance thereof on behalf of the state for such purposes.
 38 The commissioner shall transmit the certificate to the county
 39 auditor, who shall note the same upon ~~his~~ the auditor's records *
 40 and record the same with the county recorder. The title to all
 41 lands so accepted shall be held by the state free from any trust
 42 in favor of any and all taxing districts and such lands shall be
 43 devoted thereafter to the purposes of forestry, water
 44 conservation, flood control, parks, game refuges, controlled
 45 game management areas, public shooting grounds, or other public
 46 recreational or conservation uses, and managed, controlled, and
 47 regulated for such purposes under the jurisdiction of the
 48 commissioner of natural resources and the divisions of ~~his~~ the *
 49 department. In case the commissioner of natural resources shall
 50 determine that any tract of land so held by the state and
 51 situated within or adjacent to the boundaries of any
 52 governmental subdivision of the state is suitable for use by
 53 such subdivision for any authorized public purpose, he the *
 54 commissioner may convey such tract by deed in the name of the *
 55 state to such subdivision upon the filing with ~~him~~ the *
 56 commissioner of a resolution adopted by a majority vote of all *
 57 the members of the governing body thereof, stating the purpose
 58 for which the land is desired. The deed of conveyance shall be
 59 upon a form approved by the attorney general conditioned upon
 60 continued use for the purpose stated in the resolution. All
 61 proceeds derived from the sale of timber, lease of hay stumpage,
 62 or other revenue from such lands under the jurisdiction of the
 63 natural resources commissioner shall be paid into the general
 64 fund of the state. The county auditor, with the approval of the
 65 county board, may lease conservation lands remaining under the
 66 jurisdiction of the county board and sell timber and hay
 67 stumpage thereon in the manner hereinafter provided, and all
 68 proceeds derived therefrom shall be distributed in the same
 69 manner as provided in section 282.04.

70 Subd. 3. SALE OF NONCONSERVATION LANDS. All parcels
 71 of land classified as nonconservation, except those which may be
 72 reserved, shall be sold as provided, if it is determined, by the
 73 county board of the county in which the parcels lie, that it is
 74 advisable to do so, having in mind their accessibility, their
 75 proximity to existing public improvements, and the effect of
 76 their sale and occupancy on the public burdens. Any parcels of

1 land proposed to be sold shall be first appraised by the county
2 board of the county in which the parcels lie. The parcels may
3 be reappraised whenever the county board deems it necessary to
4 carry out the intent of sections 282.01 to 282.13. In an
5 appraisal the value of the land and any standing timber on it
6 shall be separately determined. No parcel of land containing
7 any standing timber may be sold until the appraised value of the
8 timber on it and the sale of the land have been approved by the
9 commissioner of natural resources. The commissioner shall base
10 ~~his~~ review of a proposed sale on the policy and considerations *
11 specified in subdivision 1. The decision of the commissioner
12 shall be in writing and shall state the reasons for it. The
13 county may appeal the decision of the commissioner in accordance
14 with chapter 14.

15 In any county in which a state forest or any part of it is
16 located, the county auditor shall submit to the commissioner at
17 least 30 days before the first publication of the list of lands
18 to be offered for sale a list of all lands included on the list
19 which are situated outside of any incorporated municipality.
20 If, at any time before the opening of the sale, the commissioner
21 notifies the county auditor in writing that ~~he finds~~ there is *
22 standing timber on any parcel of such land, the parcel shall not
23 be sold unless the requirements of this section respecting the
24 separate appraisal of the timber and the approval of the
25 appraisal by the commissioner have been complied with. The
26 commissioner may waive the requirement of the 30-day notice as
27 to any parcel of land which has been examined and the timber
28 value approved as required by this section.

29 If any public improvement is made by a municipality after
30 any parcel of land has been forfeited to the state for the
31 nonpayment of taxes, and the improvement is assessed in whole or
32 in part against the property benefited by it, the clerk of the
33 municipality shall certify to the county auditor, immediately
34 upon the determination of the assessments for the improvement,
35 the total amount that would have been assessed against the
36 parcel of land if it had been subject to assessment; or if the
37 public improvement is made, petitioned for, ordered in or
38 assessed, whether the improvement is completed in whole or in
39 part, at any time between the appraisal and the sale of the
40 parcel of land, the cost of the improvement shall be included as
41 a separate item and added to the appraised value of the parcel
42 of land at the time it is sold. No sale of a parcel of land
43 shall discharge or free the parcel of land from lien for the
44 special benefit conferred upon it by reason of the public
45 improvement until the cost of it, including penalties, if any,
46 is paid. The county board shall determine the amount, if any,
47 by which the value of the parcel was enhanced by the improvement
48 and include the amount as a separate item in fixing the
49 appraised value for the purpose of sale. In classifying,
50 appraising, and selling the lands, the county board may
51 designate the tracts as assessed and acquired, or may by
52 resolution provide for the subdivision of the tracts into
53 smaller units or for the grouping of several tracts into one
54 tract when the subdivision or grouping is deemed advantageous
55 for the purpose of sale. Each such smaller tract or larger
56 tract must be classified and appraised as such before being
57 offered for sale. If any such lands have once been classified,
58 the board of county commissioners, in its discretion, may, by
59 resolution, authorize the sale of the smaller tract or larger
60 tract without reclassification.

61 No change for subd 4

62 Subd. 5. SALE ON TERMS, CERTIFICATE. When sales
63 hereafter are made on terms the purchaser shall receive a
64 certificate from the county auditor in such form, consistent
65 with the provisions of sections 282.01 to 282.13 and setting
66 forth the terms of sale, as may be prescribed by the attorney
67 general. Failure of the purchaser or any person claiming under
68 him the purchaser, to pay any of the deferred instalments with *
69 interest, or the current taxes, or to comply with any conditions
70 that may have been stipulated in the notice of sale or in the
71 auditor's certificate herein provided for, shall constitute
72 default; and the state may, by order of the county board, during
73 the continuance of such default, declare such certificate
74 canceled and take possession of such lands and may thereafter
75 resell or lease the same in the same manner and under the same
76 rules as other lands forfeited to the state for taxes are sold

1 or leased. When the county board shall have adopted a
 2 resolution ordering the cancellation of such certificate or
 3 certificates and the cancellation shall have been completed in
 4 accord with section 282.40, then a reentry shall be deemed to
 5 have been made on the part of the state without any other act or
 6 deed, and without any right of redemption by the purchaser or
 7 any one claiming under ~~him~~ the purchaser; and the original
 8 purchaser in default or any person claiming under ~~him~~ the
 9 original purchaser, who shall remain in possession or enter
 10 thereon shall be deemed a willful trespasser and shall be
 11 punished as such.

*
 *
 *

12 When the cancellation of such certificate has been
 13 completed the county auditor shall cancel all taxes and tax
 14 liens, delinquent and current, and special assessments,
 15 delinquent or otherwise, imposed upon the lands described in the
 16 certificate after ~~the its~~ issuance thereof-by-him.

*

17 Subd. 6. DUTIES OF COMMISSIONER OF REVENUE; ISSUANCE OF
 18 CONVEYANCE. When any sale has been made by the county auditor
 19 under sections 282.01 to 282.13, ~~he~~ the auditor shall
 20 immediately certify to the commissioner of revenue such
 21 information relating to such sale, on such forms as the
 22 commissioner of revenue may prescribe as will enable the
 23 commissioner of revenue to prepare an appropriate deed if the
 24 sale is for cash, or keep ~~his~~ necessary records if the sale is
 25 on terms; and not later than October 31 of each year the county
 26 auditor shall submit to the commissioner of revenue a statement
 27 of all instances wherein any payment of principal, interest, or
 28 current taxes on lands held under certificate, due or to be paid
 29 during the preceding calendar years, are still outstanding at
 30 the time such certificate is made. When such statement shows
 31 that a purchaser or ~~his~~ the purchaser's assignee is in default,
 32 the commissioner of revenue may instruct the county board of the
 33 county in which the land is located to cancel said certificate
 34 of sale in the manner provided by subdivision 5, provided that
 35 upon recommendation of the county board, and where the
 36 circumstances are such that the commissioner of revenue after
 37 investigation is satisfied that the purchaser has made every
 38 effort reasonable to make payment of both the annual instalment
 39 and said taxes, and that there has been no willful neglect on
 40 the part of the purchaser in meeting these obligations, then the
 41 commissioner of revenue may extend the time for the payment for
 42 such period as ~~he~~ the commissioner may deem warranted, not to
 43 exceed one year. On payment in full of the purchase price,
 44 appropriate conveyance in fee, in such form as may be prescribed
 45 by the attorney general, shall be issued by the commissioner of
 46 revenue, which conveyance must be recorded by the county and
 47 shall have the force and effect of a patent from the state
 48 subject to easements and restrictions of record at the date of
 49 the tax judgment sale, including, but without limitation,
 50 permits for telephone, telegraph, and electric power lines
 51 either by underground cable or conduit or otherwise, sewer and
 52 water lines, highways, railroads, and pipe lines for gas,
 53 liquids, or solids in suspension.

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54 Subd. 7. SALES, WHEN COMMENCED, HOW LAND OFFERED FOR
 55 SALE. The sale herein provided for shall commence at such
 56 time as the county board of the county wherein such parcels lie,
 57 shall direct. The county auditor shall offer the parcels of
 58 land in order in which they appear in the notice of sale, and
 59 shall sell them to the highest bidder, but not for a less sum
 60 than the appraised value, until all of the parcels of land shall
 61 have been offered, and thereafter ~~he~~ shall sell any remaining
 62 parcels to anyone offering to pay the appraised value thereof.
 63 Said sale shall continue until all such parcels are sold or
 64 until the county board shall order a reappraisal or shall
 65 withdraw any or all such parcels from sale. Such list of lands
 66 may be added to and the added lands may be sold at any time by
 67 publishing the descriptions and appraised values of such parcels
 68 of land as shall have become forfeited and classified as
 69 non-conservation since the commencement of any prior sale or
 70 such parcels as shall have been reappraised, or such parcels as
 71 shall have been reclassified as non-conservation or such other
 72 parcels as are subject to sale but were omitted from the
 73 existing list for any reason in the same manner as hereinafter
 74 provided for the publication of the original list, provided that
 75 any parcels added to such list shall first be offered for sale
 76 to the highest bidder before they are sold at appraised value.

*

1 All parcels of land not offered for immediate sale, as well as
 2 parcels of such lands as are offered and not immediately sold
 3 shall continue to be held in trust by the state for the taxing
 4 districts interested in each of said parcels, under the
 5 supervision of the county board, and such parcels may be used
 6 for public purposes until sold, as the county board may direct.

7 No change for subd 7a to 9

8 Subd. 10. RATIFICATION OF SALE BY COUNTY BOARDS. The
 9 purchaser at such sale or the county auditor of the county in
 10 which said land is located shall file an application for the
 11 ratification of the sale with the board of county commissioners
 12 of said county, submitting therewith a statement of the facts of
 13 the case and satisfactory proof that the purchase price of such
 14 land at the sale has been paid in full. Such application shall
 15 be considered by the county board and shall thereafter be
 16 submitted by it to the commissioner of revenue with the
 17 recommendation of the county board and of the county auditor in
 18 all cases wherein ~~he~~ the auditor is not the applicant. The *
 19 commissioner of revenue shall consider said application and ~~if~~ *
 20 ~~he-determines,~~ on determining that the conditions above referred *
 21 to exist ~~he,~~ shall make ~~his~~ an order ratifying the sale of said *
 22 tax-forfeited land and transmit a copy thereof to the county
 23 auditor of the county in which said tax-forfeited land is
 24 located. If any such sale be ratified by the commissioner of
 25 revenue, it shall not thereafter be subject to attack for
 26 failure to have the timber appraisal approved before the sale.
 27 If no conveyance by the state has theretofore been made, the
 28 county auditor, upon receipt of said order, shall request the
 29 issuance of an appropriate conveyance as provided for in said
 30 section 2139-15. If a conveyance has been made by the state of
 31 said land pursuant to said section 2139-15, said conveyance
 32 shall not thereafter be subject to attack on account of the
 33 failure to have the timber appraisal approved before the sale.

34 No change for subd 11

282*#011S

35 282.011 NON-AGRICULTURAL LANDS, CLASSIFICATION; SALE,
 36 CONDITIONS.

37 Subdivision 1. Any lands which have become the absolute
 38 property of the state through forfeiture for nonpayment of taxes
 39 and which have been classified by the county board as
 40 conservation lands under the provisions of Minnesota Statutes
 41 1945, Section 282.01, or have been classified as
 42 non-agricultural lands under the provisions of Minnesota
 43 Statutes 1945, Section 282.14, or any such lands which shall
 44 hereafter be so classified, may be designated by the county
 45 board of the county in which such lands lie, by resolution duly
 46 adopted, as appropriate and primarily suitable for either
 47 specific conservation purposes or for auxiliary forest lands.
 48 Any resolution so adopted, together with a list of the lands
 49 involved shall be forwarded to the commissioner of natural
 50 resources who shall promptly approve or disapprove the whole or
 51 any part thereof. ~~He~~ The commissioner shall thereupon make ~~his~~ *
 52 a certificate showing the lands approved, transmit the same to *
 53 the county auditor who shall note record the same upon-his *
 54 records. Lands so designated and so approved shall thereupon be *
 55 appraised and the whole, or any part thereof, may be offered for
 56 sale and sold in the same manner as provided for the sale of
 57 lands classified as non-conservation lands under Minnesota
 58 Statutes 1945, Section 282.01, or as agricultural lands under
 59 Minnesota Statutes 1945, Section 282.14, as the case may be,
 60 according to the status of such lands upon forfeiture. The
 61 right to a deed of conveyance to such property accorded the
 62 purchaser at any such sale shall be conditioned upon the lands
 63 being placed in an auxiliary forest or used for designated
 64 conservation purposes as designated by the resolution of the
 65 county board.

66 No change for subd 2

67 Subd. 3. The commissioner of revenue shall, if requested
 68 by the purchaser or the county attorney of the county where all
 69 or a portion of the land is situated, deliver the deed to the
 70 county attorney for use ~~by-him~~ under section 88.48, subdivision *
 71 5, but such delivery shall not be considered delivery to the
 72 purchaser. The county attorney shall be instructed ~~in~~ when *
 73 taking the transferral of the deed ~~to-him~~ that said deed shall *
 74 not be delivered to the purchaser unless the land involved is
 75 accepted as and placed into an auxiliary forest.

1 No change for subd 4 .

282*#012S

2 282.012 PRIOR OWNER MAY PURCHASE; CONDITIONS.

3 At any time not less than one week prior to the date of
4 such sale, the person who was the owner of any included parcel
5 at the time when it forfeited to the state for non-payment of
6 taxes or ~~his~~ the person's heirs, successors or assigns or any
7 person to whom the right to pay taxes on such lands was given by
8 statute, mortgage or other agreement, may purchase such parcel
9 at the appraised value thereof, ~~his~~ the purchaser's title and
10 right to be conditioned upon the primary use as designated by
11 the resolution of the county board. The right of such purchaser
12 to purchase shall be evidenced by ~~his~~ the purchaser's duly
13 verified written application showing ~~his~~ qualifications as
14 hereinabove prescribed and filed with the county auditor.

282*#013S

15 282.013 PLACED IN AUXILIARY FOREST BY PURCHASER.

16 Any purchaser under the provisions of section 282.012 or
17 this section of lands sold upon condition that they be placed in
18 an auxiliary forest shall furnish the county board, within six
19 months from the date of purchase, satisfactory proof ~~that he has~~
20 of having complied with the provisions of Minnesota Statutes
21 1945, Section 88.48, pertaining to auxiliary forests, and
22 that ~~his~~ the application thereunder, including such lands, has
23 been finally approved, provided that such 6-month period may be
24 extended by resolution of the county board for good cause shown
25 for an additional 6-month period. If such proof is not so
26 furnished, the sale shall be deemed canceled and the purchase
27 price or portion thereof paid shall be refunded.

282*#016S

28 282.016 PROHIBITED PURCHASERS.

29 No county auditor, county treasurer, clerk of the district
30 court, or county assessor or supervisor of assessments, or
31 deputy or clerk or employee of such officer, and no commissioner
32 for tax-forfeited lands or assistant to such commissioner may
33 become a purchaser of the properties offered for sale under the
34 provisions of this chapter, either ~~in his own behalf~~ personally,
35 or as agent or attorney for any other person, except that such
36 officer, deputy, clerk, employee or commissioner for
37 tax-forfeited lands or assistant to such commissioner may
38 purchase lands owned by ~~him~~ that official at the time the state
39 became the absolute owner thereof.

282*#04S

40 282.04 TIMBER SALE; TAX-FORFEITED LANDS, LEASE,
41 PARTITION, EASEMENTS.

42 Subdivision 1. TIMBER SOLD FOR CASH. The county
43 auditor may sell timber upon any tract that may be approved by
44 the natural resources commissioner. Such sale of timber shall
45 be made for cash at not less than the appraised value determined
46 by the county board to the highest bidder after not less than
47 one week's published notice in an official paper within the
48 county. Any timber offered at such public sale and not sold may
49 thereafter be sold at private sale by the county auditor at not
50 less than the appraised value thereof, until such time as the
51 county board may withdraw such timber from sale. The appraised
52 value of the timber and the forestry practices to be followed in
53 the cutting of said timber shall be approved by the commissioner
54 of natural resources. Payment of the full sale price of all
55 timber sold on tax-forfeited lands shall be made in cash at the
56 time of the timber sale, except in the case of oral or sealed
57 bid auction sales, the down payment shall be 25 percent of the
58 appraised value, and the balance shall be paid prior to entry.
59 In the case of auction sales that are partitioned and sold as a
60 single sale with predetermined cutting blocks, the down payment
61 shall be 25 percent of the appraised price of the entire timber
62 sale which may be held until the satisfactory completion of the
63 sale or applied in whole or in part to the final cutting block.
64 The value of each separate block must be paid in full before any
65 cutting may begin in that block. With the permission of the
66 county administrator the purchaser may enter unpaid blocks and
67 cut necessary timber incidental to developing logging roads as
68 may be needed to log other blocks provided that no timber may be
69 removed from an unpaid block until separately scaled and paid
70 for. The county board may require final settlement on the basis
71 of a scale of cut products. Any parcels of land from which
72 timber is to be sold by scale of cut products shall be so

1 designated in the published notice of sale above mentioned, in
2 which case the notice shall contain a description of such
3 parcels, a statement of the estimated quantity of each species
4 of timber thereon and the appraised price of each specie of
5 timber for 1,000 feet, per cord or per piece, as the case may
6 be. In such cases any bids offered over and above the appraised
7 prices shall be by percentage, the percent bid to be added to
8 the appraised price of each of the different species of timber
9 advertised on the land. The purchaser of timber from such
10 parcels shall pay in cash at the time of sale at the rate bid
11 for all of the timber shown in the notice of sale as estimated
12 to be standing on the land, and in addition shall pay at the
13 same rate for any additional amounts which the final scale shows
14 to have been cut or was available for cutting on the land at the
15 time of sale under the terms of such sale. Where the final
16 scale of cut products shows that less timber was cut or was
17 available for cutting under terms of such sale than was
18 originally paid for, the excess payment shall be refunded from
19 the forfeited tax sale fund upon the claim of the purchaser, to
20 be audited and allowed by the county board as in case of other
21 claims against the county. No timber, except hardwood pulpwood,
22 may be removed from such parcels of land or other designated
23 landings until scaled by a person or persons designated by the
24 county board and approved by the commissioner of natural
25 resources. Landings other than the parcel of land from which
26 timber is cut may be designated for scaling by the county board
27 by written agreement with the purchaser of the timber. The
28 county board may, by written agreement with the purchaser and
29 with a consumer designated by him the purchaser when the timber
30 is sold by the county auditor, and with the approval of the
31 commissioner of natural resources, accept the consumer's scale
32 of cut products delivered at the consumer's landing. No timber
33 shall be removed until fully paid for in cash. Small amounts of
34 timber not exceeding \$3,000 in appraised valuation may be sold
35 for not less than the full appraised value at private sale to
36 individual persons without first publishing notice of sale or
37 calling for bids, provided that in case of such sale involving a
38 total appraised value of more than \$200 the sale shall be made
39 subject to final settlement on the basis of a scale of cut
40 products in the manner above provided and not more than two such
41 sales, directly or indirectly to any individual shall be in
42 effect at one time. As directed by the county board, the county
43 auditor may lease tax-forfeited land to individuals,
44 corporations or organized subdivisions of the state at public or
45 private vendue, and at such prices and under such terms as the
46 county board may prescribe, for use as cottage and camp sites
47 and for agricultural purposes and for the purpose of taking and
48 removing of hay, stumpage, sand, gravel, clay, rock, marl, and
49 black dirt therefrom, and for garden sites and other temporary
50 uses provided that no leases shall be for a period to exceed ten
51 years; provided, further that any leases involving a
52 consideration of more than \$300 per year, except to an organized
53 subdivision of the state shall first be offered at public sale
54 in the manner provided herein for sale of timber. Upon the sale
55 of any such leased land, it shall remain subject to the lease
56 for not to exceed one year from the beginning of the term of the
57 lease. Any rent paid by the lessee for the portion of the term
58 cut off by such cancellation shall be refunded from the
59 forfeited tax sale fund upon the claim of the lessee, to be
60 audited and allowed by the county board as in case of other
61 claims against the county. The county auditor, with the
62 approval of the county board is authorized to grant permits,
63 licenses, and leases to tax-forfeited lands for the depositing
64 of stripping, lean ores, tailings, or waste products from mines
65 or ore milling plants, upon such conditions and for such
66 consideration and for such period of time, not exceeding 15
67 years, as the county board may determine; said permits,
68 licenses, or leases to be subject to approval by the
69 commissioner of natural resources. Any person who removes any
70 timber from tax-forfeited land before said timber has been
71 scaled and fully paid for as provided in this subdivision is
72 guilty of a misdemeanor. The county auditor may, with the
73 approval of the county board and the commissioner of natural
74 resources, and without first offering at public sale, grant
75 leases, for a term not exceeding 25 years, for the removal of
76 peat from tax-forfeited lands upon such terms and conditions as

1 the county board may prescribe.

2 Provided, however, that no lease for the removal of peat
3 shall be made by the county auditor pursuant to this section
4 without first holding a public hearing on ~~his~~ the auditor's *
5 intention to lease. One printed notice in a legal newspaper in
6 the county at least ten days before the hearing, and posted
7 notice in the courthouse at least 20 days before the hearing
8 shall be given of the hearing.

9 No change for subd la

10 Subd. 2. RIGHTS BEFORE SALE. Until after the sale
11 of a parcel of forfeited land the county auditor may, with the
12 approval of the county board of commissioners, provide for the
13 repair and improvement of any building or structure located upon
14 such parcel, if it is determined by the county board that such
15 repairs or improvements are necessary for the operation, use,
16 preservation and safety thereof; and, if so authorized by the
17 county board, the county auditor may insure any such building or
18 structure against loss or damage resulting from fire or
19 windstorm~~er~~, he, may purchase workers' compensation insurance to *
20 insure the county against claims for injury to the persons *
21 therein employed by the county~~r~~, and he may insure the county, *
22 its officers and employees against claims for injuries to
23 persons or property because of the management, use or operation
24 of such building or structure. Such county auditor may, with
25 the approval of the county board, provide for the demolition of
26 any such building or structure, which has been determined by the
27 county board to be within the purview of section 299F.10, and
28 for the sale of salvaged materials therefrom. The net proceeds
29 from any sale of such salvaged materials, of timber or other
30 products or leases made under this law shall be deposited in the
31 forfeited tax sale fund and shall be distributed in the same
32 manner as if the parcel had been sold.

33 Such county auditor, with the approval of the county board,
34 may provide for the demolition of any structure or structures on
35 tax-forfeited lands, if in the opinion of the county board, the
36 county auditor, and the land commissioner, if there be one, the
37 sale of such land with such structure or structures thereon, or
38 the continued existence of such structure or structures by
39 reason of age, dilapidated condition or excessive size as
40 compared with nearby structures, will result in a material
41 lessening of assessed values of real estate in the vicinity of
42 such tax-forfeited lands, or if the demolition of such structure
43 or structures will aid in disposing of such tax-forfeited
44 property.

45 Before the sale of a parcel of forfeited land located in an
46 urban area, the county auditor may with the approval of the
47 county board provide for the grading thereof by filling or the
48 removal of any surplus material therefrom, and where the
49 physical condition of forfeited lands is such that a reasonable
50 grading thereof is necessary for the protection and preservation
51 of the property of any adjoining owner, such adjoining property
52 owner or owners may make application to the county board to have
53 such grading done. If, after considering said application, the
54 county board believes that such grading will enhance the value
55 of such forfeited lands commensurate with the cost involved, it
56 may approve the same and any such work shall be performed under
57 the supervision of the county or city engineer, as the case may
58 be, and the expense thereof paid from the forfeited tax sale
59 fund.

60 No change for subd 3 to 4

282*#07S

61 282.07 AUDITOR TO CANCEL TAXES.

62 Immediately after forfeiture to the state of any parcel of
63 land, as provided by sections 281.16 to 281.27, the county
64 auditor shall cancel all taxes and tax liens appearing upon the
65 records, both delinquent and current, and all special
66 assessments, delinquent or otherwise. When the interest of a
67 purchaser of state trust fund land sold under certificate of
68 sale, or of ~~his~~ the purchaser's heirs or assigns or successors *
69 in interest, shall by reason of tax delinquency be transferred
70 to the state as provided by law, such interest shall pass to the
71 state free from any trust obligation to any taxing district and
72 free from all special assessments and such land shall become
73 unsold trust fund land.

282*#09S

74 282.09 FORFEITED TAX SALE FUND.

1 Subdivision 1. MONEYS PLACED IN FUND. The county
 2 auditor and county treasurer shall place all moneys received
 3 through the operation of sections 282.01 to 282.13 in a fund to
 4 be known as the forfeited tax sale fund and all disbursements
 5 and costs shall be charged against that fund, when allowed by
 6 the county board. Members of the county board may be paid a per
 7 diem pursuant to section 375.055, subdivision 1, and reimbursed
 8 for their necessary expenses, and may receive mileage as now or
 9 hereafter fixed by law. Compensation of a land commissioner and
 10 ~~his~~ assistants, if a land commissioner is appointed, shall be in *
 11 such amount as shall be determined by the county board. The
 12 county auditor shall receive 50 cents for each certificate of *
 13 sale, each contract for deed and each lease executed by him the *
 14 auditor, and in counties where no land commissioner is appointed *
 15 such additional annual compensation, not exceeding \$300, as
 16 shall be fixed by the county board. Compensation of any other
 17 clerical help that may be needed by the county auditor or land
 18 commissioner shall be in such amount as shall be determined by
 19 the county board. All compensation provided for herein shall be
 20 in addition to other compensation allowed by law. Fees so
 21 charged in addition to the fee imposed in section 282.014 shall
 22 be included in the annual settlement by the county auditor as
 23 hereinafter provided. On or before February 1 in each year, the
 24 commissioner of revenue shall certify to the commissioner of
 25 finance, by counties, the total number of state deeds issued and
 26 reissued during the preceding calendar year for which such fees
 27 are charged and the total amount thereof. When disbursements
 28 are made from the fund for repairs, refundments, expenses of
 29 actions to quiet title, or any other purpose which particularly
 30 affects specific parcels of forfeited lands, the amount of such
 31 disbursements shall be charged to the account of the taxing
 32 districts interested in such parcels. The county auditor shall
 33 make an annual settlement of the net proceeds received from
 34 sales and rentals by the operation of sections 282.01 to 282.13,
 35 at the regular March settlement, for the preceding calendar year.
 36 No change for subd 2

282*#10S

37 282.10 REIMBURSEMENT OF PURCHASE PRICE IN CERTAIN CASES.

38 When, prior to the passage of Laws 1939, Chapter 328, the
 39 forfeiture to the state for taxes of any parcel of land
 40 heretofore sold pursuant to Laws 1935, Chapter 386, has been
 41 invalidated in a proceeding in court, the purchaser from the
 42 state, or ~~his~~ the purchaser's assigns, shall be reimbursed out *
 43 of any money in the forfeited tax sale fund for the amount of
 44 the purchase price or the portion thereof actually paid, with
 45 interest at four percent. Application for such reimbursement
 46 shall be made to the county auditor of the county where such
 47 parcel is located and shall be accompanied by a certified copy
 48 of the judgment or decree invalidating such forfeiture and a
 49 quitclaim deed from the purchaser, or ~~his~~ the purchaser's *
 50 assignee, running to the state in trust for its interested
 51 taxing districts as grantee. The county auditor shall present
 52 the instruments herein referred to, to the county attorney and,
 53 after receiving an opinion, in writing, from the county attorney
 54 that the applicant is entitled to reimbursements under this
 55 section, shall draw an order upon the county treasurer in favor
 56 of the applicant for the sum to which the applicant is entitled,
 57 which shall be paid by the treasurer out of the moneys in the
 58 forfeited tax sale fund. If there are not sufficient moneys in
 59 the fund to pay the order, money to care for the deficiency
 60 shall be temporarily transferred from the general revenue fund
 61 of the county. After such refundment is made any taxes or
 62 assessments heretofore canceled shall be reinstated and the
 63 amount of taxes and assessments that would have been levied
 64 subsequent to the date of the supposed forfeiture shall be
 65 assessed and levied against the land as omitted taxes, and the
 66 lien of the state for any such taxes or assessments may be
 67 enforced as in other cases where taxes are delinquent.

282*#13S

68 282.13 LAND COMMISSIONER; DUTIES; COMPENSATION; LAND
 69 EXCHANGES.

70 The county board may appoint a land commissioner and
 71 necessary assistants, such land commissioner to perform any or
 72 all of the following duties as directed by the county board: to
 73 gather data and information on tax-forfeited lands; make land
 74 classifications and appraisals of land, timber and other

1 products and uses; enforce trespass laws and regulations; seize
 2 and appraise timber and other products and property cut and
 3 removed illegally from tax-forfeited lands; assist the county
 4 auditor in the sale and rental of forfeited lands and the
 5 products thereon; and such other duties concerning tax-forfeited
 6 lands as the county board may direct. Such appointment shall be
 7 for such time as the county board may determine. The
 8 compensation of said land commissioner and assistants shall be
 9 fixed by the county board and their salaries and expenses shall
 10 be paid from the forfeited tax sale fund, except that in
 11 counties having more than 300,000 and less than 450,000
 12 inhabitants ~~if~~ an officer or employee of a city of the first *
 13 class situated therein who is appointed ~~he~~ shall receive no *
 14 additional compensation therefor. Any funds required by the
 15 commissioner of revenue for the purpose of cancelation of
 16 contracts, as provided in section 282.01, shall be paid by the
 17 county auditor upon the written order of the commissioner of
 18 revenue from moneys then available in the fund. When
 19 tax-forfeited lands have been acquired by a city of the first
 20 class for municipal purposes, and a privately-owned lot lies
 21 between such tax-forfeited land, and it is in the interest of
 22 the municipality that such privately-owned lot be acquired for
 23 the same municipal use to which the tax-forfeited lands have
 24 been devoted, such city of the first class may exchange on such
 25 basis as may be approved by the governing body thereof, a
 26 portion of the tax-forfeited lands acquired by the municipality
 27 for the privately-owned lot, and the officers of such
 28 municipality are hereby authorized to execute deeds to carry out
 29 such purpose.

282*#131S

30 282.131 CERTAIN POWERS AND DUTIES MAY BE DELEGATED.
 31 All powers and duties concerning approval of appraised
 32 timber values, forestry practices and parcels of land from which
 33 timber may be sold which are conferred upon the commissioner of
 34 natural resources, by sections 282.01 to 282.13, may be
 35 delegated by the commissioner to competent forestry field
 36 officers of the natural resources department or such approval
 37 may be waived at the discretion of the commissioner in such
 38 manner as ~~he~~ the commissioner shall prescribe shall be *
 39 sufficient for the purposes of sections 282.01 to 282.13.

282*#151S

40 282.151 COMMISSIONER AUTHORIZED TO SELL CERTAIN LANDS.
 41 In case the commissioner of natural resources shall
 42 determine, after investigation, that any lands now or hereafter
 43 forfeited to the state for non-payment of taxes in Township 49
 44 North, Range 23 West, in the County of Aitkin, within the
 45 conservation area created under Minnesota Statutes 1945,
 46 Sections 84A.20 to 84A.30, are suitable for any lawful private
 47 use and are not suitable or necessary for public use, ~~he~~ the *
 48 commissioner may, on application of the county board, authorize *
 49 and approve the classification and sale of such lands as
 50 non-conservation lands, and such lands may thereupon be sold in
 51 the manner provided for the sale of agricultural lands under the
 52 provisions of sections 282.14 to 282.21, and acts amendatory
 53 thereof.

282*#17S

54 282.17 CANCELLATION OF CONTRACTS.
 55 Failure of the purchaser to make any payment of any
 56 instalment or of any interest required under a contract within
 57 six months from the date on which such payment becomes due, or
 58 to pay before they become delinquent all taxes that may be
 59 levied upon the lands so purchased shall constitute a default,
 60 and thereupon the contract shall be deemed canceled, and all
 61 right, title, and interest of the purchaser, ~~his~~ or the *
 62 purchaser's heirs, representatives, or assigns in the premises *
 63 shall terminate upon cancellation in accord with section
 64 282.40. A record of such default shall be made in the state
 65 land records kept by or under the direction of the commissioner
 66 of natural resources, and a certificate of such default may be
 67 made by or under the direction of the commissioner and filed
 68 with the county treasurer or recorded in the office of the
 69 county recorder of the county in which the premises are
 70 situated. Any such record or certificate shall be prima facie
 71 evidence of the facts therein stated, but the making of such
 72 record or certificate shall not be essential to the taking
 73 effect of such cancellation and termination, and thereupon the

1 land described in the contract shall be subject to disposition
 2 as provided in sections 282.15 and 282.16, upon first having
 3 been reclassified and reappraised as provided by section
 4 282.14. The county auditor shall report any such default to the
 5 commissioner of natural resources on or before June 30th of each
 6 year.

282*#171S

7 282.171 CONTRACTS, MEMBERS OF ARMED FORCES, CANCELLATION.

8 No contract entered into by persons in the armed forces of
 9 the United States prior to their induction or enlistment for the
 10 purchase of tax-forfeited or other lands from the state of
 11 Minnesota on the installment plan shall be terminated or
 12 canceled for nonpayment of installments except as provided
 13 herein.

14 Any person in the armed forces of the United States, who,
 15 as vendee, in any contract with the state of Minnesota for the
 16 purchase of tax-forfeited or other lands, is in default on any
 17 installment, or is unable to pay any installment or installments
 18 thereafter becoming due, and desires to retain his-or-her all *
 19 rights under said contract, and such contract has not heretofore
 20 been canceled and the land sold, shall during the period of
 21 military service file, or cause to be filed by an adult, with
 22 knowledge of the facts, with the county auditor or other state
 23 agency, having charge of said contract, an affidavit, giving the
 24 legal description of said lands, and the number, if any, of said
 25 contract, and stating that the vendee in said contract is in the
 26 military service of the United States, the branch of the
 27 service, the date of enlistment or induction, and that said
 28 vendee desires to retain his-or-her all rights under said *
 29 contract. If said affidavit is filed within the time herein
 30 limited and provided, said contract shall remain in full force
 31 and effect, notwithstanding any default or nonpayment of any
 32 installment or installments thereunder, for six months after the
 33 vendee's discharge from the military service. If said vendee
 34 fails to pay all delinquent installments within six months after
 35 his-or-her-discharge being discharged, then in such event said *
 36 contract may be canceled and terminated as provided in section
 37 282.40.

282*#21S

38 282.21 CONVEYANCE.

39 Upon payment in full of the purchase price, appropriate
 40 conveyance in fee in such form as may be prescribed by the
 41 attorney general shall be issued by the commissioner of finance
 42 to the purchaser or his the purchaser's assigns and this *
 43 conveyance shall have the force and effect of a patent from the
 44 state.

282*#222S

45 282.222 SALE.

46 No change for subd 1 to 3

47 Subd. 4. TERMS OF SALE. All sales under sections
 48 282.221 to 282.226 shall be for cash or on the following terms:
 49 at least 15 percent of the purchase price shall be paid in cash
 50 at the time of the sale, and the balance shall be paid in equal
 51 annual installments over a period of 20 years, with interest at
 52 a rate equal to the rate in effect at the time under section
 53 549.09, payable annually, on the portion remaining unpaid, with
 54 privilege of prepayment of any installment on any interest date.
 55 Sales on terms shall be evidenced by a certificate issued by the
 56 county auditor in a form prescribed by the attorney general.
 57 The county auditor shall submit a copy of the certificate to the
 58 commissioner of natural resources within 30 days. The appraised
 59 value of all merchantable timber on such agricultural lands
 60 shall be paid for in cash in full at the time of sale. The
 61 county auditor shall report all sales to the commissioner of
 62 natural resources within 30 days. Failure of the purchaser to
 63 make any payment of any installment or of any interest required
 64 under any contract within six months from the date on which the
 65 payment is due, or to pay all taxes that may be levied upon the
 66 land purchased before they become delinquent, shall constitute a
 67 default. Upon default the contract shall be canceled and all
 68 right, title, and interest of the purchaser, his or the *
 69 purchaser's heirs, representatives, or assigns in the premises *
 70 shall terminate upon cancellation in accord with section
 71 282.40. A record of the default shall be made in the state land
 72 records kept by or under the direction of the commissioner of
 73 natural resources. A certificate of the default may be made by

1 or under the direction of the commissioner and filed with the
 2 county treasurer or recorded in the office of the county
 3 recorder of the county in which the premises are situated. Any
 4 record or certificate shall be prima facie evidence of the facts
 5 stated in it. The making of the record or certificate is not
 6 essential to the taking effect of the cancellation and
 7 termination. Upon cancellation and termination, the land
 8 described in the contract shall be subject to disposition as
 9 provided in this section after having been reclassified and
 10 reappraised as provided by section 282.221. The county auditor
 11 shall report any default to the commissioner of natural
 12 resources on or before June 30th of each year.

13 No change for subd 5

14 Subd. 6. ABANDONMENT PRESUMED. In any case where
 15 prior to the passage of Laws 1947, Chapter 484, the purchaser
 16 has defaulted in the payment of any instalment on the principal
 17 or interest due on a certificate of sale of land made pursuant
 18 to sections 282.221 to 282.226, or has failed to pay before they
 19 became delinquent all taxes levied upon the land so purchased,
 20 and where a certificate of cancellation has been made and filed
 21 or recorded as provided in subdivision 5, it shall be presumed
 22 that the purchaser, and all persons claiming under ~~him~~ the
 23 purchaser, have left and abandoned the land and all right,
 24 title, and interest therein and claim thereto, and have released
 25 the same absolutely to the state and its assigns. *

26 Subd. 7. RIGHT OF ACTION DENIED. In any case where
 27 prior to the passage of Laws 1947, Chapter 484, the purchaser
 28 has defaulted in the payment of any instalment of the principal
 29 or interest due under a certificate of sale of land issued
 30 pursuant to sections 282.221 to 282.226, or has failed to pay
 31 all taxes that may have been levied upon the lands, and where a
 32 certificate of cancellation has been made and filed or recorded
 33 as provided in subdivision 5, no action for the recovery or
 34 possession of the land or the enforcement of any right, title,
 35 or interest therein, or claim thereto shall be maintained by the
 36 purchaser or any one claiming under ~~him~~ the purchaser unless *

37 such action is commenced within six months after the passage of
 38 Laws 1947, Chapter 484.

282*#224S

39 282.224 CONVEYANCE.
 40 Upon payment in full of the purchase price appropriate
 41 conveyance in fee, in such form as may be prescribed by the
 42 attorney general, shall be issued by the commissioner of natural
 43 resources to the purchaser or ~~his~~ the purchaser's assignee, and *

44 the conveyance shall have the force and effect of a patent from
 45 the state.

282*#23S

46 282.23 SALE OF CERTAIN LANDS FORFEITED FOR TAXES IN 1926
 47 AND 1927.
 48 In every case where the owner of a tract of land forfeited
 49 to the state for taxes for 1926 or 1927 has transferred, or
 50 shall hereafter transfer, to the state or to any municipal
 51 subdivision thereof all ~~his~~ right, title, and interest in such *

52 tract of land, the same shall be subject to sale in the usual
 53 manner provided by law for the sale of land acquired by the
 54 state for taxes.

282*#241S

55 282.241 REPURCHASE AFTER FORFEITURE FOR TAXES.
 56 The owner at the time of forfeiture or ~~his~~ the owner's *

57 heirs, devisees, or representatives, or any person to whom the
 58 right to pay taxes was given by statute, mortgage, or other
 59 agreement, may repurchase any parcel of land claimed by the
 60 state to be forfeited to the state for taxes unless prior to the
 61 time repurchase is made such parcel shall have been sold under
 62 installment payments, or otherwise, by the state as provided by
 63 law, or is under mineral prospecting permit or lease, or
 64 proceedings have been commenced by the state or any of its
 65 political subdivisions or by the United States to condemn such
 66 parcel of land. Said parcel of land may be repurchased for a
 67 sum equal to the aggregate of all delinquent taxes and
 68 assessments computed as provided by section 282.251, together
 69 with penalties, interest, and costs, which did or would have
 70 accrued if such parcel of land had not forfeited to the state.
 71 Except for property which was homesteaded on the date of
 72 forfeiture, such repurchase shall be permitted during one year
 73 only from the date of forfeiture, and in any case only after the

1 adoption of a resolution by the board of county commissioners
 2 determining that thereby undue hardship or injustice resulting
 3 from the forfeiture will be corrected, or that permitting such
 4 repurchase will promote the use of such lands that will best
 5 serve the public interest; provided further such repurchase
 6 shall be subject to any easement, lease or other encumbrance
 7 granted by the state prior thereto, and if said land is located
 8 within a restricted area established by any county under Laws
 9 1939, Chapter 340, such repurchase shall not be permitted unless
 10 said resolution with respect thereto is adopted by the unanimous
 11 vote of the board of county commissioners.

282*#261S

12 282.261 TERMS OF REPURCHASE.

13 Subdivision 1. PAYMENTS; TAXES. A person
 14 repurchasing under section 282.241 shall pay at the time of
 15 repurchase not less than one-tenth of the repurchase price and
 16 shall pay the balance in ten equal annual instalments, with the
 17 privilege of paying the unpaid balance in full at any time, with
 18 interest as provided in subdivision 2, the first instalment of
 19 principal and interest to become due and payable on December 31
 20 of the year following the year in which the repurchase was made,
 21 the remaining instalments to become due and payable on December
 22 31 of each year thereafter until fully paid. The person shall
 23 pay the current taxes each year thereafter before they become
 24 delinquent up to the time ~~when he has paid~~ the repurchase price
 25 has been paid in full. *

26 No change for subd 2 to 4 *

282*#301S

27 282.301 RECEIPTS FOR PAYMENTS.

28 The purchaser shall receive from the county auditor at the
 29 time of repurchase a receipt, in such form as may be prescribed
 30 by the attorney general. When the purchase price of a parcel of
 31 land shall be paid in full, the following facts shall be
 32 certified by the county auditor to the commissioner of revenue
 33 of the state of Minnesota: the description of land, the date of
 34 sale, the name of the purchaser or ~~his~~ the purchaser's assignee, *
 35 and the date when the final installment of the purchase price
 36 was paid. Upon payment in full of the purchase price, the
 37 purchaser or ~~his~~ the assignee shall receive a quitclaim deed *
 38 from the state, to be executed by the commissioner of revenue.
 39 The deed must be sent to the county recorder for recording
 40 before it is forwarded to the purchaser. Failure to make any
 41 payment herein required shall constitute default and upon such
 42 default and cancellation in accord with section 282.40, the
 43 right, title and interest of the purchaser or ~~his~~ the *
 44 purchaser's heirs, representatives, or assigns in such parcel *
 45 shall terminate.

282*#33S

46 282.33 LOST OR DESTROYED DEEDS.

47 Subdivision 1. Whenever an unrecorded deed from the state
 48 of Minnesota conveying tax-forfeited lands shall have been lost
 49 or destroyed, an application, in form approved by the attorney
 50 general, for a new deed may be made by the grantee or ~~his~~ the *
 51 grantee's successor in interest to the commissioner of revenue. *
 52 If it appears to the commissioner of revenue that the facts *
 53 stated in the petition are true, ~~he~~ the commissioner shall issue *
 54 a new deed to the original grantee, in form approved by the
 55 attorney general, with like effect as the original deed. The
 56 commissioner shall send the new deed to the county recorder, who
 57 after recording the deed will forward it to the county auditor.
 58 The application shall be accompanied by a fee of \$10, payable to
 59 the commissioner of revenue, which shall be deposited with the
 60 state treasurer and credited to the general fund.

61 No change for subd 2

282*#341S

62 282.341 REINSTATEMENT OF TAX-FORFEITED CERTIFICATE.

63 No change for subd 1

64 Subd. 2. Thereupon the county auditor shall note record *
 65 the reinstatement ~~upon his records~~ and shall pay over to the *
 66 county treasurer the amount deposited by the petitioner. If
 67 such reinstatement is made after January 2 the county auditor
 68 shall levy taxes for the year in which reinstatement is made on
 69 said land as in the case of omitted taxes.

283*#02S

70 283.02 IN CASE OF EXEMPTION.

71 When any such parcel of land shall have been sold to a

1 purchaser or bid in for the state, and at the time the taxes
 2 were levied the land was exempt from taxation, the money paid on
 3 such sale, or on an assignment by the state, with interest
 4 thereon at the rate of seven percent per annum, shall be
 5 refunded to such purchaser or assignee, or ~~his~~ the purchaser's
 6 or assignee's assigns or legal representatives. Such refundment
 7 shall be made only upon the certificate of the county auditor
 8 that the parcel was exempt from taxation at the date of the levy
 9 of the taxes, with the approval of the commissioner of revenue
 10 endorsed thereon. Before such certificate is made the applicant
 11 shall present to the county auditor proofs of such exemption.

283*#03S

12 283.03 ON JUDGMENT; COUNTY TO BE PARTY.
 13 When any tax sale is declared void by judgment of court,
 14 the judgment shall state for what reason the sale is annulled;
 15 and, when any sale has been or shall be so set aside for any of
 16 the grounds stated in section 283.01, the money paid by such
 17 purchaser, or by the assignee of the state, with interest at the
 18 rate of seven percent per annum from the date of such payment,
 19 shall be returned to the purchaser or assignee, or the party
 20 holding ~~his~~ the right of the purchaser or assignee, out of the
 21 county treasury. In all judicial proceedings for refundment,
 22 the county wherein such tax proceedings were had upon which the
 23 refundment is asked shall be made a party defendant.

283*#05S

24 283.05 VOID TAXES PAID BY MORTGAGEE.
 25 When money is paid for taxes on land by a person who holds
 26 a mortgage thereon, or who in good faith ~~believes-himself-to-be~~
 27 is acting as if the owner thereof under a mortgage foreclosure
 28 afterward declared void, and in an action for the foreclosure or
 29 reforeclosure of such mortgage it is adjudged that the
 30 assessment of the property or the levy of the taxes was void,
 31 the money so paid, with interest from the date of such payment
 32 at the rate of seven percent per annum, shall be refunded to
 33 such person, ~~his~~ or the executors, administrators, or assigns of
 34 the person. Such refundment shall be made on the presentation
 35 to the county auditor of a certified copy of the final judgment
 36 declaring the assessment or levy void, and such land shall
 37 thereafter become subject to reassessment for such taxes.

283*#06S

38 283.06 TAXES PAID TWICE.
 39 When it is made to appear to the county auditor that the
 40 taxes upon any parcel of land have been twice paid to the county
 41 treasurer, and in all cases when any tax purchaser or other
 42 person is entitled under this chapter to refundment, the auditor
 43 may draw ~~his~~ a warrant upon the county treasurer in favor of the
 44 person entitled to any such moneys for the amount to which ~~he~~
 45 the person is so entitled. All moneys so paid shall be charged
 46 to the proper funds.

283*#07S

47 283.07 TAXES PAID BY MISTAKE ON RAILROAD LANDS.
 48 When it shall be made to appear to the board of county
 49 commissioners of any county that any person has heretofore by
 50 mistake paid taxes on real estate ~~of-which-he-believed-at-the~~
 51 ~~time-of-such-payment-that-he~~ based on the good faith belief at
 52 the time of payment that the person was the owner, in which real
 53 estate ~~he~~ the person never owned any right, title, or interest,
 54 and which real estate had never been sold to any person by such
 55 railroad company; but was, at the time of the assessment and
 56 payment of such taxes, owned by a railroad company and exempt
 57 from taxation, ~~and-that-such-person-paid-such-taxes-in-good~~
 58 ~~faith,-believing-that-he-was-the-owner-of-such-real-estate,~~ the
 59 county commissioners shall certify the facts to the state
 60 auditor, and ~~he~~ the state auditor shall, if satisfied, upon
 61 consultation with the attorney general, that the facts stated by
 62 the petitioner requesting reimbursement are true, authorize the
 63 refunding to the person who has paid such taxes the full amount
 64 so paid, together with interest thereon from the date of such
 65 payment, and thereafter the county auditor shall draw an order,
 66 for the sum so authorized to be refunded, on the treasurer of
 67 such county, to be countersigned and paid as other county
 68 orders. The several funds, state, county, town, city, school
 69 and other, shall be charged with their several proportions of
 70 the amount so refunded.

283*#09S

71 283.09 LAND ERRONEOUSLY RETURNED AS IMPROVED;

1 APPROPRIATION.

2 In any case where real estate has been erroneously returned
 3 as improved property, but which was not in fact then or since
 4 improved, and the amount of the assessed valuation was based
 5 wholly or largely upon the value of the supposed improvements
 6 and without which improvements the land itself would be of
 7 little or no value and would therefore justify an assessment of
 8 only a small fractional part of the taxes actually levied and
 9 extended, and where such taxes have become delinquent and the
 10 land sold and bid in at a regular tax sale by an actual
 11 purchaser or bid in by the state for the want of such purchaser
 12 and the right of the state thereafter assigned to one in good
 13 faith and without actual notice or knowledge of such erroneous
 14 assessment, the commissioner of revenue shall have power, upon
 15 approved application, as in other cases, ~~presented-to-him,~~ to
 16 grant a refundment of the amount paid by such purchaser or
 17 assignee. *

18 There is hereby appropriated to the persons entitled to
 19 such refund, from the fund or account in the state treasury to
 20 which the money was credited, an amount sufficient to make the
 21 refund and payment.

284*#01S

22 284.01 TAX JUDGMENT OR SALE SET ASIDE; PURCHASER'S LIEN;
23 SALE TO SATISFY.

24 When in any action or proceeding in court any tax judgment
 25 or tax sale shall be adjudged void for any cause occurring after
 26 the levy of the taxes embraced in such judgment or sale, except
 27 in cases where such taxes have been paid, or the land is exempt
 28 from taxation, the court shall require proper evidence showing
 29 the amount paid at the tax sale of the parcel in controversy by
 30 the holder of the tax certificate, or ~~his~~ the holder's
 31 assignors, ~~and including~~ all subsequent taxes, penalties,
 32 interest, and costs, if any, ~~paid-by-him-or-them;~~ and shall
 33 determine and adjudge the amount of taxes and penalties to which
 34 such real estate was subject at the time of the entry of the tax
 35 judgment, and all subsequent taxes, penalties, interest, and
 36 costs, if any, paid thereon by the holder of the tax
 37 certificate, or ~~his~~ the holder's assignors, and shall adjudge a
 38 lien against such land in favor of such holder for the amount of
 39 such taxes, penalties, interest, and costs, with interest
 40 thereon at the rate of 12 percent per annum from and after the
 41 date of such judgment, sale, or payment, and also adjudge that
 42 the land so subject to the lien be sold by the sheriff under the
 43 judgment to satisfy the lien and the costs of judgment and sale,
 44 in the same manner and with like effect as in the case of the
 45 sale of land on execution. In case the tax judgment or tax sale
 46 be declared void by reason of the invalidity of the assessment
 47 or levy of the taxes embraced therein, and the holder of the tax
 48 certificate, or ~~his~~ the holder's assignors, have paid any
 49 subsequent taxes, penalties, interest, or costs, the court shall
 50 determine the amount thereof, and adjudge a lien therefor, and a
 51 sale under such judgment, as in this section provided. *

284*#03S

52 284.03 REDEMPTION FROM SALE.

53 The owner or any person interested in any parcel of land
 54 sold pursuant to sections 284.01 and 284.02 may redeem the same
 55 at any time within one year thereafter by paying to the
 56 purchaser, or the clerk of the district court for ~~him~~ the
 57 purchaser, the amount for which the same was sold, with interest
 58 thereon at the rate of 12 percent per annum from the date of
 59 sale; and the purchaser or the clerk shall execute to such
 60 redemptioner a certificate of such redemption. If there be no
 61 redemption within the time aforesaid, title to such land shall
 62 thereupon vest absolutely in the purchaser. *

284*#04S

63 284.04 ACTION TO QUIET TITLE.

64 Any person holding a tax certificate issued under sections
 65 280.03, 280.11, or 280.13 at any time after the expiration of
 66 the period of redemption from the tax sale on which such
 67 certificate was issued may commence an action in the district
 68 court of the county where the land embraced in such certificate
 69 lies, to quiet ~~his~~ title thereto, without taking possession of
 70 such land; and any person who claims or appears of record to
 71 have any interest in or lien upon the same, or any part thereof,
 72 may be made defendant. At the time of the commencement of such
 73 action the plaintiff shall file a notice of the pendency of the *

1 action with the county recorder, as provided by law. If it
 2 shall appear that the plaintiff's title is invalid for any cause
 3 other than one which renders the taxes embraced in such
 4 certificate void, the court shall not dismiss such action, but
 5 ascertain the amount due the plaintiff for all taxes, interest,
 6 penalties, and costs embraced in such certificate, and of all
 7 subsequent taxes, penalties, interests, and costs paid by ~~him~~
 8 the plaintiff or ~~his~~ the plaintiff's assignors, with interest
 9 thereon at the rate of 12 percent per annum from the date of
 10 such certificate or payment, and adjudge the same to be a lien
 11 against such land in favor of such holder, and direct a sale
 12 thereof to satisfy such judgment and costs of sale. All the
 13 provisions of sections 284.01 to 284.03, relating to the sales
 14 therein provided for and to redemptions therefrom, shall be
 15 applicable to sales authorized by this section.

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284*#06S

284.06 PLAINTIFF TO PAY TAXES IN ACTION TO SET ASIDE.

16 In any action or proceeding brought to vacate or set aside
 17 any tax judgment or tax certificate, or to remove a cloud upon
 18 any title created by any tax certificate, or to determine an
 19 adverse claim based upon any such certificate when land has been
 20 sold to an actual purchaser, or the right of the state has been
 21 assigned, pursuant to the provisions of this chapter, the
 22 plaintiff shall, at the commencement of such action or
 23 proceeding, except when the only claim made in the complaint is
 24 that the taxes for which the certificate was issued had been
 25 paid before sale, or that the land described therein was exempt,
 26 pay into court, for the benefit of the holder of such
 27 certificate or assignment, the amount for which such land was
 28 sold or assigned, and the amount of all subsequent taxes,
 29 penalties, and costs, if any, paid by ~~him~~ the holder or ~~his~~ the
 30 holder's assignors, with interest on all such amounts at the
 31 rate of 12 percent per annum from the time of such sale or
 32 payment. If the judgment be in favor of the plaintiff, the
 33 court shall direct the payment of the money so paid in to the
 34 holder of such certificate or assignment; if in favor of the
 35 defendant, it shall direct the return of such money to the
 36 plaintiff.
 37 plaintiff.

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284*#10S

284.10 CLAIMANT TO DEPOSIT TAXES IN COURT.

38 In any action respecting lands claimed to have been
 39 forfeited to the state for taxes, no cause of action or defense
 40 asserted by any party adversely to the state, or its successor
 41 in interest, based in whole or in part upon any ground other
 42 than the claim that the land was tax exempt or that the taxes
 43 have been paid, shall be entertained unless the party asserting
 44 the same shall, at the time of filing ~~his~~ the party's complaint
 45 or answer, as the case may be, deposit with the clerk of the
 46 court in which the action is pending, for the use of the state
 47 and its successor in interest, if any, as their interests may
 48 appear, a sum equal to the amount of the taxes and special
 49 assessments, with interest, penalties, and costs thereon,
 50 accrued against the land at the time of forfeiture, together
 51 with interest at the rate of four percent per annum on such sum
 52 from the date of forfeiture to the date of filing the complaint
 53 or answer. If the forfeiture of the land to the state be
 54 invalidated by the court's decision, the court shall order the
 55 sum to be applied on the lien to be determined in such cases as
 56 hereinafter provided. If the forfeiture be not invalidated by
 57 the decision, the court shall order the sum returned to the
 58 depositor.
 59 depositor.

*

284*#13S

284.13 VENUE; LANDS INCLUDED.

60 Every such action shall be brought in the district court of
 61 the county in which the lands lie. The state may include in one
 62 action all of the land in any county claimed to have been
 63 absolutely forfeited to the state for taxes, or any part or
 64 parts thereof. Any person who has succeeded to the interest of
 65 the state under such claim of forfeiture may include in one
 66 action all of the land in any county wherein ~~he~~ the person has
 67 acquired such interest, or any part or parts thereof.
 68 acquired such interest, or any part or parts thereof.

*

284*#16S

284.16 COMPLAINT; SUMMONS.

69 The complaint shall be filed in the office of the clerk of
 70 the district court. The summons shall be issued by the attorney
 71 for the plaintiff, and shall be in substantially the same form
 72 for the plaintiff, and shall be in substantially the same form

1 as in other civil actions relating to determination of titles,
 2 except that it shall require each defendant to file ~~his~~ an *
 3 answer with the clerk of the court within the time allowed for
 4 answering, instead of serving the same upon the attorney for the
 5 plaintiff, and shall contain, in addition to other provisions
 6 required by law, the following:

7 "And you are hereby notified that the object of said
 8 action, among other things, is to determine the title and
 9 adverse claims to the lands hereinafter described, claimed to
 10 have been absolutely forfeited to the state for delinquent
 11 taxes, and to obtain the issuance to the persons entitled
 12 thereto of new certificates of title to any of such lands which
 13 have been registered, and that such action affects the following
 14 described lands situated in the county of
 15 State of Minnesota:
 16 (Insert description of lands)."

284*#17S

17 284.17 SERVICE OF SUMMONS; MAILING; PUBLICATION; LIS
18 PENDENS; RETURN.

19 The summons shall be served in the manner provided by law
 20 for the service of summons in other civil actions in the
 21 district court, except as otherwise herein provided. The
 22 summons shall be served upon all persons who are not residents
 23 of the state and upon those designated as "all other persons or
 24 parties unknown claiming any right, title, estate, lien, or
 25 interest in the lands described in the complaint herein" by
 26 publication for three consecutive weeks in a qualified legal
 27 newspaper published in the county in which the action is pending;
 28 provided, that personal service without the state may be made on
 29 any nonresident defendant in the manner provided by law. No
 30 affidavit of nonresidence, notice of lis pendens, or sheriff's
 31 return need be filed before the commencement of the publication
 32 or before the making of personal service without the state. At
 33 least 20 days before the trial of action, the attorney for the
 34 plaintiff shall mail a copy of the summons to each nonresident
 35 defendant whose post-office address ~~he has been able to~~ *
 36 ascertain has been ascertained by diligent search and inquiry, *
 37 of which the affidavit of the attorney, filed with the clerk, *
 38 shall be conclusive evidence. The return of the sheriff ~~that~~ *
 39 after diligent search he has been unable stating inability to *
 40 find any defendant within the county and that such defendant *
 41 cannot be found therein after diligent search, together with the *
 42 affidavit of plaintiff's attorney ~~that he believes~~ stating the *
 43 belief that such defendant is not a resident of the state, filed *
 44 with the clerk at any time before the trial, shall be prima *
 45 facie evidence that the facts therein stated are true and that *
 46 such defendant is not a resident of the state.

284*#19S

47 284.19 ANSWERS; CONTENTS; PROCEDURE.

48 The defendants in the action may answer separately, or such
 49 of them as are jointly interested in any particular parcel or
 50 parcels of land may answer jointly. No answer merely alleging
 51 the defendant's title or denying the plaintiff's title generally
 52 shall be sufficient, but every answer shall describe the
 53 particular parcel or parcels of land in or upon which the
 54 defendant claims an interest or lien, together with the nature
 55 of such interest or lien, and shall state specifically the
 56 grounds upon which such claim is based and the grounds upon
 57 which the plaintiff's title is claimed to be defective or void.
 58 The answer may contain any other allegations or provisions
 59 pertinent to the issues. Every answer shall be filed with the
 60 clerk within the time allowed for answering the summons, unless
 61 the time be extended by agreement of plaintiff's attorney or by
 62 order of the court. Before the trial the clerk shall make and
 63 file ~~his~~ a certificate as to all defendants who have not *
 64 answered or otherwise appeared, and such certificate shall be *
 65 prima facie evidence of the facts therein stated.

284*#20S

66 284.20 CLAIMANTS FILE NAMES WITH CLERK OF COURT;
67 ENTITLED TO COPIES.

68 Any person having or claiming an interest in any land in
 69 any county may, upon payment of a fee of 50 cents, file with the
 70 clerk of court of the county a statement of ~~his~~ the following: *
 71 name, place of residence, post-office address, and a description *
 72 of the land in which ~~he has or claims~~ an interest is held or *
 73 claimed. The clerk shall preserve all such statements, maintain *

1 an alphabetical index thereof, and furnish certificates thereof
 2 in like manner as certificates of judgments, upon payment of
 3 like fees. Every such statement shall be prima facie evidence
 4 and constructive notice of the name, residence, address, and
 5 claim of interest therein set forth to all persons interested in
 6 any action hereunder respecting the lands described in the
 7 statement. Service of summons, notices, or other process in any
 8 action hereunder respecting such lands may be made upon the
 9 maker of the statement at the place of residence stated, if
 10 within the state, as if the same were ~~his~~ the maker's house of
 11 usual abode. If the residence stated be without the state, a
 12 copy of the summons and any other paper required to be mailed in
 13 the action shall be mailed to the maker of the statement at the
 14 address therein stated. Any such statement may be withdrawn by
 15 the maker at any time by written notice to the clerk of court.

284*#23S

16 284.23 QUITCLAIM DEEDS TO STATE; DISCLAIMER.

17 Any person having or claiming an interest in or lien upon
 18 land claimed to have been forfeited to the state for delinquent
 19 taxes may execute and deliver to the state a quitclaim deed to
 20 the land, conveying ~~all-his~~ the person's right, title, and
 21 interest therein, in form approved by the attorney general; or,
 22 if an action respecting such land has been commenced against
 23 such person by the state, or its successor in interest, such
 24 person may either execute and deliver such deed, or may answer
 25 in the action, disclaiming any interest in or lien upon the
 26 land. If the state has conveyed the land, the deed shall inure
 27 to the benefit of the state's successor in interest. In either
 28 of the cases mentioned in this section, if a deed be delivered
 29 or disclaimer made at any time before the entry of judgment in
 30 an action brought by the state, or its successor in interest, as
 31 herein provided, the plaintiff shall not recover costs
 32 personally against the person executing such deed or disclaimer.

284*#25S

33 284.25 LIEN FOR TAXES.

34 Subdivision 1. WHAT FACTS DETERMINED BY THE COURT.

35 When, in any action or proceeding in court, the forfeiture to
 36 the state for taxes of any parcel of land which shall have been
 37 sold as provided by law is invalidated, except in the cases
 38 where such forfeiture is invalidated because the land was exempt
 39 from taxation or because all taxes were paid prior to
 40 forfeiture, the court shall determine, upon such hearing and
 41 evidence as it may require, the following facts:

- 42 (1) The amount of all taxes, special assessments,
 43 penalties, interest, and costs, if any, which were due against
 44 the land at the time of the supposed forfeiture;
- 45 (2) The amount of all subsequent taxes and special
 46 assessments that would have been assessed and levied against the
 47 land but for the supposed forfeiture;
- 48 (3) The amount of all taxes paid by the purchaser, ~~his~~ or
 49 the heirs, representatives, or assigns of the purchaser, since
 50 the sale;
- 51 (4) The value of any improvements made on the land by the
 52 state before the sale;
- 53 (5) The value of any improvements made on the land by the
 54 purchaser, ~~his~~ or the heirs, representatives, or assigns of the
 55 purchaser, after the sale;
- 56 (6) The net rental income received by the state, or its
 57 agencies, from the land prior to the sale thereof, after
 58 deducting all expenses of maintenance and repairs;
- 59 (7) The amount of the purchase price or portion thereof
 60 actually paid by the purchaser, ~~his~~ or the heirs,
 61 representatives, or assigns of the purchaser.

62 Subd. 2. ITEMS INCLUDED IN LIEN. Except as
 63 otherwise herein provided, the court shall thereupon adjudge and
 64 declare a lien in favor of the purchaser, ~~his~~ or the heirs,
 65 representatives, or assigns of the purchaser, upon the land for
 66 the total amount of the foregoing items numbered (1) to (5),
 67 with interest on the respective items thereof from the time the
 68 same accrued or were paid by the purchaser, as the case may be,
 69 at four percent per annum, less the amount of item number (6).

70 No change for subd 3

71 Subd. 4. PRIORITY. The court shall adjudge that the
 72 land be sold by the sheriff to satisfy, first, the lien of the
 73 purchaser, ~~his~~ or the heirs, representatives, or assigns of the
 74 purchaser, and, second, the lien of the state, if any, together

1 with the costs of the judgment and sale, in the same manner and
2 with like effect as in the case of sale of land on execution.

3 Subd. 5. REFUNDMENT. In case the amount of item
4 (7), with interest as aforesaid, exceeds the total amount of
5 items (1), (2), and (4), with interest as aforesaid, less item
6 (6), the purchaser, ~~his~~ or the heirs, representatives, or
7 assigns of the purchaser, shall be entitled to refundment of the
8 excess from the forfeited tax sale fund, payable by warrant of
9 the county auditor upon order of the court. *

10 No change for subd 6 to 7 *

284*#28S

11 284.28 TAX-FORFEITED LANDS; LIMITATIONS ON ADVERSE
12 CLAIMS, REAL ESTATE ASSURANCE ACCOUNT.

13 No change for subd 1 to 2

14 Subd. 3. Except as provided in subdivision 5, no cause of
15 action or defense, claiming that any auditor's certificate of
16 sale or state assignment certificate arising from the nonpayment
17 of taxes on a parcel of land is invalid shall be asserted or
18 maintained upon any claim adverse to the holder of the
19 certificate or ~~his~~ the holder's successors in interest, or to
20 the state or its successors in interest, including but not
21 limited to any claim based upon any failure, omission, error, or
22 defect described in subdivision 1, respecting any such land,
23 unless such cause of action or defense is asserted in an action
24 commenced within one year after the filing of proof of service
25 of the auditor's notice of expiration of the time for
26 redemption, as provided by section 281.21, and acts
27 supplementary thereto, or by any other law hereafter enacted
28 providing for notice of expiration of time for redemption and
29 the filing thereof. *

30 No change for subd 4

31 Subd. 5. In cases where the lands are and ever since the
32 time of filing the auditor's certificate of forfeiture under
33 section 281.23, subdivision 8, or filing of service of notice of
34 expiration of redemption under section 281.21, have been in the
35 actual, open, continuous, and exclusive possession of the owner,
36 or ~~his~~ the owner's successors in interest, claiming adversely to
37 the state or its successors in interest, the period of
38 limitations as to such owner, or ~~his~~ the owner's successors in
39 interest, shall be *

40 (i) the time of the possession, or

41 (ii) the period of limitations provided in subdivisions 2
42 and 3, whichever period is greater. *

43 No change for subd 6

44 Subd. 7. Any claimant who by reason of any material
45 failure, omission, error or defect of any public officer or
46 employee in the performance of ~~his~~ the officer's or employee's
47 duties under the laws relating to the taxation of land or
48 forfeiture thereof is unjustly deprived of any land or of any
49 interest therein, may institute an action in the district court
50 to recover compensation for such unjust deprivation out of the
51 assurance account provided in subdivision 8. *

52 No change for subd 8

53 Subd. 9. In any action brought to recover loss or damage
54 from the real estate assurance account, the state treasurer, in
55 ~~his~~ that official capacity, shall be named as defendant. If the
56 assurance account is insufficient to pay the amount of any
57 judgment, in full, the unpaid balance thereof shall bear
58 interest at the legal rate and shall be paid together with any
59 accrued interest thereon. The attorney general or, at the
60 attorney general's request, the county attorney of the county in
61 which the land or a major part of it lies, shall defend the
62 state treasurer in all such actions. *

63 Subd. 10. Any action or proceeding pursuant to this
64 section to recover damages out of the real estate assurance fund
65 shall be commenced within ten years after the expiration of the
66 periods within which claims may be asserted pursuant to
67 subdivisions 2 and 3, and not afterwards. If, within this ten
68 year period the person entitled to bring such action or
69 proceeding is under legal disability, such person, or anyone
70 claiming under ~~him~~ the person, may commence such action or
71 proceeding within the period expiring two years after such
72 disability is removed or within the ten year period, whichever
73 period is greater. *

74 No change for subd 11 to 13

287*#08S

1 287.08 TAX, HOW PAYABLE; RECEIPTS.

2 The tax imposed by sections 287.01 to 287.12 shall be paid
3 to the treasurer of the county in which the mortgaged land or
4 some part thereof is situated at or before the time of filing
5 the mortgage for record or registration. The treasurer shall
6 endorse ~~his~~ receipt on the mortgage, countersigned by the county
7 auditor, who shall charge the amount to the treasurer and such
8 receipt shall be recorded with the mortgage, and such receipt of
9 the record thereof shall be conclusive proof that the tax has
10 been paid to the amount therein stated and authorize any county
11 recorder to record the mortgage. Its form, in substance, shall
12 be "registration tax hereon of dollars
13 paid." If the mortgages be exempt from taxation the endorsement
14 shall be "exempt from registration tax," to be signed in either
15 case by the treasurer as such, and in case of payment to be
16 countersigned by the auditor. In case the treasurer shall be
17 unable to determine whether a claim of exemption should be
18 allowed, the tax shall be paid to the clerk of the district
19 court of the county to abide the order of such court made upon
20 motion of the county attorney, or of the claimant upon notice as
21 required by the court. When any such mortgage covers real
22 property situate in more than one county in this state the whole
23 of such tax shall be paid to the treasurer of the county where
24 the mortgage is first presented for record or registration, and
25 the payment shall be receipted and countersigned as above
26 provided. The tax shall be divided and paid over by the county
27 treasurer receiving the same, on or before the tenth day of each
28 month after receipt thereof, to the county or counties entitled
29 thereto in the ratio which the market value of the real property
30 covered by the mortgage in each county bears to the market value
31 of all the property described in the mortgage. In making such
32 division and payment the county treasurer shall send therewith a
33 statement giving the description of the property described in
34 the mortgage and the market value of the part thereof situate in
35 each county. For the purpose aforesaid, the treasurer of any
36 county may require the treasurer of any other county to certify
37 to ~~him~~ the former the market valuation of any tract of land in
38 any such mortgage.

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287*#24S

39 287.24 PERSONS LIABLE.

40 Any person who grants, assigns, transfers, or conveys any
41 land, tenement, or realty by a deed, writing, or instrument
42 subject to the tax imposed by section 287.21 shall be liable for
43 such tax but no public official shall be liable for a tax with
44 respect to any instrument executed by ~~him~~ the official in
45 connection with ~~his~~ official duties.

287*#241S

46 287.241 STATEMENT OF TAX DUE OR EXEMPTION; RECORDING OR
47 REGISTERING OF DOCUMENTS.

48 No change for subd 1

49 Subd. 2. No deed or instrument providing for the transfer
50 of title to real estate as subject to the tax as provided in
51 section 287.21 and no executory contract for the sale of land
52 shall be recorded in the office of the county recorder or the
53 registrar of titles unless such deed or instrument shall be
54 accompanied by a notice from the county auditor that a
55 certificate of value was filed in ~~his~~ the auditor's office as
56 provided in section 272.115.

57 Subd. 3. Repealed, 1977 c 423 art 4 s 11

58 Subd. 4. Repealed, 1977 c 423 art 4 s 11

287*#26S

59 287.26 CANCELLATION OF STAMPS.

60 A person using or affixing a stamp shall cancel it and so
61 deface it as to render it unfit for reuse by marking it in ink
62 with ~~his~~ the person's initials and the date on which such
63 affixing occurs.

287*#30S

64 287.30 COUNTY TREASURER; DUTIES.

65 The care of documentary stamps entrusted to county
66 treasurers and the duties imposed upon county treasurers by
67 sections 287.21 to 287.33 shall be within the duties of such
68 office and shall be within the coverage of any official bond
69 delivered to the state, conditioned that any such officer shall
70 faithfully execute the duties of ~~his~~ office.

290*#01S

71 290.01 DEFINITIONS.

1 No change for subd 1 to 3
2 Subd. 4. CORPORATIONS. The term "corporation" shall
3 include joint stock companies and corporations existing under
4 the laws of any state or country; partnerships, limited or
5 otherwise, the organization of which is not interrupted by the
6 death of a general partner or by a change in the ownership of
7 his the general partner's participating interest, and the *
8 management of which is centralized in one or more persons acting
9 in a representative capacity; associations (other than ordinary
10 partnerships) and common-law trusts organized or conducted for
11 profit.
12 No change for subd 5 to 7
13 Subd. 7a. RESIDENT ESTATE. Resident estate means
14 the estate of a deceased person where (a) the decedent where
15 domiciled in Minnesota at the date of his death, or (b) the *
16 personal representative or fiduciary was appointed by a
17 Minnesota court in a proceeding other than an ancillary
18 proceeding, or (c) the administration of the estate is carried
19 on in Minnesota in a proceeding other than an ancillary
20 proceeding.
21 No change for subd 7b to 22
22 Subd. 24. CERTAIN UNIT INVESTMENT TRUSTS. (a) A
23 unit investment trust (as defined in the Investment Company Act
24 of 1940)
25 (1) which is registered under such act and issues periodic
26 payment plan certificates, as defined in such act, in one or
27 more series,
28 (2) substantially all of the assets of which, as to all
29 such series, consist of (i) securities issued by a single
30 management company, as defined in such act and securities
31 acquired pursuant to clause (a) (3), or (ii) securities issued
32 by a single other corporation, and
33 (3) which has no power to invest in any other securities
34 except securities issued by a single other management company,
35 when permitted by such act or the rules and regulations of the
36 securities and exchange commission,
37 shall not be treated as a person, corporation, partnership,
38 trust or investment company.
39 (b) In the case of a unit investment trust described in
40 clause (a)
41 (1) each holder of an interest in such trust shall, to the
42 extent of such interest, be treated as owning a proportionate
43 share of the assets of such trust,
44 (2) the basis of the assets of such trust which are treated
45 under clause (b) (1) as being owned by a holder of an interest
46 in such trust shall be the same as the basis of his the holder's *
47 interest in such trust, and
48 (3) in determining the period for which the holder of an
49 interest in such trust has held the assets of the trust which
50 are treated under clause (b) (1) as being owned by him the *
51 holder, there shall be included the period for which such holder *
52 has held his interest in such trust. *
53 This subdivision shall not apply in the case of a unit
54 investment trust which is a segregated asset account under the
55 insurance laws or regulations of a state.
56 Subd. 25. Repealed, 1983 c 15 s 33
57 Subd. 26. Repealed, 1Sp1985 c 14 art 1 s 59
58 Subd. 27. Repealed, 1983 c 342 art 1 s 44
59 Subd. 28. Repealed, 1983 c 207 s 44; 1983 c 342 art 1 s
60 44
290*#04S
61 290.04 LIABILITY FOR TAX.
62 No change for subd 1
63 Subd. 2. FIDUCIARY RELATIONSHIP NOT TO AFFECT. The
64 liability of any taxpayer shall remain unaffected by the fact
65 that such taxpayer, or the title, possession, custody, or
66 control of his the taxpayer's business or property, is in the *
67 care of a guardian, trustee, receiver, conservator, or any other
68 person acting in any fiduciary capacity for such taxpayer or in
69 reference to his the taxpayer's business or property, unless the *
70 taxes imposed by this chapter are specifically imposed by this
71 chapter upon any such guardian, trustee, receiver, conservator,
72 or fiduciary.
290*#06S
73 290.06 RATES OF TAX; CREDITS AGAINST TAX.
74 No change for subd 1

1 Subd. 2c. SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES,
 2 AND TRUSTS. (a) The income taxes imposed by this chapter upon
 3 married individuals filing joint returns who elect to deduct
 4 federal income taxes under section 290.088 must be computed by
 5 applying to their taxable net income the following schedule of
 6 rates:

7	8 If taxable net income is:	9 The tax is:
10	11 not over \$875	12 1.5 percent
13	14 over \$875 but not 15 over \$1,750	16 \$13 plus 2.0 percent of the 17 excess over \$875
18	19 over \$1,750 but not 20 over \$3,500	21 \$31 plus 2.9 percent of the 22 excess over \$1,750
23	24 over \$3,500 but not 25 over \$5,375	26 \$81 plus 4.8 percent of 27 the excess over \$3,500
28	29 over \$5,375 but not 30 over \$7,000	31 \$171 plus 5.9 percent of 32 the excess over \$5,375
33	34 over \$7,000 but not 35 over \$7,125	36 \$267 plus 6.1 percent of 37 the excess over \$7,000
38	39 over \$7,125 but not 40 over \$8,875	41 \$275 plus 7.2 percent of 42 the excess over \$7,125
43	44 over \$8,875 but not 45 over \$12,375	46 \$401 plus 8.3 percent of 47 the excess over \$8,875
48	49 over \$12,375 but not 50 over \$14,000	51 \$691 plus 9.3 percent of 52 the excess over \$12,375
53	54 over \$14,000 but not 55 over \$16,000	56 \$842 plus 10 percent of 57 the excess over \$14,000
58	59 over \$16,000 but not 60 over \$21,500	61 \$1,042 plus 11 percent 62 of the excess over \$16,000
63	64 over \$21,500 but not 65 over \$22,125	66 \$1,647 plus 11.3 percent 67 of the excess over \$21,500
68	69 over \$22,125 but not 70 over \$25,500	71 \$1,718 plus 12.3 percent 72 of the excess over \$22,125
73	74 over \$25,500 but not 75 over \$28,500	76 \$2,133 plus 12.6 percent of the excess over \$25,500
	over \$28,500 but not over \$31,750	\$2,511 plus 13.7 percent of the excess over \$28,500
	over \$31,750	\$2,957 plus 14.0 percent of the excess over \$31,750

41 (b) The income taxes imposed by this chapter upon all other
 42 married individuals filing joint returns must be computed by
 43 applying to their taxable net income the following schedule of
 44 rates:

45	46 If taxable net income is:	47 The tax is:
48	49 not over \$1,200	50 1.7 percent
51	52 over \$1,200 but not 53 over \$1,700	54 \$20 plus 2.1 percent of the 55 excess over \$1,200
56	57 over \$1,700 but not 58 over \$2,700	59 \$31 plus 2.3 percent of the 60 excess over \$1,700
61	62 over \$2,700 but not 63 over \$5,600	64 \$54 plus 3.3 percent of 65 the excess over \$2,700
66	67 over \$5,600 but not 68 over \$9,100	69 \$150 plus 5.3 percent of 70 the excess over \$5,600
71	72 over \$9,100 but not 73 over \$12,600	74 \$335 plus 6.8 percent of 75 the excess over \$9,100
76	77 over \$12,600 but not 78 over \$17,800	79 \$573 plus 8.5 percent of 80 the excess over \$12,600
81	82 over \$17,800 but not 83 over \$30,800	84 \$1,015 plus 9.3 percent of 85 the excess over \$17,800
86	87 over \$30,800	88 \$2,224 plus 9.9 percent of 89 the excess over \$30,800

64 (c) The income taxes imposed by this chapter upon unmarried
 65 individuals, married individuals filing separate returns,
 66 estates, and trusts that elect to deduct federal income taxes
 67 under section 290.088 must be computed by applying to taxable
 68 net income the following schedule of rates:

69	70 If taxable net income is:	71 The tax is:
72	73 not over \$700	74 1.3 percent
75	76 over \$700 but not 77 over \$1,400	78 \$9 plus 1.9 percent of the 79 excess over \$700
80	81 over \$1,400 but not 82 over \$2,800	83 \$22 plus 3.2 percent of the 84 excess over \$1,400
85	86 over \$2,800 but not	87 \$67 plus 5.4 percent of

1	over \$4,300	the excess over \$2,800
2	over \$4,300 but not	\$148 plus 6.9 percent of
3	over \$5,700	the excess over \$4,300
4	over \$5,700 but not	\$245 plus 8.4 percent of
5	over \$7,100	the excess over \$5,700
6	over \$7,100 but not	\$362 plus 9.8 percent of
7	over \$9,900	the excess over \$7,100
8	over \$9,900 but not	\$637 plus 11.1 percent of
9	over \$12,800	the excess over \$9,900
10	over \$12,800 but not	\$959 plus 12.4 percent of
11	over \$15,400	the excess over \$12,800
12	over \$15,400 but not	\$1,281 plus 13.6 percent of
13	over \$19,400	the excess over \$15,400
14	over \$19,400	\$1,825 plus 14 percent
15		of the excess over \$19,400

16 (d) The income taxes imposed by this chapter upon all other
 17 unmarried individuals, married individuals filing separate
 18 returns, estates, and trusts must be computed by applying to
 19 taxable net income the following schedule of rates:

20	If taxable net income is:	The tax is:
21	not over \$300	1 percent
22		
23	over \$300 but not	\$3 plus 1.3 percent of the
24	over \$600	excess over \$300
25	over \$600 but not	\$7 plus 1.6 percent of the
26	over \$900	excess over \$600
27	over \$900 but not	\$12 plus 2.1 percent of
28	over \$1,300	the excess over \$900
29	over \$1,300 but not	\$20 plus 2.7 percent of
30	over \$2,000	the excess over \$1,300
31	over \$2,000 but not	\$39 plus 3.7 percent of
32	over \$2,800	the excess over \$2,000
33	over \$2,800 but not	\$69 plus 4.5 percent of
34	over \$4,300	the excess over \$2,800
35	over \$4,300 but not	\$136 plus 6.1 percent of
36	over \$6,400	the excess over \$4,300
37	over \$6,400 but not	\$264 plus 7.5 percent of
38	over \$9,400	the excess over \$6,400
39	over \$9,400 but not	\$489 plus 9.3 percent of
40	over \$16,200	the excess over \$9,400
41	over \$16,200	\$1,122 plus 9.9 percent
42		of the excess over \$16,200

43 (e) In lieu of a tax computed according to the rates set
 44 forth in this subdivision, the tax of any individual taxpayer
 45 whose taxable net income for the taxable year is less than an
 46 amount determined by the commissioner must be computed in
 47 accordance with tables prepared and issued by the commissioner
 48 of revenue based on income brackets of not more than \$100. The
 49 amount of tax for each bracket shall be computed at the rates
 50 set forth in this subdivision, provided that the commissioner
 51 may disregard a fractional part of a dollar unless it amounts to
 52 50 cents or more, in which case it may be increased to \$1.

53 (f) An individual who is not a Minnesota resident for the
 54 entire year must compute ~~his~~ the individual's Minnesota income
 55 tax as provided in this subdivision. After the application of
 56 the nonrefundable credits provided in this chapter, the tax
 57 liability must then be multiplied by a fraction in which:

58 (1) The numerator is the individual's Minnesota sourced
 59 federal adjusted gross income, computed as if the provisions of
 60 section 290.081, clause (a), 290.17, subdivision 2, or 290.171
 61 applied; and

62 (2) the denominator is the individual's federal adjusted
 63 gross income.

64 No change for subd 2d to 2f

65 Subd. 3f. CREDITS AGAINST TAX. Subject to the
 66 provisions of subdivision 3g the taxes due under the computation
 67 in accordance with this section shall be credited with the
 68 following amounts:

69 (1) In the case of an unmarried individual or a married
 70 individual filing separately, \$70;

71 (2) In the case of married individuals filing a joint
 72 return, \$140;

73 (3) In the case of an individual, \$70 for each person who
 74 was claimed by the individual as a dependent on the individual's
 75 federal income tax return as provided in sections 151(e) and 152
 76 of the Internal Revenue Code of 1954, as amended through

1 December 31, 1984.

2 (4)(a) In the case of an unmarried individual or a married
3 individual filing separately who has attained the age of 65
4 before the close of ~~his~~ the individual's taxable year, an *
5 additional \$70;

6 (b) In the case of an unmarried individual or a married
7 individual filing separately who is blind at the close of the
8 taxable year, an additional \$70;

9 (c) In the case of married individuals filing a joint
10 return, an additional \$70 for each spouse who has attained the
11 age of 65 before the close of the individual's taxable year, and
12 an additional \$70 for each spouse who is blind at the close of
13 the individual's taxable year;

14 (d) In the case of an individual, another \$70 for each
15 person who is blind and was claimed as a dependent of the
16 individual under clause (3);

17 (e) For the purposes of subparagraphs (b), (c) and (d) of
18 paragraph (4), an individual is blind if ~~his~~ central visual *
19 acuity does not exceed 20/200 in the better eye with correcting *
20 lenses, or if ~~his~~ visual acuity is greater than 20/200 but is *
21 accompanied by a limitation in the fields of vision such that
22 the widest diameter of the visual field subtends an angle no
23 greater than 20 degrees.

24 (f) In the case of an unmarried individual or married
25 individual filing separately who is deaf at the close of the
26 taxable year, an additional \$70.

27 (g) In the case of married individuals filing a joint
28 return, an additional \$70 for each spouse who is deaf at the
29 close of the taxable year.

30 (h) In the case of an individual, an additional \$70 for
31 each person who is deaf and was claimed as a dependent of the
32 individual under clause (3).

33 (i) For the purposes of subparagraphs (f), (g) and (h) of
34 paragraph (4), an individual is deaf if the average loss in the
35 speech frequencies (500-2000 Hertz) in the better ear, unaided,
36 is 92 decibels, American National Standards Institute, or worse.

37 (5) (a) In the case of an unmarried individual or a married
38 individual filing separately who is a quadriplegic at the close
39 of the taxable year, an additional \$70;

40 (b) In the case of married individuals filing a joint
41 return, an additional \$70 for each spouse who is a quadriplegic
42 at the close of the taxable year;

43 (c) In the case of an individual, another \$70 for each
44 person who is quadriplegic and was claimed as a dependent of the
45 individual under clause (3); and

46 (d) For the purposes of subparagraphs (a), (b) and (c) of
47 paragraph 5, "quadriplegic" means an individual who has a
48 congenital or traumatic partial or total loss of all four limbs
49 or who has a disability that substantially impairs the
50 functioning of all four limbs.

51 (6) In the case of an insurance company, it shall receive a
52 credit on the tax computed as above equal in amount to any taxes
53 based on premiums paid by it during the period for which the tax
54 under this chapter is imposed by virtue of any law of this
55 state, other than the surcharge on premiums imposed by sections
56 69.54 to 69.56.

57 No change for subd 3g to 10

58 Subd. 11. CONTRIBUTIONS TO POLITICAL PARTIES AND
59 CANDIDATES. A taxpayer may take a credit against the tax due
60 under this chapter of 50 percent of ~~his~~ the taxpayer's *
61 contributions to candidates for elective state or federal public
62 office and to any political party. The maximum credit for an
63 individual shall not exceed \$50 and, for a married couple filing
64 jointly, shall not exceed \$100. No credit shall be allowed
65 under this subdivision for a contribution to any candidate,
66 other than a candidate for elective judicial office or federal
67 office, who has not signed an agreement to limit ~~his~~ *
68 expenditures as provided in section 10A.32, subdivision 3b. For
69 purposes of this subdivision, a political party means a major
70 political party as defined in section 200.02, subdivision 7, or
71 a minor political party qualifying for inclusion on the income
72 tax or property tax refund form under section 10A.31,
73 subdivision 3a. A major or minor party includes the aggregate
74 of the party organization within each house of the legislature,
75 the state party organization, and the party organization within
76 congressional districts, counties, legislative districts,

1 municipalities, and precincts. A "federal office" means the
 2 office of the president or vice president of the United States
 3 or the office of United States senator or congressman member of
 4 the United States House of Representatives from Minnesota. *

5 This credit shall be allowed only if the contribution is
 6 verified in the manner the commissioner of revenue shall
 7 prescribe.

8 Subd. 12. Repealed, 1979 c 303 art 1 s 23

9 Subd. 13. Repealed, 1984 c 502 art 14 s 20

10 Subd. 14. Repealed, 1Spl985 c 14 art 1 s 59

11 No change for subd 15

290*#067S

12 290.067 DEPENDENT CARE CREDIT.

13 Subdivision 1. AMOUNT OF CREDIT. A taxpayer may take
 14 as a credit against the tax due from ~~him~~ the taxpayer and ~~his~~ a
 15 spouse, if any, under this chapter an amount equal to the
 16 dependent care credit for which ~~he~~ the taxpayer is eligible *
 17 pursuant to the provisions of section 21 of the Internal Revenue
 18 Code of 1954, as amended through December 31, 1984, subject to
 19 the limitations provided in subdivision 2. *

20 Subd. 2. LIMITATIONS. The credit for expenses
 21 incurred for the care of each dependent shall not exceed \$720 in
 22 any taxable year, and the total credit for all dependents of a
 23 claimant shall not exceed \$1,440 in a taxable year. The total
 24 credit shall be reduced according to the amount of the combined
 25 federal adjusted gross income, plus the ordinary income portion
 26 of any lump sum distribution under section 402(e) of the
 27 Internal Revenue Code of 1954, as amended through December 31,
 28 1983, of the claimant and ~~his~~ a spouse, if any, as follows: *

29 income up to \$10,000, \$720 maximum for one dependent,
 30 \$1,440 for all dependents;

31 income of \$10,001 to \$11,000, \$660 maximum for one
 32 dependent, \$1,320 for all dependents;

33 income over \$11,000, the maximum credit for one dependent
 34 shall be reduced by \$10 for every \$200 of additional income, \$20
 35 for all dependents;

36 \$24,001 and over, no credit.

37 A married claimant shall file ~~his~~ an income tax return for
 38 the year ~~for which he claims~~ of the credit claim either jointly
 39 or separately on one form with ~~his~~ a spouse. In the case of a
 40 married claimant only one spouse may claim the credit. *

41 The commissioner shall construct and make available to
 42 taxpayers tables showing the amount of the credit at various
 43 levels of income and expenses. The tables shall follow the
 44 schedule contained in this subdivision, except that the
 45 commissioner may graduate the transitions between expenses and
 46 income brackets.

47 Subd. 3. CREDIT TO BE REFUNDABLE. If the amount of
 48 credit which a claimant would be eligible to receive pursuant to
 49 this subdivision exceeds ~~his~~ the claimant's tax liability under
 50 chapter 290, the excess amount of the credit shall be refunded
 51 to the claimant by the commissioner of revenue. *

52 Subd. 4. RIGHT TO FILE CLAIM. The right to file a
 53 claim under this section shall be personal to the claimant and
 54 shall not survive ~~his~~ death, but such right may be exercised on
 55 behalf of a claimant by ~~his~~ the claimant's legal guardian or
 56 attorney-in-fact. When a claimant dies after having filed a
 57 timely claim the amount thereof shall be disbursed to another
 58 member of the household as determined by the commissioner of
 59 revenue. If the claimant was the only member of ~~his~~ a
 60 household, the claim may be paid to ~~his~~ the claimant's personal
 61 representative, but if neither is appointed and qualified within
 62 two years of the filing of the claim, the amount of the claim
 63 shall escheat to the state. *

64 No change for subd 5

290*#069S

65 290.069 SMALL BUSINESS INVESTMENT CREDITS.

66 No change for subd 1 to 6

67 Subd. 7. COMMISSIONER'S POWER TO DISALLOW CREDIT.

68 The commissioner may disallow a credit under subdivision 2 ~~if he~~
 69 determines on determining that the transaction giving rise to
 70 the credit was entered into by the parties primarily to reduce
 71 taxes and not primarily for an independent business or
 72 commercial purpose other than the reduction of taxes. *

290*#07S

73 290.07 NET INCOME; COMPUTATION, ACCOUNTING PERIOD.

1 Subdivision 1. ANNUAL ACCOUNTING PERIOD. Net income
 2 and taxable net income shall be computed upon the basis of the
 3 taxpayer's annual accounting period. If a taxpayer has no
 4 annual accounting period, or has one other than a fiscal year,
 5 as heretofore defined, the net income and taxable net income
 6 shall be computed on the basis of the calendar year. Taxpayers
 7 shall employ the same accounting period on which they report, or
 8 would be required to report, their net income under the Internal
 9 Revenue Code. The commissioner shall provide by rule for the
 10 determination of the accounting period for taxpayers who file a
 11 combined report under section 290.34, subdivision 2, when
 12 members of the group use different accounting periods for
 13 federal income tax purposes. Unless the taxpayer changes its
 14 accounting period for federal purposes, the due date of the
 15 return is not changed.

16 A taxpayer may change his accounting period periods only *
 17 with the consent of the commissioner. In case of any such *
 18 change, ~~he~~ the taxpayer shall pay a tax for the period not *
 19 included in either ~~his~~ the taxpayer's former or newly adopted *
 20 taxable year, computed as provided in section 290.32.

21 Subd. 2. ACCOUNTING METHODS. Except as specifically
 22 provided to the contrary by this chapter, net income and taxable
 23 net income shall be computed in accordance with the method of
 24 accounting regularly employed in keeping the taxpayer's books.
 25 If no such accounting system has been regularly employed, or if
 26 that employed does not clearly or fairly reflect income or the
 27 income taxable under this chapter, the computation shall be made
 28 in accordance with such method as in the opinion of the
 29 commissioner does clearly and fairly reflect income and the
 30 income taxable under this chapter.

31 Except as otherwise expressly provided in this chapter, a *
 32 taxpayer who changes the method of accounting ~~on-the-basis-of~~ *
 33 which-he ~~for~~ regularly computes-his computing the taxpayer's *
 34 income in keeping his books shall, before computing his net *
 35 income and taxable net income under the new method, secure the *
 36 consent of the commissioner.

37 Subd. 3. CHANGE IN ACCOUNTING METHODS; ADJUSTMENTS.

38 (1) In computing the taxpayer's net income and taxable net
 39 income for any taxable year (referred to in this subdivision as
 40 the "year of the change"): (a) if such computation is under a
 41 method of accounting different from the method under which the
 42 taxpayer's net income and taxable net income for the preceding
 43 taxable year was computed, then (b) there shall be taken into
 44 account those adjustments which are determined to be necessary
 45 solely by reason of the change in order to prevent amounts from
 46 being duplicated or omitted, except there shall not be taken
 47 into account any adjustment in respect of any taxable year to
 48 which this subdivision does not apply.

49 (2) If (a) the method of accounting from which the change *
 50 is made was used by the taxpayer in computing his net income and *
 51 taxable net income for the two taxable years preceding the year *
 52 of the change, and (b) the increase in net income and taxable *
 53 net income for the year of the change which results solely by *
 54 reason of the adjustments required by paragraph (1) (b) exceeds *
 55 \$3,000, then the tax under this chapter attributable to such *
 56 increase in net income and taxable net income shall not be *
 57 greater than the aggregate of the taxes under this chapter (or *
 58 under the corresponding provisions of this chapter) which would *
 59 result if one-third of such increase were included in net income *
 60 and taxable net income for the year of the change and one-third *
 61 of such increase were included for each of the two preceding *
 62 taxable years.

63 (3) If (a) the increase in net income and taxable net *
 64 income for the year of the change which results solely by reason *
 65 of the adjustments required by paragraph (1) (b) exceeds \$3,000, *
 66 and (b) the taxpayer establishes his net income and taxable net *
 67 income (under the new method of accounting) for one or more *
 68 taxable years consecutively preceding the taxable year of the *
 69 change for which the taxpayer in computing net income and *
 70 taxable net income used the method of accounting from which the *
 71 change is made, then the tax under this chapter attributable to *
 72 such increase in net income and taxable net income shall not be *
 73 greater than the net increase in the taxes under this chapter *
 74 which would result if the adjustments required by paragraph (1) *
 75 (b) were allocated to the taxable year or years specified in *
 76 part (b) of this sentence to which they are properly allocable

1 under the new method of accounting and the balance of the
2 adjustments required by paragraph (1) (b) was allocated to the
3 taxable year of the change.

4 (4) For purposes of paragraphs (2) and (3) there shall be
5 taken into account the increase or decrease in tax for any
6 taxable year preceding the year of the change to which no
7 adjustment is allocated under paragraph (3) but which is
8 affected by a net operating loss (as defined in section 290.095)
9 or by a capital loss carryover (as defined in section 290.16,
10 subdivision 6), determined with reference to taxable years with
11 respect to which adjustments under paragraph (3) are allocated.
12 The increase or decrease in the tax for any taxable year for
13 which an assessment of any deficiency, or a credit or refund of
14 any overpayment, is prevented by any law or rule of law, shall
15 be determined by reference to the tax previously determined for
16 such year.

17 (5) In the case of any change described in paragraph (1),
18 the taxpayer may, in such manner and subject to such conditions
19 as the commissioner may by regulations prescribe, take the
20 adjustments required by paragraph (1) (b) into account in
21 computing the tax imposed by this chapter for the taxable year
22 or years permitted under such regulations.

23 Subd. 4. REFUNDED INCOME. If (a) an item was
24 included in gross income for a prior taxable year (or years)
25 because it appeared that the taxpayer had an unrestricted right
26 to such item, and (b) a deduction is allowable for the taxable
27 year because it was established after the close of such prior
28 taxable year (or years) that the taxpayer did not have an
29 unrestricted right to such item or to a portion of such item,
30 and (c) the amount of such deduction exceeds \$3,000, then the
31 tax imposed by this chapter for the taxable year shall be the
32 lesser of the following: (d) the tax for the taxable year
33 computed with such deduction; or (e) an amount equal to (1) the
34 tax for the taxable year computed without such deduction, minus
35 (2) the decrease in tax under this chapter for the prior taxable
36 year (or years) which would result solely from the exclusion of
37 such item (or portion thereof) from gross income for such prior
38 taxable year (or years).

39 If the decrease in tax ascertained under part (e) (2) of
40 the preceding paragraph exceeds the tax imposed by this chapter
41 for the taxable year (computed without the deduction) such
42 excess shall be considered to be a payment of tax on the last
43 day prescribed by law for the payment of tax for the taxable
44 year, and shall be refunded or credited in the same manner as if
45 it were an overpayment for such taxable year. The preceding
46 paragraph does not apply to any deduction allowable with respect
47 to an item which was included in gross income by reason of the
48 sale or other disposition of stock in trade of the taxpayer (or
49 other property of a kind which would properly have been included
50 in the inventory of the taxpayer if on hand at the close of the
51 prior taxable year) or property held by the taxpayer primarily
52 for sale to customers in the ordinary course of ~~his~~ the *
53 taxpayer's trade or business. This paragraph shall not apply if *
54 the deduction arises out of refunds or repayments made by a
55 regulated public utility (as defined in section 7701(a)(33) of
56 the Internal Revenue Code of 1954 as amended through December
57 31, 1983 without regard to the limitation contained in the last
58 two sentences thereof) if such refunds or repayments are
59 required to be made by the government, political subdivision,
60 agency, or instrumentality referred to in such section.

61 No change for subd 5 to 7

290*#075S

62 290.075 RENEGOTIATED WAR CONTRACTS.

63 Any corporate taxpayer who supplies any goods, wares and
64 merchandise or performs services, or both, under any contract,
65 with the United States of America, or under any subcontract
66 thereunder, or under a cost-plus-a-fixed-fee contract with the
67 United States of America, or any agency thereof and who is
68 subject to renegotiations under the renegotiation laws of the
69 United States of America, or is required to renegotiate with ~~his~~ *
70 the taxpayer's subcontractor, shall be required to adjust ~~his-or~~ *
71 its the taxpayer's Minnesota income and franchise tax liability *
72 in accordance with the following rules:

73 A return shall be filed and the income and franchise tax
74 computed, on the basis of the Minnesota taxable net income
75 without giving effect to any renegotiations occurring after the

1 close of the taxable year. If after the close of the taxable
 2 year there is a final determination under renegotiation, the
 3 amount determined by the renegotiation to be (a) excess profits,
 4 (b) excess fees under a fixed fee contract with the United
 5 States, or any agency thereof, or (c) the amount of any item for
 6 which the taxpayer has been reimbursed but which is disallowed
 7 as an item of cost chargeable to a fixed fee contract, shall be
 8 allowed as a deduction from gross income in the taxable year in
 9 which said final determination is made, but only to the extent
 10 that such renegotiated profits, fees or amounts were included in
 11 the taxable net income in a prior year. If the taxable net
 12 income for the taxable year in which said final determination is
 13 made is less than said deduction, the taxpayer shall be entitled
 14 to a refund of the state income tax which it has paid on the
 15 difference between said deduction and said taxable income. The
 16 certificate of the agency or instrumentality of the United
 17 States conducting such renegotiation proceedings shall be
 18 evidence of the amount of the renegotiated profit and of the
 19 date thereof.

290*#077S

20 290.077 INCOME IN RESPECT OF DECEDENTS.

21 No change for subd 1

22 Subd. 3. TRANSFERS TO NONRESIDENTS. If a right
 23 described in subdivision 1 to receive an amount is transferred
 24 to a nonresident by the personal representative of an estate,
 25 the fair market value of such right at the date of the transfer
 26 shall be included in the gross income of the estate for the year
 27 in which such transfer occurs and the value of such right shall
 28 not be allowed as a deduction in computing the taxable net
 29 income of the estate. The estate shall not include the value of
 30 such right in its gross income and the personal representative
 31 shall be relieved of any further liability with respect to such
 32 right if the nonresident; (A) includes the fair market value of
 33 such right (as of the date the right is received) in ~~his~~ the
 34 nonresident's gross income for the year such right is received *
 35 and pays the tax thereon, or (B) elects to include the amount *
 36 received in payment of such right in ~~his~~ the nonresident's gross *
 37 income for the year in which such payment is received and pays
 38 the tax thereon in the same manner as a resident of this state
 39 and files a bond with the commissioner of revenue during the
 40 year such right is received, in such form and in such amount as
 41 the commissioner may deem necessary to assure payment of the
 42 tax. A bond required under (B) shall be deemed sufficient if in
 43 an amount equivalent to the tax which would be due if the method
 44 provided in (A) were followed.

45 Subd. 4. Repealed, 1Sp1985 c 14 art 1 s 59

290*#081S

46 290.081 INCOME OF NONRESIDENTS, RECIPROCITY.

47 (a) The compensation received for the performance of
 48 personal or professional services within this state by an
 49 individual ~~who resides and has his~~ whose residence, place of
 50 abode, and place to which he customarily ~~returns~~ returned to at
 51 least once a month is in another state, shall be excluded from *
 52 gross income to the extent such compensation is subject to an *
 53 income tax imposed by the state of ~~his~~ his residence; provided that *
 54 such state allows a similar exclusion of compensation received *
 55 by residents of Minnesota for services performed therein, or

56 (b) If any taxpayer who is a resident of this state, or a
 57 domestic corporation or corporation commercially domiciled
 58 therein, has become liable for taxes on or measured by net
 59 income to another state or a province or territory of Canada
 60 upon, if the taxpayer is an individual, or if the taxpayer is an
 61 athletic team and all of the team's income is apportioned to
 62 Minnesota, any income, or if it is a corporation, estate, or
 63 trust, upon income derived from the performance of personal or
 64 professional services within such other state or province or
 65 territory of Canada and subject to taxation under this chapter
 66 ~~he or it~~ the taxpayer shall be entitled to a credit against the *
 67 amount of taxes payable under this chapter, of such proportion *
 68 thereof, as such gross income subject to taxation in such state *
 69 or province or territory of Canada bears to ~~his~~ the taxpayer's
 70 entire gross income subject to taxation under this chapter;
 71 provided (1) that such credit shall in no event exceed the
 72 amount of tax so paid to such other state or province or
 73 territory of Canada on the gross income earned within such other
 74 state or province or territory of Canada and subject to taxation

1 under this chapter, and (2) the allowance of such credit shall
2 not operate to reduce the taxes payable under this chapter to an
3 amount less than would have been payable if the gross income
4 earned in such other state or province or territory of Canada
5 had been excluded in computing net income under this chapter.

6 (c) The commissioner shall by regulation determine with
7 respect to gross income earned in any other state the applicable
8 clause of this section. When it is deemed to be in the best
9 interests of the people of this state, the commissioner may
10 determine that the provisions of clause (a) shall not apply. As
11 long as the provisions of clause (a) apply between Minnesota and
12 Wisconsin, the provisions of clause (a) shall apply to any
13 individual who is domiciled in Wisconsin.

14 (d) "Tax So Paid" as used in this section means taxes on or
15 measured by net income payable to another state or province or
16 territory of Canada on income earned within the taxable year for
17 which the credit is claimed, provided that such tax is actually
18 paid in that taxable year, or subsequent taxable years.

19 For purposes of clause (b), where a Minnesota resident
20 reported an item of income to Minnesota and is assessed tax in
21 another state or a province or territory of Canada on that same
22 item of income after the Minnesota statute of limitations has
23 expired, the taxpayer shall be allowed to receive a credit for
24 that year based on clause (b), notwithstanding the provisions of
25 sections 290.49, 290.50, and 290.56. For purposes of the
26 preceding sentence, the burden of proof shall be on the taxpayer
27 to show ~~that he is entitled~~ entitlement to a credit. *

28 (e) For the purposes of clause (a), whenever the Wisconsin
29 tax on Minnesota residents which would have been paid Wisconsin
30 without clause (a) exceeds the Minnesota tax on Wisconsin
31 residents which would have been paid Minnesota without clause
32 (a), or vice versa, then the state with the net revenue loss
33 resulting from clause (a) shall receive from the other state the
34 amount of such loss. This provision shall be effective for all
35 years beginning after December 31, 1972. The data used for
36 computing the loss to either state shall be determined on or
37 before September 30 of the year following the close of the
38 previous calendar year.

39 Interest shall be payable on all delinquent balances
40 relating to taxable years beginning after December 31, 1977.
41 The commissioner of revenue is authorized to enter into
42 agreements with the state of Wisconsin specifying the
43 reciprocity payment due date, conditions constituting
44 delinquency, interest rates, and a method for computing interest
45 due on any delinquent amounts.

46 If an agreement cannot be reached as to the amount of the
47 loss, the commissioner of revenue and the taxing official of the
48 state of Wisconsin shall each appoint a member of a board of
49 arbitration and these members shall appoint the third member of
50 the board. The board shall select one of its members as
51 chairman chair. Such board may administer oaths, take *
52 testimony, subpoena witnesses, and require their attendance,
53 require the production of books, papers and documents, and hold
54 hearings at such places as are deemed necessary. The board
55 shall then make a determination as to the amount to be paid the
56 other state which determination shall be final and conclusive.

57 Notwithstanding the provisions of section 290.61, the
58 commissioner may furnish copies of returns, reports, or other
59 information to the taxing official of the state of Wisconsin, a
60 member of the board of arbitration, or a consultant under joint
61 contract with the states of Minnesota and Wisconsin for the
62 purpose of making a determination as to the amount to be paid
63 the other state under the provisions of this section. Prior to
64 the release of any information under the provisions of this
65 section, the person to whom the information is to be released
66 shall sign an agreement which provides that ~~he~~ the person will *
67 protect the confidentiality of the returns and information
68 revealed thereby to the extent that it is protected under the
69 laws of the state of Minnesota.

290*#085S

70 290.085 GROSS INCOME, DIVIDENDS FROM STATE AND NATIONAL
71 BANKS.

72 Every taxpayer taxable under this chapter must include in
73 gross income dividends received from national banks and
74 dividends from state banks in the same manner and to the same
75 extent as other dividend income is includible in gross income

1 for the purpose of computing ~~his~~ the taxpayer's taxable net
2 income. *

290*#09S

3 290.09 DEDUCTIONS FROM GROSS INCOME.

4 No change for subd 1

5 Subd. 2. TRADE OR BUSINESS EXPENSES. (a) IN
6 GENERAL. There shall be allowed as a deduction all the
7 ordinary and necessary expenses paid or incurred during the
8 taxable year in carrying on any trade or business, including

9 (1) A reasonable allowance for salaries or other
10 compensation for personal services actually rendered;

11 (2) Traveling expenses (including amounts expended for
12 meals and lodging other than amounts which are lavish or
13 extravagant under the circumstances) while away from home in the
14 pursuit of a trade or business; and

15 (3) Rentals or other payments required to be made as a
16 condition to the continued use or possession, for purposes of
17 the trade or business, of property to which the taxpayer has not
18 taken or is not taking title or in which ~~he~~ the taxpayer has no
19 equity. *

20 (b) No deduction shall be allowed under this subdivision
21 for any contribution or gift which would be allowable as a
22 deduction under section 290.21 were it not for the percentage
23 limitations set forth in such section;

24 (c) All expense money paid by the legislature to
25 legislators;

26 (d) Entertainment, amusement, or recreation expenses shall
27 be allowed under this subdivision only to the extent that they
28 qualify as a deduction under section 274 of the Internal Revenue
29 Code of 1954, as amended through May 25, 1985.

30 (e) No deduction shall be allowed under this subdivision
31 for illegal bribes, kickbacks, and other payments, fines, and
32 penalties, or treble damage payments under the antitrust laws
33 except as provided in section 162 of the Internal Revenue Code
34 of 1954, as amended through December 31, 1983.

35 No change for subd 3 to 8

36 Subd. 9. LIMITATION AND APPLICATION OF SECTION. (a)
37 The amount of the deduction under subdivisions 7 and 8 shall be
38 computed on the basis specified in section 290.16;

39 (b) The deductions provided for herein shall be taken for
40 the taxable year in which paid or accrued, dependent upon the
41 method of accounting employed in computing net income, unless in
42 order to clearly reflect income they should be taken as of a
43 different year;

44 (c) No deductions shall be allowed unless the taxpayer,
45 when thereunto requested by the commissioner, furnishes ~~him-with~~
46 information sufficient to enable ~~him~~ the commissioner to
47 determine the validity and correctness thereof. *

48 Subd. 10. Repealed, 1983 c 342 art 1 s 44

49 Subd. 11. Repealed, 1980 c 419 s 46

50 Subd. 12. Repealed, 1981 c 60 s 28

51 No change for subd 13 to 31

290*#091S

52 290.091 ALTERNATIVE MINIMUM TAX ON PREFERENCE ITEMS.

53 No change for subd 1 to 3

54 Subd. 4. PART YEAR RESIDENTS; ESTATES AND TRUSTS.

55 (a) An individual who is not a Minnesota resident for the entire
56 year must compute ~~his~~ alternative minimum tax liability using a
57 regular tax liability determined under section 290.06,
58 subdivision 2c, paragraph (f), without regard to the provision
59 for allocation to Minnesota. The resulting alternative minimum
60 tax liability must be multiplied by the fraction defined in
61 section 290.06, subdivision 2c, paragraph (f). *

62 (b) In the case of an estate or trust, the alternative
63 minimum tax liability must be computed by multiplying
64 alternative minimum taxable income and the exemption amount by a
65 fraction, the numerator of which is the amount of the taxpayer's
66 alternative minimum taxable income allocated to this state
67 pursuant to the provisions of sections 290.17 to 290.20, and the
68 denominator of which is the taxpayer's total alternative minimum
69 taxable income.

70 No change for subd 5

290*#095S

71 290.095 OPERATING LOSS DEDUCTION.

72 No change for subd 1 to 5

73 Subd. 7. TENTATIVE CARRYBACK ADJUSTMENTS. (a)

1 Application for adjustment. A taxpayer may file an application
 2 for a tentative carryback adjustment of the tax for the prior
 3 taxable year affected by a loss or credit carryback from any
 4 taxable year. The application shall be signed and verified as
 5 provided in section 290.37, subdivision 1, and shall be filed on
 6 or after the date of filing of the return for the taxable year
 7 from which the carryback results and within a period of 12
 8 months from the end of such taxable year (or with respect to any
 9 portion of a credit carryback from a taxable year attributable
 10 to a loss carryback from a subsequent taxable year, the
 11 application shall be filed within a period of 12 months from the
 12 end of the subsequent taxable year), in the manner and form
 13 required by rules prescribed by the commissioner. The
 14 application shall set forth in such detail and with such
 15 supporting data and explanation as such rules shall require:

- 16 (1) the amount of the loss or credit;
- 17 (2) the amount of the tax previously determined for the
- 18 prior taxable year affected by such carryback;
- 19 (3) the amount of decrease in such tax, attributable to
- 20 such carryback, such decrease being determined by applying the
- 21 carryback in the manner provided by law to the items on the
- 22 basis of which such tax was determined;
- 23 (4) the unpaid amount of such tax;
- 24 (5) such other information for purposes of carrying out the
- 25 provisions of this subdivision as may be required by such rules.

26 An application under this subdivision shall not constitute
 27 a claim for refund until 90 days from the date on which the
 28 application was filed, at which time it will become a claim for
 29 refund under the provisions of section 290.50.

30 (b) Allowance of adjustments. Within a period of 90 days
 31 from the date on which an application for a tentative carryback
 32 adjustment is filed under (a), or from the last day of the month
 33 in which falls the last date prescribed by law (including any
 34 extension of time granted the taxpayer) for filing the return
 35 for the taxable year from which such carryback results,
 36 whichever is the later, the commissioner shall make, to the
 37 extent ~~he~~ the commissioner deems practicable in such period a
 38 limited examination of the application, to discover omissions
 39 and errors of computation therein, and shall determine the
 40 amount of the decrease in the tax attributable to such carryback
 41 upon the basis of the application and the examination, except
 42 that the commissioner may disallow, without further action, any
 43 application ~~which he finds~~ on finding that it contains errors of
 44 computation which ~~he~~ the commissioner deems cannot be corrected
 45 by ~~him~~ the commissioner within such 90-day period or material
 46 omissions. Such decrease shall be applied against any unpaid
 47 amount of tax decreased and any remainder shall, within such
 48 90-day period, be either credited against any tax or installment
 49 thereof then due from the taxpayer, or refunded to the taxpayer.

50 (c) The provisions of this subdivision shall apply to net
 51 operating loss carrybacks as provided in subdivision 3 or 11;
 52 capital loss carrybacks as provided in section 290.16,
 53 subdivision 6; research credit carrybacks as provided in section
 54 290.068, subdivision 3; and to any other carrybacks which may be
 55 provided in this chapter.

56 No change for subd 8 to 11

290*#12S

57 290.12 GAIN OR LOSS ON DISPOSITION OF PROPERTY,
 58 COMPUTATION.

59 No change for subd 1

60 Subd. 2. ADJUSTMENTS. In computing the amount of
 61 gain or loss under subdivision 1 proper adjustment shall be made
 62 for any expenditure, receipt, loss, or other item properly
 63 chargeable to capital account by the taxpayer during ~~his~~ the
 64 taxpayer's ownership thereof. The basis shall be diminished by
 65 the amount of the deductions for exhaustion, wear and tear,
 66 obsolescence, amortization, depletion, and the allowance for
 67 amortization of bond premium if an election to amortize was made
 68 in accordance with section 290.09, subdivision 13, which could,
 69 during the period of ~~his~~ the taxpayer's ownership thereof, have
 70 been deducted by the taxpayer under this chapter in respect of
 71 such property. In addition, if the property was acquired before
 72 January 1, 1933, the basis, if other than the fair market value
 73 as of such date, shall be diminished by the amount of
 74 exhaustion, wear and tear, obsolescence, amortization, or
 75 depletion actually sustained before such date. In respect of

1 any period since December 31, 1932, during which property was
2 held by a person or an organization not subject to income
3 taxation under this chapter, proper adjustment shall be made for
4 exhaustion, wear and tear, obsolescence, amortization, and
5 depletion of such property to the extent sustained. For the
6 purpose of determining the amount of these adjustments the
7 taxpayer who sells or otherwise disposes of property acquired by
8 gift shall be treated as the owner thereof from the time it was
9 acquired by the last preceding owner who did not acquire it by
10 gift, and the taxpayer who sells or otherwise disposes of
11 property acquired by gift through an inter vivos transfer in
12 trust shall be treated as the owner from the time it was
13 acquired by the grantor.

14 No adjustment shall be made:

15 (1) for taxes or other carrying charges described in
16 section 290.10, clause (11), or

17 (2) for expenditures described in section 290.09,
18 subdivision 16 (relating to circulation expenditures), for which
19 deductions have been taken by the taxpayer in determining
20 taxable income for the taxable year or prior years.

21 No change for subd 3 to 4

290*#13S

22 290.13 GAIN OR LOSS ON DISPOSITION OF PROPERTY,
23 RECOGNITION.

24 No change for subd 1

25 Subd. 5. CONVERSION OF PROPERTY. If property (as a
26 result of its destruction in whole or in part, theft, seizure,
27 or requisition or condemnation or threat or imminence thereof)
28 is compulsorily or involuntarily converted

29 (1) Into property similar or related in service or use to
30 the property so converted, no gain shall be recognized.

31 (2) Into money or into property not similar or related in
32 service or use to the converted property, the gain (if any)
33 shall be recognized except to the extent hereinafter provided in
34 this paragraph:

35 (A) If the taxpayer during the period specified in
36 subparagraph (B), for the purpose of replacing the property so
37 converted, purchases other property similar or related in
38 service or use to the property so converted, or purchases stock
39 in the acquisition of control of a corporation owning such other
40 property, at the election of the taxpayer the gain shall be
41 recognized only to the extent that the amount realized upon such
42 conversion (regardless of whether such amount is received in one
43 or more taxable years) exceeds the cost of such other property
44 or such stock. Such election shall be made at such time and in
45 such manner as the commissioner may by regulations prescribe.
46 For purposes of this paragraph

47 (i) no property or stock acquired before the disposition of
48 the converted property shall be considered to have been acquired
49 for the purpose of replacing such converted property unless held
50 by the taxpayer on the date of such disposition; and

51 (ii) the taxpayer shall be considered to have purchased
52 property or stock only if, but for the provisions of the last
53 paragraph of paragraph (2), the unadjusted basis of such
54 property or stock would be its cost within the meaning of
55 section 290.14.

56 (B) The period referred to in subparagraph (A) shall be the
57 period beginning with the date of the disposition of the
58 converted property, or the earliest date of the threat or
59 imminence of requisition or condemnation of the converted
60 property, whichever is the earlier, and ending

61 (i) two years after the close of the first taxable year in
62 which any part of the gain upon the conversion is realized, or

63 (ii) subject to such terms and conditions as may be
64 specified by the commissioner, at the close of such later date
65 as the commissioner may designate on application by the
66 taxpayer. Such application shall be made at such time and in
67 such manner as the commissioner may by regulations prescribe.

68 (C) If a taxpayer has made the election provided in
69 subparagraph (A), then the statutory period for the assessment
70 of any deficiency, for any taxable year in which any part of the
71 gain on such conversion is realized, attributable to such gain
72 shall not expire prior to the expiration of three and one-half
73 years from the date the commissioner is notified by the taxpayer
74 (in such manner as the commissioner may by regulations
75 prescribe) of the replacement of the converted property or of an

1 intention not to replace, notwithstanding the provisions of
2 section 290.49 or the provisions of any other law or rule which
3 would otherwise prevent such assessment.

4 (D) If the election provided in subparagraph (A) is made by
5 the taxpayer and such other property or such stock was purchased
6 before the beginning of the last taxable year in which any part
7 of the gain upon such conversion is realized, any deficiency, to
8 the extent resulting from such election, for any taxable year
9 ending before such last taxable year may be assessed
10 (notwithstanding the provisions of section 290.49 or the
11 provisions of any other law or rule of law which would otherwise
12 prevent such assessment) at any time before the expiration of
13 the period within which a deficiency for such last taxable year
14 may be assessed.

15 If the property was acquired, after January 1, 1933, as the
16 result of a compulsory or involuntary conversion described in
17 paragraphs (1) or (2) of Minnesota Statutes 1980, Section
18 290.13, Subdivision 5, the basis shall be the same as in the
19 case of the property so converted, decreased in the amount of
20 any money received by the taxpayer which was not expended in
21 accordance with the provisions of law (applicable to the year in
22 which such conversion was made) determining the taxable status
23 of the gain or loss upon such conversion, and increased in the
24 amount of gain or decreased in the amount of loss to the
25 taxpayer recognized upon such conversion under the law
26 applicable to the year in which such conversion was made. This
27 paragraph shall not apply in respect of property acquired as a
28 result of a compulsory or involuntary conversion of property
29 used by the taxpayer as his the taxpayer's principal residence *
30 if the destruction, theft, seizure, requisition, or condemnation
31 of such residence, or the sale or exchange of such residence
32 under threat or imminence thereof, occurred after December 31,
33 1950, and before January 1, 1955. In the case of property
34 purchased by the taxpayer in a transaction described in
35 paragraph (2) which resulted in the nonrecognition of any part
36 of the gain realized as the result of a compulsory or
37 involuntary conversion, the basis shall be the cost of such
38 property decreased in the amount of the gain not so recognized;
39 and if the property purchased consists of more than one piece of
40 property, the basis determined under this sentence shall be
41 allocated to the purchased properties in proportion to their
42 respective costs.

43 (3) For purposes of this subdivision the terms control and
44 disposition of the converted property shall have the same
45 meaning as is contained in section 1033(a)(2)(E) of the Internal
46 Revenue Code of 1954, as amended through December 31, 1983.

47 (4) Property which qualifies to be treated as an
48 involuntary conversion under section 1033(c) to (g) of the
49 Internal Revenue Code of 1954, as amended through December 31,
50 1983 shall also be treated as qualifying for the purposes of
51 this section.

52 Subd. 5a. GAIN OR LOSS FROM SALE OR EXCHANGE TO
53 EFFECTUATE POLICIES OF F.C.C. If the sale or exchange of
54 property, including stock in a corporation, is certified by the
55 Federal Communications Commission to be necessary or appropriate
56 to effectuate a change in a policy of, or the adoption of a new
57 policy by the commission with respect to the ownership and
58 control of radio broadcasting stations, the sale or exchange
59 shall, if the taxpayer so elects, be treated as an involuntary
60 conversion of the property within the meaning of subdivision 5.
61 For purposes of this subdivision, "radio broadcasting" includes
62 telecasting.

63 For purposes of subdivision 5 as made applicable by the
64 provisions of this subdivision, stock of a corporation operating
65 a radio broadcasting station located in Minnesota, whether or
66 not representing control of the corporation, shall be treated as
67 property similar or related in service or use to the property so
68 converted. The part of the gain, if any, on the sale or
69 exchange to which subdivision 5 is not applied shall
70 nevertheless not be recognized, if the taxpayer so elects, to
71 the extent that it is applied to reduce the basis for
72 determining gain or loss on sale or exchange of property of a
73 character subject to the allowance for depreciation under
74 section 290.09, subdivision 7, remaining in the hands of the
75 taxpayer immediately after the sale or exchange, or acquired in
76 the same taxable year and with its situs in the state of

1 Minnesota. The manner and amount of the reduction shall be
 2 determined under regulations prescribed by the commissioner.
 3 Any election made by the taxpayer under this subdivision shall
 4 be made by a statement to that effect in ~~his~~ the taxpayer's *
 5 return for the taxable year in which the sale or exchange takes
 6 place, and the election shall be binding for that taxable year
 7 and all subsequent taxable years.

8 The basis of property acquired on a sale or exchange
 9 treated as an involuntary conversion under this subdivision
 10 shall be determined pursuant to the provisions of subdivision 5.

- 11 Subd. 6. Repealed, 1957 c 621 s 16
- 12 Subd. 7. Repealed, 1957 c 621 s 16
- 13 Subd. 8. Repealed, 1957 c 621 s 16
- 14 Subd. 9. Repealed, 1977 c 376 s 14
- 15 Subd. 10. Repealed, 1982 c 523 art 1 s 72

290*#14S

16 290.14 GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.

17 Except as otherwise provided in this chapter, the basis for
 18 determining the gain or loss from the sale or other disposition
 19 of property acquired on or after January 1, 1933, shall be the
 20 cost to the taxpayer of such property, with the following
 21 exceptions:

- 22 (1) If the property should have been included in the last
 23 inventory, it shall be the last inventory value thereof;
- 24 (2) If the property was acquired by gift, it shall be the
 25 same as it would be if it were being sold or otherwise disposed
 26 of by the last preceding owner not acquiring it by gift; if the
 27 facts required for this determination cannot be ascertained, it
 28 shall be the fair market value as of the date, or approximate
 29 date, of acquisition by the last preceding owner, as nearly as
 30 the requisite facts can be ascertained by the commissioner;
- 31 (3) If the property was acquired by gift through an inter
 32 vivos transfer in trust, it shall be the same as it would be if
 33 it were being sold or otherwise disposed of by the grantor;
- 34 (4) Except as otherwise provided in this clause, the basis
 35 of property in the hands of a person acquiring the property from
 36 a decedent or to whom the property passed from a decedent shall,
 37 if not sold, exchanged or otherwise disposed of before the
 38 decedent's death by the person, be the fair market value of the
 39 property at the date of decedent's death or, in the case of an
 40 election under section 2032 (relating to alternate valuation) of
 41 the Internal Revenue Code of 1954, as amended through December
 42 31, 1983, its valuation at the applicable valuation date
 43 prescribed by that section, or in the case of an election under
 44 section 2032A (relating to valuation of farm real property) of
 45 the Internal Revenue Code of 1954, as amended through December
 46 31, 1983, its value determined by that section.

47 For the purposes of the preceding paragraph, the following
 48 property shall be considered to have been acquired from or to
 49 have passed from the decedent:

- 50 (a) property acquired by bequest, devise, or inheritance,
 51 or by the decedent's estate from the decedent;
- 52 (b) property transferred by the decedent ~~during-his~~ *
 53 ~~lifetime while living~~ in trust to pay the income for life to or *
 54 on the order or direction of the decedent, with the right *
 55 reserved to the decedent at all times before ~~his~~ death to revoke *
 56 the trust;
- 57 (c) property transferred by the decedent ~~during-his~~ *
 58 ~~lifetime while living~~ in trust to pay the income for life to or *
 59 on the order or direction of the decedent with the right *
 60 reserved to the decedent at all times before ~~his~~ death to make *
 61 any change in the enjoyment thereof through the exercise of a
 62 power to alter, amend, or terminate the trust;
- 63 (d) property passing without full and adequate
 64 consideration under a general power of appointment exercised by
 65 the decedent by will;
- 66 (e) in the case of a decedent's dying after December 31,
 67 1956, property acquired from the decedent by reason of death,
 68 form of ownership, or other conditions (including property
 69 acquired through the exercise or nonexercise of a power of
 70 appointment), if by reason thereof the property is required to
 71 be included in determining the value of the decedent's gross
 72 estate for Minnesota inheritance or estate tax purposes. In
 73 this case, if the property is acquired before the death of the
 74 decedent, the basis shall be the amount determined under the
 75 first paragraph of this clause reduced by the amount allowed to

1 the taxpayer as deductions in computing taxable net income under
 2 this chapter or prior Minnesota income tax laws for exhaustion,
 3 wear and tear, obsolescence, amortization, and depletion on the
 4 property before the death of the decedent. The basis shall be
 5 applicable to the property commencing on the death of the
 6 decedent. This paragraph shall not apply to annuities and
 7 property described in paragraphs (a), (b), (c) and (d) of this
 8 clause.

9 This clause shall not apply to property which constitutes a
 10 right to receive an item of income in respect of a decedent
 11 under section 290.077.

12 (5) If substantially identical property was acquired in the
 13 place of stocks or securities which were sold or disposed of and
 14 in respect of which loss was not allowed as a deduction under
 15 section 290.089 or 290.09, subdivision 5, the basis in the case
 16 of property so acquired shall be the same as that provided in
 17 section 1091 of the Internal Revenue Code of 1954, as amended
 18 through December 31, 1983.

19 (6) Neither the basis nor the adjusted basis of any portion
 20 of real property shall, in the case of a lessor of the property,
 21 be increased or diminished on account of income derived by the
 22 lessor in respect of the property and excludable from gross
 23 income under section 290.08, subdivision 14.

24 If an amount representing any part of the value of real
 25 property attributable to buildings erected or other improvements
 26 made by a lessee in respect of the property was included in
 27 gross income of the lessor for any taxable year beginning before
 28 January 1, 1943, the basis of each portion of the property shall
 29 be properly adjusted for the amount included in gross income.

30 (7) The basis of property subject to the provisions of
 31 section 1034 of the Internal Revenue Code of 1954, as amended
 32 through December 31, 1983 (relating to the rollover of gain on
 33 sale of principal residence) shall be the same as the basis for
 34 federal income tax purposes. The basis shall be increased by
 35 the amount of gain realized on the sale of a principal residence
 36 outside of Minnesota, while a nonresident of this state, which
 37 gain was not recognized because of the provisions of section
 38 1034.

290*#16S

39 290.16 DEPRECIATION, BASIS; GAIN OR LOSS ON DISPOSITION
 40 OF PROPERTY, HOW TAKEN INTO ACCOUNT IN COMPUTING NET INCOME.

41 No change for subd 1 to 1a

42 Subd. 3. DEFINITIONS. As used in this section:

43 (1) The term "capital assets" shall mean property held by
 44 the taxpayer (whether or not connected with ~~his~~ the taxpayer's
 45 trade or business), but does not include *

46 (a) stock in trade of the taxpayer or other property of a
 47 kind which would properly be included in the inventory of the
 48 taxpayer if on hand at the close of the taxable year, or
 49 property held by the taxpayer primarily for sale to customers in
 50 the ordinary course of ~~his~~ the taxpayer's trade or business, or *

51 (b) property, used in the trade or business, of a character
 52 which is subject to the allowance for depreciation provided in
 53 section 290.09, subdivision 7, or real property used in the
 54 trade or business of the taxpayer, or

55 (c) accounts or notes receivable acquired in the ordinary
 56 course of trade or business for services rendered or from the
 57 sale of property described in subparagraph (a);

58 (2) The term "short-term capital gain" means gain from the
 59 sale or exchange of a short-term capital asset, if and to the
 60 extent such gain is taken into account in computing gross income;

61 (3) The term "short-term capital loss" means loss from the
 62 sale or exchange of a short-term capital asset, if and to the
 63 extent such loss is taken into account in computing net income;

64 (4) The term "long-term capital gain" means gain from the
 65 sale or exchange of a long-term capital asset, if and to the
 66 extent such gain is taken into account in computing gross income;

67 (5) The term "long-term capital loss" means loss from the
 68 sale or exchange of a long-term capital asset, if and to the
 69 extent such loss is taken into account in computing net income;

70 (6) The term "net short-term capital gain" means the excess
 71 of short-term capital gains for the taxable year over the
 72 short-term capital losses for such year;

73 (7) The term "net short-term capital loss" means the excess
 74 of short-term capital losses for the taxable year over the
 75 short-term capital gains for such year;

1 (8) The term "net long-term capital gain" means the excess
2 of long-term capital gains for the taxable year over the
3 long-term capital losses for such year;

4 (9) The term "net long-term capital loss" means the excess
5 of long-term capital losses for the taxable year over the
6 long-term capital gains for such year.

7 (10) The term "net capital gain" means the excess of the
8 gains from the sales or exchanges of capital assets over the
9 losses from such sales or exchanges.

10 (11) The term "net capital loss" means the excess of the
11 losses from sales or exchanges of capital assets over the sum
12 allowed under subdivision 5. For the purpose of determining
13 losses under this paragraph, amounts which are short-term
14 capital losses under subdivision 6 shall be excluded.

15 (12) The term "short-term capital asset" means a capital
16 asset held for not more than six months, or, if the asset is
17 acquired after December 31, 1987, one year.

18 (13) The term "long-term capital asset" means a capital
19 asset held for more than six months, or, if the asset is
20 acquired after December 31, 1987, one year.

21 No change for subd 4 to 7

22 Subd. 8. HOLDING PERIOD. For the purposes of this
23 section

24 (1) In determining the period for which the taxpayer has
25 held property received on an exchange there shall be included
26 the period for which he the taxpayer held the property *
27 exchanged, if, under the provisions of this chapter, the
28 property received has, for the purpose of determining gain or
29 loss from a sale or exchange, the same basis in whole or in part
30 in ~~his~~ the taxpayer's hands as the property exchanged, and, in *
31 the case of such exchanges after March 1, 1954, if the property
32 exchanged at the time of such exchange was a capital asset as
33 defined in subdivision 3(1) or property described in subdivision
34 9(1) and (2). For the purposes of this paragraph, an
35 involuntary conversion described in section 290.13, subdivision
36 5, shall be considered an exchange of the property converted for
37 the property acquired.

38 (2) In determining the period for which the taxpayer has
39 held property however acquired there shall be included the
40 period for which such property was held by any other person, if
41 under the provisions of this chapter, such property has, for the
42 purpose of determining gain or loss from a sale or exchange, the
43 same basis in whole or in part in ~~his~~ the taxpayer's hands as it *
44 would have in the hands of such other person.

45 (3) In determining the period for which the taxpayer has
46 held stock or securities received upon a distribution where no
47 gain was recognized to the distributee, there shall be included
48 the period for which he the taxpayer held the stock or *
49 securities in the distributing corporation prior to the receipt
50 of the stock or securities upon such distribution.

51 (4) In determining the period for which the taxpayer has
52 held stock or securities the acquisition of which (or the
53 contract or option to acquire which) resulted in the
54 nondeductibility (under section 290.09, subdivision 5, relating
55 to wash sales) of the loss from the sale or other disposition of
56 substantially identical stock or securities, there shall be
57 included the period for which he the taxpayer held the stock or *
58 securities the loss from the sale or other disposition of which
59 was not deductible.

60 (5) In determining the period for which the taxpayer has
61 held stock or securities acquired from a corporation by the
62 exercise of rights to acquire such stock or securities, there
63 shall be included only the period beginning with the date upon
64 which the right to acquire was exercised.

65 (6) In determining the period for which the taxpayer has
66 held a commodity acquired in satisfaction of a commodity futures
67 contract there shall be included the period for which he the *
68 taxpayer held the commodity futures contract if such commodity *
69 futures contract was a capital asset in ~~his~~ the taxpayer's hands. *

70 Subd. 9. PROPERTY, USED IN TRADE OR BUSINESS. (1) For
71 the purposes of this subdivision, the term "property used in the
72 trade or business" means property used in the trade or business
73 of a character which is subject to the allowance for
74 depreciation provided in section 290.09, subdivision 7, held for
75 more than six months, or, if the asset is acquired after
76 December 31, 1987, one year, and real property used in the trade

1 or business, held for more than six months, or, if the asset is
2 acquired after December 31, 1987, one year, which is not (A)
3 property of a kind which would properly be includable in the
4 inventory of the taxpayer if on hand at the close of the taxable
5 year, or (B) property held by the taxpayer primarily for sale to
6 customers in the ordinary course of ~~his~~ the taxpayer's trade or *
7 business. Such term also includes livestock, regardless of age,
8 held by the taxpayer for draft, breeding or dairy purposes, and
9 held by ~~him~~ the taxpayer for 12 months or more from the date of *
10 acquisition. Such term does not include poultry.

11 (2) If, during the taxable year, the recognized gains upon
12 sale or exchanges of property used in the trade or business,
13 plus the recognized gains from the compulsory or involuntary
14 conversion (as a result of destruction in whole or in part,
15 theft or seizure, or an exercise of the power of requisition or
16 condemnation or the threat or imminence thereof) of property
17 used in the trade or business and long-term capital assets into
18 other property or money, exceed the recognized losses from such
19 sales, exchanges, and conversions, such gains and losses shall
20 be considered as gains and losses from sales or exchanges of
21 long-term capital assets. If such gains do not exceed such
22 losses, such gains and losses shall not be considered as gains
23 and losses from sales or exchanges of capital assets. For the
24 purposes of this paragraph:

25 (A) In determining under this paragraph whether gains
26 exceed losses, the gains and losses described therein shall be
27 included only if and to the extent taken into account in
28 computing net income, except that subdivisions 4 and 5 shall not
29 apply.

30 (B) Losses (including losses not compensated for by
31 insurance or otherwise) upon the destruction, in whole or in
32 part, theft or seizure, or requisition or condemnation of
33 property used in the trade or business or long-term capital
34 assets shall be considered losses from a compulsory or
35 involuntary conversion.

36 In the case of any involuntary conversion (subject to the
37 provisions of this clause but for this sentence) arising from
38 fire, storm, shipwreck, or other casualty, or from theft, of any
39 property used in the trade or business or as any long-term
40 capital asset, this clause shall not apply to such conversion
41 (whether resulting in gain or loss) if during the taxable year
42 the recognized losses from such conversions exceed the
43 recognized gains from such conversions.

44 Gain from the sale or exchange of property, to the extent
45 that the adjusted basis of such property is less than the
46 adjusted basis without regard to the provisions of section 168
47 of the Internal Revenue Code of 1954, as in effect before its
48 repeal by the Tax Reform Act of 1976, shall be considered as
49 gain from the sale or exchange of property which is neither a
50 capital asset nor property described in this subdivision.

51 Net ordinary losses shall be recaptured as provided in
52 section 1231(c) of the Internal Revenue Code of 1954, as amended
53 through December 31, 1984.

54 No change for subd 10 to 17

290*#17S

55 290.17 GROSS INCOME, ALLOCATION TO STATE.

56 No change for subd 1 to 1a

57 Subd. 2. OTHER TAXPAYERS. In the case of an
58 individual who is not a full year resident, this subdivision
59 applies to determine what income is assignable to Minnesota for
60 purposes of determining the numerator of the fraction used in
61 section 290.06, subdivision 2c. In the case of taxpayers not
62 subject to the provisions of subdivision 1, items of gross
63 income shall be assigned to this state or other states or
64 countries in accordance with the following principles:

65 (1)(a) The entire income of all resident or domestic
66 taxpayers from compensation for labor or personal services, or
67 from a business consisting principally of the performance of
68 personal or professional services, shall be assigned to this
69 state, and the income of nonresident taxpayers from such sources
70 shall be assigned to this state if, and to the extent that, the
71 labor or services are performed within it; all other income from
72 such sources shall be treated as income from sources without
73 this state.

74 (b) In the case of an individual who is a nonresident of
75 Minnesota and who is an athlete or entertainer, income from

1 compensation for labor or personal services performed within
2 this state shall be determined in the following manner.

3 (i) The amount of income to be assigned to Minnesota for an
4 individual who is a nonresident salaried athletic team employee
5 shall be determined by using a fraction in which the denominator
6 contains the total number of days in which the individual is
7 under a duty to perform for the employer, and the numerator is
8 the total number of those days spent in Minnesota. In order to
9 eliminate the need to file state or provincial income tax
10 returns in several states or provinces, Minnesota will exclude
11 from income any income assigned to Minnesota under the
12 provisions of this clause for a nonresident athlete who is
13 employed by an athletic team whose operations are not based in
14 this state if the state or province in which the athletic team
15 is based provides a similar income exclusion. If the state or
16 province in which the athletic team's operations are based does
17 not have an income tax on an individual's personal service
18 income, it will be deemed that that state or province has a
19 similar income exclusion. As used in the preceding sentence,
20 the term "province" means a province of Canada.

21 (ii) The amount of income to be assigned to Minnesota for
22 an individual who is a nonresident, and who is an athlete not
23 listed in clause (i), or who is an entertainer, for that
24 person's athletic or entertainment performance in Minnesota
25 shall be determined by assigning to this state all income from
26 performances or athletic contests in this state.

27 (2) Income from the operation of a farm shall be assigned
28 to this state if the farm is located within this state and to
29 other states only if the farm is not located in this state.
30 Income from winnings on Minnesota pari-mutuel betting tickets
31 shall be assigned to this state. Income and gains received from
32 tangible property not employed in the business of the recipient
33 of such income or gains, and from tangible property employed in
34 the business of such recipient if such business consists
35 principally of the holding of such property and the collection
36 of the income and gains therefrom, shall be assigned to this
37 state if such property has a situs within it, and to other
38 states only if it has no situs in this state. Income or gains
39 from intangible personal property not employed in the business
40 of the recipient of such income or gains, and from intangible
41 personal property employed in the business of such recipient if
42 such business consists principally of the holding of such
43 property and the collection of the income and gains therefrom,
44 wherever held, whether in trust, or otherwise, shall be assigned
45 to this state if the recipient thereof is domiciled within this
46 state or is a resident trust or estate.

47 (3) Income derived from carrying on a trade or business,
48 including in the case of a business owned by natural persons the
49 income imputable to the owner for his the owner's services and
50 the use of his the owner's property therein, shall be assigned
51 to this state if the trade or business is conducted wholly
52 within this state, and to other states if conducted wholly
53 without this state. This provision shall not apply to business
54 income subject to the provisions of clause (1).

55 (4) When a trade or business is carried on partly within
56 and partly without this state, the entire income derived from
57 such trade or business, including income from intangible
58 property employed in such business and including, in the case of
59 a business owned by natural persons, the income imputable to the
60 owner for his the owner's services and the use of his the
61 owner's property therein, shall be governed, except as otherwise
62 provided in sections 290.35 and 290.36, by the provisions of
63 section 290.19, notwithstanding any provisions of this
64 subdivision to the contrary. This shall not apply to business
65 income subject to the provisions of clause (1), nor shall it
66 apply to income from the operation of a farm which is subject to
67 the provisions of clause (2). For the purposes of this clause,
68 a trade or business located in Minnesota is carried on partly
69 within and partly without this state if tangible personal
70 property is sold by such trade or business and delivered or
71 shipped to a purchaser located outside the state of Minnesota.

72 If the trade or business carried on wholly or partly in
73 Minnesota is part of a unitary business, the entire income of
74 that unitary business shall be subject to apportionment under
75 section 290.19 except for business income subject to the
76 provisions of clause (1) and farm income subject to the

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1 provisions of clause (2). The term "unitary business" shall
 2 mean business activities or operations which are of mutual
 3 benefit, dependent upon, or contributory to one another,
 4 individually or as a group. Unity shall be presumed whenever
 5 there is unity of ownership, operation, and use, evidenced by
 6 centralized management or executive force, centralized
 7 purchasing, advertising, accounting, or other controlled
 8 interaction but the absence of these centralized activities will
 9 not necessarily evidence a nonunitary business. Unity of
 10 ownership will not be deemed to exist when a corporation is
 11 involved unless that corporation is a member of a group of two
 12 or more corporations more than 50 percent of the voting stock of
 13 each member of the group is directly or indirectly owned by a
 14 common owner or by common owners, either corporate or
 15 noncorporate, or by one or more of the member corporations of
 16 the group.

17 The entire income of a unitary business shall be subject to
 18 apportionment as provided in section 290.19. None of the income
 19 of a unitary business shall be considered as derived from any
 20 particular source and none shall be allocated to any particular
 21 place except as provided by the applicable apportionment formula.

22 In determining whether or not intangible property is
 23 employed in a unitary business carried on partly within and
 24 partly without this state so that income derived therefrom is
 25 subject to apportionment under section 290.19 the following
 26 rules and guidelines shall apply.

27 (a) Intangible property is employed in a business if the
 28 business entity owning intangible property holds it as a means
 29 of furthering the business operation of which a part is located
 30 within the territorial confines of this state.

31 (b) Where a business operation conducted in Minnesota, is
 32 owned by a business entity which carries on business activity
 33 outside of the state different in kind from that conducted
 34 within this state, and such other business is conducted entirely
 35 outside the state, it will be presumed that the two business
 36 operations are unitary in nature, interrelated, connected and
 37 interdependent unless it can be shown to the contrary.

38 (5) For purposes of this section, amounts received by a
 39 nonresident from the United States, its agencies or
 40 instrumentalities, the Federal Reserve Bank, the state of
 41 Minnesota or any of its political or governmental subdivisions,
 42 or a Minnesota volunteer ~~fireman's~~ firefighter's relief *
 43 association, by way of payment as a pension, public employee
 44 retirement benefit, or any combination thereof, or as a
 45 retirement or survivor's benefit made from a plan qualifying
 46 under section 401, 403, 404, 408, or 409 of the Internal Revenue
 47 Code of 1954, as amended through December 31, 1984, are not
 48 considered income derived from carrying on a trade or business
 49 or from performing personal or professional services in
 50 Minnesota, and are not taxable under this chapter.

51 (6) All other items of gross income shall be assigned to
 52 the taxpayer's domicile.

290*#172S

53 290.172 COMMISSIONER OF REVENUE.

54 The commissioner of revenue shall represent the state of
 55 Minnesota on the multistate tax commission. The commissioner
 56 may be represented on the commission by an alternate designated
 57 by him the commissioner. The alternate shall be an employee of *
 58 the department of revenue.

290*#173S

59 290.173 MULTISTATE COMPACT ADVISORY COMMITTEE.

60 There is hereby established the multistate tax compact
 61 advisory committee composed of the commissioner of revenue or
 62 the alternate member of the commission designated by him the *
 63 commissioner, the attorney general or his a designee, and two *
 64 members of the senate, appointed by the committee on committees,
 65 and two members of the house of representatives appointed by the
 66 speaker of the house. The chairman chair shall be the member of *
 67 the multistate tax commission, representing the state of
 68 Minnesota. The committee shall meet at the call of its chairman *
 69 chair or at the request of a majority of its members, but in any *
 70 event not less than three times in each year. The committee may
 71 consider any and all matters relating to recommendations of the
 72 multistate tax commission and the activities of the members in
 73 representing the state of Minnesota on the commission.

290*#175S

1 290.175 OPTIONAL APPORTIONMENT.

2 Notwithstanding the provisions of section 290.171, the
3 taxpayer may elect to apportion his income to Minnesota pursuant
4 to this chapter, without regard to section 290.171, article IV.
5 The provisions of section 290.171, article IV, are effective for
6 taxable years beginning after December 31, 1982 and allow
7 combined reporting only to the extent allowed under section
8 290.34, subdivision 2.

290*#18S

9 290.18 TAXABLE NET INCOME, ADJUSTED GROSS INCOME;
10 COMPUTATION.

11 Subdivision 1. TAXABLE NET INCOME. (a) For
12 individuals, taxable net income shall be the same as net income.

13 (b) For all other taxpayers, the taxable net income shall,
14 except insofar as section 290.19 is applicable, be computed by
15 deducting from the gross income assignable to this state under
16 section 290.17 deductions of the kind permitted by section
17 290.09 in accordance with the following provisions:

18 (1) Such deductions shall be allowed to the extent that
19 they are connected with and allocable against the production or
20 receipt of such gross income assignable to this state;

21 (2) That proportion of such deductions, so far as not
22 connected with and allocable against the production or receipt
23 of such gross income assignable to this state and so far as not
24 connected with and allocable against the production or receipt
25 of gross income assignable to other states or countries and so
26 far as not entering into the computation of the net income
27 assignable to this state under section 290.19, shall be allowed
28 which the taxpayer's gross income from sources within this
29 state, as determined under section 290.17, subdivision 2,
30 clauses (1), (2), (3), and (6), bears to his the taxpayer's
31 gross income from all sources, including that entering into the
32 computations provided for by section 290.19; provided that taxes
33 of the kind deductible under section 290.09, subdivision 4,
34 shall, so far as within the description of deductions deductible
35 under this clause, be deductible in their entirety if paid to
36 the state of Minnesota, or any of its subdivisions authorized to
37 impose such taxes, and thereupon be excluded in making the
38 computation of deductions, as in this clause provided.

39 No change for subd 2

40 Subd. 3. FURNISH INFORMATION. No deduction shall be
41 allowed under this section unless the taxpayer, when requested
42 by the commissioner, shall furnish him-with information
43 sufficient to enable him the commissioner to determine the
44 validity and correctness of such deductions.

45 Subd. 4. Repealed, 1Sp1985 c 14 art 1 s 59

290*#20S

46 290.20 NET INCOME; ALLOCATION TO STATE, PETITION FOR
47 OTHER METHODS.

48 Subdivision 1. The methods prescribed by section 290.19
49 shall be presumed to determine fairly and correctly the
50 taxpayer's net income allocable to this state. Any taxpayer
51 feeling aggrieved by the application to-his-case of the methods
52 so prescribed may petition the commissioner for determination of
53 such net income by the use of some other method, including
54 separate accounting. Thereupon, if the commissioner finds on
55 finding that the application of the methods prescribed by
56 section 290.19 will be unjust to the taxpayer, he may allow the
57 use of the methods so petitioned for by the taxpayer, or may
58 determine such net income by other methods if satisfied that
59 such other methods will fairly reflect such net income. A
60 petition within the meaning of this section shall be deemed to
61 have been filed by the taxpayer if the taxpayer-in-his
62 taxpayer's return uses a method other than the methods
63 prescribed by section 290.19, and if such return shall have
64 attached thereto a statement setting forth the reasons for the
65 use of such other method.

66 No change for subd 2

290*#21S

67 290.21 DEDUCTIONS ALLOWED TO CORPORATIONS.

68 No change for subd '1 to 3

69 Subd. 4. (a) 85 percent of dividends received by a
70 corporation during the taxable year from another corporation,
71 when the corporate stock with respect to which dividends are
72 paid does not constitute the stock in trade of the taxpayer or
73 would not be included in the inventory of the taxpayer, or does

1 not constitute property held by the taxpayer primarily for sale
2 to customers in the ordinary course of ~~his~~ the taxpayer's trade *
3 or business, or when the trade or business of the taxpayer does
4 not consist principally of the holding of the stocks and the
5 collection of the income and gains therefrom. The remaining 15
6 percent shall be allowed if the recipient owns 80 percent or
7 more of all the voting stock of the other corporation.

8 (b) If the trade or business of the taxpayer consists
9 principally of the holding of the stocks and the collection of
10 the income and gains therefrom, dividends received by a
11 corporation during the taxable year from another corporation, if
12 the recipient owns 80 percent or more of all the voting stock of
13 the other corporation.

14 (c) The dividend deduction provided in this subdivision
15 shall be allowed only with respect to dividends that are
16 included in a corporation's Minnesota taxable net income for the
17 taxable year.

18 The dividend deduction provided in this subdivision does
19 not apply to a dividend from a corporation which, for the
20 taxable year of the corporation in which the distribution is
21 made or for the next preceding taxable year of the corporation,
22 is a corporation exempt from tax under section 501 of the
23 Internal Revenue Code of 1954, as amended through December 31,
24 1984.

25 The dividend deduction provided in this subdivision applies
26 to the amount of regulated investment company dividends only to
27 the extent determined under section 854(b) of the Internal
28 Revenue Code of 1954, as amended through December 31, 1984.

29 The dividend deduction provided in this subdivision shall
30 not be allowed with respect to any dividend for which a
31 deduction is not allowed under the provisions of section 246(c)
32 of the Internal Revenue Code of 1954, as amended through
33 December 31, 1984.

34 (d) If dividends received by a corporation that does not
35 have nexus with Minnesota under the provisions of Public Law
36 Number 86-272 are included as income on the return of an
37 affiliated corporation permitted or required to file a combined
38 report under section 290.34, subdivision 2, then for purposes of
39 this subdivision the determination as to whether the trade or
40 business of the corporation consists principally of the holding
41 of stocks and the collection of income and gains therefrom shall
42 be made with reference to the trade or business of the
43 affiliated corporation having a nexus with Minnesota.

44 (e) Dividends received by a corporation from another
45 corporation which is organized under the laws of a foreign
46 country or a political subdivision of a foreign country, if the
47 dividends are paid from income arising from sources without the
48 United States, the commonwealth of Puerto Rico, and the
49 possessions of the United States. The deduction provided by
50 this clause does not apply if the corporate stock with respect
51 to which dividends are paid constitutes the stock in trade of
52 the taxpayer, or would be included in the inventory of the
53 taxpayer, or constitutes property held by the taxpayer primarily
54 for sale to customers in the ordinary course of the taxpayer's
55 trade or business, or if the trade or business of the taxpayer
56 consists principally of the holding of stocks and the collection
57 of the income or gains therefrom. No dividend may be deducted
58 under this clause if it is deducted under clause (a).

59 No change for subd 5 to 8

290*#29S

60 290.29 TRANSFEREES, FIDUCIARIES; LIABILITY, TIME LIMIT,
61 NOTICE.

62 No change for subd 1 to 2

63 Subd. 3. TIME LIMIT FOR ASSESSMENT WHERE TAXPAYER
64 DECEASED, CORPORATE EXISTENCE TERMINATED; NOTICE OF LIABILITY.

65 For the purposes of this section, if the taxpayer is
66 deceased, or in the case of a corporation, has terminated its
67 existence, the period of limitation for assessment against the
68 taxpayer shall be the period that would be in effect had death
69 or termination of existence not occurred.

70 In the absence of notice to the commissioner under section
71 290.30 of the existence of a fiduciary relationship, notice of
72 liability enforceable under this section in respect of a tax
73 imposed by this chapter, if mailed to the person subject to the
74 liability at ~~his~~ the person's last known address, shall be *
75 sufficient for the purpose of this title, even if such person is

1 deceased, or is under a legal disability, or, in the case of a
2 corporation, has terminated its existence.

3 As used in this section, the term "transferee" includes
4 heir, legatee, devisee, and distributee.

290*#31S

5 290.31 PARTNERSHIPS; INDIVIDUAL LIABILITY OF PARTNERS.

6 No change for subd 1

7 Subd. 2. INCOME AND CREDITS OF PARTNER. (1) In
8 determining ~~his~~ income tax, each partner shall take into account *
9 separately ~~his~~ the partner's distributive share of the *
10 partnership's

11 (a) gains and losses from sales or exchanges of short-term
12 capital assets as defined in section 290.16, subdivision 3,

13 (b) gains and losses from sales or exchanges of long-term
14 capital assets as defined in section 290.16, subdivision 3,

15 (c) gains and losses from sales or exchanges of property
16 described in section 1231 of the Internal Revenue Code of 1954,
17 as amended through December 31, 1984 (relating to certain
18 property used in a trade or business and involuntary
19 conversions),

20 (d) charitable contributions as defined in section 170(c)
21 of the Internal Revenue Code of 1954, as amended through
22 December 31, 1984,

23 (e) dividends with respect to which there is provided an
24 exclusion under section 116 or a deduction under sections 241 to
25 247 of the Internal Revenue Code of 1954, as amended through
26 December 31, 1984,

27 (f) other items of income, gain, loss, deduction, or
28 credit, to the extent provided by rules prescribed by the
29 commissioner, and

30 (g) taxable net income or loss, exclusive of items
31 requiring separate computation under other subparagraphs of this
32 paragraph (1).

33 (2) The character of any item of income, gain, loss,
34 deduction, or credit included in a partner's distributive share
35 under paragraphs (a) through (f) of paragraph (1) shall be
36 determined as if such item were realized directly from the
37 source from which realized by the partnership, or incurred in
38 the same manner as incurred by the partnership.

39 (3) In any case where it is necessary to determine the
40 gross income of a partner for purposes of this chapter, such
41 amount shall include ~~his~~ the partner's distributive share of the *
42 gross income of the partnership.

43 No change for subd 3 to 4

44 Subd. 5. DETERMINATION OF BASIS OF PARTNER'S INTEREST.

45 The adjusted basis of a partner's interest in a partnership
46 shall, except as provided in the last paragraph of this
47 subdivision, be the basis of such interest determined under
48 section 722 or 742 of the Internal Revenue Code of 1954, as
49 amended through December 31, 1984, relating to contributions to
50 a partnership or transfers of partnership interests

51 (1) increased by the sum of ~~his~~ the partner's distributive *
52 share for the taxable year and prior taxable years of

53 (a) net income of the partnership as determined under
54 subdivision 3(1) and (2),

55 (b) income of the partnership exempt from tax under this
56 chapter,

57 (c) the excess of the deductions for depletion over the
58 basis of the property subject to depletion, and

59 (2) decreased (but not below zero) by distributions by the
60 partnership as provided in section 733 of the Internal Revenue
61 Code of 1954, as amended through December 31, 1984, and by the
62 sum of ~~his~~ the partner's distributive share for the taxable year *
63 and prior taxable years of

64 (a) losses of the partnership, and

65 (b) expenditures of the partnership not deductible in
66 computing its taxable net income and not properly chargeable to
67 capital account, and

68 (3) decreased, but not below zero, by the amount of the
69 partner's deduction for depletion for any partnership oil and
70 gas property to the extent the deduction does not exceed the
71 proportionate share of the adjusted basis of the property
72 allocated to the partner under section 613A(c)(7)(D) of the
73 Internal Revenue Code of 1954, as amended through December 31,
74 1984. For corporate partners, the deduction for depletion with
75 respect to oil and gas wells shall be computed as provided in

1 section 290.09, subdivision 8.

2 The commissioner shall prescribe by rule the circumstances
3 under which the adjusted basis of a partner's interest in a
4 partnership may be determined by reference to ~~his~~ the partner's
5 proportionate share of the adjusted basis of partnership
6 property upon a termination of the partnership.

7 Subd. 6. Repealed, 1982 c 523 art 1 s 72

8 Subd. 7. Repealed, 1982 c 523 art 1 s 72

9 Subd. 8. Repealed, 1982 c 523 art 1 s 72

10 Subd. 8a. Repealed, 1982 c 523 art 1 s 72

11 Subd. 9. Repealed, 1982 c 523 art 1 s 72

12 Subd. 10. Repealed, 1982 c 523 art 1 s 72

13 Subd. 11. Repealed, 1982 c 523 art 1 s 72

14 Subd. 12. Repealed, 1982 c 523 art 1 s 72

15 Subd. 13. Repealed, 1982 c 523 art 1 s 72

16 Subd. 14. Repealed, 1982 c 523 art 1 s 72

17 Subd. 15. Repealed, 1982 c 523 art 1 s 72

18 Subd. 16. Repealed, 1982 c 523 art 1 s 72

19 Subd. 17. Repealed, 1982 c 523 art 1 s 72

20 Subd. 18. Repealed, 1982 c 523 art 1 s 72

21 No change for subd 19 to 27

290*#32S

22 290.32 TAXES FOR PART OF YEAR, COMPUTATION.

23 When under this chapter a taxpayer is permitted or required
24 to make a return for a fractional part of a year, the tax shall
25 be computed in the same manner as if such fractional part of a
26 year were an entire year, except:

27 (1) ~~When~~ A taxpayer who is permitted to change the basis
28 for reporting ~~his~~ income from a fiscal to a calendar year, ~~he~~
29 shall make a separate return for the period between the close of
30 ~~his~~ the taxpayer's last fiscal year and the following December
31 thirty-first; if the change is from a calendar to a fiscal year,
32 a separate return shall be made for the period between the close
33 of ~~his~~ the taxpayer's last calendar year and the date designated
34 as the close of the fiscal year; and if the change is from one
35 fiscal year to another fiscal year, a separate return shall be
36 made for the period between the close of the former fiscal year
37 and the date designated as the close of the new fiscal year.
38 The taxable net income, or for corporations the taxable net
39 income as reduced by the deductions contained in section 290.21,
40 for any such period shall be put on an annual basis by
41 multiplying the amount thereof by 12 and dividing by the number
42 of months included in the period for which such separate return
43 is made; and the tax shall be that part of a tax, computed on
44 the taxable net income put on such annual basis which the number
45 of months in such period bears to 12 months.

46 (2) Where any of the enumerated changes in accounting
47 period referred to in clause (1) involve a 52-53 week fiscal
48 year and any such change results in a short period of less than
49 seven days, such short period shall be added to and deemed a
50 part of the following taxable year. If the change results in a
51 short period of seven or more days, but less than 359 days, the
52 taxable net income, or for corporations the taxable net income
53 as reduced by the deductions contained in section 290.21, for
54 any such period shall be placed on an annual basis by
55 multiplying such income by 365 and dividing the result by the
56 same number of days in the short period; and the tax shall be
57 that part of a tax, computed on the taxable net income placed on
58 such annual basis which the number of days in such short period
59 bears to 365 days. Where the short period is 359 days or more,
60 the tax shall be computed in the same manner as if such short
61 period were an entire year.

290*#34S

62 290.34 CORPORATIONS, SPECIAL PROVISIONS.

63 No change for subd 1

64 Subd. 2. AFFILIATED OR RELATED CORPORATIONS, COMBINED
65 REPORT. When a corporation which is required to file an
66 income tax return is affiliated with or related to any other
67 corporation through stock ownership by the same interests or as
68 parent or subsidiary corporations, or has its income regulated
69 through contract or other arrangement, the commissioner of
70 revenue may permit or require such combined report as, in ~~his~~
71 the commissioner's opinion, is necessary in order to determine
72 the taxable net income of any one of the affiliated or related
73 corporations. For purposes of computing either the arithmetic
74 average or weighted apportionment formulas under section 290.19,

1 subdivision 1 for each corporation involved, the numerator of
 2 the fraction shall be that corporation's sales, property, and
 3 payroll in Minnesota and the denominator shall be the total
 4 sales, payroll, and property of all the corporations shown on
 5 the combined report. The combined report shall reflect the
 6 income of the entire unitary business as provided in section
 7 290.17, subdivision 2, clause (4). The combined report shall
 8 reflect income only from corporations created or organized in
 9 the United States or under the laws of the United States or of
 10 any state, the District of Columbia, the commonwealth of Puerto
 11 Rico, any possession of the United States, or any political
 12 subdivision of any of the foregoing. All intercompany
 13 transactions between companies which are contained on the
 14 combined report shall be eliminated. This subdivision shall not
 15 apply to insurance companies whose income is determined under
 16 section 290.35 or to investment companies whose income is
 17 determined under section 290.36.

18 Subd. 3. Repealed, 1983 c 15 s 33

19 Subd. 4. Repealed, 1980 c 419 s 46

290*#36S

20 290.36 INVESTMENT COMPANIES; REPORT OF NET INCOME;
 21 COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.

22 The taxable net income of investment companies shall be
 23 computed and be exclusively as follows:

24 Each investment company transacting business as such in
 25 this state shall report to the commissioner the net income
 26 returned by the company for the taxable year to the United
 27 States under the provisions of the Internal Revenue Code of
 28 1954, as amended through December 31, 1983, less the credits
 29 provided therein. The commissioner shall compute therefrom the
 30 taxable net income of the investment company by assigning to
 31 this state that proportion of such net income, less such credits
 32 which the aggregate of the gross payments collected by the
 33 company during the taxable year from old and new business upon
 34 investment contracts issued by the company and held by residents
 35 of this state, bears to the total amount of the gross payments
 36 collected during such year by the company from such business
 37 upon investment contracts issued by the company and held by
 38 persons residing within the state and elsewhere.

39 As used in this section, the term "investment company"
 40 means any person, co-partnership, association, or corporation,
 41 whether local or foreign, coming within the purview of section
 42 54.26, and who or which is registered under the Investment
 43 Company Act of 1940 (15 U.S.C. 80a-1 and following), and who or
 44 which solicits or receives payments to be made to ~~himself or~~ *
 45 itself and which issues therefor, or has issued therefor and has
 46 or shall have outstanding so-called bonds, shares, coupons,
 47 certificates of membership, or other evidences of obligation or
 48 agreement or pretended agreement to return to the holders or
 49 owners thereof money or anything of value at some future date;
 50 and as to whom the gross payments received during the taxable
 51 year in question upon outstanding investment contracts, plus
 52 interest and dividends earned on investment contracts determined
 53 by prorating the total dividends and interest for the taxable
 54 year in question in the same proportion that certificate
 55 reserves as defined by the Investment Company Act of 1940 is to
 56 total assets, shall be at least 50 percent of the company's
 57 gross payments upon investment contracts plus gross income from
 58 all other sources except dividends from subsidiaries for the
 59 taxable year in question. The term "investment contract" shall
 60 mean any such so-called bonds, shares, coupons, certificates of
 61 membership, or other evidences of obligation or agreement or
 62 pretended agreement issued by an investment company.

290*#37S

63 290.37 FILING REQUIREMENTS.

64 Subdivision 1. PERSONS MAKING RETURNS. (a) The
 65 commissioner of revenue shall annually determine the gross
 66 income levels at which individuals, trusts, and estates shall be
 67 required to file a return for each taxable year. An individual
 68 who is not a Minnesota resident for any part of the year is not
 69 required to file a Minnesota income tax return if the
 70 individual's Minnesota gross income computed under section
 71 290.06, subdivision 2c, clause (f)(1) is less than the filing
 72 requirements for an individual who is a full year resident of
 73 Minnesota with the same marital status and number of personal
 74 credits.

1 The decedent's final income tax return, and all other
2 income tax returns for prior years where the decedent had gross
3 income in excess of the minimum amount at which an individual is
4 required to file and did not file, shall be filed by ~~his-or-her~~ *
5 the decedent's personal representative, if any. If there is no *
6 personal representative, the return or returns shall be filed by
7 the transferees as defined in section 290.29, subdivision 3, who
8 receive any property of the decedent.

9 The trustee or other fiduciary of property held in trust
10 shall file a return with respect to the taxable net income of
11 such trust if that exceeds an amount determined by the
12 commissioner if such trust belongs to the class of taxable
13 persons.

14 Every corporation shall file a return. The commissioner
15 may adopt rules for the filing of one return on behalf of the
16 members of an affiliated group of corporations that are required
17 to file a combined report if the affiliated group includes a
18 corporation subject to tax under section 290.361. The return in
19 the case of a corporation shall be signed by a person designated
20 by the corporation.

21 The receivers, trustees in bankruptcy, or assignees
22 operating the business or property of a taxpayer shall file a
23 return with respect to the taxable net income of such taxpayer
24 if a return is required.

25 (b) Such return shall (1) contain a written declaration
26 that it is correct and complete, and (2) shall contain language
27 prescribed by the commissioner providing a confession of
28 judgment for the amount of the tax shown due thereon to the
29 extent not timely paid.

30 (c) For purposes of this subdivision the term "gross income"
31 shall mean gross income as defined in section 61 of the Internal
32 Revenue Code of 1954, as amended through December 31, 1983,
33 modified and adjusted in accordance with the provisions of
34 sections 290.01, subdivision 20b, clauses (1), (6), (7), and
35 (8), 290.08, and 290.17.

36 Subd. 2. VERIFICATION. If a return is prepared for
37 a taxpayer by a person (or persons) or a firm (including
38 partnerships, corporations, etc.), the individual or firm
39 responsible for such preparation shall complete the statement of
40 verification provided on the income return forms in the
41 following manner:

42 (a) If the person (or persons), responsible for the
43 preparation of the return is an individual acting in his-own a *
44 personal capacity, the statement of verification shall be signed *
45 by such individual;

46 (b) If a firm is responsible for the preparation of the
47 return, the statement of verification shall be signed with the
48 firm name. However, if the firm name is stamped or typed, it
49 should be followed by the signature of a person authorized to
50 sign the verification on behalf of the firm. The firm may
51 authorize any officer, member, or employee to sign the
52 verification.

53 Such verification is not required if the actual preparation
54 of the return is a regular and usual incident of the employment
55 of one regularly and continuously employed for full time by the
56 person for whom the return is made (such as a clerk, secretary,
57 bookkeeper, etc.).

58 Subd. 3. INFORMATION INCLUDED IN RETURN. The return
59 provided for herein shall require a statement of the name of the
60 taxpayer, or taxpayers, if the return be a joint return, and the
61 address of such taxpayer in the same name or names and same
62 address as the taxpayer has used in making his the taxpayer's *
63 income tax return to the United States under the terms of the *
64 internal revenue code of 1954, and shall include the social
65 security number of the taxpayer, or taxpayers, if a social
66 security number has been issued by the United States with
67 respect to said taxpayers, and shall include the amount of the
68 adjusted gross income of such taxpayer as the same appears on
69 said return to the United States internal revenue service for
70 the taxable year to which such Minnesota state return is
71 applicable; and the commissioner may require the taxpayer to
72 attach to his the taxpayer's Minnesota state income tax return a *
73 copy of the federal income tax return which he the taxpayer has *
74 filed or is about to file for such period.

75 Subd. 4. FURNISHING OF SOCIAL SECURITY NUMBER; PENALTY.

76 (a) Any individual with respect to whom a return, statement,

1 or other document is required under this chapter to be made by
 2 another person shall furnish to that other person the
 3 individual's social security account number. Any person
 4 required under this chapter to make a return, statement, or
 5 other document with respect to another person who is an
 6 individual shall request from that individual and shall include
 7 in the return, statement, or other document, the individual's
 8 social security account number. A return of an estate or trust
 9 with respect to its liability for tax, and any statement or
 10 other document in support thereof, shall be considered as a
 11 return, statement, or other document with respect to each
 12 individual beneficiary of the estate or trust, otherwise a
 13 return of any individual with respect to ~~his~~ the individual's *
 14 liability for tax, or any statement or other document in support
 15 thereof, shall not be considered as a return, statement, or
 16 other document with respect to another person. *

17 (b) If any person who is required under clause (a) to (1)
 18 furnish ~~his~~ the person's social security account number to *
 19 another person, or (2) include in any return, statement, or
 20 other document made with respect to another person who is an
 21 individual the social security account number of that
 22 individual; fails to comply with the requirement at the time
 23 prescribed, that person shall, unless it is shown that the
 24 failure is due to reasonable cause and not to willful neglect,
 25 pay a penalty of \$50 for each failure except that the total
 26 amount imposed on a person for all failures during any calendar
 27 year shall not exceed \$25,000.

290*#38S

28 290.38 RETURNS OF MARRIED PERSONS.

29 A husband and wife must file a joint Minnesota income tax
 30 return if they filed a joint federal income tax return. If a
 31 joint return is made the tax shall be computed on the aggregate
 32 income and the liability with respect to the tax shall be joint
 33 and several. If the husband and wife have elected to file
 34 separate federal income tax returns they must file separate
 35 Minnesota income tax returns. This election to file a joint or
 36 separate returns must be changed if they change their election
 37 for federal purposes. In the event taxpayers desire to change
 38 their election, such change shall be done in the manner and on
 39 such form as the commissioner shall prescribe by rule.

40 The determination of whether an individual is married is
 41 made as of the close of that person's taxable year; except that
 42 if that person's spouse dies during the taxable year the
 43 determination is made as of the time of the death. An
 44 individual who is legally separated from a spouse under a decree
 45 of divorce, dissolution, or of separate maintenance is not
 46 considered to be married.

47 In the case of the death of one spouse or both spouses the
 48 joint return with respect to the decedent may be made only by
 49 the personal representative of ~~his~~ the decedent's estate; except *
 50 that in the case of the death of one spouse the joint return may *
 51 be made by the surviving spouse with respect to both ~~himself~~ the *
 52 survivor and the decedent if (a) no return for the taxable year *
 53 has been made by the decedent, (b) no personal representative
 54 has been appointed, and (c) no personal representative is
 55 appointed before the last day prescribed by law for filing the
 56 return of the surviving spouse. If a personal representative of
 57 the estate of the decedent is appointed after the joint return
 58 has been filed by the surviving spouse, the personal
 59 representative may disaffirm such joint return by filing, within
 60 one year after the last day prescribed by law for filing the
 61 return of the surviving spouse, a separate return for the
 62 taxable year of the decedent with respect to which the joint
 63 return was made, in which case the return made by the survivor
 64 shall constitute ~~his~~ the survivor's separate return provided *
 65 that the election has been also disaffirmed for federal purposes.

290*#39S

66 290.39 RETURN; FORM AND FILING.

67 No change for subd 1

68 Subd. 1a. TAX TABLES. Notwithstanding any other
 69 provision of this chapter to the contrary, the commissioner may, *
 70 ~~in his discretion,~~ prepare tables for computing the tax for *
 71 individuals, estates, and trusts which may reflect the allowance
 72 of personal and dependent credits or which may reflect the
 73 allowance of the standard deduction and the personal and
 74 dependent credits.

1 Subd. 2. Repealed, 1Sp1985 c 14 art 1 s 59

2 Subd. 3. ~~SHORT FORM.~~ The commissioner may ~~in his~~ *
3 ~~discretion,~~ provide for use a short form individual income tax *
4 return which shall be in the form and provide for items as the
5 commissioner may prescribe which are consistent with the
6 provisions of this chapter, notwithstanding any other law to the
7 contrary. The political checkoff provided in section 10A.31
8 shall be included on the short form.

290*#391S

9 290.391 AMENDED RETURNS. *

10 Any taxpayer ~~who finds that his~~ whose income tax return as *
11 originally filed is in error may correct such error by filing an
12 amended return. An amended return must be in the form the
13 commissioner prescribes. If the tax shown due on the amended
14 return is less than the tax shown due on the original return,
15 the amended return constitutes a claim for refund pursuant to
16 section 290.50. The time limitations contained in sections
17 290.49 and 290.50 apply to filing of an amended return. The
18 filing of the original return starts the running of the statute
19 of limitations provided in section 290.49.

290*#40S

20 290.40 ANNUAL RETURN, EXCEPTIONS.

21 The return shall cover a 12-month period, except in the
22 following cases:

23 (1) The return made by or for any taxpayer who was in
24 existence for less than the whole of a taxable year shall cover
25 that part of the taxable year during which such taxpayer was in
26 existence;

27 (2) A taxpayer who, in keeping ~~his~~ books, regularly *
28 computes ~~his~~ income on the basis of an annual period which *
29 varies from 52 to 53 weeks and ends always on the same day of
30 the week, and ends always (a) on whatever date such same day of
31 the week last occurs in a calendar month or (b) on whatever date
32 such same day of the week falls which is nearest to the last day
33 of a calendar month, may, in accordance with regulations
34 prescribed by the commissioner, elect to compute ~~his~~ the *
35 taxpayer's net income and taxable net income on the basis of *
36 such annual period. In any case in which the effective date or
37 the applicability of any provision of this chapter is expressed
38 in terms of taxable years beginning or ending with reference to
39 a specified date which is the first or last day of a month, a
40 taxable year described herein shall be treated as beginning with
41 the first day of the calendar month beginning nearest to the
42 first day of such taxable year, or as ending with the last day
43 of the calendar month ending nearest to the last day such
44 taxable year, as the case may be;

45 (3) A taxpayer who changes from one taxable year to another
46 shall make a return from the fractional parts of a year, as
47 specified in section 290.32.

290*#41S

48 290.41 INFORMATION RETURNS.

49 No change for subd 1 to 2

50 Subd. 3. BY BROKERS. The commissioner of revenue may *
51 require every person doing business as a broker to furnish ~~him~~ *
52 the commissioner with the name and address of each customer for *
53 whom they have transacted business, and with such details
54 regarding gross proceeds and other information as to
55 transactions of any customer as will enable ~~him~~ the commissioner *
56 to determine whether all income tax due on profits or gains of
57 such customers has been paid. The provisions of section 6045 of
58 the Internal Revenue Code of 1954, as amended through December
59 31, 1983, which define terms and provide the requirements that a
60 statement be furnished to the customer shall apply.

61 Subd. 4. BY AGENTS. The commissioner may require *
62 any person acting as agent for another to make a return giving
63 such information as may be reasonably necessary to properly
64 assess and collect the tax imposed by this chapter upon the
65 person for whom ~~he~~ the agent acts. *

66 Subd. 5. Repealed, 1Sp1985 c 14 art 1 s 59

67 No change for subd 6 to 11

290*#42S

68 290.42 FILING RETURNS, DATE.

69 The returns required to be made under sections 290.37 to
70 290.39 and 290.41, other than those under section 290.41,
71 subdivisions 3 and 4, which shall be made within 30 days after
72 demand therefor by the commissioner, shall be filed at the

1 following times:

2 (1) Returns made on the basis of the calendar year shall be
3 filed on the fifteenth day of April, following the close of the
4 calendar year, except that returns of corporations shall be
5 filed on the fifteenth day of March following the close of the
6 calendar year;

7 (2) Returns made on the basis of the fiscal year shall be
8 filed on the fifteenth day of the fourth month following the
9 close of such fiscal year, except that returns of corporations
10 shall be filed on the fifteenth day of the third month following
11 the close of the fiscal year;

12 (3) Returns made for a fractional part of a year as an
13 incident to a change from one taxable year to another shall be
14 filed on the fifteenth day of the fourth month following the
15 close of the period for which made, except that such returns of
16 corporations shall be filed on the fifteenth day of the third
17 month following the close of the period for which made;

18 (4) Other returns for a fractional part of a year shall be
19 filed on the fifteenth day of the fourth month following the end
20 of the month in which falls the last day of the period for which
21 the return is made, except that such returns of corporations
22 shall be filed on the fifteenth day of the third month following
23 the end of the month in which falls the last day of the period
24 for which the return is made;

25 In the case of a final return of a decedent for a
26 fractional part of a year, such return shall be filed on the
27 fifteenth day of the fourth month following the close of the
28 12-month period which began with the first day of such
29 fractional part of a year.

30 (4a) In the case of the return of a cooperative association
31 such returns shall be filed on or before the fifteenth day of
32 the ninth month following the close of the taxable year.

33 (5) If the due date for any return required under this
34 chapter falls upon:

35 A Saturday, Sunday, or a legal holiday such return filed by
36 the next succeeding day which is not a Saturday, Sunday, or
37 legal holiday shall be considered to be timely filed. The term
38 "legal holiday" means any day made a holiday in Minnesota by
39 section 645.44, subdivision 5 or by the laws of the United
40 States.

41 (6) In case of sickness, absence, or other disability, or
42 when, in his the commissioner's judgment, good cause exists, the *
43 commissioner may extend the time for filing these returns for
44 not more than six months, except as provided for corporations
45 and except that where the failure is due to absence outside the *
46 United States he the commissioner may extend the period as *
47 provided in section 6081 of the Internal Revenue Code of 1954,
48 as amended through December 31, 1983. He The commissioner may *
49 require each taxpayer in any of such cases to file a tentative
50 return at the time fixed for filing the regularly required *
51 return from him the taxpayer, and to pay a tax on the basis of *
52 such tentative return at the times required for the payment of
53 taxes on the basis of the regularly required return from such
54 taxpayer. The commissioner may grant an extension of up to seven
55 months for filing the return of a corporation subject to tax
56 under this chapter if the corporation files a tentative return
57 at the time fixed for filing the regularly required return and
58 pays the tax on the basis of the tentative return in accordance
59 with this section and section 290.45.

60 (7) Every person making a return under section 290.41
61 (except subdivisions 3 and 4) shall furnish to each person whose
62 name is set forth in the return a written statement showing

63 (A) the name and address of the person making the return,
64 and

65 (B) the aggregate amount of payments to the person shown on
66 the return.

67 This written statement shall be furnished to the person on
68 or before January 31 of the year following the calendar year for
69 which the return was made. A duplicate of this written
70 statement shall be furnished to the commissioner on or before
71 February 28 of the year following the calendar year for which
72 the return was made.

290*#43S

73 290.43 RETURNS, WHERE FILED.

74 The returns required to be made under sections 290.37 to
75 290.39 and 290.41 shall be filed ~~with the commissioner~~ at his *

1 the commissioner's office in St. Paul, or such other place as *
2 the commissioner may designate.

290*#44S

3 290.44 PAYMENT OF TAX, WHO MUST PAY.

4 The taxes imposed by this chapter, and interest and
5 penalties imposed with respect thereto, shall be paid by the
6 taxpayer upon whom imposed, except in the following cases:

7 (1) The tax due from a decedent for that part of the
8 taxable year in which ~~he~~ the decedent died during which ~~he~~ the *
9 decedent was alive and the taxes, interest, and penalty due for *
10 any and all prior years shall be paid by ~~his~~ the decedent's *
11 personal representative, if any. If there is no personal
12 representative, the taxes, interest, and penalty shall be paid
13 by the transferees, as defined in section 290.29, subdivision 3,
14 to the extent they receive property from the decedent;

15 (2) The tax due from an infant or other incompetent person
16 shall be paid by ~~his~~ the person's guardian or other person *
17 authorized or permitted by law to act for ~~him~~ the person; *

18 (3) The tax due from the estate of a decedent shall be paid
19 by the personal representative thereof;

20 (4) The tax due from a trust, including those within the
21 definition of corporation, shall be paid by the trustee or
22 trustees;

23 (5) The tax due from a taxpayer whose business or property
24 is in charge of a receiver, trustee in bankruptcy, assignee, or
25 other conservator, shall be paid by the person in charge of such
26 business or property so far as the tax is due to the income from
27 such business or property.

290*#46S

28 290.46 EXAMINATION OF RETURNS; ASSESSMENTS, REFUNDS.

29 The commissioner shall, as soon as practicable after the
30 return is filed, examine the same and make any investigation or
31 examination of the taxpayer's records and accounts that ~~he~~ the *
32 commissioner may deem necessary for determining the correctness *
33 of the return. The tax computed by ~~him~~ the commissioner on the *
34 basis of such examination and investigation shall be the tax to
35 be paid by such taxpayer. If the tax found due shall be greater
36 than the amount reported as due on the taxpayer's return, the
37 commissioner shall assess a tax in the amount of such excess and
38 the whole amount of such excess shall be paid to the
39 commissioner within 60 days after notice of the amount and
40 demand for its payment shall have been mailed to the taxpayer by
41 the commissioner. If the understatement of the tax on the
42 return was false and fraudulent with intent to evade the tax,
43 the installments of the tax shown by the taxpayer on ~~his~~ the *
44 return which have not yet been paid shall be paid to the
45 commissioner within 60 days after notice of the amount thereof
46 and demand for payment shall have been mailed to the taxpayer by
47 the commissioner. If the amount of the tax found due by the
48 commissioner shall be less than that reported as due on the
49 taxpayer's return, the excess shall be refunded to the taxpayer
50 in the manner provided by section 290.50 (except that no demand
51 therefor shall be necessary), if ~~he~~ the taxpayer has already *
52 paid the whole of such tax, or credited against any unpaid
53 installment thereof; provided, that no refundment shall be made
54 except as provided in section 290.50.

55 If The commissioner examines, on examining returns of a *
56 taxpayer for more than one year, ~~he~~ may issue one order covering *
57 the several years under consideration reflecting the aggregate
58 refund or additional tax due.

59 The notices and demands provided for by sections 290.46 to
60 290.48 shall be in such form as the commissioner may determine
61 (including a statement) and shall contain a brief explanation of
62 the computation of the tax and shall be sent by mail to the
63 taxpayer at the address given in ~~his~~ the return, or to ~~his~~ the *
64 taxpayer's last known address. *

65 In cases where there has been an overpayment of a
66 self-assessed liability as shown on the return filed by the
67 taxpayer, the commissioner may refund such overpayment to the
68 taxpayer and no demand therefor shall be necessary; further,
69 written findings by the commissioner, notice by mail to the
70 taxpayer and certificate for refundment by the commissioner
71 shall not be necessary and the provisions of section 270.10, in
72 such case, shall not be applicable.

73 In the case of an individual, estate or trust, the
74 commissioner may audit and adjust the taxpayer's computation of

1 federal adjusted gross income (or federal taxable income for
 2 estates or trusts) to make it properly conform with the
 3 provisions of section 290.01, subdivision 20, or the items of
 4 federal tax preferences or federal credit amounts to make them
 5 properly conform with the provisions of this chapter. In the
 6 case of an individual, the commissioner may audit and adjust the
 7 taxpayer's computation of itemized deductions to make them
 8 properly conform with the provisions of section 290.089.

290*#47S

9 290.47 ASSESSMENT; FAILURE TO FILE RETURN, FALSE OR
 10 FRAUDULENT RETURN FILED.

11 If Any person or corporation required by this chapter to *
 12 file any return who shall fail to do so within the time *
 13 prescribed by this chapter or by regulations under the authority *
 14 thereof, or shall make, wilfully or otherwise, an incorrect, *
 15 false, or fraudulent return, he shall, on the written demand of *
 16 the commissioner, file such return, or corrected return, within *
 17 30 days after the mailing of such written demand and at the same *
 18 time pay the whole tax, or additional tax, due on the basis *
 19 thereof. If such taxpayer shall fail within that time to file *
 20 such return, or corrected return, the commissioner shall make *
 21 for him the taxpayer a return, or corrected return, from his the *
 22 commissioner's own knowledge and from such information as he the *
 23 commissioner can obtain through testimony, or otherwise, and *
 24 assess a tax on the basis thereof, which tax (less any payments *
 25 theretofore made on account of the tax for the taxable year *
 26 covered by such return) shall be paid within 60 days after the *
 27 commissioner has mailed to such taxpayer a written notice of the *
 28 amount thereof and demand for its payment. Any such return or *
 29 assessment made by the commissioner on account of the failure of *
 30 the taxpayer to make a return, or a corrected return, shall be *
 31 prima facie correct and valid, and the taxpayer shall have the *
 32 burden of establishing its incorrectness or invalidity in any *
 33 action or proceeding in respect thereto.

290*#48S

34 290.48 DELINQUENT TAXES, COLLECTION.

35 Subd. 3. COLLECTION JEOPARDIZED BY DELAY. The
 36 commissioner may proceed under the provisions of section 270.70
 37 ~~when he has on having~~ reasonable grounds for believing that the *
 38 collection of any taxes, interest, or penalties due under this *
 39 chapter will be jeopardized by delays incident to other methods *
 40 of collection; and, in such cases, no preliminary notice and *
 41 demand shall be required.

42 Subd. 4. ASSESSMENT JEOPARDIZED BY DELAY. If the
 43 commissioner has reasonable grounds for believing that a
 44 taxpayer is about to ~~remove-himself~~ leave, or his take property *
 45 from, this state with the purpose of evading the tax imposed by *
 46 this chapter, or that the collection of the tax will be *
 47 jeopardized by delays incident to other methods of *
 48 collection, he the commissioner may immediately declare the *
 49 taxpayer's taxable year at an end and assess a tax on the basis *
 50 of his the commissioner's own knowledge or information available *
 51 to him the commissioner, mail the taxpayer written notice of the *
 52 amount thereof, at his the taxpayer's last known address, demand *
 53 its immediate payment; and, if payment is not immediately made, *
 54 collect the tax by any method prescribed in chapter 270, except *
 55 that it need not await the expiration of the periods of time *
 56 therein specified.

57 No change for subd 5 to 7

58 Subd. 8. TAX PRESUMED VALID. The tax, as assessed by
 59 the commissioner, with any penalties included therein, shall be
 60 presumed to be valid and correctly determined and assessed, and
 61 the burden shall be upon the taxpayer to show its incorrectness
 62 or invalidity. Any statement filed by the commissioner with the
 63 clerk of court, or any other certificate by the commissioner of
 64 the amount of the tax and penalties as determined or assessed by
 65 him the commissioner, shall be admissible in evidence and shall *
 66 establish prima facie the facts set forth therein.

67 Subd. 9. Repealed, 1982 c 523 art 2 s 49

68 Subd. 10. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF
 69 CASH IS NOT IDENTIFIED. (a) If the individual who is in
 70 physical possession of cash in excess of \$10,000 does not claim
 71 such cash ~~as his~~, or ~~as belonging~~ claim it belongs to another *
 72 person whose identity the commissioner can readily ascertain and *
 73 who acknowledges ownership of such cash, then, for purposes of *
 74 subdivisions 3 and 4, it shall be presumed that the cash

1 represents gross income of a single individual for the taxable
2 year in which the possession occurs, and that the collection of
3 tax will be jeopardized by delay.

4 (b) In the case of any assessment resulting from the
5 application of clause (a), the entire amount of the cash shall
6 be treated as taxable income for the taxable year in which the
7 possession occurs, such income shall be treated as taxable at an
8 eight percent rate, and except as provided in clause (c), the
9 possessor of the cash shall be treated (solely with respect to
10 the cash) as the taxpayer for purposes of this chapter and the
11 assessment and collection of the tax.

12 (c) If, after an assessment resulting from the application
13 of clause (a), the assessment is abated and replaced by an
14 assessment against the owner of the cash, the later assessment
15 shall be treated for purposes of all laws relating to lien,
16 levy, and collection as relating back to the date of the
17 original assessment.

18 (d) For purposes of this subdivision, the definitions
19 contained in section 6867 of the Internal Revenue Code of 1954,
20 as amended through December 31, 1983, shall apply.

290*#49S

21 290.49 TIME LIMIT ON ASSESSMENT, COLLECTION.

22 No change for subd 1

23 Subd. 2. ASSESSMENT, COURT PROCEEDINGS; INCOME IN
24 RESPECT OF DECEDENT, INCOME TO TRUSTEE, FIDUCIARY, CORPORATION.

25 In the case of income received during the lifetime of a
26 decedent, or by ~~his~~ the decedent's estate during the period of *
27 administration, or by a trustee of a terminating trust or other
28 fiduciary who, because of custody of assets, would be liable for
29 the payment of tax under section 290.54, or by a corporation,
30 the tax shall be assessed within 18 months, and any proceeding
31 in court for the collection of such tax shall be begun within
32 two years after written request for such assessment (filed after
33 the return is made and in such form as the commissioner may
34 prescribe) by the personal representative or other fiduciary
35 representing the estate of such decedent, or by the trustee of a
36 terminating trust or other fiduciary who, because of custody of
37 assets, would be liable for the payment of tax under section
38 290.54, or by the corporation, but except as provided in
39 subdivision 8, no assessment shall be made after the expiration
40 of three and one-half years after the return was filed, and no
41 action shall be brought after the expiration of four years after
42 the return was filed.

43 This subdivision shall not apply in the case of a
44 corporation unless

45 (1) such written request notifies the commissioner that the
46 corporation contemplates dissolution at or before the expiration
47 of such 18-months period; and

48 (2) the dissolution is in good faith begun before the
49 expiration of such 18-months period; and

50 (3) the dissolution is completed.

51 No change for subd 3 to 8

52 Subd. 10. INCORRECT DETERMINATION OF FEDERAL ADJUSTED
53 GROSS INCOME. Notwithstanding any other provision of this
54 chapter, if a taxpayer whose gross income is determined under
55 section 290.01, subdivisions 20 to 20f, omits from income such
56 an amount as will under the Internal Revenue Code of 1954, as
57 amended through December 31, 1983 extend the statute of
58 limitations for the assessment of federal income taxes; or
59 otherwise incorrectly determines ~~his~~ the taxpayer's federal *
60 adjusted gross income resulting in adjustments by the Internal
61 Revenue Service then the period of assessment and determination
62 of tax shall be the same as that under the Internal Revenue Code
63 of 1954, as amended through December 31, 1983. When a change is
64 made to federal income during the extended time provided under
65 this subdivision, the provisions under section 290.56 regarding
66 additional extensions apply.

67 No change for subd 11

290*#50S

68 290.50 OVERPAYMENTS, CLAIMS FOR REFUND OR CREDITS.

69 Subdivision 1. PROCEDURE, TIME LIMIT. (a) A taxpayer
70 who has paid or from whom there has been collected an amount of
71 tax for any year in excess of the amount legally due for that
72 year, may file with the commissioner a claim for a refund of
73 such excess. Except as otherwise provided in this section, no
74 claim or refund shall be allowed or made after 3-1/2 years from

1 the date prescribed for filing the return (plus any extension of
2 time granted for filing the return, but only if filed within the
3 extended time) or after two years from the date of overpayment,
4 whichever period is longer, unless before the expiration of the
5 period a claim is filed by the taxpayer. For this purpose an
6 income tax return or amended return claiming an overpayment
7 shall constitute a claim for refund.

8 (b) If no claim was filed, the credit or refund shall not
9 exceed the amount which would be allowable if a claim was filed
10 on the date the credit or refund is allowed.

11 (c) If a claim relates to an overpayment on account of a
12 failure to deduct a loss due to a bad debt or to a security
13 becoming worthless, the claim shall be allowed if filed within
14 seven years from the date prescribed in section 290.42 for the
15 filing of the return, and the refund or credit shall be limited
16 to the amount of overpayment attributable to the loss.

17 (d) For purposes of this section, the prepayment of tax
18 made through the withholding of tax at the source, or payment of
19 estimated tax, prior to the due date of the tax are considered
20 as having been paid on the last day prescribed by law for the
21 payment of the tax by the taxpayer. A return filed before the
22 due date shall be considered as filed on the due date.

23 (e) Except as provided in sections 290.92, subdivision 13,
24 290.93, subdivision 9, and 290.936, interest on the overpayment
25 refunded or credited to the taxpayer shall be allowed at the
26 rate specified in section 270.76 computed from the date of
27 payment of the tax until the date the refund is paid or credit
28 is made to the taxpayer. However, to the extent that the basis
29 for the refund is a net operating loss carryback or a capital
30 loss carryback, interest shall be computed only from the end of
31 the taxable year in which the loss occurs.

32 (f) If a taxpayer reports a change in his federal gross *
33 income, items of tax preference, deductions, credits, or a *
34 renegotiation, or files a copy of his the taxpayer's amended
35 federal return, within 90 days as provided by section 290.56,
36 subdivision 2, a refund may be made of any overpayment within
37 one year after such report or amended return is filed except as
38 provided in subdivision 2.

39 (g) There is hereby appropriated from the general fund to
40 the commissioner of revenue the amounts necessary to make
41 payments of refunds allowed pursuant to this section.

42 Subd. 2. DENIAL OF CLAIM, COURT PROCEEDINGS. If the
43 claim is denied in whole or in part, the commissioner shall mail
44 an order of denial to the taxpayer in the manner prescribed in
45 section 290.46. An appeal from this order may be taken to the
46 Minnesota tax court in the manner prescribed in section 271.06,
47 or the taxpayer may commence an action against the commissioner
48 to recover the denied overpayment. Such action may be brought
49 in the district court of the district in which lies the county
50 of his the taxpayer's residence or principal place of business *
51 or if an estate or trust, of the principal place of its
52 administration, or in the district court for Ramsey county. The
53 action in the district court shall be commenced within 18 months
54 following the mailing of the order of denial to the taxpayer.
55 If a claim for refund is filed by a taxpayer and no order of
56 denial is issued within six months of the filing, the taxpayer
57 may commence an action in the district court as in the case of a
58 denial, but the action shall be commenced within four years of
59 the date that the claim for refund was filed; provided that the
60 commissioner and the taxpayer may agree to extend this period
61 beyond four years.

62 No change for subd 3 to 6

290*#52S

63 290.52 ADMINISTRATION, ENFORCEMENT.

64 The commissioner shall administer and enforce the
65 assessment and collection of the taxes imposed by this chapter. *
66 He and may, from time to time, make, publish, and distribute *
67 rules and regulations in enforcing its provisions. In his *
68 discretion he The commissioner may make a charge for copies *
69 distributed upon request--He and shall cause to be prepared *
70 blank forms for the returns required by this chapter. The
71 commissioner shall distribute the same throughout this state and
72 furnish them on application, but failure to receive or secure
73 them shall not relieve any person or corporation from the
74 obligation of making any return required of him or it under this *
75 chapter. The commissioner may prescribe rules and regulations

1 governing the recognition of agents, attorneys, or other persons
 2 representing claimants before the commissioner, and may require
 3 of such persons, agents, and attorneys, before being recognized
 4 as representatives of claimants, that they shall show that they
 5 are of good character and in good repute, possessed of the
 6 necessary qualifications to enable them to render such claimants
 7 valuable services, and otherwise competent to advise and assist
 8 such claimants in the presentation of their case. Such
 9 commissioner may, after due notice and opportunity for hearing,
 10 suspend and disbar from further practice before ~~him~~ the *
 11 commissioner, any such person, agent, or attorney, shown to be *
 12 incompetent, disreputable, or who refuses to comply with the
 13 said rules and regulations, or who shall with intent to defraud,
 14 in any manner wilfully and knowingly deceive, mislead, or
 15 threaten any claimant or prospective claimant, by words,
 16 circular, letter, or by advertisement. This shall in no way
 17 curtail the rights of individuals to appear in their own behalf
 18 or partners or corporations' officers to appear in behalf of
 19 their respective partnerships or corporations.

290*#521S

20 290.521 ACTION TO ENJOIN INCOME TAX RETURN PREPARERS.

21 Subdivision 1. AUTHORITY TO SEEK INJUNCTION. A civil
 22 action in the name of the state of Minnesota to enjoin any
 23 person who is an income tax return preparer doing business in
 24 this state from further engaging in any conduct described in
 25 subdivision 2 or from further acting as an income tax return
 26 preparer may be commenced at the request of the commissioner of
 27 revenue. Any action under this section shall be brought by the
 28 attorney general in the district court for the judicial district
 29 in-which of the income tax return preparer-resides preparer's
 30 residence or ~~has-his~~ principal place of business, or in which *
 31 the taxpayer with respect to whose income tax return the action *
 32 is brought resides. The court may exercise its jurisdiction
 33 over the action separate and apart from any other action brought
 34 by the state of Minnesota against the income tax return preparer
 35 or any taxpayer.

36 Subd. 2. ADJUDICATION AND DECREES. In any action
 37 under subdivision 1, if the court finds:

38 (a) that an income tax return preparer has:

39 (1) engaged in any conduct subject to the civil penalty
 40 under section 290.523,

41 (2) misrepresented ~~his~~ the preparer's eligibility to *
 42 practice before the department of revenue, or otherwise *
 43 misrepresented ~~his~~ the preparer's experience or education as an *
 44 income tax return preparer,

45 (3) guaranteed the payment of any tax refund or the
 46 allowance of any tax credit, or

47 (4) engaged in any other fraudulent or deceptive conduct
 48 which substantially interferes with the proper administration of
 49 the provisions of this chapter, and

50 (b) that injunctive relief is appropriate to prevent the
 51 recurrence of such conduct,

52 the court may enjoin the person from further engaging in
 53 such conduct. If the court finds that an income tax return
 54 preparer has continually or repeatedly engaged in any conduct
 55 described in clauses (1) to (4) of clause (a) of this
 56 subdivision, and that an injunction prohibiting such conduct
 57 would not be sufficient to prevent the person's interference
 58 with the proper administration of this chapter, the court may
 59 enjoin the person from acting as an income tax return preparer.
 60 The court may not under this section enjoin the employer of an
 61 income tax return preparer for conduct described in clauses (1)
 62 to (4) of clause (a) of this subdivision engaged in by one or
 63 more of the employer's employees unless the employer was also
 64 actively involved in such conduct.

65 Subd. 3. INCOME TAX RETURN PREPARER DEFINED. For
 66 purposes of this section and section 290.523, the term "income
 67 tax return preparer" means any person who prepares for
 68 compensation, or who employs one or more persons to prepare for
 69 compensation, any return of tax imposed by this chapter, or any
 70 claim for refund of tax imposed by this chapter. For purposes
 71 of the preceding sentence, the preparation of a substantial
 72 portion of a return or claim for refund shall be treated as if
 73 it were the preparation of the return or claim for refund.

74 A person shall not be an income tax return preparer merely
 75 because the person:

- 1 (a) furnishes typing, reproducing, or other mechanical
- 2 assistance,
- 3 (b) prepares a return or claim for refund of the employer,
- 4 or an officer or employee of the employer, by whom he the person *
- 5 is regularly and continuously employed,
- 6 (c) prepares as a fiduciary a return or claim for refund of
- 7 any person, or
- 8 (d) prepares a claim for refund for a taxpayer in response
- 9 to any tax order issued to the taxpayer.

290*#522S

10 290.522 ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX
11 SHELTERS.

12 A civil action in the name of the state of Minnesota to
 13 enjoin any person from further engaging in conduct subject to
 14 penalty under section 290.53, subdivision 9 (relating to penalty
 15 for promoting abusive tax shelter), may be commenced at the
 16 request of the commissioner. Any action under this section
 17 shall be brought by the attorney general in the tax court or the
 18 district court for the judicial district ~~in-which-such-person~~ *
 19 ~~resides,-has-his~~ of the person's residence, principal place of *
 20 business, or ~~has-engaged-in~~ conduct subject to penalty under *
 21 section 290.53, subdivision 9, or in the district court for
 22 Ramsey County. The court may exercise its jurisdiction over the
 23 action separate and apart from any other action brought by the
 24 state of Minnesota against the person.

25 If the court finds that the person has engaged in any
 26 conduct subject to penalty under section 290.53, subdivision 9
 27 (relating to penalty for promoting abusive tax shelters), and
 28 that injunctive relief is appropriate to prevent recurrence of
 29 the conduct, the court may enjoin the person from engaging in
 30 the conduct or in any other activity subject to penalty under
 31 section 290.53, subdivision 9.

290*#53S

32 290.53 PENALTIES, INTEREST.

33 No change for subd 1 to 2

34 Subd. 3. FAILURE TO FILE, FILING FALSE OR FRAUDULENT
 35 RETURN; INTENT TO EVADE TAX; 50 PERCENT PENALTY. If any
 36 person, with intent to evade the tax imposed by this chapter,
 37 shall fail to file any return required by this chapter, or shall
 38 with such intent file a false or fraudulent return, there shall
 39 also be imposed on ~~him~~ the person as a penalty an amount equal *
 40 to 50 percent of any tax (less any amounts paid by ~~him~~ the *
 41 person on the basis of such false or fraudulent return) found *
 42 due from ~~him~~ the person for the period to which such return *
 43 related. The penalty imposed by this subdivision shall be
 44 collected as part of the tax, and shall be in addition to any
 45 other penalties, civil and criminal, provided by this section.
 46 The amount of the tax and any other penalties together with this
 47 amount shall bear interest at the rate specified in section
 48 270.75 from the time the tax should have been paid until paid.
 49 This amount shall be in lieu of any amount determined under
 50 subdivision 3a.

51 No change for subd 3a

52 Subd. 4. FAILURE TO FILE, FILING FALSE OR FRAUDULENT
 53 RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS. In addition
 54 to any other penalties prescribed, (a) any person required by
 55 this chapter to make a return, who knowingly fails to make it at
 56 the time required by law, is guilty of a gross misdemeanor; (b)
 57 any person who willfully makes and subscribes any return,
 58 statement, or other document ~~which-he-knows~~ knowing it to be *
 59 false as to any material matter is guilty of a felony; (c) any
 60 person who willfully attempts in any manner to evade or defeat
 61 any tax imposed by this chapter is guilty of a felony; and (d)
 62 any person who willfully fails to pay the tax at the time
 63 required by law, with the intent to evade or defeat the tax, is
 64 guilty of a gross misdemeanor unless the tax involved exceeds *
 65 \$300, in which event ~~he~~ the person is guilty of a felony. *
 66 Notwithstanding the provisions of section 628.26, or any other
 67 provision of the criminal laws of this state, an indictment may
 68 be found and filed upon any criminal offense specified in this
 69 subdivision, in the proper court within six years after the
 70 commission of the offense. The term "person" as used in this
 71 subdivision includes any officer or employee of a corporation or
 72 a member or employee of a partnership who as an officer, member
 73 or employee is under a duty to perform the act in respect to
 74 which the violation occurs.

1 No change for subd 5 to 10
 2 Subd. 11. ASSISTING IN FRAUD AND FALSE STATEMENTS;
 3 CRIMINAL PROVISIONS. Any person who willfully aids or assists
 4 in, or procures, counsels, or advises the preparation or
 5 presentation under, or in connection with any matter arising
 6 under this chapter, of a return, affidavit, claim, or other
 7 document, which is fraudulent or false as to any material
 8 matter, whether or not the falsity or fraud is with the
 9 knowledge or consent of the person authorized or required to
 10 present the return, affidavit, claim, or document, is guilty of
 11 a gross misdemeanor unless the tax involved exceeds \$300, in
 12 which event ~~he~~ the actor is guilty of a felony. Any criminal
 13 offense under this subdivision may be prosecuted in the same
 14 manner and within the same period of limitations provided in
 15 subdivision 4.

290*#54S

16 290.54 TAX A PERSONAL DEBT.
 17 The tax imposed by this chapter, and interest and penalties
 18 imposed with respect thereto, shall become a personal debt of
 19 the taxpayer from the time the liability therefor arises,
 20 irrespective of when the time for discharging such liability by
 21 payment occurs. The debt shall, in the case of the personal
 22 representative of the estate of a decedent and in the case of
 23 any fiduciary, be that of such person in ~~his~~ the person's
 24 official or fiduciary capacity only unless ~~he~~ the person shall
 25 have voluntarily distributed the assets held in such capacity
 26 without reserving sufficient assets to pay such tax, interest,
 27 and penalties, in which event ~~he~~ the person shall be personally
 28 liable for any deficiency. This provision shall apply only to
 29 cases in which this state is legally competent to impose such
 30 personal liability.

290*#56S

31 290.56 EXAMINATION OF TAXPAYER'S RECORDS; FEDERAL
 32 RETURNS; EXTENSIONS.

33 Subdivision 1. POWERS OF EXAMINATION. For the
 34 purpose of determining the correctness of any return or of
 35 determining whether or not any person should have made a return
 36 or paid taxes or for the purpose of collection of any such taxes
 37 hereunder, the commissioner shall have power to examine, or
 38 cause to be examined, any books, papers, records, or memoranda
 39 relevant to making such determinations, or collecting such tax,
 40 including the taxpayer's retained copy of ~~his~~ the return of
 41 income to the United States government for any year, whether
 42 such books, papers, records, or memoranda are the property of or
 43 in the possession of the taxpayer or any other person or
 44 corporation. ~~He~~ The commissioner shall further have power to
 45 require the attendance of any taxpayer or other person having
 46 knowledge or information in the premises to compel the
 47 production of books, papers, records, or memoranda by persons so
 48 required to attend, to take testimony on matters material to
 49 such determination, and to administer oaths or affirmations.

50 Subd. 2. CHANGE IN FEDERAL RETURN. If the amount of
 51 gross income, items of tax preference, deductions, or credits
 52 for any year of any taxpayer as reported to the Internal Revenue
 53 Service is changed or corrected by the Commissioner of Internal
 54 Revenue or other officer of the United States or other competent
 55 authority, or where a renegotiation of a contract or subcontract
 56 with the United States results in a change in gross income,
 57 items of tax preference, deductions, or credits, such taxpayer
 58 shall report in writing to the commissioner, in such form as ~~he~~
 59 the commissioner may require, such change or correction, or the
 60 results of such renegotiation, within 90 days thereafter, and
 61 shall concede the accuracy of such determination or state
 62 wherein it is erroneous. Any taxpayer filing an amended federal
 63 income tax return shall also file within 90 days thereafter a
 64 copy of such amended return with the commissioner of revenue.

65 Subd. 3. FAILURE TO REPORT CHANGE OR CORRECTION OF
 66 FEDERAL RETURN. If a taxpayer shall fail to report a change
 67 or correction or renegotiation by the Commissioner of Internal
 68 Revenue or other officer of the United States or other competent
 69 authority or shall fail to file a copy of an amended return
 70 within 90 days as required by subdivision 2, the commissioner
 71 may, within six years thereafter, recompute the tax, including a
 72 refundment thereof, based upon such information as may be
 73 available to ~~him~~ the commissioner, notwithstanding any period of
 74 limitations to the contrary.

1 No change for subd 4 to 5

290*#57S

2 290.57 EXAMINERS, APPOINTMENT OF.

3 For the purpose of making such examinations and
4 determinations, the commissioner may appoint such officers, to
5 be known as income tax examiners, as he the commissioner may
6 deem necessary. ~~if-the-commissioner-deems~~ On deeming it
7 advisable, he the commissioner may request the legislative
8 auditor, for such period of time as he the commissioner may
9 direct, to audit such returns and conduct such examinations, and
10 report thereon to the commissioner. Upon such request being
11 made, the legislative auditor shall appoint such income tax
12 examiners as he the auditor may deem necessary.

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290*#59S

13 290.59 ADDITIONAL HELP.

14 The commissioner, and the legislative auditor if requested
15 to conduct examinations as hereinbefore provided, may appoint
16 and employ such additional help, or purchase such supplies or
17 materials or incur such other expenditures in the enforcement of
18 this chapter as they may deem necessary. The salaries of all
19 officers and employees provided for in this chapter shall be
20 fixed by the ~~commissioner, where appointed by him, and by the~~
21 ~~legislative auditor, where appointed by him~~ appointing
22 authority, subject to the approval of the commissioner of
23 administration.

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290*#61S

24 290.61 PUBLICITY OF RETURNS, INFORMATION.

25 It shall be unlawful for the commissioner or any other
26 public official or employee to divulge or otherwise make known
27 in any manner any particulars set forth or disclosed in any
28 report or return required by this chapter, or any information
29 concerning, the taxpayer's affairs acquired from ~~his or its~~ the
30 taxpayer's records, officers, or employees while examining or
31 auditing any taxpayer's liability for taxes imposed hereunder,
32 except in connection with a proceeding involving taxes due under
33 this chapter from the taxpayer making such return or to comply
34 with the provisions of sections 256.978, 268.12, subdivision 12,
35 270A.11, 273.1314, subdivision 16, 290.612 and 302A.821. The
36 commissioner may furnish a copy of any taxpayer's return,
37 including audit documents and information, to any official of
38 the United States or of any state having duties to perform in
39 respect to the assessment or collection of any tax imposed upon
40 or measured by income, if such taxpayer is required by the laws
41 of the United States or of such state to make a return therein.
42 Prior to the release of any information to any official of the
43 United States or any other state under the provisions of this
44 section, the person to whom the information is to be released
45 shall sign an agreement which provides that he the person will
46 protect the confidentiality of the returns and information
47 revealed thereby to the extent that it is protected under the
48 laws of the state of Minnesota. The commissioner and all other
49 public officials and employees shall keep and maintain the same
50 secrecy in respect to any information furnished by any
51 department, commission, or official of the United States or of
52 any other state in respect to the income of any person as is
53 required by this section in respect to information concerning
54 the affairs of taxpayers under this chapter. Nothing herein
55 contained shall be construed to prohibit the commissioner from
56 publishing statistics so classified as not to disclose the
57 identity of particular returns or reports and the items
58 thereof. Upon request of a majority of the members of the
59 senate tax committee or of the house tax committee or the tax
60 study commission, the commissioner shall furnish abstracted
61 financial information to those committees for research purposes
62 from returns or reports filed pursuant to this chapter, provided
63 ~~that he shall not disclose~~ without disclosing the name, address,
64 social security number, business identification number or any
65 other item of information associated with any return or report
66 which the commissioner believes is likely to identify the
67 taxpayer. The commissioner shall not furnish the actual return,
68 or a portion thereof, or a reproduction or copy of any return or
69 portion thereof. "Abstracted financial information" means only
70 the dollar amounts set forth on each line on the form including
71 the filing status.

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72 Any person violating the provisions of this section shall
73 be guilty of a gross misdemeanor.

1 In order to locate the named payee on state warrants issued
 2 pursuant to this chapter or chapter 290A and undeliverable by
 3 the United States postal service, the commissioner may publish
 4 in any newspaper of general circulation in this state or make
 5 available to radio or television stations a list of the name and
 6 last known address of the payee as shown on the reports or
 7 returns filed with the commissioner. The commissioner may
 8 exclude the names of payees whose refunds are in an amount which
 9 is less than a minimal amount to be determined by the
 10 commissioner. The list shall not contain any particulars set
 11 forth on any report or return. The publication or announcement
 12 shall include instructions on claiming the warrants.

13 An employee of the department of revenue may, in connection
 14 with ~~his~~ official duties relating to any audit, collection *
 15 activity, or civil or criminal tax investigation or any other
 16 offense under this chapter, disclose return information to the
 17 extent that such disclosure is necessary in obtaining
 18 information, which is not otherwise reasonably available,
 19 with respect to the correct determination of tax, liability for
 20 tax, or the amount to be collected or with respect to the
 21 enforcement of any other provision of this chapter.

22 In order to facilitate processing of returns and payments
 23 of taxes required by this chapter, or to facilitate the
 24 development, implementation, and use of computer programs and
 25 automated procedures for purposes of administering this chapter
 26 or chapter 290A, the commissioner may contract with outside
 27 vendors and may disclose private and nonpublic data to the
 28 vendor. The data disclosed will be administered by the vendor
 29 consistent with this section, and the vendor must agree to
 30 subject ~~himself~~ the vendor and ~~his~~ the vendor's employees to the *
 31 civil and criminal penalties provided by law for unlawful
 32 disclosure.

33 Information from a tax return required under this chapter
 34 on a holder of a license issued by the Minnesota racing
 35 commission or an owner of a horse may be provided by the
 36 commissioner to the Minnesota racing commission.

290*#611S

37 290.611 DISCLOSURE OF CONTENTS OF TAX RETURNS PROHIBITED
 38 IN CERTAIN INSTANCES; PENALTY.

39 No change for subd 1 to 3

40 Subd. 4. This section shall not be construed to limit the
 41 disclosure of tax returns, records, or information to the
 42 purchaser, and ~~his~~ the purchaser's employees, in the event of *
 43 the sale of a business where such business includes the
 44 preparation of state or federal income tax returns.

45 No change for subd 5

290*#65S

46 290.65 TIME LIMITS; PENALTIES.

47 No change for subd 9 to 13

48 Subd. 16. DEATH WHILE SERVING UNITED STATES. In the
 49 case of any individual who dies while in active service as a
 50 member of the military or naval forces of the United States or
 51 of any of the United Nations, any income tax imposed under the
 52 provisions of this chapter shall not be imposed with respect to
 53 the taxable year in which falls the date of ~~his~~ death, and such *
 54 tax imposed for any prior taxable year which is unpaid at the
 55 date of ~~his~~ death (including additions to the tax, interest and *
 56 penalties) shall not be assessed, and if assessed, the
 57 assessment shall be abated. In addition, upon the filing of a
 58 claim for refund within seven years from the date the return was
 59 filed, the tax paid or collected with respect to any taxable
 60 year beginning after December 31, 1949, during which such
 61 decedent was in active service shall be refunded.

62 In the case of any individual who dies while a civilian
 63 employee of the United States, if the death occurs as a result
 64 of wounds or injury incurred while the individual was a civilian
 65 employee of the United States and which was incurred outside the
 66 United States in a terroristic or military action, any tax
 67 imposed by this chapter does not apply with respect to the
 68 taxable year in which the date of death falls, and with respect
 69 to any prior taxable years in the period beginning with the last
 70 taxable year ending before the taxable year in which the wounds
 71 or injury were incurred. The provisions of section 692(c)(2) of
 72 the Internal Revenue Code of 1954, as amended through December
 73 31, 1984, defining terroristic or military action also apply.

74 Subd. 17. Repealed, 1981 c 178 s 119

290*#91S

1 290.91 DESTRUCTION OF RETURNS.

2 The commissioner of revenue is hereby authorized to destroy
 3 all tax returns, required under this chapter or chapter 290A,
 4 including audit reports, orders and correspondence relating
 5 thereto, which have been on file in ~~his~~ the commissioner's *
 6 office for a period to be determined by the commissioner. The
 7 commissioner may ~~in his discretion~~ *
 8 returns, orders or correspondence by microfilm, photostat or
 9 other similar means and may immediately destroy the original
 10 documents from which such copies have been made. Such copies,
 11 when certified to by the commissioner, shall be admissible in
 12 evidence in the same manner and be given the same effect as the
 13 original documents destroyed.

14 The commissioner may ~~in his discretion~~ *
 15 correspondence and documents contained in the files of the
 16 division which do not relate specifically to any tax return.

17 Notwithstanding the above provisions (or the provisions of
 18 section 290.61 or 290A.17) the commissioner may, utilizing such
 19 safeguards as ~~he~~ the commissioner in ~~his~~ the commissioner's *
 20 discretion deems necessary, (1) employ a commercial photographer
 21 for the purpose of developing microfilm of returns or other
 22 documents, or (2) employ a vendor for the purpose of obtaining
 23 the vendor's services an example of which is the preparation of
 24 income tax return labels.

290*#92S

25 290.92 TAX WITHHELD AT SOURCE UPON WAGES.

26 Subdivision 1. DEFINITIONS. (1) WAGES. For
 27 purposes of this section, the term "wages" means the same as
 28 that term is defined in section 3401(a) and (f) of the Internal
 29 Revenue Code of 1954, as amended through December 31, 1983.

30 (2) PAYROLL PERIOD. For purposes of this section the
 31 term "payroll period" means a period for which a payment of
 32 wages is ordinarily made to the employee by ~~his~~ the employee's *
 33 employer, and the term "miscellaneous payroll period" means a
 34 payroll period other than a daily, weekly, bi-weekly,
 35 semi-monthly, monthly, quarterly, semi-annual, or annual payroll
 36 period.

37 (3) EMPLOYEE. For purposes of this section the term
 38 "employee" means any resident individual performing services for
 39 an employer, either within or without, or both within and
 40 without the state of Minnesota, and every nonresident individual
 41 performing services within the state of Minnesota, the
 42 performance of which services constitute, establish, and
 43 determine the relationship between the parties as that of
 44 employer and employee. As used in the preceding sentence, the
 45 term "employee" includes an officer of a corporation, and an
 46 officer, employee, or elected official of the United States, a
 47 state, or any political subdivision thereof, or the District of
 48 Columbia, or any agency or instrumentality of any one or more of
 49 the foregoing.

50 (4) EMPLOYER. For purposes of this section the term
 51 "employer" means any person, including individuals, fiduciaries,
 52 estates, trusts, partnerships, and corporations transacting
 53 business in or deriving any income from sources within the state
 54 of Minnesota for whom an individual performs or performed any
 55 service, of whatever nature, as the employee of such person,
 56 except that if the person for whom the individual performs or
 57 performed the services does not have legal control of the
 58 payment of the wages for such services, the term "employer,"
 59 except for purposes of paragraph (1), means the person having
 60 legal control of the payment of such wages. As used in the
 61 preceding sentence, the term "employer" includes any
 62 corporation, individual, estate, trust, or organization which is
 63 exempt from taxation under section 290.05 and further includes,
 64 but is not limited to, officers of corporations who have legal
 65 control, either individually or jointly with another or others,
 66 of the payment of the wages.

67 (5) NUMBER OF WITHHOLDING EXEMPTIONS CLAIMED. For
 68 purposes of this section, the term "number of withholding
 69 exemptions claimed" means the number of withholding exemptions
 70 claimed in a withholding exemption certificate in effect under
 71 subdivision 5, except that if no such certificate is in effect,
 72 the number of withholding exemptions claimed shall be considered
 73 to be zero.

74 Subd. 2. Repealed, Ex1967 c 32 art 14 s 12

1 Subd. 2a. COLLECTION AT SOURCE. (1) DEDUCTIONS.

2 Every employer making payment of wages shall deduct and
3 withhold upon such wages a tax as provided in this section.

4 (2) WITHHOLDING ON PAYROLL PERIOD. The employer shall
5 withhold the tax on the basis of each payroll period or as
6 otherwise provided in this section.

7 (3) WITHHOLDING TABLES. Unless the amount of tax to
8 be withheld is determined as provided in subdivision 3, the
9 amount of tax to be withheld for each individual shall be based
10 upon tables to be prepared and distributed by the commissioner.
11 The tables shall be computed for the several permissible
12 withholding periods and shall take account of exemptions allowed
13 under this section; and the amounts computed for withholding
14 shall be such that the amount withheld for any individual during
15 ~~his~~ the individual's taxable year shall approximate in the
16 aggregate as closely as possible the tax which is levied and
17 imposed under this chapter for that taxable year, upon ~~his~~ the
18 individual's salary, wages, or compensation for personal
19 services of any kind for the employer, and shall take into
20 consideration the optional deduction for federal income tax and
21 the deduction allowable under section 290.089, subdivision 3,
22 and the personal credits allowed against the tax.

23 (4) MISCELLANEOUS PAYROLL PERIOD. If wages are paid
24 with respect to a period which is not a payroll period, the
25 amount to be deducted and withheld shall be that applicable in
26 the case of a miscellaneous payroll period containing a number
27 of days, including Sundays and holidays, equal to the number of
28 days in the period with respect to which such wages are paid.

29 (5) MISCELLANEOUS PAYROLL PERIOD. (a) In any case in
30 which wages are paid by an employer without regard to any
31 payroll period or other period, the amount to be deducted and
32 withheld shall be that applicable in the case of a miscellaneous
33 payroll period containing a number of days equal to the number
34 of days, including Sundays and holidays, which have elapsed
35 since the date of the last payment of such wages by such
36 employer during the calendar year, or the date of commencement
37 of employment with such employer during such year, or January 1
38 of such year, whichever is the later.

39 (b) In any case in which the period, or the time described
40 in clause (a), in respect of any wages is less than one week,
41 the commissioner, under regulations prescribed by ~~him~~ the
42 commissioner, may authorize an employer to determine the amount
43 to be deducted and withheld under the tables applicable in the
44 case of a weekly payroll period, in which case the aggregate of
45 the wages paid to the employee during the calendar week shall be
46 considered the weekly wages.

47 (6) WAGES COMPUTED TO NEAREST DOLLAR. If the wages
48 exceed the highest bracket, in determining the amount to be
49 deducted and withheld under this subdivision, the wages may, at
50 the election of the employer, be computed to the nearest dollar.

51 (7) REGULATIONS ON WITHHOLDING. The commissioner may,
52 by rule, authorize employers:

53 (a) to estimate the wages which will be paid to any
54 employee in any quarter of the calendar year;

55 (b) to determine the amount to be deducted and withheld
56 upon each payment of wages to such employee during such quarter
57 as if the appropriate average of the wages so estimated
58 constituted the actual wages paid; and

59 (c) to deduct and withhold upon any payment of wages to
60 such employee during such quarter such amount as may be
61 necessary to adjust the amount actually deducted and withheld
62 upon wages of such employee during such quarter to the amount
63 required to be deducted and withheld during such quarter without
64 regard to this paragraph (7).

65 (8) ADDITIONAL WITHHOLDING. The commissioner is
66 authorized to provide by rule for increases or decreases in the
67 amount of withholding otherwise required under this section in
68 cases where the employee requests the changes. Such additional
69 withholding shall for all purposes be considered tax required to
70 be deducted and withheld under this section.

71 (9) TIPS. In the case of tips which constitute wages,
72 this subdivision shall be applicable only to such tips as are
73 included in a written statement furnished to the employer
74 pursuant to section 6053 of the Internal Revenue Code of 1954,
75 as amended through December 31, 1983, and only to the extent
76 that the tax can be deducted and withheld by the employer, at or

1 after the time such statement is so furnished and before the
 2 close of the calendar year in which such statement is furnished,
 3 from such wages of the employee (excluding tips, but including
 4 funds turned over by the employee to the employer for the
 5 purpose of such deduction and withholding) as are under the
 6 control of the employer; and an employer who is furnished by an
 7 employee a written statement of tips (received in a calendar
 8 month) pursuant to section 6053 of the Internal Revenue Code of
 9 1954 as amended through December 31, 1983 to which subdivision 1
 10 is applicable may deduct and withhold the tax with respect to
 11 such tips from any wages of the employee (excluding tips) under
 12 ~~his~~ the employer's control, even though at the time such *
 13 statement is furnished the total amount of the tips included in
 14 statements furnished to the employer as having been received by *
 15 the employee in such calendar month in the course of ~~his~~
 16 employment by such employer is less than \$20. Such tax shall
 17 not at any time be deducted and withheld in an amount which
 18 exceeds the aggregate of such wages and funds as are under the
 19 control of the employer minus any tax required by other
 20 provisions of state or federal law to be collected from such
 21 wages and funds.

22 (10) VEHICLE FRINGE BENEFITS. An employer may elect
 23 not to deduct and withhold any tax under this section with
 24 respect to any vehicle fringe benefit provided to an employee if
 25 the requirement of and the definition contained in section
 26 3402(s) of the Internal Revenue Code of 1954, as amended through
 27 May 25, 1985, are complied with.

28 Subd. 2b. Expired

29 No change for subd 3 to 4

30 Subd. 4a. TAX WITHHELD FROM NONRESIDENTS. (1)
 31 "WAGES" PAID TO NONRESIDENT EMPLOYEES. For the purposes of
 32 this section: The term "wages" means all remuneration taxable
 33 under this chapter including all remuneration paid to a
 34 nonresident employee for services performed in this state.

35 (2) "EMPLOYER", "WAGES" AND "EMPLOYEE" CONCERNING
 36 NONRESIDENTS. Notwithstanding any other provision of this
 37 section, under rules and regulations to be prescribed by the
 38 commissioner of revenue, for purposes of this section any person
 39 having control, receipt, custody, disposal or payment of
 40 compensation taxable under this chapter and earned by a
 41 nonresident for personal services, shall be deemed an employer,
 42 any compensation taxable under this chapter and earned by a
 43 nonresident for personal services shall be deemed wages, and a
 44 nonresident entitled to compensation taxable under this chapter
 45 and earned by ~~him~~ the nonresident for personal services shall be *
 46 deemed an employee.

47 When compensation for personal services is paid to a
 48 corporation in which all or substantially all of the
 49 shareholders are individual entertainers, performers or athletes
 50 who gave an entertainment or athletic performance in this state
 51 for which the compensation was paid, the compensation shall be
 52 deemed wages of the individual entertainers, performers or
 53 athletes and shall be subject to the provisions of this
 54 section. Advance payments of compensation for personal services
 55 to be performed in Minnesota shall be deemed wages and subject
 56 to the provisions of this section. The individual, and not the
 57 corporation, shall be subject to the Minnesota income tax as
 58 provided in this chapter on the compensation for personal
 59 services.

60 (3) NONRESIDENTS, EMPLOYER'S DUTY. The employer of
 61 any employee domiciled in a state with which Minnesota has
 62 reciprocity under section 290.081 is not required to withhold
 63 under this chapter from the wages earned by such employee in
 64 this state.

65 Subd. 5. EXEMPTIONS. (1) ENTITLEMENT. An
 66 employee receiving wages shall on any day be entitled to claim
 67 withholding exemptions equal to the same number as the personal
 68 credits that ~~he~~ the employee is entitled to claim under the *
 69 provisions of section 290.06, subdivision 3f, (not including
 70 those credits that the taxpayer's spouse may claim).

71 (2) WITHHOLDING EXEMPTION CERTIFICATE. The provisions
 72 concerning exemption certificates contained in section
 73 3402(f)(2) and (3) of the Internal Revenue Code of 1954, as
 74 amended through December 31, 1983, shall apply.

75 (3) FORM OF CERTIFICATE. Withholding exemption
 76 certificates shall be in such form and contain such information

1 as the commissioner may by regulation prescribe.

2 (4) NUMBER MAY BE SAME AS THAT FOR FEDERAL PURPOSES.

3 Notwithstanding the provisions of this subdivision, an employee
4 may elect to claim a number not to exceed the number of
5 withholding exemptions that the employee claims and which are
6 allowable for federal withholding purposes.

7 Subd. 5a. VERIFICATION OF WITHHOLDING EXEMPTIONS;

8 APPEAL. (1) An employer shall submit to the commissioner a
9 copy of any withholding exemption certificate received from an
10 employee on which the employee claims any of the following:

11 (a) a total number of withholding exemptions in excess of
12 14 or a number prescribed by the commissioner, or

13 (b) a status that would exempt the employee from Minnesota
14 withholding, including where the employee is a nonresident
15 exempt from withholding under subdivision 4a, clause (3), except
16 where the employer reasonably expects, at the time that the
17 certificate is received, that the employee's wages under
18 subdivision 1 from the employer will not then usually exceed
19 \$200 per week, or

20 (c) any number of withholding exemptions which the employer
21 has reason to believe is in excess of the number to which the
22 employee is entitled.

23 (2) Copies of exemption certificates required to be
24 submitted by clause (1) shall be submitted to the commissioner
25 within 30 days after receipt by the employer unless the employer
26 is also required by federal law to submit copies to the Internal
27 Revenue Service, in which case the employer may elect to submit
28 the copies to the commissioner at the same time that he the
29 employer is required to submit them to the Internal Revenue
30 Service. *

31 (3) An employer who submits a copy of a withholding
32 exemption certificate in accordance with clause (1) shall honor
33 the certificate until notified by the commissioner that the
34 certificate is invalid. The commissioner shall mail a copy of
35 any such notice to the employee. Upon notification that a
36 particular certificate is invalid, the employer shall not honor
37 that certificate or any subsequent certificate unless instructed
38 to do so by the commissioner. The employer shall allow the
39 employee the number of exemptions and compute the withholding
40 tax as instructed by the commissioner in accordance with clause
41 (4).

42 (4) The commissioner may require an employee to verify that
43 he-or-she-is-entitled entitlement to the number of exemptions or
44 to the exempt status claimed on the withholding exemption
45 certificate or, that-he-or-she-is-a-nonresident to verify
46 nonresidency. The employee shall be allowed at least 30 days to
47 submit the verification, after which time the commissioner
48 shall, on the basis of the best information available to him the
49 commissioner, determine the employee's status and allow the
50 employee the maximum number of withholding exemptions allowable
51 under this chapter. The commissioner shall mail a notice of
52 this determination to the employee at the address listed on the
53 exemption certificate in question or to the last known address
54 of the employee. Notwithstanding the provisions of section
55 290.61, the commissioner may notify the employer of this
56 determination and instruct the employer to withhold tax in
57 accordance with the determination. *

58 However, where the commissioner has reasonable grounds for
59 believing that the employee is about to remove-himself-from-this
60 leave the state or that the collection of any tax due under this
61 chapter will be jeopardized by delay, the commissioner may
62 immediately notify the employee and the employer,
63 notwithstanding section 290.61, that the certificate is invalid,
64 and the employer must not honor that certificate or any
65 subsequent certificate unless instructed to do so by the
66 commissioner. The employer shall allow the employee the number
67 of exemptions and compute the withholding tax as instructed by
68 the commissioner. *

69 (5) The commissioner's determination under clause (4) shall
70 be appealable to tax court in accordance with section 271.06,
71 and shall remain in effect for withholding tax purposes pending
72 disposition of any appeal.

73 Subd. 6. RETURNS, DEPOSITS. (1)(a) RETURNS.

74 Every employer who is required to deduct and withhold tax under
75 subdivision 2a or 3 shall file a return with the commissioner
76 for each quarterly period, on or before the last day of the

1 month following the close of each quarterly period, unless
 2 otherwise prescribed by the commissioner. Any tax required to
 3 be deducted and withheld during the quarterly period shall be
 4 paid with the return unless an earlier time for payment is
 5 provided. However, any return may be filed on or before the
 6 tenth day of the second calendar month following the period if
 7 the return shows timely deposits in full payment of the taxes
 8 due for that period. For the purpose of the preceding sentence,
 9 a deposit which is not required to be made within the return
 10 period, may be made on or before the last day of the first
 11 calendar month following the close of the period. Every
 12 employer, in preparing a quarterly return, shall take credit for
 13 monthly deposits previously made in accordance with this
 14 subdivision.

15 The return shall be in the form and contain the information
 16 prescribed by the commissioner. The commissioner may grant a
 17 reasonable extension of time for filing the return, but no
 18 extension shall be granted for more than six months.

19 (b) ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES. (i)
 20 Unless clause (ii) is applicable, if during any calendar month,
 21 other than the last month of the calendar quarter, the aggregate
 22 amount of the tax withheld during that quarter under subdivision
 23 2a or 3 exceeds \$500, the employer shall deposit the aggregate
 24 amount with the commissioner within 15 days after the close of
 25 the calendar month. (ii) If at the close of any eighth-monthly
 26 period the aggregate amount of undeposited taxes is \$3,000 or
 27 more, the employer shall deposit the undeposited taxes with the
 28 commissioner within three banking days after the close of the
 29 eighth-monthly period. For purposes of this subparagraph, the
 30 term "eighth-monthly period" means the first three days of a
 31 calendar month, the fourth day through the seventh day of a
 32 calendar month, the eighth day through the 11th day of a
 33 calendar month, the 12th day through the 15th day of a calendar
 34 month, the 16th day through the 19th day of a calendar month,
 35 the 20th day through the 22nd day of a calendar month, the 23rd
 36 day through the 25th day of a calendar month, or the portion of
 37 a calendar month following the 25th day of the month.

38 (c) OTHER METHODS. The commissioner may by rule
 39 prescribe other return periods or deposit requirements. In
 40 prescribing the reporting period, the commissioner may classify
 41 employers according to the amount of their tax liability and may
 42 adopt an appropriate reporting period for each class which he
 43 the commissioner deems to be consistent with efficient tax
 44 collection. In no event shall the duration of the reporting
 45 period be more than one year.

46 (2) If less than the correct amount of tax is paid to the
 47 commissioner, proper adjustments, with respect to both the tax
 48 and the amount to be deducted, shall be made, without interest,
 49 in the manner and at the times as the commissioner prescribes.
 50 If the underpayment cannot be adjusted, the amount of the
 51 underpayment shall be assessed and collected in the manner and
 52 at the times as the commissioner prescribes.

53 (3) If any employer fails to make and file any return
 54 required by paragraph (1) at the time prescribed, or makes and
 55 files a false or fraudulent return, the commissioner shall make
 56 for ~~him~~ the employer a return from ~~his~~ the commissioner's own
 57 knowledge and from information ~~he~~ the commissioner obtains
 58 through testimony, or otherwise, and assess a tax on the basis
 59 of it. The amount of tax shown on it shall be paid to the
 60 commissioner at the times as the commissioner prescribes. Any
 61 return or assessment made by the commissioner shall be prima
 62 facie correct and valid, and the employer shall have the burden
 63 of establishing its incorrectness or invalidity in any action or
 64 proceeding in respect to it.

65 (4) ~~If~~ The commissioner, in any case, ~~has~~ on having reason
 66 to believe that the collection of the tax provided for in
 67 paragraph (1) of this subdivision, and any added penalties and
 68 interest, if any, will be jeopardized by delay, ~~he~~ may
 69 immediately assess the tax, whether or not the time otherwise
 70 prescribed by law for making and filing the return and paying
 71 the tax has expired.

72 (5) Any assessment under this subdivision shall be made by
 73 recording the liability of the employer in the office of the
 74 commissioner in accordance with rules prescribed by the
 75 commissioner. Upon request of the employer, the commissioner
 76 shall furnish the employer a copy of the record of assessment.

1 (6) Any assessment of tax under this subdivision shall be
2 made within 3-1/2 years after the due date of the return
3 required by paragraph (1), or the date the return was filed,
4 whichever is later. In the case of a false or fraudulent return
5 or failure to file a return, the tax may be assessed at any
6 time. The tax may be assessed within 6-1/2 years after the due
7 date of the return or the date the return was filed, whichever
8 is later, where the employer omitted withholding tax from the
9 return which is properly includable therein and the omitted
10 withholding tax is in excess of 25 percent of the amount of
11 withholding tax stated on the return.

12 (7)(a) Except as provided in (b) of this paragraph, every
13 employer who fails to pay to or deposit with the commissioner
14 any sum or sums required by this section to be deducted,
15 withheld and paid, shall be personally and individually liable
16 to the state for the sum or sums (and any added penalties and
17 interest). Any sum or sums deducted and withheld in accordance
18 with the provisions of subdivision 2a or 3 shall be held to be a
19 special fund in trust for the state of Minnesota.

20 (b) If the employer, in violation of this section, fails to
21 deduct and withhold the tax under this section, and thereafter
22 the taxes against which the tax may be credited are paid, the
23 tax required to be deducted and withheld shall not be collected
24 from the employer; but this does not relieve the employer from
25 liability for any penalties and interest otherwise applicable
26 for failure to deduct and withhold.

27 (8) Upon the failure of any employer to pay to or deposit
28 with the commissioner, within the time provided by paragraph
29 (1), (2), or (3) of this subdivision, any tax required to be
30 withheld in accordance with the provisions of subdivision 2a or
31 3, or if the commissioner has assessed a tax pursuant to
32 paragraph (4), the tax shall become immediately due and payable,
33 and the commissioner may deliver to the attorney general a
34 certified statement of the tax, penalties and interest due from
35 the employer. The statement shall also give the address of the
36 employer owing the tax, the period for which the tax is due, the
37 date of the delinquency, and any other information required by
38 the attorney general. The attorney general shall institute
39 legal action in the name of the state to recover the amount of
40 the tax, penalties, interest and costs. The commissioner's
41 certified statement to the attorney general shall for all
42 purposes and in all courts be prima facie evidence of the facts
43 stated in it and that the amount shown in it is due from the
44 employer named in the statement. If an action is instituted,
45 the court shall, upon application of the attorney general,
46 appoint a receiver of the property and business of the
47 delinquent employer for the purpose of impounding it as security
48 for any judgment which has been or may be recovered. Any action
49 must be brought within five years after the date of assessment
50 of any tax under this subdivision.

51 (8a) The period of time during which a tax must be assessed
52 or collection proceedings commenced under this subdivision shall
53 be suspended during the period from the date of filing of a
54 petition in bankruptcy until 30 days after the commissioner of
55 revenue receives notice that the bankruptcy proceedings have
56 been closed or dismissed or the automatic stay has been
57 terminated or has expired.

58 The suspension of the statute of limitations under this
59 subdivision shall apply to the person against whom the petition
60 in bankruptcy is filed and all other persons who may also be
61 wholly or partially liable for the tax under this chapter.

62 (9) Either party to an action for the recovery of any tax,
63 interest or penalties under this subdivision may appeal the
64 judgment as in other civil cases.

65 (10) No suit shall lie to enjoin the assessment or
66 collection of any tax imposed by this section, or the interest
67 and penalties added to it.

68 Subd. 6a. FAILURE TO COMPLY WITH WITHHOLDING
69 PROVISIONS. (a) Whenever any person who is required to
70 deduct, withhold, pay over, or deposit any tax imposed by this
71 chapter, at the time and in the manner prescribed by law or
72 regulations fails to deduct, withhold, or pay over such tax, or
73 fails to make deposits or payments of such tax and is notified
74 of any such failure by notice served upon ~~him~~ the person in the
75 manner prescribed for service of a summons in civil actions,
76 then all the requirements of paragraph (b) of this subdivision

1 shall be complied with. In the case of a corporation,
2 partnership or trust, notice served upon an officer, partner or
3 trustee shall, for purposes of this subdivision, be deemed to be
4 notice served upon such corporation, partnership or trust and
5 all officers, partners or trustees thereof.

6 (b) Any person who is required to deduct, withhold, pay
7 over, or deposit any tax imposed by this chapter, if notice has
8 been served upon such person in accordance with paragraph (a) of
9 this subdivision, shall thereafter deduct, withhold and collect
10 such taxes and shall (not later than the end of the second
11 banking day after any amount of such taxes is deducted, withheld
12 or collected) deposit such taxes in a separate account in a
13 bank, savings bank or savings and loan association and shall
14 keep the amount of such taxes in such account until payment over
15 to the state of Minnesota. Any such account shall constitute
16 and be designated as a special fund in trust for the state of
17 Minnesota payable to the state of Minnesota by such person as
18 trustee. It shall be the duty of such person upon whom such
19 notice is served to notify the commissioner of revenue in
20 writing of the name and address of the bank, savings bank or
21 savings and loan association wherein such account is kept,
22 together with such other information as the commissioner may
23 require. In lieu of the trust fund account, the commissioner
24 may, when necessary in order to secure the withholding of the
25 tax imposed by this chapter, require an employer to file with
26 the department of revenue a bond in an amount determined by the
27 commissioner, or in lieu thereof, security in a form and in an
28 amount as he the commissioner determines, not to exceed twice *
29 the estimated average liability for future monthly withholding
30 tax periods.

31 (c) ~~Whenever~~ The commissioner of revenue is, on being *
32 satisfied with respect to any notification made under paragraph
33 (a) of this subdivision that all requirements of law and
34 regulations with respect to the taxes imposed by this chapter
35 have been and will henceforth be complied with, ~~he~~ may cancel *
36 such notification. Such cancellation shall take effect at such
37 time as is specified in the notice of such cancellation. All
38 notices authorized or required under this subdivision shall be
39 in such form as the commissioner may determine.

40 (d) Any person who fails to comply with any provisions of
41 this subdivision shall, in addition to any other penalties
42 provided by law, be guilty of a gross misdemeanor, except that
43 the provisions of this paragraph shall not apply
44 (1) to any person if such person shows that there was
45 reasonable doubt as to (a) whether the law required deduction,
46 withholding or payment of tax or (b) what person was required by
47 law to deduct, withhold or pay; or
48 (2) to any person, if such person shows that the failure to
49 comply with the provisions of paragraph (b) of this subdivision
50 is due to circumstances beyond his the person's control. A lack *
51 of funds existing immediately after the payment of wages
52 (whether or not created by such payment) shall not be considered
53 to be circumstances beyond the control of a person.

54 Subd. 7. WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND
55 TO COMMISSIONER. (1) Every person required to deduct and
56 withhold from an employee a tax under subdivision 2a or
57 subdivision 3, or who would have been required to deduct and
58 withhold a tax under subdivision 2a or subdivision 3, determined
59 without regard to subdivision 19, if the employee had claimed no
60 more than one withholding exemption, or who paid wages not
61 subject to withholding under subdivision 2a or 3 to an employee
62 in excess of \$600, or who has entered into a voluntary
63 withholding agreement with a payee pursuant to subdivision 20,
64 shall furnish to each such employee in respect to the
65 remuneration paid by such person to such employee during the
66 calendar year, on or before January 31 of the succeeding year,
67 or, if ~~his~~ employment is terminated before the close of such *
68 calendar year, within 30 days after the date of receipt of a
69 written request from the employee if the 30-day period ends
70 before January 31, a written statement showing the following:

- 71 (a) Name of such person,
- 72 (b) The name of the employee or payee and his the *
73 employee's or payee's social security account number, *
- 74 (c) The total amount of wages as that term is defined in
75 subdivision 1(1), and/or the total amount of remuneration
76 subject to withholding pursuant to subdivision 20, and the

1 amount of sick pay as required under section 6051(f) of the
2 Internal Revenue Code of 1954, as amended through December 31,
3 1983,

4 (d) The total amount deducted and withheld as tax under
5 subdivision 2a or subdivision 3.

6 (2) The statement required to be furnished by this
7 subdivision in respect of any remuneration shall be furnished at
8 such other times, shall contain such other information, and
9 shall be in such form as the commissioner may prescribe.

10 (3) The commissioner may prescribe rules providing for
11 reasonable extensions of time, not in excess of 30 days, to
12 employers or payers required to furnish such statements to their
13 employees or payees under this subdivision.

14 (4) A duplicate of any statement made pursuant to this
15 subdivision and in accordance with rules prescribed by the
16 commissioner, along with a reconciliation in such form as the
17 commissioner may prescribe of all such statements for the
18 calendar year (including a reconciliation of the quarterly
19 returns required to be filed pursuant to subdivision 6), shall
20 be filed with the commissioner on or before February 28 of the
21 year after the payments were made.

22 No change for subd 8 to 9

23 Subd. 10. REMUNERATION, NOT IN CASH. In the case of
24 remuneration paid in any medium other than cash for services
25 performed by an individual as a retail ~~salesman~~ salesperson for *
26 a person, where the service performed by such individual for
27 such person is ordinarily performed for remuneration solely by
28 way of cash commission an employer shall not be required to
29 deduct or withhold any tax under this section with respect to
30 such remuneration, provided that such employer files with the
31 commissioner such information with respect to such remuneration
32 as the commissioner may by regulation prescribe.

33 No change for subd 11 to 12

34 Subd. 13. REFUNDS. (1) Where the amount of the tax
35 withheld at the source under subdivision 2a or 3 exceeds by \$1
36 or more the taxes (and any added penalties and interest)
37 reported in the return of the employee taxpayer or imposed upon
38 him the employee taxpayer by this chapter, the amount of such *
39 excess shall be refunded to the employee taxpayer. If the
40 amount of such excess is less than \$1 the commissioner shall not
41 be required to refund that amount. Where any amount of such
42 excess to be refunded exceeds \$10, such amount on the original
43 return shall bear interest at the rate specified in section
44 270.76, computed from 90 days after (a) the due date of the
45 return of the employee taxpayer or (b) the date on which ~~his~~ the *
46 return is filed, whichever is later, to the date the refund is
47 paid to the taxpayer. A return shall not be treated as filed
48 until it is in processible form. A return is in processible
49 form when it is filed on a permitted form containing the
50 taxpayer's name, address, social security account number, the
51 required signature, and sufficient required information (whether
52 on the return or on required attachments) to permit the
53 mathematical verification of tax liability shown on the return.
54 Notwithstanding the provisions of section 290.50, written
55 findings by the commissioner, notice by mail to the taxpayer,
56 and certificate for refundment by the commissioner, shall not be
57 necessary. The provisions of section 270.10, shall not be
58 applicable.

59 (2) Any action of the commissioner in refunding the amount
60 of such excess shall not constitute a determination of the
61 correctness of the return of the employee taxpayer within the
62 purview of section 290.46.

63 (3) The commissioner of finance shall cause any such refund
64 of tax and interest, to be paid out of the general fund in
65 accordance with the provisions of section 290.62, and so much of
66 said fund as may be necessary is hereby appropriated for that
67 purpose.

68 No change for subd 14

69 Subd. 15. PENALTIES. (1) In the case of any failure
70 to withhold a tax on wages, make and file quarterly returns or
71 make payments to or deposits with the commissioner of amounts
72 withheld, as required by this section, within the time
73 prescribed by law, there shall be added to the tax a penalty
74 equal to ten percent of the amount of tax that should have been
75 properly withheld and paid over to or deposited with the
76 commissioner if the failure is for not more than 30 days with an

1 additional five percent for each additional 30 days or fraction
2 thereof during which the failure continues, not exceeding 25
3 percent in the aggregate. The amount of the tax together with
4 this amount shall bear interest at the rate specified in section
5 270.75 from the time the tax should have been paid until paid.
6 The amount added to the tax shall be collected at the same time
7 and in the same manner and as a part of the tax unless the tax
8 has been paid before the discovery of the negligence, in which
9 case the amount added shall be collected in the same manner as
10 the tax.

11 (2) If any employer required to withhold a tax on wages,
12 make deposits, make and file quarterly returns and make payments
13 to the commissioner of amounts withheld, as required by sections
14 290.92 to 290.97, willfully fails to withhold the tax or make
15 the deposits, files a false or fraudulent return, willfully
16 fails to make the payment or deposit, or willfully attempts in
17 any manner to evade or defeat the tax or the payment or deposit
18 of it, there shall also be imposed on the employer as a penalty
19 an amount equal to 50 percent of the amount of tax, less any
20 amount paid or deposited by the employer on the basis of the
21 false or fraudulent return or deposit, that should have been
22 properly withheld and paid over or deposited with the
23 commissioner. The amount of the tax together with this amount
24 shall bear interest at the rate specified in section 270.75 from
25 the time the tax should have been paid until paid. The penalty
26 imposed by this paragraph shall be collected as a part of the
27 tax, and shall be in addition to any other penalties civil and
28 criminal, prescribed by this subdivision.

29 (3) If any person required under the provisions of
30 subdivision 7 to furnish a statement to an employee or payee and
31 a duplicate statement to the commissioner, or to furnish a
32 reconciliation of the statements, and quarterly returns, to the
33 commissioner, willfully furnishes a false or fraudulent
34 statement to an employee or payee or a false or fraudulent
35 duplicate statement or reconciliation of statements, and
36 quarterly returns, to the commissioner, or willfully fails to
37 furnish a statement or the reconciliation in the manner, at the
38 time, and showing the information required by the provisions of
39 subdivision 7, or rules prescribed by the commissioner
40 thereunder, there shall be imposed on the person a penalty of
41 \$50 for each act or failure to act, but the total amount imposed
42 on the delinquent person for all such failures during any
43 calendar year shall not exceed \$25,000. The penalty imposed by
44 this paragraph is due and payable within ten days after the
45 mailing of a written demand therefor, and may be collected in
46 the manner prescribed in subdivision 6, paragraph (8).

47 (4) In addition to any other penalties prescribed, any
48 person required to withhold a tax on wages, make and file
49 quarterly returns and make payments or deposits to the
50 commissioner of amounts withheld, as required by this section,
51 who willfully fails to withhold the tax or truthfully make and
52 file the quarterly return or make the payment or deposit, or
53 attempts to evade or defeat the tax is guilty of a gross
54 misdemeanor unless the tax involved exceeds \$300, in which event
55 he the person is guilty of a felony. *

56 (5) In lieu of any other penalty provided by law, except
57 the penalty provided by paragraph (3), any person required under
58 the provisions of subdivision 7 to furnish a statement of wages
59 to an employee and a duplicate statement to the commissioner,
60 who willfully furnishes a false or fraudulent statement of wages
61 to an employee or a false or fraudulent duplicate statement of
62 wages to the commissioner, or who willfully fails to furnish a
63 statement in the manner, at the time, and showing the
64 information required by the provisions of subdivision 7, or
65 rules prescribed by the commissioner thereunder, is guilty of a
66 gross misdemeanor.

67 (6) Any employee required to supply information to his an
68 employer under the provisions of subdivision 5, who willfully
69 fails to supply information or willfully supplies false or
70 fraudulent information thereunder which would require an
71 increase in the tax to be deducted and withheld under
72 subdivision 2a or 3, is guilty of a gross misdemeanor. *

73 (7) The term "person," as used in this section, includes an
74 officer or employee of a corporation, or a member or employee of
75 a partnership, who as an officer, employee, or member is under a
76 duty to perform the act in respect of which the violation occurs.

1 (8) All payments received may, in the discretion of the
2 commissioner of revenue, be credited first to the oldest
3 liability not secured by a judgment or lien, but in all cases
4 shall be credited first to penalties, next to interest, and then
5 to the tax due.

6 (9) In addition to any other penalty provided by law, any
7 employee who furnishes a withholding exemption certificate to
8 ~~his~~ an employer which the employee has reason to know contains a *
9 materially incorrect statement is liable to the commissioner of
10 revenue for a penalty of \$500 for each instance. The penalty is
11 immediately due and payable and may be collected in the same
12 manner as any delinquent income tax.

13 (10) In addition to any other penalty provided by law, any
14 employer who fails to submit a copy of a withholding exemption
15 certificate required by subdivision 5a, clause (1)(a), (1)(b),
16 or (2) is liable to the commissioner of revenue for a penalty of
17 \$50 for each instance. The penalty is immediately due and
18 payable and may be collected in the manner provided in
19 subdivision 6, paragraph (8).

20 (11) Any person who willfully aids or assists in, or
21 procures, counsels, or advises the preparation or presentation
22 under, or in connection with any matter arising under this
23 section, of a return, affidavit, claim, or other document, which
24 is fraudulent or false as to any material matter, whether or not
25 the falsity or fraud is with the knowledge or consent of the
26 person authorized or required to present the return, affidavit,
27 claim, or document, is guilty of a gross misdemeanor, unless the
28 tax involved exceeds \$300, in which event ~~he~~ the actor is guilty *
29 of a felony.

30 (12) Notwithstanding the provisions of section 628.26, or
31 any other provision of the criminal laws of this state, an
32 indictment may be found and filed, upon any criminal offense
33 specified in this subdivision, in the proper court within six
34 years after the commission of the offense.

35 No change for subd 16

36 Subd. 17. RECIPROCAL ARRANGEMENT WITH OTHER STATES.

37 The commissioner may enter into an agreement with the
38 commissioner or other taxing officials of another state for the
39 interpretation and administration of the acts of their several
40 states providing for the collection of income tax at source on
41 wages for the purpose of promoting fair and equitable
42 administration of such acts and to eliminate duplicate
43 withholding. Notwithstanding the provisions of section 290.61
44 the commissioner ~~at-his-discretion~~ may furnish information on a *
45 reciprocal basis to the taxing officials of another state in
46 order to implement the purposes set forth above.

47 No change for subd 18

48 Subd. 19. EMPLOYEES INCURRING NO INCOME TAX LIABILITY.

49 Notwithstanding any other provision of this section, except
50 the provisions of subdivision 5a, an employer shall not be
51 required to deduct and withhold any tax under this chapter upon
52 a payment of wages to an employee if there is in effect with
53 respect to such payment a withholding exemption certificate, in
54 such form and containing such other information as the
55 commissioner may prescribe, furnished to the employer by the
56 employee certifying that the employee

57 (a) incurred no liability for income tax imposed under this
58 chapter for ~~his~~ the employee's preceding taxable year, and *

59 (b) anticipates ~~that-he-will-incur~~ incurring no liability *
60 for income tax imposed under this chapter for ~~his~~ the current *
61 taxable year. The commissioner shall by rule provide for the
62 coordination of the provisions of this subdivision with the
63 provisions of subdivision 7.

64 Subd. 20. VOLUNTARY WITHHOLDING AGREEMENTS. (a) (1)

65 For purposes of this section, any payment of an annuity to an
66 individual, if at the time the payment is made a request that
67 such annuity be subject to withholding under this section is in
68 effect, shall be treated as if it were a payment of wages by an
69 employer to an employee for a payroll period. Any payment to an
70 individual of sick pay which does not constitute wages,
71 (determined without regard to this subdivision), shall be
72 treated as if it were a payment of wages by an employer to an
73 employee for a payroll period, if, at the time the payment is
74 made a request that such sick pay be subject to withholding
75 under this section is in effect. Sick pay means any amount
76 which

1 (i) is paid to an employee pursuant to a plan to which the
2 employer is a party, and

3 (ii) constitutes remuneration or a payment in lieu of
4 remuneration for any period during which the employee is
5 temporarily absent from work on account of sickness or personal
6 injuries.

7 (2) A request for withholding, the amount withheld, and
8 sick pay paid pursuant to certain collective bargaining
9 agreements shall conform with the provisions of section
10 3402(o)(3), (4), and (5) of the Internal Revenue Code of 1954,
11 as amended through December 31, 1983.

12 (b) The commissioner is authorized by regulations to
13 provide for withholding

14 (1) from remuneration for services performed by an employee
15 for ~~his~~ the employer which (without regard to this subdivision) *
16 does not constitute wages, and

17 (2) from any other type of payment with respect to which
18 the commissioner finds that withholding would be appropriate
19 under the provisions of this section, if the employer and the
20 employee, or in the case of any other type of payment the person
21 making and the person receiving the payment, agree to such
22 withholding. Such agreement shall be made in such form and
23 manner as the commissioner may by regulations provide. For
24 purposes of this section remuneration or other payments with
25 respect to which such agreement is made shall be treated as if
26 they were wages paid by an employer to an employee to the extent
27 that such remuneration is paid or other payments are made during
28 the period for which the agreement is in effect.

29 No change for subd 21

30 Subd. 22. LIABILITY OF THIRD PARTIES PAYING OR

31 PROVIDING FOR WAGES. (a) For purposes of this section, if a
32 lender, surety, or other person, who is not an employer with
33 respect to an employee or group of employees, pays wages
34 directly to such an employee or group of employees, employed by
35 one or more employers, or to an agent on behalf of such employee
36 or employees, such lender, surety, or other person shall be
37 liable to the commissioner in a sum equal to the taxes required
38 to be deducted and withheld from such wages by such employer.

39 (b) If a lender, surety, or other person supplies funds to
40 or for the account of an employer for the specific purpose of
41 paying wages of the employees of such employer, with actual
42 notice or knowledge that such employer does not intend to or
43 will not be able to make timely payment or deposit of the
44 amounts of tax required by this section to be deducted and
45 withheld by such employer from such wages, such lender, surety,
46 or other person shall be liable personally to the commissioner
47 in a sum equal to the taxes which are not paid over to the
48 commissioner by such employer with respect to such wages.

49 (c) For purposes of this subdivision, a person shall be
50 deemed for purposes of a particular transaction to have actual
51 notice or knowledge of any fact from the time such fact is
52 brought to the attention of the individual conducting such
53 transaction, and in any event from the time such fact would have
54 been brought to such individual's attention if the person had
55 exercised due diligence. A person exercises due diligence ~~if he~~ *
56 maintains by maintaining reasonable routines for communicating *
57 significant information to the person conducting the transaction
58 and there is reasonable compliance with the routines. Due
59 diligence does not require an individual acting for the person
60 to communicate information unless such communication is part
61 of ~~his~~ the individual's regular duties or unless ~~he~~ the *
62 individual has reason to know of the transaction and that the *
63 transaction would be materially affected by the information.

64 (d) Any amounts paid to the commissioner pursuant to this
65 subdivision shall be credited to the liability of the employer.

66 Subd. 23. WITHHOLDING BY EMPLOYER OF DELINQUENT TAXES.

67 (1) The commissioner may, within five years after the date of
68 assessment of the tax, give notice to any employer deriving
69 income which has a taxable situs in this state regardless of
70 whether the income is exempt from taxation, that an employee of
71 that employer is delinquent in a certain amount with respect to
72 any state taxes, including penalties, interest and costs. The
73 commissioner can proceed under this subdivision only if the tax
74 is uncontested or if the time for appeal of the tax has
75 expired. The commissioner shall not proceed under this
76 subdivision until the expiration of 30 days after mailing to the

1 taxpayer, at ~~his~~ the taxpayer's last known address, a written *
2 notice of (a) the amount of taxes, interest, and penalties due
3 from the taxpayer and demand for their payment, and (b) the
4 commissioner's intention to require additional withholding by
5 the taxpayer's employer pursuant to this subdivision. The
6 effect of the notice shall expire 180 days after it has been
7 mailed to the taxpayer provided that the notice may be renewed
8 by mailing a new notice which is in accordance with this
9 subdivision. The renewed notice shall have the effect of
10 reinstating the priority of the original claim. The notice to
11 the taxpayer shall be in substantially the same form as that
12 provided in section 571.41. The notice shall further inform the
13 taxpayer of the wage exemptions contained in section 550.37,
14 subdivision 14. If no statement of exemption is received by the
15 commissioner within 30 days from the mailing of the notice, ~~he~~ *
16 the commissioner may proceed under this subdivision. The notice *
17 to the taxpayer's employer may be served by mail or by delivery
18 by an employee of the department of revenue and shall be in
19 substantially the same form as provided in section 571.495.
20 Upon receipt of notice, the employer shall withhold from
21 compensation due or to become due to the employee, the total
22 amount shown by the notice, subject to the provisions of section
23 571.55. The employer shall continue to withhold each pay period
24 until the total amount shown by the notice is paid in full.
25 Upon receipt of notice by the employer, the claim of the state
26 of Minnesota shall have priority over any subsequent
27 garnishments or wage assignments. The commissioner may arrange
28 between the employer and the employee for withholding a portion
29 of the total amount due the employee each pay period, until the
30 total amount shown by the notice plus accrued interest has been
31 withheld.

32 The "compensation due" any employee is defined in
33 accordance with the provisions of section 571.55. The maximum
34 withholding allowed under this subdivision for any one pay
35 period shall be decreased by any amounts payable pursuant to a
36 garnishment action with respect to which the employer was served
37 prior to being served with the notice of delinquency and any
38 amounts covered by any irrevocable and previously effective
39 assignment of wages; the employer shall give notice to the
40 department of the amounts and the facts relating to such
41 assignments within ten days after the service of the notice of
42 delinquency on the form provided by the department of revenue as
43 noted in this subdivision. In crediting amounts withheld
44 against delinquent taxes of an employee, the department shall
45 apply amounts withheld in the following order: penalties,
46 interest, tax and costs.

47 (2) If the employee ceases to be employed by the employer
48 before the full amount set forth in a notice of delinquency plus
49 accrued interest has been withheld, the employer shall
50 immediately notify the commissioner in writing of the
51 termination date of the employee and the total amount withheld.
52 No employer may discharge any employee by reason of the fact
53 that the commissioner has proceeded under this subdivision. If
54 an employer discharges an employee in violation of this
55 provision, the employee shall have the same remedy as provided
56 in section 571.61, subdivision 2.

57 (3) The employer shall, by the date prescribed in
58 subdivision 6, remit to the commissioner, on a form and in the
59 manner prescribed by the commissioner, the amount withheld
60 during the calendar quarter under this subdivision. Should any
61 employer, after notice, willfully fail to withhold in accordance
62 with the notice and this subdivision, or willfully fail to remit
63 any amount withheld as required by this subdivision, the
64 employer shall be liable for the total amount set forth in the
65 notice together with accrued interest which may be collected by
66 any means provided by law relating to taxation. No amount
67 required to be paid by an employer by reason of ~~his~~ the *
68 employer's failure to remit under this subdivision, may be *
69 deducted from the gross income of the employer, under sections
70 290.09, subdivision 4 or 290.01, subdivisions 20 to 20f. Any
71 amount collected from the employer for failure to withhold or
72 for failure to remit under this subdivision shall be credited to
73 the employee's account in the following manner: penalties,
74 interest, tax and costs.

75 (4) Clauses (1), (2) and (3), except provisions imposing a
76 liability on the employer for failure to withhold or remit,

1 shall apply to cases in which the employer is the United States
2 or any instrumentality thereof or this state or any municipality
3 or other subordinate unit thereof.

4 (5) The commissioner shall refund to the employee excess
5 amounts withheld from ~~him~~ the employee under this subdivision. *
6 If any excess results from payments by the employer because of
7 willful failure to withhold or remit as prescribed in clause (3)
8 above, the excess attributable to the employer's payment shall
9 be refunded to the employer.

10 (6) Employers required to withhold delinquent taxes,
11 penalties, interest and costs under this subdivision shall not
12 be required to compute any additional interest, costs or other
13 charges to be withheld.

14 (7) The collection remedy provided to the commissioner by
15 this subdivision shall have the same legal effect as if it were
16 a levy made pursuant to section 270.70.

17 No change for subd 24 to 25

18 Subd. 26. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS
19 WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE. (a) If,
20 in the case of any reportable payment, (1) the payee fails to
21 furnish ~~his~~ the payee's social security account number to the *
22 payor, or (2) the commissioner notifies the payor that the
23 social security account number furnished by the payee is
24 incorrect, then the payor shall deduct and withhold from the
25 payment a tax equal to ten percent of the payment.

26 (b)(1) In the case of any failure described in clause (a)
27 (1), clause (a) shall apply to any reportable payment made by
28 the payor during the period during which the social security
29 account number has not been furnished.

30 (2) In any case where there is a notification described in
31 clause (a)(2), clause (a) shall apply to any reportable payment
32 made by the payor (i) after the close of the 30th day after the
33 day on which the payor received the notification, and (ii)
34 before the payee furnishes another social security account
35 number.

36 (3)(i) Unless the payor elects not to have this
37 subparagraph apply with respect to the payee, clause (a) shall
38 also apply to any reportable payment made after the close of the
39 period described in paragraph (1) or (2) (as the case may be)
40 and before the 30th day after the close of the period.

41 (ii) If the payor elects the application of this
42 subparagraph with respect to the payee, clause (a) shall also
43 apply to any reportable payment made during the 30-day period
44 described in paragraph (2).

45 (iii) The payor may elect a period shorter than the grace
46 period set forth in subparagraph (i) or (ii) as the case may be.

47 (c) The provisions of section 3406 of the Internal Revenue
48 Code of 1954, as amended through December 31, 1983, shall apply
49 and shall govern when withholding shall be required and the
50 definition of terms. The term "reportable payment" shall
51 include only those payments for personal services. No tax shall
52 be deducted or withheld under this subdivision with respect to
53 any amount for which withholding is otherwise required under
54 this section. For purposes of this section, payments which are
55 subject to withholding under this subdivision shall be treated
56 as if they were wages paid by an employer to an employee and
57 amounts deducted and withheld under this subdivision shall be
58 treated as if deducted and withheld under subdivision 2a.

59 (d) Whenever the commissioner notifies a payor under this
60 subdivision that the social security account number furnished by
61 any payee is incorrect, notwithstanding section 290.61, the
62 commissioner shall at the same time furnish a copy of the notice
63 to the payor, and the payor shall promptly furnish the copy to
64 the payee. If the commissioner notifies a payor under this
65 subdivision that the social security account number furnished by
66 any payee is incorrect and the payee subsequently furnishes
67 another social security account number to the payor, the payor
68 shall promptly notify the commissioner of the other social
69 security account number furnished.

70 No change for subd 27

71 Subd. 28. Effective with payments made after April 1,
72 1988, any holder of a license issued by the Minnesota racing
73 commission who makes a payment for personal or professional
74 services to a holder of a class C license issued by the
75 commission, except an amount paid as a purse, shall deduct from
76 the payment and withhold seven percent of the amount as

1 Minnesota withholding tax when the amount paid to that
 2 individual by the same person during the calendar year exceeds
 3 \$600. For purposes of the provisions of this section, a payment
 4 to any person which is subject to withholding under this
 5 subdivision must be treated as if the payment was a wage paid by
 6 an employer to an employee. Every individual who is to receive
 7 a payment which is subject to withholding under this subdivision
 8 shall furnish the license holder with a statement, made under
 9 the penalties of perjury, containing the name, address, and
 10 social security account number of the person receiving the
 11 payment. No withholding is required if the individual presents
 12 a signed certificate from ~~his~~ the individual's employer which
 13 states that the individual is an employee of that employer. A
 14 nonresident individual who holds a class C license must be
 15 treated as an athlete for purposes of applying the provisions of
 16 sections 290.17, subdivision 2(1)(b)(ii) and 290.92, subdivision
 17 4a.

290*#93S

18 290.93 DECLARATION OF ESTIMATED TAX.

19 Subdivision 1. REQUIREMENT OF DECLARATION. (1) Every
 20 individual shall, at the time prescribed in subdivision 5, make
 21 and file with the commissioner a declaration of ~~his~~ estimated
 22 tax for the taxable year if
 23 the gross income (for purposes of this subdivision and
 24 subdivision 5 as defined in section 290.37, subdivision 1,
 25 clause (c)) for the taxable year can reasonably be expected to
 26 exceed the gross income amounts set forth in section 290.37,
 27 subdivision 1 pertaining to the requirements for making a return.

28 (2) If the individual is an infant or incompetent person,
 29 the declaration shall be made by ~~his~~ the individual's guardian.

30 (3) Notwithstanding the provisions of this section, no
 31 declaration is required if the estimated tax (as defined in
 32 subdivision 3) is less than \$500.

33 No change for subd 2

34 Subd. 3. ESTIMATED TAX DEFINED. For purposes of this
 35 section, in the case of an individual, the term "estimated tax"
 36 means the amount which the individual estimates as the sum of
 37 the taxes imposed by this chapter (including the tax imposed by
 38 section 290.091), for the taxable year, minus the amount which
 39 the individual estimates as ~~his~~ allowable credits against income
 40 tax under this chapter.

41 No change for subd 4 to 8

42 Subd. 9. OVERPAYMENT OF ESTIMATED TAX. (1) Where the
 43 amount of an installment payment of estimated tax exceeds the
 44 amount determined to be the correct amount of such installment
 45 payment, the overpayment shall be credited against the unpaid
 46 installments, if any. Where the total amount of the estimated
 47 tax payments plus (a) the total amount of tax withheld at the
 48 source under section 290.92, subdivision 2a or 3 (if any) and
 49 (b) and other payments (if any) exceeds by \$1 or more the taxes
 50 (and any added penalties and interest) reported in the return of
 51 the taxpayer or imposed upon ~~him~~ the taxpayer by this chapter,
 52 the amount of such excess shall be refunded to the taxpayer. If
 53 the amount of such excess is less than \$1 the commissioner shall
 54 not be required to refund that amount. Where any amount of such
 55 excess to be refunded exceeds \$10, such amount on the original
 56 return shall bear interest at the rate specified in section
 57 270.76, computed from 90 days after (a) the due date of the
 58 return of the taxpayer or (b) the date on which ~~his~~ the return
 59 is filed, whichever is later, until the date the refund is paid
 60 to the taxpayer. A return shall not be treated as filed until
 61 it is in processible form. A return is in processible form when
 62 the return is filed on a permitted form, and the return contains
 63 the taxpayer's name, address, social security account number,
 64 the required signature, and sufficient required information
 65 (whether on the return or on required attachments) to permit the
 66 mathematical verification of tax liability shown on the return.
 67 Notwithstanding the provisions of section 290.50, written
 68 findings by the commissioner, notice by mail to the taxpayer,
 69 and certificate for refundment by the commissioner, shall not be
 70 necessary. The provisions of section 270.10, shall not be
 71 applicable.

72 (2) Any action of the commissioner in refunding the amount
 73 of such excess shall not constitute a determination of the
 74 correctness of the return of the taxpayer within the purview of
 75 section 290.46.

1 (3) The commissioner of finance shall cause any such refund
2 of tax and interest to be paid out of the general fund in
3 accordance with the provisions of section 290.62, and so much of
4 said fund as may be necessary is hereby appropriated for that
5 purpose.

6 Subd. 10. UNDERPAYMENT OF ESTIMATED TAX. (1) In the
7 case of any underpayment of estimated tax by an individual,
8 except as provided in paragraph (4), (5), or (6), there must be
9 added to and become a part of the taxes imposed by this chapter,
10 for the taxable year an amount determined at the rate specified
11 in section 270.75 upon the amount of the underpayment for the
12 period of the underpayment.

13 (2) For purposes of the preceding paragraph, the amount of
14 underpayment shall be the excess of

15 (a) the amount of the installment which would be required
16 to be paid if the estimated tax were equal to 80 percent (66-2/3
17 percent in the case of farmers referred to in subdivision 5(2))
18 of the taxes shown on the return for the taxable year or 80
19 percent (66-2/3 percent in the case of farmers referred to
20 above) the taxes for such year if no return was filed, over

21 (b) the amount, if any, of the installment paid on or
22 before the last day prescribed for such payment.

23 (3) The period of the underpayment shall run from the date
24 the installment was required to be paid to whichever of the
25 following dates is the earlier

26 (a) The 15th day of the fourth month following the close of
27 the taxable year.

28 (b) With respect to any portion of the underpayment, the
29 date on which such portion is paid. For purposes of this
30 subparagraph, a payment of estimated tax on any installment date
31 shall be considered a payment of any unpaid required
32 installments in the order in which the installments are required
33 to be paid.

34 (4) The addition to the tax with respect to any
35 underpayment of any installment shall not be imposed if the
36 total amount of all payments of estimated tax made on or before
37 the last date prescribed for the payment of such installment
38 equals or exceeds the amount which would have been required to
39 be paid on or before such date if the estimated tax were
40 whichever of the following is the lesser

41 (a) The total tax liability shown on the return of the
42 individual for the preceding taxable year (if a return showing a
43 liability for such taxes was filed by the individual for the
44 preceding taxable year of 12 months), or

45 (b) An amount equal to the applicable percentage of the tax
46 for the taxable year (after deducting personal credits) computed
47 by placing on an annualized basis the taxable income and
48 alternative minimum taxable income for the months in the taxable
49 year ending before the month in which the installment is
50 required to be paid. The applicable percentage of the tax is 20
51 percent in the case of the first installment, 40 percent for the
52 second installment, 60 percent for the third installment, and 80
53 percent for the fourth installment. For purposes of this
54 subparagraph, the taxable income and alternative minimum taxable
55 income shall be placed on an annualized basis by

56 (i) Multiplying by 12 (or in the case of a taxable year of
57 less than 12 months, the number of months in the taxable year)
58 the taxable income and alternative minimum taxable income
59 computed for the months in the taxable year ending before the
60 month in which the installment is required to be paid.

61 (ii) Dividing the resulting amount by the number of months
62 in the taxable year ending before the month in which such
63 installment date falls.

64 (5) No addition to the tax shall be imposed under this
65 subdivision for any taxable year if:

66 (a) the individual did not have any liability for tax for
67 the preceding taxable year,

68 (b) the preceding taxable year was a taxable year of 12
69 months, and

70 (c) the individual was a resident of Minnesota throughout
71 the preceding taxable year.

72 (6) No addition to the tax shall be imposed under this
73 subdivision with respect to any underpayment to the extent the
74 commissioner determines that the provisions of section
75 6654(e)(3) of the Internal Revenue Code of 1954, as amended
76 through December 31, 1984, apply.

1 (7) For the purposes of applying this subdivision, the
 2 estimated tax shall be computed without any reduction for the
 3 amount which the individual estimates as ~~his~~ the individual's
 4 credit under section 290.92, subdivision 12 (relating to tax
 5 withheld at source on wages), and any other refundable credits
 6 which are allowed against income tax liability, and the amount
 7 of such credits for the taxable year shall be deemed a payment
 8 of estimated tax, and an equal part of such amounts shall be
 9 deemed paid on each installment date (determined under
 10 subdivisions 6 and 7) for such taxable year, unless the taxpayer
 11 establishes the dates on which all amounts were actually
 12 withheld, in which case the amounts so withheld shall be deemed
 13 payments of estimated tax on the dates on which such amounts
 14 were actually withheld.

15 No change for subd 11

290*#936S

16 290.936 OVERPAYMENT OF ESTIMATED TAX.

17 (1) Where the amount of an installment payment of estimated
 18 tax exceeds the amount determined to be the correct amount of
 19 such installment payment, the overpayment shall be credited
 20 against the unpaid installments, if any. Where the total amount
 21 of the estimated tax payments and other payments, if any,
 22 exceeds by \$1 or more the taxes (and any added penalties and
 23 interest) reported in the return of the taxpayer or imposed upon
 24 ~~him~~ the taxpayer by this chapter, the amount of such excess
 25 shall be refunded to the taxpayer. If the amount of such excess
 26 is less than \$1, the commissioner shall not be required to
 27 refund. Where any amount of such excess to be refunded exceeds
 28 \$10, such amount on the original return shall bear interest at
 29 the rate specified in section 270.76, computed from 90 days
 30 after (a) the due date of the return of the taxpayer or (b) the
 31 date on which ~~his~~ the return is filed, whichever is later, until
 32 the date the refund is paid to the taxpayer. Notwithstanding
 33 the provisions of section 290.50, written findings by the
 34 commissioner, notice by mail to the taxpayer, and certificate
 35 for refundment by the commissioner, shall not be necessary. The
 36 provisions of section 270.10, shall not be applicable.

37 (2) Any action of the commissioner in refunding the amount
 38 of such excess shall not constitute a determination of the
 39 correctness of the return of the taxpayer within the purview of
 40 section 290.46.

41 (3) The commissioner of finance shall cause any such refund
 42 of tax and interest to be paid out of the general fund in
 43 accordance with the provisions of section 290.62, and so much of
 44 said fund as may be necessary is hereby appropriated for that
 45 purpose.

290*#9726S

46 290.9726 CORPORATION TAXABLE INCOME TAXED TO
 47 SHAREHOLDERS.

48 No change for subd 1 to 3

49 Subd. 4. TREATMENT OF FAMILY GROUPS. Any amount
 50 taxable to a shareholder may be apportioned or allocated by the
 51 commissioner between or among shareholders of the corporation
 52 who are members of the shareholder's family, as defined in
 53 section 290.10, clause (6), if ~~he~~ the commissioner determines
 54 that the apportionment or allocation is necessary in order to
 55 reflect the value of services rendered to the corporation by the
 56 shareholders.

57 No change for subd 5 to 6

290A#03S

58 290A.03 DEFINITIONS.

59 No change for subd 1 to 5

60 Subd. 6. HOMESTEAD. "Homestead" means the dwelling
 61 occupied ~~by-a-claimant~~ as ~~his~~ the claimant's principal residence
 62 and so much of the land surrounding it, not exceeding ten acres,
 63 as is reasonably necessary for use of the dwelling as a home and
 64 any other property used for purposes of a homestead as defined
 65 in section 273.13, subdivision 22, except for agricultural land
 66 assessed as part of a homestead pursuant to section 273.13,
 67 subdivision 23, "homestead" is limited to 320 acres or, where
 68 the farm homestead is rented, one acre. The homestead may be
 69 owned or rented and may be a part of a multidwelling or
 70 multipurpose building and the land on which it is built. A
 71 manufactured home, as defined in section 168.011, subdivision 8,
 72 assessed as personal property may be a dwelling for purposes of
 73 this subdivision.

1 Subd. 7. DEPENDENT. "Dependent" means any person
 2 who is under 18 years of age at the end of the calendar year who
 3 receives more than 50 percent of ~~his~~ support from the claimant, *
 4 or who is between 18 and 21 years of age and is a full time *
 5 student who receives more than 50 percent of ~~his~~ support from
 6 the claimant. "Dependent" includes a parent of the claimant or
 7 spouse who lives in the claimant's homestead. "Dependent"
 8 includes a person over 18 years of age who lives in the
 9 claimant's homestead and who receives more than 50 percent of
 10 ~~his~~ support from the claimant. *

11 Subd. 8. CLAIMANT. (a) "Claimant" means a person,
 12 other than a dependent, who filed a claim authorized by this
 13 chapter and who was domiciled in this state during the calendar
 14 year for which the claim for relief was filed.

15 (b) In the case of a claim relating to rent constituting
 16 property taxes, the claimant shall have resided in a rented or
 17 leased unit on which ad valorem taxes or payments made in lieu
 18 of ad valorem taxes, including payments of special assessments
 19 imposed in lieu of ad valorem taxes, are payable at some time
 20 during the calendar year covered by the claim.

21 (c) "Claimant" shall not include a resident of a nursing
 22 home, intermediate care facility, or long term residential
 23 facility whose rent constituting property taxes is paid pursuant
 24 to the supplemental security income program under title XVI of
 25 the Social Security Act, the Minnesota supplemental aid program
 26 under sections 256D.35 to 256D.41, the medical assistance
 27 program pursuant to title XIX of the Social Security Act, or the
 28 general assistance medical care program pursuant to section
 29 256D.03, subdivision 3. If only a portion of the rent
 30 constituting property taxes is paid by these programs, the
 31 resident shall be a claimant for purposes of this chapter, but
 32 the refund calculated pursuant to section 290A.04 shall be
 33 multiplied by a fraction, the numerator of which is income as
 34 defined in subdivision 3 reduced by the total amount of income
 35 from the above sources other than vendor payments under the
 36 medical assistance program or the general assistance medical
 37 care program and the denominator of which is income as defined
 38 in subdivision 3 plus vendor payments under the medical
 39 assistance program or the general assistance medical care
 40 program, to determine the allowable refund pursuant to this
 41 chapter.

42 (d) Notwithstanding paragraph (c), if the claimant was a
 43 resident of the nursing home, intermediate care facility or long
 44 term residential facility for only a portion of the calendar
 45 year covered by the claim, the claimant may compute rent
 46 constituting property taxes by disregarding the rent
 47 constituting property taxes from the nursing home, intermediate
 48 care facility, or long term residential facility and use only
 49 that amount of rent constituting property taxes or property
 50 taxes payable relating to that portion of the year when the
 51 claimant was not in the facility. The claimant's household
 52 income is ~~his~~ the income for the entire calendar year covered by *
 53 the claim.

54 (e) In the case of a claim for rent constituting property
 55 taxes of a part year Minnesota resident, the income and rental
 56 reflected in this computation shall be for the period of
 57 Minnesota residency only. Any rental expenses paid which may be
 58 reflected in arriving at federal adjusted gross income cannot be
 59 utilized for this computation. When two individuals of a
 60 household are able to meet the qualifications for a claimant,
 61 they may determine among them as to who the claimant shall be.
 62 If they are unable to agree, the matter shall be referred to the
 63 commissioner of revenue and ~~his~~ whose decision shall be final. *
 64 If a homestead property owner was a part year Minnesota
 65 resident, the income reflected in the computation made pursuant
 66 to section 290A.04 shall be for the entire calendar year,
 67 including income not assignable to Minnesota.

68 (f) If a homestead is occupied by two or more renters, who
 69 are not husband and wife, the rent shall be deemed to be paid
 70 equally by each, and separate claims shall be filed by each.
 71 The income of each shall be ~~his~~ each renter's household income *
 72 for purposes of computing the amount of credit to be allowed.

73 No change for subd 9

74 Subd. 10. DISABILITY. "Disability" means:

75 (a) Inability to engage in any substantial gainful activity
 76 by reason of any medically determinable physical or mental

1 impairment which can be expected to result in death or has
2 lasted or can be expected to last for a continuous period of not
3 less than 12 months, or

4 (b) Blindness; and the term "blindness" means central
5 acuity of 20/200 or less in the better eye with the use of a
6 correcting lens. An eye which is accompanied by a limitation in
7 the fields of vision such that the widest diameter of the visual
8 field subtends an angle no greater than 20 degrees shall be
9 considered as having a central visual acuity of 20/200 or less.

10 (c) An individual shall be determined to be under a
11 disability only if ~~his~~ the physical or mental impairment or
12 impairments are of such severity that ~~he~~ the individual is not
13 only unable to do ~~his~~ previous work but cannot, considering ~~his~~
14 age, education, and work experience, engage in any other kind of
15 substantial gainful work which exists in the state economy,
16 regardless of whether the work exists in the immediate area ~~in~~
17 ~~which-he-lives~~ of residence, or whether a specific job vacancy
18 exists for ~~him~~ the individual, or whether ~~he~~ the individual
19 would be hired ~~if-he-applied~~ on applying for work. For purposes
20 of the preceding sentence, "work which exists in the state
21 economy" means work which exists in significant numbers either
22 in the area where the individual lives or in several areas of
23 the state.

24 (d) A "physical or mental impairment" is an impairment that
25 results from anatomical, physiological, or psychological
26 abnormalities which are demonstrable by medically acceptable
27 clinical and laboratory diagnostic techniques.

28 Subd. 11. RENT CONSTITUTING PROPERTY TAXES. "Rent
29 constituting property taxes" means the amount of gross rent
30 actually paid in cash, or its equivalent, which is attributable
31 (a) to the property tax paid on the unit or (b) to the amount
32 paid in lieu of property taxes, in any calendar year by a
33 claimant for the right of occupancy of ~~his~~ the claimant's
34 Minnesota homestead in the calendar year, and which rent
35 constitutes the basis, in the succeeding calendar year of a
36 claim for relief under this chapter by the claimant. The amount
37 of rent attributable to property taxes paid or payments in lieu
38 made on the unit shall be determined by multiplying the net tax
39 on the property where the unit is located by a fraction, the
40 numerator of which is the gross rent paid by the claimant for
41 the calendar year for the unit and the denominator of which is
42 the gross rent paid for the calendar year for the property in
43 which the unit is located. In no case may the rent constituting
44 property taxes exceed 50 percent of the gross rent paid by the
45 claimant during that calendar year. In the case of a claimant
46 who resides in a unit for which (1) a rent subsidy is paid to,
47 or for, the claimant based on the income of the claimant or the
48 claimant's family, or (2) a subsidy is paid to a public housing
49 authority that owns or operates the claimant's rental unit,
50 pursuant to United States Code, title 42, section 1437c, 20
51 percent of gross rent actually paid in cash or its equivalent
52 shall be the claimant's "rent constituting property taxes
53 paid." For purposes of this subdivision, "rent subsidy" does
54 not include any housing assistance received under aid to
55 families with dependent children, general assistance, Minnesota
56 supplemental assistance, supplemental security income, or
57 similar income maintenance programs.

58 Subd. 12. GROSS RENT. "Gross rent" means rental paid
59 for the right of occupancy, at arms-length, of a homestead,
60 exclusive of charges for any medical services furnished by the
61 landlord as a part of the rental agreement, whether expressly
62 set out in the rental agreement or not. If the landlord and
63 tenant have not dealt with each other at arms-length and the
64 commissioner determines that the gross rent charged was
65 excessive, ~~he~~ the commissioner may adjust the gross rent to a
66 reasonable amount for purposes of this chapter.

67 Any amount paid by a claimant residing in property assessed
68 pursuant to section 273.13, subdivision 3, 4, 5, or 6 for
69 occupancy in that property shall be excluded from gross rent for
70 purposes of this chapter. However, property taxes imputed to
71 the homestead of the claimant or the dwelling unit occupied by
72 the claimant that qualifies for homestead treatment pursuant to
73 section 273.13, subdivision 3, 4, 5, or 6 shall be included
74 within the term "property taxes payable" as defined in
75 subdivision 13, notwithstanding the fact that ownership is not
76 in the name of the claimant.

1 Subd. 13. PROPERTY TAXES PAYABLE. "Property taxes
 2 payable" means the property tax exclusive of special
 3 assessments, penalties, and interest payable on a claimant's
 4 homestead before reductions made pursuant to section 273.13,
 5 subdivisions 22 and 23, but after deductions made pursuant to
 6 sections 124.2137, 273.115, 273.116, 273.135, 273.1391, 273.42,
 7 subdivision 2, and any other state paid property tax credits in
 8 any calendar year. In the case of a claimant who makes ground
 9 lease payments, "property taxes payable" includes the amount of
 10 the payments directly attributable to the property taxes
 11 assessed against the parcel on which the house is located. No
 12 apportionment or reduction of the "property taxes payable" shall
 13 be required for the use of a portion of the claimant's homestead
 14 for a business purpose if the claimant does not deduct any
 15 business depreciation expenses for the use of a portion of the
 16 homestead in the determination of federal adjusted gross
 17 income. For homesteads which are manufactured homes as defined
 18 in section 168.011, subdivision 8, "property taxes payable"
 19 shall also include the amount of the gross rent paid in the
 20 preceding year for the site on which the homestead is located,
 21 which is attributable to the net tax paid on the site. The
 22 amount attributable to property taxes shall be determined by
 23 multiplying the net tax on the parcel by a fraction, the
 24 numerator of which is the gross rent paid for the calendar year
 25 for the site and the denominator of which is the gross rent paid
 26 for the calendar year for the parcel. When a homestead is owned
 27 by two or more persons as joint tenants or tenants in common,
 28 such tenants shall determine between them which tenant may claim
 29 the property taxes payable on the homestead. If they are unable
 30 to agree, the matter shall be referred to the commissioner of
 31 revenue and ~~his~~ whose decision shall be final. Property taxes
 32 are considered payable in the year prescribed by law for payment
 33 of the taxes.

*

34 In the case of a claim relating to "property taxes
 35 payable," the claimant must have owned and occupied the
 36 homestead on January 2 of the year in which the tax is payable
 37 and (i) the property must have been classified as homestead
 38 property pursuant to section 273.13, subdivision 22 or 23 on or
 39 before June 1 of the year in which the "property taxes payable"
 40 were levied; or (ii) the claimant must provide documentation
 41 from the local assessor that application for homestead
 42 classification has been made prior to October 1 of the year in
 43 which the "property taxes payable" were payable and that the
 44 assessor has approved the application.

45 No change for subd 14

290A#04S

46 290A.04 REFUND ALLOWABLE.

47 Subdivision 1. A refund shall be allowed each claimant in
 48 the amount that property taxes payable or rent constituting
 49 property taxes exceed the percentage of the household income of
 50 the claimant specified in subdivision 2 in the year for which
 51 the taxes were levied or in the year in which the rent was paid
 52 as specified in subdivision 2. If the amount of property taxes
 53 payable or rent constituting property taxes is equal to or less
 54 than the percentage of the household income of the claimant
 55 specified in subdivision 2 in the year for which the taxes were
 56 levied or in the year in which the rent was paid, the claimant
 57 shall not be eligible for a state refund pursuant to this
 58 section. For purposes of claiming this refund, a claimant who
 59 owns ~~his-own~~ a homestead part of the year and rents part of the
 60 year may add ~~his~~ the rent constituting property taxes to the
 61 qualifying tax on ~~his~~ the homestead.

*
*
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62 No change for subd 2 to 3

290A#06S

63 290A.06 FILING TIME LIMIT, LATE FILING.

64 Any claim for property taxes payable shall be filed with
 65 the department of revenue on or before August 15 of the year in
 66 which the property taxes are due and payable. Any claim for
 67 rent constituting property taxes shall be filed with the
 68 department of revenue on or before August 15 of the year
 69 following the year in which the rent was paid. The commissioner
 70 may extend the time for filing these claims for a period not to
 71 exceed six months in the case of sickness, absence, or other
 72 disability, or when in ~~his~~ the commissioner's judgment other
 73 good cause exists.

*

74 A claim filed after the original or extended due date shall

1 be allowed, but the amount of credit shall be reduced by five
 2 percent of the amount otherwise allowable, plus an additional
 3 five percent for each month of delinquency, not exceeding a
 4 total reduction of 25 percent which may be canceled or reduced
 5 by the commissioner in the case of sickness, absence, or other
 6 disability, or when in ~~his~~ the commissioner's judgment other *
 7 good cause exists. In any event no claim shall be allowed if
 8 the initial claim is filed one year after the original due date
 9 for filing the claim.

10 The time limit on redetermination of claims for refund and
 11 examination of records shall be governed by sections 290.49,
 12 290.50, and 290.56 and for purposes of computing the time limit
 13 as provided in these sections the due date of the property tax
 14 refund return shall be the same as the due date contained in
 15 section 290.42 for an income tax return covering the year in
 16 which the rent was paid or the year preceding the year in which
 17 the property taxes are payable.

290A#09S

18 290A.09 PROOF OF CLAIM.

19 Every claimant shall supply to the department of revenue,
 20 in support of ~~his~~ the claim, proof of eligibility under this *
 21 chapter, including but not limited to amount of rent paid or
 22 property taxes accrued, name and address of owner or managing
 23 agent of property rented, changes in homestead, household
 24 membership, household income, size and nature of property
 25 claimed as a homestead.

26 Disabled persons filing claims shall submit proof of
 27 disability in the form and manner as the department may
 28 prescribe. The department may require examination and
 29 certification by the claimant's physician or by a physician
 30 designated by the department. The cost of any examination shall
 31 be borne by the claimant, unless the examination proves the
 32 disability, in which case the cost of the examination shall be
 33 borne by the department.

34 A determination of disability of a claimant by the social
 35 security administration under Title II or Title XVI of the
 36 Social Security Act shall constitute presumptive proof of
 37 disability.

290A#10S

38 290A.10 PROOF OF TAXES PAID.

39 Every claimant who files a claim for relief for property
 40 taxes payable shall include with ~~his~~ the claim a property tax *
 41 statement or a reproduction thereof in a form deemed
 42 satisfactory by the commissioner of revenue indicating that
 43 there are no delinquent property taxes on the homestead.
 44 Indication on the property tax statement from the county
 45 treasurer that there are no delinquent taxes on the homestead
 46 shall be sufficient proof. Taxes included in a confession of
 47 judgment under section 279.37 shall not constitute delinquent
 48 taxes as long as the claimant is current on the payments
 49 required to be made under section 279.37.

290A#111S

50 290A.111 ACTION TO ENJOIN PROPERTY TAX REFUND RETURN
 51 PREPARERS.

52 No change for subd 1

53 Subd. 2. ADJUDICATION AND DECREES. In any action
 54 under subdivision 1, if the court finds that a property tax
 55 refund return preparer has:

56 (1) engaged in any conduct subject to the criminal penalty
 57 provided by section 290A.11, subdivision 2, or subject to the
 58 civil penalty under section 290A.112,

59 (2) misrepresented ~~his~~ the preparer's eligibility to *
 60 practice before the department of revenue, or otherwise *
 61 misrepresented ~~his~~ the preparer's experience or education as a
 62 property tax refund return preparer,

63 (3) guaranteed the payment of any property tax refund,

64 (4) engaged in any other fraudulent or deceptive conduct
 65 which substantially interferes with the proper administration of
 66 the provisions of this chapter,

67 the court may decree appropriate injunctive relief pursuant
 68 to the authority granted in section 290.521, subdivision 2.

69 No change for subd 3

290A#13S

70 290A.13 NO RELIEF ALLOWED IN CERTAIN CASES.

71 No claim for relief under this chapter shall be allowed if
 72 the commissioner determines that the claimant received title or

1 tenancy to ~~his~~ the homestead primarily for the purpose of *
2 receiving benefits under this chapter and not for bona fide
3 residence purposes.

290A#14S

4 290A.14 PROPERTY TAX STATEMENT.

5 The county treasurer shall prepare and send a sufficient
6 number of copies of the property tax statement to the owner, and
7 to ~~his~~ the owner's escrow agent if the taxes are paid via an *
8 escrow account, to enable ~~him~~ the owner to comply with the *
9 filing requirements of this chapter and to retain one copy ~~for~~ *
10 ~~his-records as a record~~. The property tax statement, in a form *
11 prescribed by the commissioner, shall indicate the manner in
12 which the claimant may claim relief from the state and the
13 amount of the tax for which the applicant may claim relief. The
14 statement shall also indicate if there are delinquent property
15 taxes on the property in the preceding year. Taxes included in
16 a confession of judgment under section 279.37 shall not
17 constitute delinquent taxes as long as the claimant is current
18 on the payments required to be made under section 279.37.

290A#17S

19 290A.17 PUBLISHING OR RELEASING INFORMATION ON CLAIMS.

20 The provisions of section 290.61 relating to the
21 confidential nature of income tax returns shall be applicable to
22 claims filed pursuant to the provisions of chapter 290A. When
23 it is necessary to adjust or audit a claim that is required to
24 include or recognize the income of another person, or
25 information furnished by that person, the commissioner is
26 authorized to disclose the income and other information of all
27 people involved, to each person involved, so that a proper claim
28 may be allowed.

29 Nothing herein shall be construed to prohibit the
30 commissioner from publishing or releasing the information
31 concerning amounts of property tax accrued and the relief
32 granted to taxpayers without including information which would
33 identify individual taxpayers. The commissioner may examine
34 income tax returns as ~~he~~ the commissioner deems necessary and *
35 may utilize the information in legal and administrative
36 proceedings to insure proper administration of this chapter,
37 notwithstanding section 290.61.

290A#19S

38 290A.19 OWNER OR MANAGING AGENT TO FURNISH RENT
39 CERTIFICATE; PENALTY.

40 (a) The owner or managing agent of any property for which
41 rent is paid for occupancy as a homestead shall furnish a
42 certificate of rent constituting property tax to each person who
43 is a renter on December 31, in the form prescribed by the
44 commissioner. If the renter moves prior to December 31, the
45 owner or managing agent ~~shall-at-his-option~~ has the option to *
46 either provide the certificate to the renter at the time he *
47 moves of moving, or mail the certificate to the forwarding *
48 address if an address has been provided by the renter. The
49 certificate shall be made available to the renter not later than
50 January 31 of the year following the year in which the rent was
51 paid. Any owner or managing agent who willfully fails to
52 furnish a certificate as provided herein shall be liable to the
53 commissioner for a penalty of \$20 for each act or failure to
54 act. The penalty shall be assessed and collected in the manner
55 provided in chapter 290 for the assessment and collection of
56 income tax.

57 (b) If the owner or managing agent elects to provide the
58 renter with the certificate at the time ~~he-moves~~ of moving, *
59 rather than after December 31, the amount of rent constituting
60 property taxes shall be computed as follows:

61 (i) The net tax shall be reduced by 1/12th for each month
62 remaining in the calendar year.

63 (ii) In calculating the denominator of the fraction
64 pursuant to section 290A.03, subdivision 11, the gross rent paid
65 through the last month of claimant's occupancy shall be
66 substituted for "the gross rent paid for the calendar year for
67 the property in which the unit is located."

68 (c) The certificate of rent constituting property taxes
69 shall include the address of the property, including the county,
70 and the property tax parcel identification number and any
71 additional information which the commissioner determines is
72 appropriate.

73 (d) If the owner or managing agent fails to provide the

1 renter with a certificate of rent constituting property taxes,
 2 the commissioner shall allocate the net tax on the building to
 3 the unit on a square footage basis or other appropriate basis as
 4 the commissioner determines. The renter shall supply the
 5 commissioner with a statement from the county treasurer which
 6 gives the amount of property tax on the parcel, the address and
 7 property tax parcel identification number of the property, and
 8 the number of units in the building.

290A#20S

9 290A.20 RULES AND REGULATIONS.

10 The commissioner shall promulgate rules and regulations
 11 which ~~he~~ the commissioner deems appropriate for the
 12 administration of this chapter. ~~He~~ and shall also make
 13 available forms with instructions for claimants as ~~he~~ the
 14 commissioner deems necessary for the proper administration of
 15 this chapter. The claim shall be in the form the commissioner
 16 may prescribe.

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291*#005S

17 291.005 DEFINITIONS.

18 Subdivision 1. Unless the context otherwise clearly
 19 requires, the following terms used in this chapter shall have
 20 the following meanings:

21 (1) "Federal gross estate" means the gross estate of a
 22 decedent as valued and otherwise determined for federal estate
 23 tax purposes by federal taxing authorities pursuant to the
 24 provisions of the Internal Revenue Code.

25 (2) "Minnesota gross estate" means the federal gross estate
 26 of a decedent after (a) excluding therefrom any property
 27 included therein which has its situs outside Minnesota and (b)
 28 including therein any property omitted from the federal gross
 29 estate which is includable therein, has its situs in Minnesota,
 30 and was not disclosed to federal taxing authorities.

31 (3) "Personal representative" means the executor,
 32 administrator or other person appointed by the court to
 33 administer and dispose of the property of the decedent. If
 34 there is no executor, administrator or other person appointed,
 35 qualified, and acting within this state, then any person in
 36 actual or constructive possession of any property having a situs
 37 in this state which is included in the federal gross estate of
 38 the decedent shall be deemed to be a personal representative to
 39 the extent of the property and the Minnesota estate tax due with
 40 respect to the property.

41 (4) "Resident decedent" means an individual whose domicile
 42 at the time of ~~his~~ death was in Minnesota.

*

43 (5) "Nonresident decedent" means an individual whose
 44 domicile at the time of ~~his~~ death was not in Minnesota.

*

45 (6) "Situs of property" means, with respect to real
 46 property, the state or country in which it is located; with
 47 respect to tangible personal property, the state or country in
 48 which it was normally kept or located at the time of the
 49 decedent's death; and with respect to intangible personal
 50 property, the state or country in which the decedent was
 51 domiciled at death.

52 (7) "Commissioner" means the commissioner of revenue or any
 53 person to whom the commissioner has delegated functions under
 54 this chapter.

55 (8) "Internal Revenue Code" means the United States
 56 Internal Revenue Code of 1954 as amended through December 31,
 57 1984.

58 No change for subd 2

291*#09S

59 291.09 DETERMINATION OF TAX.

60 No change for subd 1a

61 Subd. 2a. The commissioner may designate on the return the
 62 documents that are required to be filed together with the return
 63 in order to determine the computation of tax. The commissioner
 64 shall not be bound by any item on the return unless ~~he has~~
 65 received all required documents have been received and unless
 66 all items of information on the return have been completed.

*
*

67 Subd. 3. Repealed, 1979 c 303 art 3 s 41

68 Subd. 3a. (1) The commissioner may challenge matters of
 69 taxability of any assets reported on the return or the
 70 computation of tax, only if within 180 days from the due date of
 71 the return or the receipt of the return and all documents
 72 required to be filed with the return, whichever is later, the
 73 commissioner mails or delivers a written notice to the personal

1 representative objecting to the return as filed and specifying
2 the reasons for the objection.

3 (2) ~~If the~~ A personal representative who disagrees with the *
4 objection or does not wish to fully comply with the objection, *
5 he may request that the commissioner hold a hearing on the
6 objection. Within 30 days of receipt of a request, the
7 commissioner shall set a time and place for hearing. Unless
8 otherwise agreed upon, the hearing date shall not be earlier
9 than 30 days nor later than 60 days from the date of the notice
10 setting the hearing. The notice of hearing shall set forth the
11 rights available to the personal representative under chapter
12 14. Not later than 30 days after the commissioner receives the
13 report and recommendation of the administrative law judge, or a
14 written waiver of ~~his~~ hearing rights by the personal *
15 representative, the commissioner shall issue an order
16 determining the tax. Any such determination made by the
17 commissioner may be appealed to the tax court as provided in
18 section 271.09.

19 (3) At any time together with or after the objection, the
20 commissioner, ~~on his own initiative, may set~~ may initiate the *
21 setting of a time and place for a hearing in accordance with (2) *
22 above.

23 (4) In ~~his~~ the objection, or at any time thereafter, the *
24 commissioner may assess any additional tax as the facts may
25 warrant, subject to the right of the personal representative to
26 demand a hearing under chapter 14. If the personal
27 representative does not demand a hearing within 90 days of the
28 date of the assessment, the tax so assessed shall be legally due
29 and the commissioner may proceed to collect the unpaid tax. ~~If~~ *
30 The commissioner, on later finds finding the tax assessment to *
31 be erroneous, he may adjust the assessment prior to collection. *

32 (5) The commissioner shall not be required to object to any
33 subsequent original, amended or supplemental return in order to
34 preserve ~~his~~ rights. The commissioner shall not be precluded *
35 from objecting to a subsequent original, amended or supplemental
36 return even though an original return was accepted as filed. If
37 the commissioner had accepted an original return showing no tax
38 due and a subsequent original, amended or supplemental return
39 discloses additional assets not disclosed on the original
40 return, the commissioner may object to any matter of taxability
41 or computation of tax on the original return within 180 days of
42 receipt of the subsequent original, amended or supplemental
43 return.

44 (6) Subject to the provisions of sections 291.11 and
45 291.215, the Minnesota estate tax liability shall be considered
46 as finally determined on the date notification of acceptance is
47 issued to the personal representative or, if no objection is
48 filed, on the day following 180 days from the due date of the
49 return or the receipt of the return, together with all other
50 documents required to be filed with the return, whichever is
51 later.

52 (7) Subject to the time limits imposed elsewhere in this
53 chapter, the commissioner may refund an overpayment of tax,
54 penalty or interest even though the personal representative has
55 not made an application for refund.

56 Subd. 4. Repealed, 1979 c 303 art 3 s 41
57 No change for subd 4a to 7

291*#11S

58 291.11 TIME EFFECTIVE.

59 Subdivision 1. (1) All taxes imposed by this chapter shall
60 take effect at and upon the death of the person whose estate is
61 subject to taxation and shall be due and payable at the
62 expiration of nine months from such death, except as otherwise
63 provided in this chapter. Where an extension to file the
64 federal estate tax return has been granted under the provision
65 of section 6081 of the Internal Revenue Code, the time for
66 filing the estate tax return or making payment of the tax
67 without penalty, is extended for the same period. Provided,
68 that any taxpayer who owes at least \$5,000 in taxes and who,
69 under section 6161 or 6166 of the Internal Revenue Code, has
70 been granted an extension for payment of the tax shown on the
71 return, may elect to pay the commissioner the amount of tax due
72 in equal amounts at the same time as required for federal
73 purposes. ~~When~~ A taxpayer ~~elects~~ electing to pay the tax in *
74 installments, ~~he~~ shall notify the commissioner in writing no *
75 later than nine months after the death of the person whose

1 estate is subject to taxation. If the taxpayer fails to pay an
2 installment on time, unless it is shown that such failure is due
3 to reasonable cause, the election shall be revoked and the
4 entire amount of unpaid tax plus accrued interest shall be due
5 and payable 90 days after the date on which the installment was
6 payable.

7 (2) (a) False return - in the case of a false or fraudulent
8 return with the intent to evade tax, any additional tax
9 resulting therefrom may be assessed at any time.

10 (b) No return - in the case of failure to file a return,
11 the tax may be assessed at any time.

12 (c) Omissions - in the case where there is omitted from the
13 estate items subject to tax under this chapter the tax on such
14 omitted items may be assessed at any time.

15 In determining the items omitted, there shall not be taken
16 into account any item which has been disclosed in the return or
17 in a statement attached to the return in a manner adequate to
18 apprise the commissioner of the nature and amount of such item.

19 (3) Where, before the expiration of the time prescribed in
20 this chapter for the determination or adjustment of the tax, the
21 commissioner and the taxpayer shall consent in writing to the
22 extension of time for such determination or adjustment the tax
23 may be determined at any time prior to the expiration agreed
24 upon and in the manner agreed upon. The period so agreed upon
25 may be extended by subsequent agreements in writing made before
26 the expiration of the period previously agreed upon.

- 27 Subd. 2. Repealed, 1979 c 303 art 3 s 41
- 28 Subd. 3. Repealed, 1979 c 303 art 3 s 41
- 29 Subd. 4. Repealed, 1979 c 303 art 3 s 41
- 30 Subd. 5. Repealed, 1979 c 303 art 3 s 41
- 31 Subd. 6. Repealed, 1979 c 303 art 3 s 41
- 32 Subd. 7. Repealed, 1979 c 303 art 3 s 41
- 33 Subd. 8. Repealed, 1979 c 303 art 3 s 41
- 34 Subd. 9. Repealed, 1979 c 303 art 3 s 41

291*#12S

35 291.12 COLLECTION OF TAX.

36 Subdivision 1. Any representative or trustee who has in
37 ~~his~~ possession or under ~~his~~ control, property, the transfer of *
38 which is subject to any tax imposed by this chapter and from *
39 which such tax may lawfully be paid by ~~him~~ the representative or *
40 trustee, shall either deduct the amount of tax due or shall *
41 collect from the person entitled to such property, the amount of
42 tax due, together with any accrued interest thereon, before
43 completing the transfer of such property or making delivery
44 thereof;--~~He~~ and shall pay to the commissioner all taxes and *
45 interest so deducted or collected.

46 Subd. 2. Any representative or trustee having in ~~his~~ *
47 possession or under ~~his~~ control any property to which a person, *
48 from whom a tax is known by such representative or trustee to be
49 due under the provisions of this chapter, is entitled, shall be
50 personally liable for the payment of such tax and any interest
51 accrued, to the extent of the value of such property; provided,
52 however, that there shall be no such liability if such property
53 cannot be lawfully used by ~~him~~ the representative or trustee for *
54 the payment of such taxes or interest.

55 Subd. 3. No representative or trustee shall be required to *
56 transfer or deliver any property in ~~his~~ possession or under ~~his~~ *
57 control unless all taxes and interest due from the person
58 entitled thereto under the provisions of this chapter have
59 either been deducted or collected by ~~him~~ the representative or *
60 trustee or paid by the transferee to the commissioner. *

61 Subd. 4. Repealed, 1979 c 303 art 3 s 41

291*#16S

62 291.16 POWER OF SALE.

63 Every executor, administrator, or trustee shall have full
64 power to sell ~~so-much-of~~ the property embraced in any *
65 inheritance, devise, bequest, or legacy ~~as-will-enable-him~~ to *
66 pay the tax imposed by this chapter, in the same manner as he *
67 ~~might-be~~ entitled by law to do for the payment of the debts of a *
68 testator or intestate.

291*#215S

69 291.215 VALUATION OF ESTATE; REPORTING.

70 No change for subd 1

71 Subd. 2. Before the final settlement of an estate the
72 personal representative shall furnish an amended estate tax
73 return listing all property and taxable transfers or other

1 events of which ~~he~~ the personal representative has become aware *
 2 since the first estate tax return was made which would result in *
 3 a change in either the amount of the estate tax initially *
 4 determined or the statements made by the affiant therein. He *
 5 The personal representative also shall furnish copies of any *
 6 documents or records and any other information relating to the *
 7 estate or its value upon request of the commissioner of revenue.
 8 No change for subd 3

291*#27S

9 291.27 UNPAID TAX; OMITTED PROPERTY.
 10 Any tax due and unpaid under the provisions of this chapter
 11 may be enforced and collected from any transferee of property
 12 included in the Minnesota estate by action in the court of
 13 administration of the estate of the decedent or in a court of
 14 general jurisdiction by the personal representative of any
 15 estate, the attorney general, or the commissioner in the name of
 16 the state.
 17 Any property which for any cause is omitted from the
 18 Minnesota estate tax return so that its value is not taken into
 19 consideration in the determination of the estate tax, may be
 20 subsequently taxed against the persons receiving the same, or
 21 any part thereof, to the same effect as if included in the
 22 estate tax return, except that any personal representative of an
 23 estate discharged ~~from his trust~~ in the meantime shall not be *
 24 liable for the payment of such tax. When any property has been
 25 omitted in the determination of an estate tax, the tax thereon
 26 may be determined and recovered in a civil action brought by the
 27 attorney general or the commissioner, in the name of the state,
 28 in any court of general jurisdiction.

291*#31S

29 291.31 POWERS OF COMMISSIONER OF REVENUE.
 30 Subdivision 1. The commissioner of revenue is hereby
 31 authorized and empowered to issue a citation to any person who
 32 ~~he~~ the commissioner may believe or has reason to believe has any *
 33 knowledge or information concerning any property which ~~he~~ the *
 34 commissioner believes or has reason to believe has been *
 35 transferred by any person and as to which there is or may be a
 36 tax due to the state under the provisions of this chapter, and
 37 by such citation require such person to appear before ~~him~~ the *
 38 commissioner at a time and place to be designated in such *
 39 citation and testify, under oath, as to any fact or information *
 40 within ~~his~~ the cited person's knowledge touching the quantity, *
 41 value, and description of any such property and its ownership
 42 and the disposition thereof which may have been made by any
 43 person, and to produce and submit to the inspection of the
 44 commissioner of revenue any books, records, accounts, or
 45 documents in the possession of or under the control of any
 46 person so cited. The commissioner of revenue shall also have
 47 power to inspect and examine the books, records, and accounts of
 48 any person, firm, or corporation, including the stock transfer
 49 books of any corporation, for the purpose of acquiring any
 50 information deemed necessary or desirable by ~~him~~ the *
 51 commissioner for the proper enforcement of this chapter and the *
 52 collection of the full amount of the tax which may be due to the
 53 state hereunder. Any and all information acquired by the
 54 commissioner of revenue under and by virtue of the means and
 55 methods provided for by this section shall be deemed and held by
 56 ~~him~~ the commissioner as confidential and shall not be disclosed *
 57 by ~~him~~ the commissioner except so far as the same may be *
 58 necessary for the enforcement and collection of the tax provided
 59 for by this chapter.

60 Refusal of any person to attend before the commissioner of
 61 revenue in obedience to any such citation, or to testify, or
 62 produce any books, accounts, records, or documents in ~~his~~ *
 63 possession or under ~~his~~ control, and submit the same to *
 64 inspection of the commissioner of revenue when so required, may,
 65 upon application of the commissioner of revenue, be punished by
 66 any district court in the same manner as if the proceedings were
 67 pending in such court.

68 Witnesses so cited before the commissioner of revenue, and
 69 any sheriff or other officer serving such citation, shall
 70 receive the same fees as are allowed in civil actions; to be
 71 paid by the commissioner of revenue out of the funds
 72 appropriated for the enforcement of this chapter.

73 Subd. 2. The commissioner shall administer and enforce the
 74 assessment and collection of the taxes imposed by this chapter- *

1 He and may, from time to time, make, publish, and distribute *
 2 rules and regulations in enforcing its provisions. ~~In his~~ *
 3 ~~discretion-he~~ The commissioner may make a charge for copies *
 4 distributed upon request--He and shall cause to be prepared *
 5 blank forms for the returns required by this chapter, but
 6 failure to receive or secure them shall not relieve any person
 7 or corporation from the obligation of making any return required
 8 ~~of him or it~~ under this chapter. The commissioner may prescribe *
 9 rules and regulations governing the recognition of persons,
 10 other than attorneys at law licensed to practice in Minnesota,
 11 who represent others before the commissioner.

291*#32S

12 291.32 REFUNDING OF TAX.

13 Subdivision 1. If under the provisions of this chapter any
 14 person or corporation is entitled to a return of any part of a
 15 tax, penalty, or interest previously paid in excess of the
 16 amount legally due, ~~he~~ the payer may apply to the commissioner *
 17 for a determination of the amount ~~which he is entitled to have~~ *
 18 be returned. The applicant must furnish the commissioner with *
 19 evidence showing the facts which entitled ~~him~~ the applicant to *
 20 such return and the amount ~~he is entitled to have~~ be returned. *
 21 The commissioner must examine the application and deny or allow,
 22 in a written order, the application in whole or in part. A copy
 23 of the order must be mailed to the applicant at the address
 24 stated on the application. If such application is allowed in
 25 whole or in part, the commissioner shall pay the refund. The
 26 amount of taxes, penalty, and interest in excess of the amount
 27 legally due must be paid with interest at the rate specified in
 28 section 270.76, from the date of payment or from the date
 29 beginning nine months after the death of the decedent, whichever
 30 is later. The money necessary to pay the amounts are
 31 appropriated to the commissioner out of the general fund.

32 Subd. 2. All applications for refunds must be made within
 33 two years from the date of final determination or adjustment of
 34 any part of the tax, penalty, or interest by the taxpayer, the
 35 commissioner, or the tax court, as applicable. If the
 36 application is denied in whole or in part the taxpayer may
 37 commence an action against the commissioner to recover any
 38 overpayments of taxes claimed to be refundable but for which the
 39 commissioner has issued no order of refundment. Such action may
 40 be brought in the District Court of the district in which lies
 41 the county of ~~his~~ taxpayer's residence or principal place of *
 42 business if an estate or trust, of the principal place of its
 43 administration, or in the district court for Ramsey county.
 44 Such action may be commenced after the expiration of six months
 45 after the application is filed if the commissioner has not taken
 46 final action thereon and shall be commenced within 18 months
 47 after the date of the order denying the application. If the
 48 commissioner has not acted within two years after the
 49 application is filed, it shall be considered denied.

291*#42S

50 291.42 ELECTION TO INVOKE.

51 In any case in which this state and one or more other
 52 states each claims that it was the domicile of a decedent at the
 53 time of ~~his~~ death, at any time prior to the commencement of *
 54 legal action for determination of domicile within this state or
 55 within 60 days thereafter, any executor, or the taxing official
 56 of any such state, may elect to invoke the provisions of
 57 sections 291.41 to 291.47. Such executor or taxing official
 58 shall send a notice of such election by certified mail, receipt
 59 requested, to the taxing official of each such state and to each
 60 executor, ancillary administrator, and interested person.
 61 Within 40 days after the receipt of such notice of election any
 62 executor may reject such election by sending a notice, by
 63 certified mail, receipt requested, to the taxing officials
 64 involved and to all other executors and to all interested
 65 parties. When an election has been rejected no further
 66 proceedings shall be had under sections 291.41 to 291.47. If
 67 such election is not rejected within the 40-day period, the
 68 dispute as to death taxes shall be determined solely in
 69 accordance with the provisions of sections 291.41 to 291.47. No
 70 other proceedings to determine or assess such death taxes shall
 71 thereafter be instituted in any court of this state or otherwise.

291*#44S

72 291.44 DETERMINATION OF DOMICILE.

73 If in any such case it appears that an agreement cannot be

1 reached, as provided in section 291.43, or if one year shall
2 have elapsed from the date of the election without such an
3 agreement having been reached, the domicile of the decedent at
4 the time of his death shall be determined solely for death tax *
5 purposes as follows:

6 (1) Where only this state and one other state are involved,
7 the commissioner of revenue and the taxing official of the other
8 state shall each appoint a member of a board of arbitration, and
9 these members shall appoint the third member of the board. If
10 this state and more than one other state are involved, the
11 taxing officials thereof shall agree upon the authorities
12 charged with the duty of administering death tax laws in three
13 states not involved in the dispute and each of these authorities
14 shall appoint a member of the board of arbitration. The board
15 shall select one of its members as chairman chair. *

16 (2) Such board shall hold hearing at such places as are
17 deemed necessary, upon reasonable notice to the executors,
18 ancillary administrators, all other interested persons, and to
19 the taxing officials of the states involved, all of whom are
20 entitled to be heard.

21 (3) Such board may administer oaths, take testimony,
22 subpoena witnesses and require their attendance, require the
23 production of books, papers, and documents, issue commissions to
24 take testimony. Subpoenas may be issued by any member of the
25 board. Failure to obey a subpoena may be punished by any court
26 of record in the same manner as if the subpoena had been issued
27 by such court.

28 (4) Whenever practicable such board shall apply the rules
29 of evidence then prevailing in the federal courts under the
30 federal rules of civil procedure.

31 (5) Such board shall determine the domicile of the decedent
32 at the time of his death. This determination is final and *
33 conclusive and binds this state, and all of its judicial and
34 administrative officials on all questions concerning the
35 domicile of the decedent for death tax purpose.

36 (6) The reasonable compensation and expenses of the members
37 of the board and its employees shall be agreed upon among such
38 members, the taxing officials involved, and the executors. If
39 an agreement cannot be reached, such compensation and expenses
40 shall be determined by such taxing officials; and, if they
41 cannot agree, by the appropriate probate court of the state
42 determined to be the domicile. Such amount shall be borne by
43 the estate and shall be deemed an administration expense.

44 (7) The determination of such board and the record of its
45 proceeding shall be filed with the authority having jurisdiction
46 to assess the death tax in the state determined to be the
47 domicile of the decedent and with the authorities which would
48 have had jurisdiction to assess the death tax in each of the
49 other states involved if the decedent had been found to be
50 domiciled therein.

291*#48S

51 291.48 PUBLICITY OF RETURNS; INFORMATION.

52 It shall be unlawful for the commissioner or any other
53 public official, employee or former employee to divulge or
54 otherwise make known in any manner any particulars set forth or
55 disclosed in any report or return required by this chapter or
56 chapter 292 or information acquired while examining or auditing
57 any taxpayer's liability for taxes thereunder, except in
58 connection with a proceeding involving taxes due under this
59 chapter or chapter 292 from the taxpayer making the return. The
60 commissioner may furnish a copy of any return or report to any
61 official of the United States or any state having duties to
62 perform in respect to the assessment or collection of any
63 inheritance, estate, or gift tax, if the taxpayer is required by
64 the laws of the United States or of the other state to make a
65 return therein. Prior to the release of any information to any
66 official of the United States or any other state under the
67 provisions of this section, the person to whom the information
68 is to be released shall sign an agreement which provides that he *
69 the person will protect the confidentiality of the returns and *
70 information revealed to the extent that it is protected under
71 the laws of the state of Minnesota. The commissioner and all
72 other public officials and employees shall keep and maintain the
73 same secrecy with respect to any information furnished by any
74 department, commission, or official of the United States or of
75 any other state. Nothing herein contained shall be construed to

1 prohibit the commissioner from publishing statistics so
 2 classified as not to disclose the identity of particular
 3 property, decedents, heirs, or personal representatives, returns
 4 or reports and the contents thereof. Any person violating the
 5 provisions of this section shall be guilty of a gross
 6 misdemeanor.

7 The report or return of a decedent or donor shall, upon
 8 written request, be open to inspection by or disclosure to (1)
 9 the administrator, executor, or trustee of ~~his~~ the estate, and *
 10 (2) any heir at law, next of kin, or beneficiary under the will
 11 of the decedent, and any other person whose basis in property is
 12 determined in whole or part by values set forth in the return,
 13 or (3) a donee of the property, or (4) a holder of an interest
 14 in the property, but only if the commissioner finds that the
 15 heir, next of kin, beneficiary or other person or donee has a
 16 material interest which will be affected by information
 17 contained therein.

18 For purposes of this section the term public official shall
 19 not include judges, officials or employees of a court having
 20 jurisdiction of probate proceedings, county recorders, county
 21 treasurers, and employees in their respective offices.

293*#01S

22 293.01 TAX ON INCOME RESERVED TO DONOR IN CONVEYANCE TO
 23 EDUCATIONAL INSTITUTION.

24 When real property shall be conveyed to any educational
 25 institution in the state which has or claims to possess the
 26 right or privilege of exemption from taxation under or by virtue
 27 of the provisions contained in a territorial charter where such
 28 property is not devoted to, and reasonably necessary for the
 29 accomplishment of, the educational purposes of such institution,
 30 if in connection with such conveyance, or in consideration
 31 thereof, in whole or in part:

- 32 (1) Such real property is charged with the payment of; or
- 33 (2) There is reserved to the grantor or to ~~his-or-its~~ the *
 34 grantor's nominees; or *
- 35 (3) The grantee shall be or become under obligation to pay;
 36 any sum by way of an annuity or income to such grantor or to ~~his~~ *
 37 ~~or-its~~ the grantor's nominees, whether for life or for a term of *
 38 years, there shall be levied and collected upon such payments a
 39 tax of 50 percent.

293*#06S

40 293.06 CONSIDERATION AND DETERMINATION OF REPORT.

41 Upon the receipt ~~by-the-commissioner-of-revenue~~ of the *
 42 report provided for in section 293.03, ~~he~~ the commissioner shall *
 43 determine, from ~~such~~ information ~~as-he-may-possess-or-obtain~~ *
 44 possessed or obtained, whether the same is correct or *
 45 otherwise ~~and~~. If found correct, ~~he~~ the commissioner shall *
 46 determine therefrom the amount of tax due from such income or *
 47 annuity recipient, and shall enter record the amount thereof in *
 48 ~~his-records~~ and shall make ~~his~~ a certificate of taxes due *
 49 thereon from such person; and, on or before the first day of *
 50 May, of each year, file the same with the commissioner of *
 51 finance and a duplicate thereof with the state treasurer; and *
 52 the commissioner of revenue shall have power, in case ~~he-shall~~ *
 53 deem the report is deemed incorrect, to make ~~his~~ findings as to *
 54 the amount of such taxes due after hearing upon notice to the *
 55 person interested, and ~~his~~ the findings shall have the same *
 56 effect as the determination of the amount of such taxes upon a *
 57 report made as hereinbefore provided.

293*#07S

58 293.07 PENALTY FOR FAILURE TO MAKE REPORT; ASSESSMENT BY
 59 COMMISSIONER OF REVENUE.

60 If any person subject to the tax provided by this chapter
 61 shall fail to make the report provided for in section 293.05, at
 62 the time and in the manner therein provided, there shall accrue
 63 upon the tax herein imposed a penalty, in an amount equal to ten
 64 percent of the tax so imposed, to be added to and collected with
 65 such tax. The commissioner of revenue shall, in such case,
 66 determine the amount of the annuity or income paid or payable to
 67 such person and shall fix the tax due thereon from such person,
 68 together with such penalty, upon such information ~~as-he-may~~ *
 69 possess-or-obtain possessed or obtained and shall proceed as *
 70 provided by law when such taxes are determined upon the sworn
 71 report of the person receiving such payment.

293*#10S

72 293.10 DRAFT ON DELINQUENT; EVIDENCE.

1 On or before the tenth day of June, in each year, the
 2 commissioner of revenue shall issue ~~his~~ an order to any person
 3 delinquent in the payment of such tax for the amount of taxes
 4 and penalty due thereon and this order shall be prima facie
 5 evidence in any court where proceedings may be brought for its
 6 enforcement that the amount therein stated is due from the
 7 person.

293*#13S

8 293.13 EXAMINATION OF BOOKS AND PAPERS; REFUSAL AS
 9 MISDEMEANOR.

10 All books, contracts, deeds, instruments, correspondence,
 11 and memoranda relating to, or used in connection with, the
 12 conveyance of any real property, as set forth in section 293.01,
 13 shall, upon request of the commissioner of revenue, be open to
 14 ~~his~~ inspection or examination. ~~If Any person shall-neglect-or~~
 15 ~~refuse who neglects or refuses,~~ on request of the commissioner
 16 of revenue, access to the papers and books aforesaid, ~~he~~ shall
 17 be guilty of a misdemeanor; and, upon conviction thereof, shall
 18 be punished therefor as provided by law.

293*#14S

19 293.14 REFUND OF TAX ERRONEOUSLY COLLECTED; DISPOSITION
 20 OF PROCEEDS.

21 Out of the proceeds of the taxes imposed hereby, including
 22 penalties and interest, the commissioner of revenue shall refund
 23 any tax erroneously paid or collected, and shall reimburse the
 24 general fund or any other fund of the state of its proper
 25 proportion of the expense of administering this chapter. The
 26 balance of the proceeds of any such taxes shall be paid to the
 27 treasurer of the county wherein the annuity or income taxed has
 28 a taxable status, and ~~shall-by-him-be~~ placed to the credit of
 29 the proper funds and distributed as in the case of general taxes
 30 collected.

294*#01S

31 294.01 GROSS EARNINGS TAX.

32 Subdivision 1. Every company, joint stock association,
 33 copartnership, corporation, or individual required by law to pay
 34 taxes to the state on a gross earnings basis shall file a return
 35 with the commissioner of revenue, in such form as ~~he~~ the
 36 commissioner shall prescribe, containing a true and just report
 37 of the gross earnings for and during the year ending December
 38 thirty-first preceding. Such return and payment of the tax due
 39 therewith shall be submitted on or before the date provided in
 40 chapter 295, for such company, joint stock association,
 41 copartnership, corporation, or individual. The gross earnings
 42 and the tax due thereon shall be computed in accordance with the
 43 method prescribed by law.

44 Subd. 2. Repealed, 1969 c 1147 s 22

294*#02S

45 294.02 EXAMINATION OF RETURNS; ASSESSMENTS, REFUND.

46 The commissioner of revenue shall, as soon as practicable
 47 after the return is filed, examine the same and make any
 48 investigation or examination of the taxpayer's records and
 49 accounts that ~~he~~ the commissioner may deem necessary for
 50 determining the correctness of the return. The tax computed by
 51 ~~him~~ the commissioner on the basis of such examination and
 52 investigation shall be the tax to be paid by such taxpayer. If
 53 the tax found due shall be greater than the amount reported as
 54 due on the taxpayer's return, the commissioner shall assess a
 55 tax in the amount of such excess and the whole amount of such
 56 excess shall be paid to the commissioner within 60 days after
 57 notice of the amount and demand for its payment shall have been
 58 mailed to the taxpayer by the commissioner. If the
 59 understatement of the tax on the return was false or fraudulent
 60 with intent to evade the tax, the installments of the tax shown
 61 by the taxpayer on ~~his~~ the taxpayer's return which have not yet
 62 been paid shall be paid to the commissioner within 60 days after
 63 notice of the amount thereof and demand for payment shall have
 64 been mailed to the taxpayer by the commissioner. If the amount
 65 of tax found due by the commissioner shall be less than that
 66 reported as due on the taxpayer's return, the excess shall be
 67 refunded to the taxpayer in the manner provided in section
 68 294.09 (except that no demand therefor shall be necessary),
 69 if ~~he~~ the taxpayer has already paid the whole of such tax, or
 70 credited against any unpaid installment thereof; provided, that
 71 no refundment shall be made except as provided in section
 72 294.09, after the expiration of three and one-half years after

1 the filing of the return.

2 ~~If~~ The commissioner examines, on examining returns of a *
 3 taxpayer for more than one year, ~~he~~ may issue one order covering *
 4 the several years under consideration reflecting the aggregate
 5 refund or additional tax due.

6 The notices and demands provided for by sections 294.02 and
 7 294.021 shall be in such form as the commissioner may determine
 8 (including a statement) and shall contain a brief explanation of
 9 the computation of the tax and shall be sent by mail to the
 10 taxpayer at the address given in ~~his~~ the return, if any, and if *
 11 no such address is given, then to ~~his~~ the taxpayer's last known *
 12 address.

13 In cases where there has been an overpayment of a
 14 self-assessed liability as shown on the return filed by the
 15 taxpayer, the commissioner may refund such overpayment to the
 16 taxpayer and no demand therefor shall be necessary.

294*#021S

17 294.021 ASSESSMENT; FAILURE TO FILE RETURN, FALSE OR
 18 FRAUDULENT RETURN FILED.

19 If any company, joint stock association, copartnership,
 20 corporation, or individual required by this chapter to file any
 21 return shall fail to do so within the time prescribed by this
 22 chapter or by regulations under the authority thereof, or shall
 23 make, wilfully or otherwise, an incorrect, false, or fraudulent
 24 return, ~~he~~ it shall, on the written demand of the commissioner *
 25 of revenue, file such return, or corrected return, within 30
 26 days after the mailing of such written demand and at the same
 27 time pay the whole tax, or additional tax, due on the basis
 28 thereof. If such taxpayer shall fail within that time to file
 29 such return, or corrected return, the commissioner shall make
 30 for ~~him~~ the taxpayer a return, or corrected return, from ~~his~~ the *
 31 commissioner's own knowledge and from such information as ~~he~~ the *
 32 commissioner can obtain through testimony, or otherwise, and *
 33 assess a tax on the basis thereof, which tax (less any payments
 34 theretofore made on account of the tax for the taxable year
 35 covered by such return) shall be paid within 60 days after the
 36 commissioner has mailed to such taxpayer a written notice of the
 37 amount thereof and demand for its payment. Any such return or
 38 assessment made by the commissioner on account of the failure of
 39 the taxpayer to make a return, or a corrected return, shall be
 40 prima facie correct and valid, and the taxpayer shall have the
 41 burden of establishing its incorrectness or invalidity in any
 42 action or proceeding thereto.

294*#07S

43 294.07 UNIFORM SYSTEM OF ACCOUNTING.

44 The commissioner of revenue shall have authority and power
 45 to prescribe for such companies, joint stock associations,
 46 copartnerships, corporations, or individuals a system of gross
 47 earnings accounts that shall be uniform for each class of
 48 companies; and ~~he~~ shall supervise the method of keeping such *
 49 accounts; provided, that such system shall conform, as nearly as
 50 practicable, with that prescribed for such companies by the
 51 United States government.

294*#09S

52 294.09 OVERPAYMENTS; CLAIMS FOR REFUND.

53 Subdivision 1. PROCEDURES; TIME LIMIT. A company,
 54 joint stock association, copartnership, corporation, or
 55 individual who has paid, voluntarily or otherwise, or from whom
 56 there has been collected (other than by proceedings instituted
 57 by the attorney general under sections 294.06 and 294.08,
 58 subdivision 3) an amount of gross earnings tax for any year in
 59 excess of the amount legally due for that year, may file with
 60 the commissioner of revenue a claim for a refund of such
 61 excess. Except as provided in subdivision 4, no such claim
 62 shall be entertained unless filed within two years after such
 63 tax was paid or collected, or within 3-1/2 years from the filing
 64 of the return, whichever period is the longer. Upon the filing
 65 of a claim the commissioner shall examine the same and shall
 66 make and file written findings thereon denying or allowing the
 67 claim in whole or in part and shall mail a notice thereof to
 68 such company, joint stock association, copartnership,
 69 corporation, or individual at the address stated upon the
 70 return. If such claim is allowed in whole or in part, the
 71 commissioner shall credit the amount of the allowance against
 72 any tax due the state from the claimant and for the balance of
 73 said allowance, if any, the commissioner shall issue ~~his~~ a *

1 certificate for the refundment of the excess paid. The
 2 commissioner of finance shall cause such refund to be paid out
 3 of the proceeds of the gross earnings taxes imposed by Minnesota
 4 Statutes 1967, chapters 294 and 295 as other state moneys are
 5 expended. So much of the proceeds as may be necessary are
 6 hereby appropriated for that purpose. Any allowance so made by
 7 the commissioner shall include interest at the rate specified in
 8 section 270.76 computed from the date of payment or collection
 9 of the tax until the date the refund is paid to the claimant.

10 Subd. 2. DENIAL OF CLAIM, COURT PROCEEDINGS. If the
 11 claim is denied in whole or in part, the taxpayer may commence
 12 an action against the commissioner to recover any overpayments
 13 of taxes claimed to be refundable but for which the commissioner
 14 has issued no certificate of refundment. Such action may be
 15 brought in the district court of the district in which lies the
 16 county of ~~his~~ the taxpayer's residence or principal place of
 17 business or in the district court of Ramsey county. Such action
 18 may be commenced after the expiration of six months after the
 19 claim is filed if the commissioner has not then taken final
 20 action thereon, and shall be commenced within 18 months after
 21 the notice of the order denying the claim.

22 No change for subd 3 to 4

294*#11S

23 294.11 DESTRUCTION OF CERTAIN PAPERS.

24 Any detached papers subordinate to statements of gross
 25 earnings, or reports compiled in the accounting department, the
 26 full details of which are included in other statements or
 27 reports on file in as perfect a form, and which have been passed
 28 upon in a general examination by the special examiners or
 29 representatives of the state, but which have not reached the
 30 time limit prescribed in section 294.10, may, upon the
 31 recommendations of such special examiner or representative and
 32 the written approval of the commissioner of revenue, be
 33 destroyed.

34 If in the opinion of the commissioner of revenue, gross
 35 earnings may be adequately verified without reference to certain
 36 of such subordinate detached papers, ~~he~~ the commissioner may
 37 authorize destruction of such detached papers without
 38 examination.

295*#15S

39 295.15 ANNUAL RETURN.

40 Every express company shall file a return with the
 41 commissioner of revenue, in such form as ~~he~~ the commissioner
 42 shall prescribe, containing a true and just report of the gross
 43 earnings for and during the year ending December thirty-first
 44 preceding. Such return and payment of the tax due therewith
 45 shall be submitted on or before March first of each year. The
 46 provisions of chapter 294 and acts amendatory thereto, shall be
 47 applicable to such express companies and to the returns and the
 48 taxes submitted therewith by them.

49 In addition to other facts required to be furnished on the
 50 form prescribed by the commissioner, the return shall contain
 51 the following facts:

52 (1) The entire receipts, including all sums earned or
 53 charged, whether actually received or not, for business done
 54 within this state, including its proportion of gross receipts
 55 for business done by such company within this state in
 56 connection with other companies;

57 (2) A statement of the amount actually paid by such express
 58 company for and during the year mentioned to the railroads
 59 within this state for the transportation of its freight within
 60 this state, showing the amount paid to each railroad company;

61 (3) The entire receipts of the company for business done,
 62 as defined in clause (1), after deducting the amounts paid for
 63 transportation of freight, as defined in clause (2).

295*#29S

64 295.29 ANNUAL RETURN.

65 Every sleeping car company as defined in section 295.01,
 66 subdivision 7, shall file a return with the commissioner of
 67 revenue, in such form as ~~he~~ the commissioner may prescribe,
 68 containing a true and just report of the gross earnings from
 69 owning, operating, renting, or leasing such cars for and during
 70 the year ending December thirty-first preceding. Such return
 71 and payment of the tax due therewith shall be submitted on or
 72 before March first of each year. Upon such gross earnings such
 73 sleeping car company shall pay, in lieu of all ad valorem taxes

1 upon all taxable property of the company within this state, a
 2 tax equal to six percent of the gross earnings derived from the
 3 owning, operating, renting, or leasing of such sleeping cars,
 4 tourist cars, drawing-room cars or parlor cars. The provisions
 5 of chapter 294 and acts amendatory thereto, shall be applicable
 6 to such sleeping car companies and to the returns and taxes
 7 submitted therewith by them.

295*#32S

8 295.32 GROSS EARNINGS TAX; ANNUAL RETURN.

9 Every telegraph company as defined in section 295.01,
 10 subdivision 9, shall file a return with the commissioner of
 11 revenue, in such form as he the commissioner shall prescribe, *
 12 containing a true and just report of its gross earnings derived
 13 from business within the state during the preceding calendar
 14 year, which return shall contain a computation of tax of six
 15 percent of such gross earnings. Such return and payment of the
 16 tax due therewith shall be submitted on or before March first of
 17 each year, and shall be in lieu of all ad valorem taxes upon the
 18 property of such company within the state for the year during
 19 which such gross earnings accrued. The provisions of chapter
 20 294 and acts amendatory thereto, shall be applicable to such
 21 telegraph companies and to the returns and to the taxes
 22 submitted therewith by them.

295*#40S

23 295.40 TAX DETERMINED.

24 Upon receipt of such report the commissioner of revenue
 25 shall determine therefrom and from such other information as he *
 26 the commissioner may possess or obtain the amount of tax due *
 27 from such company; and, on or before the fifteenth day of
 28 February, the commissioner of revenue shall certify the amount
 29 of the taxes found and determined to be due from such company to
 30 the treasurer of the county in which such trust company has its
 31 principal place of business.

296*#01S

32 296.01 DEFINITIONS.

33 No change for subd 1 to 18

34 Subd. 19. BULK PURCHASER. "Bulk purchaser" means
 35 any person not principally engaged in buying and selling
 36 petroleum products or combustible gases who receives special
 37 fuel for storage and subsequent delivery into the supply tank of
 38 an aircraft or a licensed motor vehicle operated by him the *
 39 person. *

40 No change for subd 20 to 25

296*#04S

41 296.04 INSPECTION OF PETROLEUM PRODUCTS.

42 Subdivision 1. COMMISSIONER TO MAKE. The
 43 commissioner shall make inspection of petroleum products
 44 wherever processed, held, stored, or offered for sale or used, *
 45 and he shall secure samples periodically from importations in
 46 their original containers to determine their specifications when
 47 tested by the methods of the American Society for Testing
 48 Materials. Every person holding, storing, offering for sale or
 49 using petroleum products shall upon the request of the
 50 commissioner permit the commissioner to take for testing free
 51 samples of not to exceed 32 ounces each of all such products
 52 whenever necessary for the purposes of this chapter. The
 53 commissioner shall test samples of petroleum products received
 54 and submitted by any licensed distributor and shall inform the
 55 distributor of the results of the tests.

56 No change for subd 2 to 5

296*#05S

57 296.05 SPECIFICATIONS OF PETROLEUM PRODUCTS.

58 No change for subd 1 to 4

59 Subd. 5. RESULTS OF TEST SUPPLIED BY SHIPPER TO
 60 DISTRIBUTOR. Upon request of a licensed distributor, the
 61 shipper shall, at the time of shipment, supply the licensed
 62 distributor with the results of tests of each petroleum product
 63 shipped to him the distributor at destination in Minnesota. *

64 No change for subd 6 to 8

296*#06S

65 296.06 DISTRIBUTORS' LICENSES.

66 Subdivision 1. OF WHOM REQUIRED. No person shall
 67 produce, manufacture or refine petroleum products in this state,
 68 or receive, distribute, sell or use in this state petroleum
 69 products which have not theretofore been received in this state
 70 by a licensed distributor, or in any manner act as a distributor

1 as defined in section 296.01, subdivision 7, ~~unless he shall~~
2 ~~have without having~~ been licensed by the commissioner as a
3 distributor.

*
*

4 Subd. 2. REQUIREMENTS FOR ISSUANCE. A distributor's
5 license shall be issued to any responsible person qualifying as
6 a distributor who makes application therefor, and who shall pay
7 to the commissioner at the time thereof and annually thereafter
8 a license fee of \$10, and who shall further comply with the
9 following conditions:

10 (1) A written application shall be made in a manner
11 approved by the commissioner, who shall require the applicant or
12 licensee to deposit with the state treasurer securities of the
13 United States government or the state of Minnesota or to execute
14 and file a bond, with a corporate surety approved by the
15 commissioner, to the state of Minnesota in an amount to be
16 determined by the commissioner and in a form to be fixed by the
17 commissioner and approved by the attorney general, and which
18 shall be conditioned for the payment when due of all excise
19 taxes, inspection fees, penalties, and accrued interest arising
20 in the ordinary course of business or by reason of any
21 delinquent money which may be due the state of Minnesota; the
22 bond shall cover all places of business within the state where
23 petroleum products are received by the licensee; and the
24 applicant or licensee shall designate and maintain an agent in
25 this state upon whom service may be had for all purposes of this
26 section.

27 (2) An initial applicant for a distributor's license shall
28 furnish a bond in a minimum sum of \$3,000 for the first year;

29 (3) ~~Whenever it is the opinion of~~ The commissioner, on
30 reaching the opinion that the bond given by a licensee is
31 inadequate in amount to fully protect the state, ~~he~~ shall
32 require an additional bond in such amount as he the commissioner
33 deems sufficient;

*
*
*
*

34 (4) ~~if any~~ A licensee who desires to be exempt from
35 depositing securities or furnishing such bond, as hereinbefore
36 provided ~~he~~ shall furnish an itemized financial statement
37 showing the assets and the liabilities of the applicant and if
38 it shall appear to the commissioner, from the financial
39 statement or otherwise, that the applicant is financially
40 responsible, then the commissioner may exempt such applicant
41 from depositing such securities or furnishing such bond until
42 the commissioner otherwise orders.

*
*

43 (5) The premium on any bond required under clauses (1) and
44 (2), and on any additional bond required under clause (3), shall
45 be paid by the commissioner out of a bond premium fund ~~which he~~
46 ~~shall~~ required to be set up from an appropriation by the
47 legislature from whatever funds are available. All of said
48 bonds required during each license period shall be purchased by
49 the commissioner of administration from the lowest responsible
50 bidder after advertising for competitive bids in the manner
51 prescribed by Laws 1939, chapter 431, article II, as amended.
52 The commissioner of administration shall call for bids within a
53 reasonable period prior to the commencement of license period.

*
*

54 (6) Each license period shall be for one year ending each
55 June 30.

56 (7) Upon application to the commissioner and compliance by
57 the applicant with the provisions of this subdivision, the
58 commissioner also shall issue a distributor's license to (a) any
59 person engaged in this state in the bulk storage of petroleum
60 products and the distribution thereof by tank car or tank truck
61 or both, and (b) any person holding an unrevoked license as a
62 distributor since January 1, 1947, and (c) any person holding a
63 license and performing a function under the motor fuel tax law
64 of an adjoining state equivalent to that of a distributor under
65 this act, who desires to ship or deliver petroleum products from
66 that state to persons in this state not licensed as distributors
67 in this state and who agrees to assume with respect to all
68 petroleum products so shipped or delivered the liabilities of a
69 distributor receiving petroleum products in this state,
70 provided, however, that any such license shall be issued only
71 for the purpose of permitting such person to receive in this
72 state the petroleum products so shipped or delivered. Except as
73 herein provided, all persons licensed as distributors under this
74 clause shall have the same rights and privileges and be subject
75 to the same duties, requirements and penalties as other licensed
76 distributors.

1 Subd. 3. SURRENDER OF LICENSE. When the licensee
 2 shall voluntarily or involuntarily sell, dispose of or
 3 discontinue ~~his~~ business during the term of ~~his~~ a license, ~~he~~ *
 4 the licensee shall immediately notify the commissioner in *
 5 writing and shall within 10 days surrender ~~his~~ the license. *

6 No change for subd 4

296*#07S

7 296.07 DEALERS' CERTIFICATES OF REGISTRATION.
 8 Subdivision 1. OF WHOM REQUIRED. No person shall
 9 engage in or purport to be engaged in or hold ~~himself~~ out as *
 10 being engaged in the business of buying and selling petroleum
 11 products, including aviation gasoline, as a dealer in this state
 12 ~~unless-he-shall-make~~ without making application for and ~~secure~~ *
 13 securing from the commissioner a dealer's certificate of *
 14 registration. The application shall be made in a manner
 15 approved by the commissioner. The dealer shall display the
 16 certificate in a conspicuous manner in ~~his~~ the dealer's place of *
 17 business.

18 Subd. 2. SURRENDER OF CERTIFICATE. ~~If~~ Any dealer *
 19 who discontinues, sells or disposes of ~~his~~ the business in any *
 20 ~~manner,~~ he shall surrender the certificate ~~to-the-commissioner~~ *
 21 at his the commissioner's office in St. Paul, Minnesota. *

296*#12S

22 296.12 SPECIAL FUELS.
 23 Subdivision 1. SPECIAL FUEL DEALERS' LICENSE
 24 REQUIREMENTS'. No person except a licensed distributor shall
 25 engage in the business of selling or delivering special fuel as
 26 a special fuel dealer ~~unless-he-shall-have~~ without having *
 27 applied for and secured from the commissioner a special fuel
 28 dealer's license. The application shall be made in a manner
 29 approved by the commissioner and shall be accompanied by the
 30 payment of \$10, which shall be the license fee. A special fuel
 31 dealer's license shall be issued to any responsible person
 32 qualifying as a special fuel dealer who makes proper application
 33 therefor. The license shall be displayed in a conspicuous
 34 manner in the place of business and shall expire annually on
 35 November 30.

36 ~~If-at-any-time~~ A special fuel dealer who discontinues, *
 37 sells or disposes of ~~his~~ the business in any manner, ~~he~~ at any *
 38 time, shall surrender ~~his~~ the dealer's special fuel dealer's *
 39 ~~license to-the-commissioner~~ at his the commissioner's office in *
 40 St. Paul, Minnesota.

41 Subd. 2. BULK PURCHASERS' LICENSE REQUIREMENTS. No
 42 person shall receive special fuel as a bulk purchaser ~~unless-he~~ *
 43 ~~shall-have~~ without having applied for and secured from the *
 44 commissioner a bulk purchaser's license. The application shall
 45 be made in a manner approved by the commissioner and shall be
 46 accompanied by the payment of \$10, which shall be the license
 47 fee. A bulk purchaser's license shall be issued to any
 48 responsible person qualifying as a bulk purchaser who makes
 49 proper application therefor. The license shall be displayed in
 50 a conspicuous manner in the place of business and shall expire
 51 annually on November 30.

52 ~~If-at-any-time~~ A bulk purchaser who discontinues, sells or *
 53 disposes of ~~his~~ the business in any manner, ~~he~~ at any time, *
 54 shall surrender ~~his~~ the bulk purchaser's license ~~to-the~~ *
 55 ~~commissioner~~ at his the commissioner's office in St. Paul, *
 56 Minnesota.

57 No change for subd 3

58 Subd. 4. MONTHLY REPORTS; SHRINKAGE ALLOWANCE. On or
 59 before the 23rd day of each month, the persons subject to the
 60 provisions of this section shall file in the office of the
 61 commissioner at St. Paul, Minnesota, a report in the following
 62 manner:

63 (1) Distributors and special fuel dealers shall report the
 64 total number of gallons delivered to them during the preceding
 65 calendar month and shall pay the special fuel excise tax due
 66 thereon to the commissioner. Credit for the excise tax due or
 67 previously paid on special fuel used by the distributor or
 68 special fuel dealer ~~for~~ heating his the distributor's or *
 69 dealer's place of business, or special fuel sold for any purpose *
 70 other than use in licensed motor vehicles and evidenced by an
 71 invoice issued at time of sale, may be allowed in computing the
 72 tax liability. The invoice must show the true and correct name
 73 and address of the purchaser, and the purchaser's signature.
 74 The report shall contain such other information as the

1 commissioner may require.

2 (2) Distributors and special fuel dealers who have elected
3 to pay the special fuel excise tax on all special fuel delivered
4 into the supply tank of an aircraft or licensed motor vehicle as
5 provided in section 296.12, subdivision 3, shall report the
6 total number of gallons delivered into the supply tank of an
7 aircraft or licensed motor vehicle during the preceding calendar
8 month and shall pay the special fuel excise tax due thereon to
9 the commissioner.

10 (3) Bulk purchasers shall report and pay the special fuel
11 excise tax on all special fuel purchased by them for storage,
12 during the preceding calendar month. In such cases as the
13 commissioner may permit, credit for the excise tax due or
14 previously paid on special fuel not used in aircraft or licensed
15 motor vehicles, may be allowed in computing tax liability. The
16 report shall contain such other information as the commissioner
17 may require.

18 (4) In computing the special fuel excise tax due under
19 clauses (1), (2), and (3), a deduction of one percent of the
20 quantity of special fuel on which tax is due shall be made for
21 evaporation and loss.

22 (5) Each report shall contain a confession of judgment for
23 the amount of the tax shown due thereon to the extent not timely
24 paid.

25 No change for subd 5 to 10

26 Subd. '11. QUALIFIED BULK PURCHASERS. Notwithstanding
27 any other provision of law to the contrary, the commissioner of
28 revenue may allow any bulk purchaser who receives special fuel
29 in bulk storage for subsequent delivery into the supply tank of
30 passenger automobiles or other licensed vehicles operated by him
31 or her the bulk purchaser to purchase bulk special fuel on a tax
32 paid basis from any consenting supplier licensed as a
33 distributor or special fuel dealer under sections 296.06 or
34 296.12. Bulk purchasers qualifying under this provision must
35 become registered in a manner approved by the commissioner but
36 shall be exempt from the bulk purchaser license requirements.
37 Every licensed distributor or special fuel dealer who sells or
38 delivers special fuel on a tax paid basis to persons registered
39 under this provision must report on or before the 23rd day of
40 each month sales made during the preceding calendar month and
41 shall pay the special fuel excise tax due thereon to the
42 commissioner. The report shall contain information as the
43 commissioner may require.

296*#14S

44 296.14 GASOLINE TAX AND INSPECTION FEE MONTHLY REPORTS.

45 Subdivision 1. CONTENTS; PAYMENT OF TAX; SHRINKAGE
46 ALLOWANCE. On or before the twenty-third day of each month,
47 every person who is required to pay gasoline tax or inspection
48 fee on petroleum products and every distributor shall file in
49 the office of the commissioner at St. Paul, Minnesota, a report
50 in a manner approved by the commissioner showing the number of
51 gallons of petroleum products received by him the reporter
52 during the preceding calendar month, and such other information
53 as the commissioner may require. The number of gallons of
54 gasoline shall be reported in U.S. standard liquid gallons (231
55 cubic inches), except that the commissioner may upon written
56 application therefor and for cause shown permit the distributor
57 to report the number of gallons of such gasoline as corrected to
58 a 60 degree Fahrenheit temperature. If such application is
59 granted, all gasoline covered in such application and as allowed
60 by the commissioner must continue to be reported by the
61 distributor on the adjusted basis for a period of one year from
62 the date of the granting of the application. The number of
63 gallons of petroleum products other than gasoline shall be
64 reported as originally invoiced.

65 Each report shall show separately the number of gallons of
66 aviation gasoline received by him the reporter during such
67 calendar month.

68 Each report shall be accompanied by remittance covering
69 inspection fees on petroleum products and gasoline tax on
70 gasoline received by him the reporter during the preceding month;
71 provided that in computing such tax a deduction of three percent
72 of the quantity of gasoline received by a distributor shall be
73 made for evaporation and loss; provided further that at the time
74 of remittance the distributor shall submit satisfactory evidence
75 that one-third of such three percent deduction shall have been

1 credited or paid to dealers on quantities sold to them. The
 2 report and remittance shall be deemed to have been filed as
 3 herein required if postmarked on or before the twenty-third day
 4 of the month in which payable.

5 Each report shall contain a confession of judgment for the
 6 amount of the tax shown due thereon to the extent not timely
 7 paid.

8 No change for subd 2 to 4

296*#16S

9 296.16 USE IN MOTOR VEHICLES.

10 No change for subd 1

11 Subd. 2. SELLER AUTHORIZED TO COLLECT TAX. ~~if the A~~ *
 12 person who directly or indirectly paying pays either of the *
 13 taxes provided for by sections 296.02 and 296.025 ~~shall and does~~ *
 14 not in fact use the gasoline or special fuel in motor vehicles
 15 in this state or receive, store, or withdraw it from storage to
 16 be used ~~by-himself~~ personally for the purpose of producing or *
 17 generating power for propelling aircraft, but ~~shall-sell~~ sells *
 18 or otherwise ~~dispose~~ disposes of the same, except as provided in *
 19 section 296.14, subdivision 2, ~~he~~ is hereby authorized to *
 20 collect (from the person to whom the gasoline or special fuel is
 21 so sold or disposed of) the tax so paid ~~by-him~~, and ~~he~~ is hereby *
 22 required, upon request, to make, sign, and deliver to such
 23 person an invoice of such sale or disposition.

24 No change for subd 3

296*#17S

25 296.17 UNREPORTED GASOLINE AND SPECIAL FUEL; GASOLINE
 26 AND SPECIAL FUEL USED IN OTHER STATES; MOTOR FUEL ROAD TAX.

27 Subdivision 1. UNREPORTED GASOLINE AND SPECIAL FUEL.

28 It shall be the duty of every distributor, dealer, and person
 29 who sells or uses gasoline manufactured, produced, received, or
 30 stored by ~~him~~ the distributor, dealer, or person, and of every *
 31 person using gasoline in motor vehicles or special fuel in
 32 licensed motor vehicles, if the same has not been reported or if
 33 the tax on account thereof has not been paid to the
 34 commissioner, to report to the commissioner the quantity of such
 35 gasoline so sold or used ~~by-him~~ or such special fuel used ~~by~~ *
 36 ~~him~~, and such person shall become liable for the payment of the *
 37 tax. All provisions of sections 296.01 to 296.421 relating to
 38 the calculation, collection and payment of the tax shall be
 39 applicable to any such person, dealer or distributor.

40 Subd. 2. Repealed, 1967 c 802 s 2

41 No change for subd 3

42 Subd. 5. UNREPORTED AVIATION GASOLINE. The
 43 provisions of subdivision 1 do not apply to aviation gasoline.
 44 It shall be the duty of every distributor, dealer, and person
 45 who receives, sells, stores, or withdraws from storage in this
 46 state aviation gasoline manufactured, produced, received, or
 47 stored by ~~him~~ the distributor, dealer, or person, if the same *
 48 has not been reported or if a tax provided for in section 296.02
 49 on account thereof, has not been paid to the commissioner, to
 50 report to the commissioner the quantity of such gasoline so
 51 received, sold, stored, or withdrawn from storage ~~by-him~~, and *
 52 such person shall become liable for the payment of the tax.

53 All provisions of sections 296.01 to 296.421 relating to
 54 the calculation, collections, and payment of the tax shall be
 55 applicable to any such person, dealer, or distributor.

56 Subd. 6. RECIPROCAL AGREEMENTS. The commissioner is
 57 hereby empowered to enter into reciprocal agreements with the
 58 appropriate officials of any other state under which ~~he~~ the *
 59 commissioner may waive all or any part of the requirements *
 60 imposed by this section upon those who use in Minnesota gasoline
 61 or other motor vehicle fuel upon which the tax has been paid to
 62 such other state, provided that the officials of such other
 63 state grant equivalent privileges with respect to gasoline or
 64 other motor vehicle fuel used in such other state but upon which
 65 the tax has been paid to Minnesota.

66 The commissioner is also hereby empowered to enter into
 67 reciprocal agreements with the appropriate officials of other
 68 states, exempting vehicles licensed in such other states from
 69 the license and use tax provisions contained in this section,
 70 which otherwise would apply to vehicles licensed by such other
 71 state, provided that such other state grant equivalent
 72 privileges with respect to vehicles licensed by Minnesota.

73 No change for subd 7

74 Subd. 8. ROAD TAX IMPOSED. (a) Every motor carrier

1 shall pay a road tax calculated on the amount of motor fuel
2 consumed in ~~his~~ the motor carrier's operations on highways *
3 within this state. The tax shall be at the same rate as the tax
4 applicable to the purchase of the same motor fuel within this
5 state.

6 (b) The amount of motor fuel consumed in the operations of
7 any motor carrier on highways within this state shall be
8 determined by dividing the miles traveled within Minnesota by
9 the average miles per gallon. The average miles per gallon
10 shall be determined by dividing the miles traveled within and
11 without Minnesota by the total motor fuel consumed within and
12 without Minnesota.

13 No change for subd 9

14 Subd. 10. LICENSE. (a) No motor carrier may operate
15 a commercial motor vehicle upon the highways of this state
16 unless and until ~~he has been~~ issued a license pursuant to this *
17 section or has obtained a trip permit or temporary authorization
18 as provided in this section.

19 (b) A license shall be issued to any responsible person
20 qualifying as a motor carrier who makes application therefor and
21 who pays to the commissioner, at the time thereof, a license fee
22 of \$20. The license is valid for a period of up to two years or
23 until revoked by the commissioner or until surrendered by the
24 motor carrier. All outstanding licenses will expire on March 31
25 of each even-numbered year beginning with 1984 and may be
26 renewed upon application to the commissioner and payment of the
27 \$20 fee. The license, photocopy, or electrostatic copy of it,
28 shall be carried in the cab of every commercial motor vehicle
29 while it is being operated in Minnesota by a licensed motor
30 carrier.

31 Subd. 11. REPORTS. Every motor carrier subject to
32 the road tax shall, on or before the last day of April, July,
33 October and January, file with the commissioner such reports of
34 ~~his~~ operations during the previous three months as the *
35 commissioner may require and such other reports from time to
36 time as the commissioner may deem necessary. The commissioner
37 by regulation may exempt from the reporting requirements of this
38 section those motor carriers all or substantially all of whose
39 mileage is within this state, or states with which Minnesota has
40 reciprocity and require in such instances an annual affidavit
41 attesting to the intrastate or substantially intrastate
42 character of their operations, provided that the enforcement of
43 subdivisions 7 to 22 is not adversely affected thereby and that
44 the commissioner is satisfied that an equitable amount of motor
45 fuel is purchased within this state by such carriers.

46 Each report shall contain a confession of judgment for the
47 amount of the tax shown due thereon to the extent not timely
48 paid.

49 Subd. 12. CREDITS AND REFUNDS. On all motor fuel
50 purchased by a motor carrier within this state for consumption
51 in ~~his~~ the motor carrier's operations either within or without *
52 this state and upon which ~~he~~ the carrier has paid the motor fuel *
53 tax, such carrier if subject to the road tax in another state
54 shall be entitled to a credit at the rate per gallon of the
55 motor fuel tax paid to this state for such motor fuel consumed
56 without the state. When the amount of the credit herein
57 provided to which any motor carrier is entitled for any month
58 exceeds the amount of the tax for which such carrier is liable
59 for the same month, such excess may be refunded. Evidence of the
60 payment of the motor fuel tax in such form as may be required
61 by, or is satisfactory to, the commissioner, shall be furnished
62 by such motor carrier claiming the refund. No refund shall be
63 allowed unless the motor carrier has paid to another state a
64 motor fuel tax on the excess fuel purchased in this state.

65 No refund shall be made unless the claim and evidence of
66 payment to the other state shall be filed with the commissioner
67 within 30 days of the date of the payment to the other state.

68 Subd. 13. PENALTIES. The penalty provisions of
69 Minnesota Statutes, Sections 296.15 and 296.25, as adapted to
70 the provisions of subdivisions 7 to 22 by regulations issued by
71 the commissioner, shall apply to any person who fails to comply
72 with the provisions of subdivisions 7 to 22.

73 In addition, when any person is discovered in this state
74 operating a commercial motor vehicle in violation of the
75 provisions of subdivisions 7 to 22, it shall be unlawful for
76 anyone thereafter to operate said vehicle on the streets or

1 highways of this state, except to remove it from the street or
 2 highway for purposes of parking or storing said vehicle, ~~until~~ *
 3 ~~he shall obtain~~ without obtaining a license or a trip permit, as *
 4 provided in this section.

5 Subd. 14. KEEPING AND PRESERVATION OF RECORDS. (a)
 6 Every motor carrier shall keep such records as may be necessary
 7 for the administration of subdivisions 7 to 22 and for the
 8 reporting and justification of the amount of tax liability
 9 pursuant hereto. Such records shall be kept in such form as the
 10 commissioner reasonably may prescribe. All such records shall
 11 be safely preserved for a period of three years in such manner
 12 as to insure their security and availability for inspection by
 13 the commissioner. Upon application in writing stating the
 14 reasons therefor, the commissioner may consent to the
 15 destruction of such records at an earlier time if the
 16 commissioner has completed ~~his~~ an audit of the records in *
 17 question.

18 (b) The commissioner or ~~his~~ authorized agents or *
 19 representatives shall have the right at any reasonable time to
 20 inspect the books and records of any motor carrier subject to
 21 the tax imposed by this chapter.

22 No change for subd 15

23 Subd. 16. LEASED COMMERCIAL MOTOR VEHICLES. (a)
 24 Except as otherwise provided in this section, every commercial
 25 motor vehicle leased to a motor carrier shall be subject to the
 26 provisions of subdivisions 7 to 22 and rules and regulations in
 27 force pursuant hereto, to the same extent and in the same manner
 28 as commercial motor vehicles owned by such carrier.

29 (b) A lessor of commercial motor vehicles may be deemed a
 30 motor carrier with respect to such vehicles leased to others by
 31 ~~him~~ the lessor and motor fuel consumed thereby, if the lessor *
 32 supplies or pays for the motor fuel consumed by such vehicles or
 33 makes rental or other charges calculated to include the cost of
 34 such fuel. Any lessee motor carrier may exclude the leased *
 35 commercial motor vehicles ~~of which he is the lessee~~ from ~~his~~ *
 36 reports and liabilities pursuant to subdivisions 7 to 22, but
 37 only if the commercial motor vehicles in question have been
 38 leased from a lessor who is a motor carrier pursuant to this
 39 section.

40 (c) The provisions of clauses (a) and (b) of this
 41 subdivision shall govern the primary liability pursuant to
 42 subdivisions 7 to 22 of lessors and lessees of commercial motor
 43 vehicles. If a lessor or lessee primarily liable fails, in
 44 whole or in part, to discharge ~~his~~ liability, such failing party *
 45 and the other lessor or lessee party to the transaction shall be
 46 jointly and severally responsible and liable for compliance with
 47 the provisions of subdivisions 7 to 22 and for the payment of
 48 any tax due pursuant hereto, provided that the aggregate of any
 49 taxes collected by this state shall not exceed the total amount
 50 or amounts of taxes due on account of the transactions in
 51 question and such costs and penalties, if any, as may be imposed.

52 Subd. 17. TRIP PERMITS AND TEMPORARY AUTHORIZATIONS.

53 (a) A motor carrier may obtain a trip permit which shall
 54 authorize an unlicensed motor carrier to operate a commercial
 55 motor vehicle in Minnesota for a period of five consecutive days
 56 beginning and ending on the dates specified on the face of the
 57 permit. The fee for the permit shall be \$15. Fees for trip
 58 permits shall be in lieu of the road tax otherwise assessable
 59 against the motor carrier on account of the commercial motor
 60 vehicle operating therewith, and no reports of mileage shall be
 61 required with respect to the vehicle.

62 The above permit shall be issued in lieu of license if in
 63 the course of ~~the motor carrier's~~ operations he a motor carrier *
 64 operates on Minnesota highways no more than three times in any
 65 one calendar year.

66 (b) Whenever the commissioner is satisfied that unforeseen
 67 or uncertain circumstances have arisen which requires a motor
 68 carrier to operate in this state a commercial motor vehicle for
 69 which neither a trip permit pursuant to clause (a) of this
 70 subdivision nor a license pursuant to subdivisions 7 to 22 has
 71 yet been obtained, and if the commissioner is satisfied that
 72 prohibition of that operation would cause undue hardship, the
 73 commissioner may provide the motor carrier with temporary
 74 authorization for the operation of the vehicle. A motor carrier
 75 receiving temporary authorization pursuant to this subdivision
 76 shall perfect the same either by obtaining a trip permit or a

1 license, as the case may be, for the vehicle at the earliest
2 practicable time.

3 No change for subd 18

4 Subd. 19. REMOVAL OR DISSIPATION OF PROPERTY. If
5 the commissioner ascertains that a person designs quickly to
6 depart from this state, or to remove therefrom ~~his~~ the person's
7 property, or any property used by ~~him~~ the person in operations
8 subject to subdivisions 7 to 22, or to discontinue business, or
9 to do any other act tending to prejudice or render wholly or
10 partly ineffectual proceedings to assess or collect the tax,
11 whereby it becomes important that such proceedings be brought
12 without delay, the commissioner may immediately make an
13 assessment of tax estimated to be due, whether or not any report
14 is then due by law, and may proceed under such assessment to
15 collect the tax, or compel security for the same, and thereupon
16 shall cause notice of such finding to be given to such motor
17 carrier, together with a demand for an immediate payment of such
18 tax.

19 The commissioner or ~~his~~ agents is also authorized to
20 impound motor vehicles of persons in violation of subdivisions 7
21 to 22. Such vehicle shall be released either upon payment of
22 all taxes, penalties and interest that may be due, or depositing
23 a bond or security to assure the payment of said taxes,
24 penalties and interest.

25 No change for subd 20 to 22

296*#18S

26 296.18 REFUND.

27 Subdivision 1. GASOLINE OR SPECIAL FUEL USED IN OTHER
28 THAN MOTOR VEHICLES. Any person who shall buy and use
29 gasoline for a qualifying purpose other than use in motor
30 vehicles, snowmobiles, or motorboats, or special fuel for a
31 qualifying purpose other than use in licensed motor vehicles,
32 and who shall have paid the Minnesota excise tax directly or
33 indirectly through the amount of the tax being included in the
34 price of the gasoline or special fuel, or otherwise, shall be
35 reimbursed and repaid the amount of the tax paid ~~by him~~ upon
36 filing with the commissioner a signed claim in writing in the
37 form and containing the information the commissioner shall
38 require and accompanied by the original invoice thereof. By
39 signing any such claim which is false or fraudulent, the
40 applicant shall be subject to the penalties provided in this
41 section for knowingly making a false claim. The claim shall set
42 forth the total amount of the gasoline so purchased and used by
43 ~~him~~ the applicant other than in motor vehicles, or special fuel
44 so purchased and used by ~~him~~ the applicant other than in
45 licensed motor vehicles, and shall state when and for what
46 purpose it was used. When a claim contains an error in
47 computation or preparation, the commissioner is authorized to
48 adjust the claim in accordance with the evidence shown on the
49 claim or other information available to ~~him~~ the commissioner.
50 ~~If~~ The commissioner is, on being satisfied that the claimant is
51 entitled to the payments, ~~he~~ shall approve the claim and
52 transmit it to the commissioner of finance. No repayment shall
53 be made unless the claim and invoice shall be filed with the
54 commissioner within one year from the date of the purchase. The
55 postmark on the envelope in which the claim is mailed shall
56 determine the date of filing. The words "gasoline" or "special
57 fuel" as used in this subdivision do not include aviation
58 gasoline or special fuel for aircraft. Gasoline or special fuel
59 bought and used for a "qualifying purpose" means:

60 (1) Gasoline or special fuel used in carrying on a trade or
61 business, used on a farm situated in Minnesota, and used for a
62 farming purpose. "Farm" and "farming purpose" have the meanings
63 given them in section 6420(c)(2), (3), and (4) of the Internal
64 Revenue Code of 1954, as amended through December 31, 1983.

65 (2) Gasoline or special fuel used for off-highway business
66 use. "Off-highway business use" means any use by a person in
67 that person's trade, business, or activity for the production of
68 income. "Off-highway business use" does not include use as a
69 fuel in a motor vehicle which, at the time of use, is registered
70 or is required to be registered for highway use under the laws
71 of any state or foreign country.

72 (3) Gasoline or special fuel placed in the fuel tanks of
73 new motor vehicles, manufactured in Minnesota, and shipped by
74 interstate carrier to destinations in other states or foreign
75 countries.

1 Subd. 1a. Repealed, 1977 c 45 s 5

2 Subd. 2. FAILURE TO USE OR SELL GASOLINE OR SPECIAL
3 FUEL FOR INTENDED PURPOSES; REPORTS REQUIRED. (1) Any person
4 who shall buy aviation gasoline or special fuel for aircraft use
5 and who shall have paid the excise taxes due thereon directly or
6 indirectly through the amount of the tax being included in the
7 price thereof, or otherwise, and shall use said gasoline or
8 special fuel in motor vehicles or shall knowingly sell it to any
9 person for use in motor vehicles shall, on or before the
10 twenty-third day of the month following that in which such
11 gasoline or special fuel was so used or sold, report the fact of
12 such use or sale to the commissioner in such form as ~~he~~ the
13 commissioner may prescribe. *

14 (2) Any person who shall buy gasoline other than aviation
15 gasoline and who shall have paid the motor vehicle gasoline
16 excise tax directly or indirectly through the amount of the tax
17 being included in the price of the gasoline, or otherwise, who
18 shall knowingly sell such gasoline to any person to be used for
19 the purpose of producing or generating power for propelling
20 aircraft, or who shall receive, store, or withdraw from storage
21 such gasoline to be used for that purpose, shall, on or before
22 the twenty-third day of the month following that in which such
23 gasoline was so sold, stored, or withdrawn from storage, report
24 the fact of such sale, storage, or withdrawal from storage to
25 the commissioner in such form as ~~he~~ the commissioner may
26 prescribe. *

27 (3) Any person who shall buy aviation gasoline or special
28 fuel for aircraft use and who shall have paid the excise taxes
29 directly or indirectly through the amount of the tax being
30 included in the price thereof, or otherwise, who shall not use
31 it in motor vehicles or receive, sell, store, or withdraw it
32 from storage for the purpose of producing or generating power
33 for propelling aircraft, shall be reimbursed and repaid the
34 amount of the tax paid ~~by him~~ upon filing with the commissioner
35 a signed claim in writing in such form and containing such
36 information as the commissioner shall require and accompanied by
37 the original invoice thereof. By signing any such claim which
38 is false or fraudulent, the applicant shall be subject to the
39 penalties provided in this section for knowingly making a false
40 claim. The claim shall set forth the total amount of the
41 aviation gasoline or special fuel for aircraft use so purchased
42 and used by ~~him~~ the applicant, and shall state when and for what
43 purpose it was used. When a claim contains an error in
44 computation or preparation, the commissioner is authorized to
45 adjust the claim in accordance with the evidence shown on the
46 claim or other information available to ~~him~~ the
47 commissioner. ~~If~~ The commissioner ~~be~~, on being satisfied that
48 the claimant is entitled to payment, ~~he~~ shall approve the claim
49 and transmit it to the commissioner of finance. No repayment
50 shall be made unless the claim and invoice shall be filed with
51 the commissioner within one year from the date of the purchase.
52 The postmark on the envelope in which the claim is mailed shall
53 determine the date of filing.

54 Subd. 3. PENALTIES FOR FILING FALSE CLAIMS. Every
55 person who shall make any false statement in any claim or
56 invoice filed with the commissioner, or knowingly file with the
57 commissioner any claim or invoice containing any false statement
58 or collect or cause to be paid to ~~him~~ the person or to ~~any other~~
59 ~~person~~ another a refund without being entitled thereto, when
60 acting pursuant to the provisions of subdivision 1 or 2, clause
61 3, shall forfeit the full amount of the claim and be guilty of a
62 misdemeanor. Every person who is convicted under the provisions
63 of this subdivision shall be prohibited from filing with the
64 commissioner any claim for refund upon gasoline purchased within
65 six months after such conviction.

66 No change for subd 3a

67 Subd. 4. AVIATION GASOLINE AND SPECIAL FUEL TAX REFUNDS
68 ON GRADUATED BASIS. Any licensed distributor or other person
69 who shall have directly or indirectly paid the excise tax on
70 aviation gasoline or special fuel for aircraft use provided for
71 by section 296.02, subdivision 2, or section 296.025,
72 subdivision 2, shall, as to all such aviation gasoline and
73 special fuel received, stored, or withdrawn from storage by ~~him~~
74 the person in this state in any calendar year and not sold or
75 otherwise disposed of to others, or intended for sale or other
76 disposition to others, on which such tax has been so paid, be

1 entitled to the following graduated reductions in such tax for
2 that calendar year, to be obtained by means of the following
3 refunds:

- 4 (1) On each gallon of such aviation gasoline or special
5 fuel up to 50,000 gallons, all but five cents per gallon;
- 6 (2) On each gallon of such aviation gasoline or special
7 fuel above 50,000 and not more than 150,000, all but two cents
8 per gallon;
- 9 (3) On each gallon of such aviation gasoline or special
10 fuel above 150,000 and not more than 200,000, all but one cent
11 per gallon;
- 12 (4) On each gallon of such aviation gasoline or special
13 fuel above 200,000, all but one-half cent per gallon.

14 Subd. 5. AVIATION GASOLINE AND SPECIAL FUEL TAX REFUND
15 CLAIMS, REQUIREMENTS. Any distributor or other person
16 claiming to be entitled to any refund provided for in
17 subdivision 4 shall receive such refund upon filing with the
18 commissioner a verified claim in such form, containing such
19 information, and accompanied by such invoices or other proof as
20 the commissioner shall require. The claim shall set forth,
21 among other things, the total number of gallons of aviation
22 gasoline or special fuel for aircraft use upon which the
23 claimant has directly or indirectly paid the excise tax provided
24 for in sections 296.02, subdivision 2, or 296.025, subdivision
25 2, during the calendar year, which has been received, stored, or
26 withdrawn from storage by ~~him~~ the claimant in this state and not
27 sold or otherwise disposed of to others. ~~If~~ The commissioner
28 ~~be, on being~~ satisfied that the claimant is entitled to the
29 refund, ~~he~~ shall approve the claim and transmit it to the
30 commissioner of finance, and it shall be paid as provided for in
31 section 296.421, subdivision 2. All claims for refunds under
32 this subdivision shall be made on or before April 15 following
33 the end of the calendar year for which the refund is claimed.
34 Claims for aviation gasoline and special fuel tax refund filed
35 within 15 days beyond the due date prescribed by this
36 subdivision shall be honored by the commissioner less a penalty
37 of 25 percent of the amount of the approved claim.

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38 Subd. 6. AVIATION GASOLINE TAX REFUND CLAIMS, CIVIL
39 PENALTY. If any distributor or other person, with intent to
40 unlawfully secure any refund provided for in subdivision 4,
41 shall knowingly file a false or fraudulent claim, there shall be
42 imposed upon ~~him~~ the person as a penalty an amount equal to 50
43 percent of the amount of the refund unlawfully secured, in
44 addition to that amount. The penalty imposed by this
45 subdivision shall be collected as part of the tax.

*

46 No change for subd 7 to 8

296*#21S

47 296.21 RECORDS RETAINED, MADE ACCESSIBLE.

48 No change for subd 1

49 Subd. 2. MAKING ACCESSIBLE. The books and records
50 of all carriers of petroleum products, distributors, dealers,
51 and persons selling or using special fuel shall be made
52 accessible to the commissioner or ~~his~~ an authorized
53 representative.

*

54 Subd. 3. Repealed, 1967 c 903 s 1

296*#28S

55 296.28 TRANSFER OF POWERS AND DUTIES TO COMMISSIONER OF
56 REVENUE.

57 All the powers and duties which, prior to the passage of
58 Laws 1939, Chapter 431, were vested in or imposed upon the
59 commissioner of agriculture, under the provisions of Mason's
60 Minnesota Statutes of 1927, Chapter 20, the 1938 Supplement to
61 Mason's Minnesota Statutes of 1927, Chapter 20, and other laws
62 relating to the inspection of oil and gasoline and the
63 imposition and collection of taxes thereon, are hereby
64 transferred to, vested in, and imposed upon the commissioner of
65 revenue, who shall have supervision and control of the
66 administration of these laws. The office of chief oil inspector
67 is hereby abolished and all the powers and duties which, prior
68 to the time of the passage of Laws 1939, Chapter 431, were
69 vested in or imposed upon that office are hereby transferred to,
70 vested in, and imposed upon the commissioner of revenue.

71 The commissioner of revenue, with the approval of the
72 commissioner of administration, shall adopt and promulgate
73 suitable rules and regulations relating to all state inspection,
74 except grain inspection, the qualifications and activities of

1 state inspectors performing duties under ~~his~~ the direction ~~or~~ *
 2 ~~that of the either~~ commissioner ~~of-administration~~ or under the *
 3 direction of other departments of the state government, and
 4 shall have and exercise all inspectional powers not specifically
 5 assigned by law to any other state department.

296*#421S

6 296.421 REVENUE PROVISIONS.

7 No change for subd 2

8 Subd. 3. REPORTS. On or before the last day of each
 9 calendar month the commissioner shall report to the commissioner
 10 of finance and the state treasurer the total amount of aviation
 11 gasoline and special fuel excise taxes which have been paid on
 12 gasoline and special fuel which were, after the payment of such
 13 taxes, used or sold for use in motor vehicles, as determined by
 14 ~~him~~ the commissioner from the reports made during that month *
 15 pursuant to the provisions of section 296.18, subdivision 2(1).
 16 The amount so reported shall then be transferred from the
 17 aviation fuel tax fund to the fund in the state treasury in
 18 which motor vehicle gasoline and special fuel taxes are
 19 deposited. ~~He~~ The commissioner shall at the same time likewise *
 20 report the total amount of motor vehicle gasoline and special
 21 fuel excise taxes which have been paid on gasoline and special
 22 fuel which were, after the payment of such taxes, received,
 23 sold, stored or withdrawn from storage to be used for the
 24 purpose of producing or generating power for propelling
 25 aircraft, as determined by ~~him~~ the commissioner from the reports *
 26 made during that month pursuant to the provisions of section
 27 296.18, subdivision 2(2). The amount so reported shall then be
 28 transferred from the fund in the state treasury in which motor
 29 vehicle gasoline and special fuel excise taxes are deposited to
 30 the aviation fuel tax fund. The commissioner of finance and the
 31 state treasurer shall, in the case of each transfer in this
 32 subdivision provided for, make appropriate entries in the
 33 accounts of the respective funds.

34 Subd. 4. MS 1961 Repealed, 1963 c 840 s 45

35 No change for subd 4 to 5a

297*#01S

36 297.01 DEFINITIONS.

37 No change for subd 1 to 6

38 Subd. 7. "Distributor" means any and each of the following:

39 (1) Any person engaged in the business of selling
 40 cigarettes in this state who brings, or causes to be brought,
 41 into this state from without the state any packages of
 42 cigarettes for sale;

43 (2) Any person who makes, manufactures, or fabricates
 44 cigarettes in this state for sale in this state;

45 (3) Any person engaged in the business without this state
 46 who ships or transports cigarettes to retailers in this state,
 47 to be sold by those retailers;

48 (4) Any person who engages in this state in the business of
 49 selling packages of cigarettes which ~~he~~ the person purchases *
 50 unstamped from a licensee under sections 297.01 to 297.13.

51 No change for subd 8 to 13

52 Subd. 14. "Subjobber" means any person who buys stamped
 53 cigarettes and sells them to persons other than ultimate
 54 consumers, and any licensed distributor who delivers to and
 55 sells or distributes stamped cigarettes from a place of business
 56 other than that ~~for which he has obtained his~~ licensed in the *
 57 distributor's license.

297*#03S

58 297.03 PAYMENT, STAMP ON PACKAGE.

59 No change for subd 1 to 3

60 Subd. 4. STAMPS; DESIGN, PRINTING. The commissioner
 61 shall adopt the design of the stamps and shall arrange for the
 62 printing thereof in such amounts and denominations as ~~he~~ the *
 63 commissioner deems necessary. *

64 Subd. 5. SALE OF STAMPS. (a) Except as provided in
 65 paragraph (b), the commissioner shall sell stamps to any person
 66 licensed as a distributor at a discount of two percent from the
 67 face amount of the stamps for the first \$1,000,000 of such
 68 stamps purchased in any fiscal year; and at a discount of 1.25
 69 percent on the remainder of such stamps purchased in any fiscal
 70 year. ~~He~~ The commissioner shall not sell stamps to any other *
 71 person.

72 (b) If the tax exceeds 12.5 mills a cigarette, the discount
 73 is 1.5 percent from the face amount of the stamps for the first

1 \$1,000,000 of the stamps purchased in a fiscal year and one
 2 percent for additional stamps purchased during the fiscal year.
 3 Subd. 6. TAX METER MACHINES. (1) Before January 1,
 4 1989, the commissioner may authorize any person licensed as a
 5 distributor to stamp packages with a tax meter machine, approved
 6 by ~~him~~ the commissioner, which shall be provided by the
 7 distributor. ~~He~~ The commissioner may provide for the use of
 8 such a machine by the distributor, supervise and check its
 9 operation, provide for the payment of the tax on any package so
 10 stamped, subject to the discount provided in subdivision 5, and
 11 in that connection require the furnishing of a corporate surety
 12 bond in a suitable amount to guarantee the payment of the tax.

13 (2) Before January 1, 1989, the commissioner may authorize,
 14 and after December 31, 1988, the commissioner shall require any
 15 person licensed as a distributor to stamp packages with a
 16 heat-applied tax stamping machine, approved by the commissioner,
 17 which shall be provided by the distributor. The commissioner
 18 shall supervise and check the operation of the machines and
 19 shall provide for the payment of the tax on any package so
 20 stamped, subject to the discount provided in subdivision 5. The
 21 commissioner may sell heat-applied stamps on a credit basis
 22 under conditions prescribed by the commissioner, and in that
 23 connection require the furnishing of a corporate surety bond in
 24 an amount suitable to guarantee payment of the tax stamps so
 25 purchased by a distributor. The stamps shall be sold by the
 26 commissioner at a price which includes the tax after giving
 27 effect to the discount provided in subdivision 5. The
 28 commissioner shall recover the actual costs of the stamps from
 29 the distributor.

30 Subd. 7. LICENSED DISTRIBUTOR'S PERMIT NUMBER. The
 31 commissioner shall assign a permit number to each person
 32 licensed as a distributor at the time of issuance of ~~his~~ the
 33 first license, which shall be inscribed and printed upon all
 34 licenses issued to that distributor. If the commissioner
 35 determines that cancelation of the stamps is necessary for the
 36 enforcement of sections 297.01 to 297.13, the distributor shall
 37 use the permit number, in a manner prescribed by the
 38 commissioner, as the cancelation mark for the stamps affixed
 39 by ~~him~~ the distributor.

40 Subd. 8. RESALE OR TRANSFER OF STAMPS PROHIBITED.
 41 No distributor shall resell or transfer any stamps purchased by
 42 ~~him~~ the distributor from the commissioner. Any distributor who
 43 has on hand at the time of discontinuing the business of selling
 44 cigarettes any uncanceled stamps may return them to the
 45 commissioner and receive a refund of the amount paid for the
 46 stamps. Stamps which have become mutilated or unfit for use, or
 47 are affixed to cigarettes being returned to the manufacturer, or
 48 are affixed to packages which, or the contents of which, have
 49 become damaged and unfit for sale, shall be replaced by the
 50 commissioner, upon application by the distributor owning the
 51 stamps or cigarettes if an investigation discloses that the
 52 stamps have not evidenced a taxable transaction, after
 53 compliance with rules, regulations, or orders of the
 54 commissioner designed to prevent use of the stamps replaced.

55 Subd. 9. RAILROAD OR SLEEPING CAR COMPANY AS A
 56 DISTRIBUTOR. The commissioner may authorize any railroad or
 57 sleeping car company licensed as a distributor to sell
 58 cigarettes upon its cars without affixing stamps to the packages
 59 of same provided that monthly reports and payments of the tax
 60 due subject to the discount in subdivision 5 shall be made
 61 directly to the commissioner in the manner and under the terms
 62 provided for by ~~him~~ the commissioner. Only one distributor's
 63 license need be obtained by each railroad or sleeping car
 64 company to permit it to sell cigarettes on any or all of its
 65 cars within the state.

66 No change for subd 10 to 12

297*#04S

67 297.04 LICENSE.

68 No change for subd 1 to 2

69 Subd. 3. NON-RESIDENT. A person without this state
 70 who ships or transports cigarettes to retailers in this state,
 71 to be sold by those retailers, may make application for license
 72 as a distributor, be granted such a license by the commissioner,
 73 and thereafter be subject to all the provisions of sections
 74 297.01 to 297.13 and entitled to act as a licensed distributor,
 75 ~~provided-he-files~~ on filing proof with ~~his~~ the application

1 ~~that-he-has~~ of having appointed the secretary of state for *
 2 service of process relating to any matter of issue arising under
 3 sections 297.01 to 297.13.

4 Subd. 4. DISTRIBUTOR'S APPLICATION; FEE, BOND;
 5 SUBJOBBER'S LICENSE. (a) Except as otherwise provided in
 6 clause (b), each application for a distributor's license shall
 7 be accompanied by a fee of \$150 and a corporate surety bond
 8 issued by a surety licensed to do business in this state in the
 9 sum of \$1,000, conditioned upon the true and faithful compliance
 10 by the licensee with all of the provisions of this act. This
 11 bond, or a reissue thereof, or a substitute therefor, shall be
 12 kept in full force and effect during the entire period covered
 13 by the license. A separate application for license shall be
 14 made for each place of business at which a distributor proposes
 15 to engage in business as such under sections 297.01 to 297.13,
 16 provided that a separate application for a subjobber's license
 17 may be made by a licensed distributor for each place of business
 18 (other than that ~~for-which-he-has-obtained-his~~ licensed in the *
 19 distributor's license) to which ~~he~~ the distributor delivers and *
 20 from which ~~he~~ the distributor sells or distributes stamped *
 21 cigarettes.

22 Each application for a subjobber's license shall be
 23 accompanied by a fee of \$12.

24 A distributor or subjobber applying for a license between
 25 July 1 and December 31 of any year shall be required to pay only
 26 one-half of the license fee provided for herein.

27 (b) Each application for a distributor's license for the
 28 period beginning July 1, 1971 shall be accompanied by a fee of
 29 \$75 and the corporate surety bond prescribed by clause (a).
 30 Each application for a subjobber's license for the period
 31 beginning July 1, 1971 shall be accompanied by a fee of \$6.
 32 Each license issued for the period beginning July 1, 1971 shall
 33 expire on December 31, 1971.

34 Subd. 5. ISSUANCE. The commissioner, upon receipt
 35 of the application and bond in proper form, and payment of the
 36 license fee required by subdivision 4, shall, unless otherwise
 37 provided by sections 297.01 to 297.13, issue the applicant a
 38 license in form as prescribed by ~~him~~ the commissioner, which *
 39 said license shall permit the applicant to whom it is issued to
 40 engage in business as a distributor or subjobber at the place of
 41 business shown in ~~his~~ the application. *

42 No change for subd 6 to 9

43 Subd. 10. LICENSE, REVOKED; BOND, FORFEITED. If a
 44 distributor or subjobber is convicted of the violation of any of
 45 the provisions of sections 297.01 to 297.13, or ~~if-his~~ has a *
 46 license ~~is~~ revoked and no review is had of the order of *
 47 revocation, or if on review thereof the decision is adverse to
 48 the distributor or subjobber, any bond filed pursuant to this
 49 section shall thereupon be forfeited, and the commissioner may
 50 institute a suit upon such bond, in the name of the state, for
 51 the entire amount of that bond and costs. Such a suit upon the
 52 bond shall be in addition to any other remedy provided for
 53 herein.

54 Subd. 11. REVOCATION, NEW LICENSE NOT GRANTED FOR YEAR.

55 No license shall be issued under sections 297.01 to 297.13 to
 56 any person within one year of the date of final determination of
 57 a revocation of any previous license held ~~by-him~~. *

297*#041S

58 297.041 SALES TO INDIAN TRIBES.

59 Subdivision 1. WHOLESALERS. Any wholesaler who
 60 furnishes a surety bond in a sum satisfactory to the
 61 commissioner shall be permitted to set aside, without affixing
 62 the stamps required by this chapter, that part of ~~his~~ the *
 63 wholesaler's stock necessary for the conduct of ~~his~~ the *
 64 making sales to the established governing body of any Indian
 65 tribe recognized by the United States Department of Interior.
 66 The unstamped stock shall be kept separate and apart from
 67 stamped stock. Every wholesaler shall, at the time of shipping
 68 or delivering any of the unstamped stock to an Indian tribal
 69 organization, make a true duplicate invoice which shall show the
 70 complete details of the sale or delivery and shall transmit the
 71 duplicate to the commissioner not later than the fifteenth day
 72 of the following calendar month. Failure to comply with the
 73 requirements of this section shall cause the commissioner to
 74 revoke the permission granted to the wholesaler to maintain a
 75 stock of goods which may be unstamped. The commissioner may

1 also revoke this permission to maintain a stock of unstamped
 2 goods for sale to a specific Indian tribal organization when it
 3 appears that sales of unstamped cigarettes to persons who are
 4 not enrolled members of a recognized Indian tribe are taking
 5 place, or have taken place, within the exterior boundaries of
 6 the reservation occupied by that tribe.

7 No change for subd 2 to 4

297*#06S

8 297.06 KEEPING OF RECORDS.

9 Subdivision 1. DISTRIBUTOR TO KEEP RECORDS. Every
 10 distributor shall keep at each licensed place of business
 11 complete and accurate records, for that place of business,
 12 including itemized invoices, of cigarettes held, purchased,
 13 manufactured, or brought in or caused to be brought in from
 14 without the state, and of all sales of cigarettes made, except
 15 sales to the ultimate consumer. These records shall show the
 16 names and addresses of purchasers, the inventory at the close of
 17 each period for which a return is required of all cigarettes on
 18 hand, and of all stamps, affixed and unaffixed, and other
 19 pertinent papers and documents relating to the purchase, sale,
 20 or disposition of cigarettes. When a licensed distributor sells
 21 cigarettes exclusively to the ultimate consumer at the address
 22 given in the license, no invoice of those sales shall be
 23 required, but itemized invoices shall be made of all cigarettes
 24 transferred to other retail outlets owned or controlled by that
 25 licensed distributor. All books, records, and other papers and
 26 documents required by sections 297.01 to 297.13 to be kept shall
 27 be preserved for a period of at least one year after the date of
 28 the documents, as aforesaid, or the date of the entries thereof
 29 appearing in the records, unless the commissioner, in writing,
 30 authorizes their destruction or disposal at an earlier date. At
 31 any time during usual business hours the commissioner, or ~~his~~ *
 32 duly authorized agents or employees, may enter any place of
 33 business of a distributor, without a search warrant, and inspect
 34 the premises, the records required to be kept under sections
 35 297.01 to 297.13, and the packages of cigarettes and the vending
 36 devices contained therein, to determine whether or not all the
 37 provisions of these sections are being fully complied with. If
 38 the commissioner, or any such agent or employee, is denied free
 39 access or is hindered or interfered with in making such
 40 examination, the license of the distributor at such premises
 41 shall be subject to revocation by the commissioner.

42 Subd. 2. DISTRIBUTOR TO PRESERVE COPIES OF INVOICES.

43 Every person who sells cigarettes to persons other than the
 44 ultimate consumer shall render with each sale itemized invoices
 45 showing the seller's name and address, the purchaser's name and
 46 address, the date of sale, and all prices and discounts. ~~He~~ and *
 47 shall preserve legible copies of all such invoices for one year
 48 from the date of sale.

49 Subd. 3. RETAILER AND SUBJOBBER TO PRESERVE PURCHASE

50 INVOICES. Every retailer and subjobber shall procure
 51 itemized invoices of all cigarettes purchased. The invoices
 52 shall show the name and address of the seller and the date of
 53 purchase. The retailer and subjobber shall preserve a legible
 54 copy of each such invoice for one year from the date of
 55 purchase. Invoices shall be available for inspection by the
 56 commissioner or ~~his~~ authorized agents or employees at the *
 57 retailer's or subjobber's place of business.

297*#07S

58 297.07 DISTRIBUTOR TO FILE RETURNS.

59 No change for subd 1

60 Subd. 2. COMMISSIONER TO EXAMINE AND CORRECT RETURN;
 61 COLLECTION OF DEFICIENCY. As soon as practicable after any
 62 return is filed, the commissioner shall examine the return and
 63 correct it, if necessary, according to ~~his~~ the commissioner's *
 64 best judgment and information. The return, together with the
 65 commissioner's corrections, if any, shall be prima facie correct
 66 and shall be prima facie evidence of the correctness of the
 67 amount of tax due, as shown therein. Proof of any such
 68 correction by the commissioner may be made at any hearing
 69 before ~~him~~ the commissioner or in any legal proceeding by a copy *
 70 of the pertinent record of the commissioner under the
 71 certificate of the custodian of the original official record.
 72 Such a certified copy shall, without further proof, be admitted
 73 into evidence before the commissioner or in any legal proceeding
 74 and shall be prima facie proof of the correctness of the amount

1 of tax due, as shown therein. ~~If~~ The commissioner ~~finds~~, on *
 2 finding that any amount of tax is due from the distributor and *
 3 unpaid, ~~he~~ shall notify the distributor of the deficiency, *
 4 stating ~~that-he-proposes~~ an intention to assess the amount due *
 5 together with interest and penalties as hereinafter provided.
 6 If a deficiency disclosed by the commissioner's examination *
 7 cannot be allocated ~~by-him~~ to a particular month or months, ~~he~~ *
 8 the commissioner shall notify the distributor of the deficiency, *
 9 stating ~~his~~ an intention to assess the amount due for a given *
 10 period without allocating it to any particular month or months,
 11 together with the penalty provided in the case of other
 12 corrected returns. If any distributor making any return shall
 13 die or shall become incompetent at any time before the
 14 commissioner issues ~~his~~ the notice that-he-proposes of intention *
 15 to assess an amount due, that notice shall be issued to the
 16 administrator, executor, or other legal representative, as such,
 17 of that distributor.

18 Subd. 3. DEALER MAY PROTEST; HEARING. If, within 20
 19 days after mailing of notice of the proposed assessment, the
 20 distributor or ~~his~~ a legal representative shall file a protest *
 21 to said proposed assessment and request a hearing thereon, the
 22 commissioner shall give notice to that distributor or legal
 23 representative of the time and place fixed for the hearing,
 24 shall hold a hearing in conformity with the provisions of
 25 sections 297.01 to 297.13, and pursuant thereto shall issue a
 26 final assessment to the distributor or legal representative for
 27 the amount found to be due as a result of the hearing. This
 28 hearing shall be held within 45 days after filing of the
 29 protest. If a protest is not filed within the time herein
 30 prescribed, the commissioner shall issue a final assessment to
 31 the distributor or legal representative, as such. Any tax due
 32 and owing after a final assessment order has been issued to the
 33 distributor or legal representative of such distributor shall be
 34 paid within 60 days.

35 Subd. 4. MONTHLY TAX PAYMENTS; PENALTY FOR NONPAYMENT.
 36 All taxes shall be due and payable not later than the
 37 eighteenth day of the month following the calendar month in
 38 which they were incurred, and thereafter shall bear interest at
 39 the rate specified in section 270.75. The commissioner in
 40 issuing ~~his~~ the final assessment pursuant to subdivision 3 shall *
 41 add to the amount of tax found due and unpaid a penalty of ten *
 42 percent thereof, except that, ~~if-he-finds~~ on finding that the *
 43 distributor has made a false and fraudulent return with intent *
 44 to evade the tax imposed by sections 297.01 to 297.13, the
 45 penalty shall be 25 percent of the entire tax as shown by the
 46 corrected return. If any such tax is not paid within the time
 47 herein specified for the payment thereof or within 30 days after
 48 final determination of an appeal to the Minnesota tax court
 49 relating thereto, there shall be added thereto a specific
 50 penalty equal to ten percent of the amount so remaining unpaid,
 51 but in no event shall the penalty for failure to pay such tax
 52 within the time provided for such payment be less than \$10. The
 53 commissioner is authorized to extend the time for paying such
 54 tax without penalty for good cause shown.

55 No change for subd 5 to 6

297*#08S

56 297.08 CONTRABAND.

57 Subdivision 1. CONTRABAND DEFINED. The following
 58 are declared to be contraband:

59 (1) All packages which do not have stamps affixed to them
 60 as provided in sections 297.01 to 297.13 and all devices for the
 61 vending of cigarettes in which such unstamped packages are found.

62 (2) Any device for the vending of cigarettes and all
 63 packages of cigarettes contained therein, where the device does
 64 not afford at least partial visibility of contents. Where any
 65 package exposed to view does not carry the stamp or imprint
 66 required by sections 297.01 to 297.13, it shall be presumed that
 67 all packages contained in the device are unstamped and
 68 contraband.

69 (3) Any device for the vending of cigarettes to which the
 70 commissioner or ~~his~~ authorized agents have been denied access *
 71 for the inspection of contents. In lieu of seizure, the
 72 commissioner or ~~his~~ an agent may seal the device to prevent its *
 73 use until inspection of contents is permitted.

74 (4) Any device for the vending of cigarettes which does not
 75 carry the name and address of the owner, plainly marked and

1 visible from the front of the machine.

2 (5) Any device including, but not limited to, motor
3 vehicles, trailers, snowmobiles, airplanes and boats used with
4 the knowledge of the owner or of a person operating with the
5 consent of the owner for the storage or transportation of more
6 than 5,000 cigarettes which are contraband under this
7 subdivision. When cigarettes are being transported in the
8 course of interstate commerce, or are in movement from either a
9 public warehouse to a distributor upon orders from a
10 manufacturer or distributor, or from one distributor to another,
11 the cigarettes are not contraband, notwithstanding the
12 provisions of clause (1).

13 Subd. 2. SEIZURE. Any cigarettes or other property
14 made contraband by subdivision 1 may be seized by the
15 commissioner or his authorized agents or by any sheriff or other *
16 police officer, with or without process, and shall be subject to
17 forfeiture as provided in subdivisions 3 and 4.

18 Subd. 3. INVENTORY; JUDICIAL DETERMINATION; APPEAL;
19 DISPOSITION OF SEIZED PROPERTY. Within two days after the
20 seizure of any alleged contraband, the person making the seizure
21 shall deliver an inventory of the property seized to the person
22 from whom the seizure was made, if known, and file a copy with
23 the commissioner. Within ten days after the date of service of
24 the inventory, the person from whom the property was seized or
25 any person claiming an interest in the property may file with
26 the commissioner a demand for a judicial determination of the
27 question as to whether the property was lawfully subject to
28 seizure and forfeiture. The commissioner, within 30 days, shall
29 institute an action in the district court of the county where
30 the seizure was made to determine the issue of forfeiture. The
31 action shall be brought in the name of the state and shall be
32 prosecuted by the county attorney or by the attorney general.
33 The court shall hear the action without a jury and shall try and
34 determine the issues of fact and law involved. Whenever a
35 judgment of forfeiture is entered, the commissioner may, unless
36 the judgment is stayed pending an appeal, either (1) deliver the
37 forfeited property to the commissioner of human services for use
38 by patients in state institutions; (2) cause it to be destroyed;
39 or (3) cause it to be sold at public auction as provided by
40 law. If a demand for judicial determination is made and no
41 action is commenced as provided in this subdivision, the
42 property shall be released by the commissioner and redelivered
43 to the person entitled to it. If no demand is made, the
44 property seized shall be deemed forfeited to the state by
45 operation of law and may be disposed of by the commissioner as
46 provided where there has been a judgment of forfeiture.
47 Whenever the commissioner is satisfied that any person from whom
48 property is seized under sections 297.01 to 297.13 was acting in
49 good faith and without intent to evade the tax imposed by
50 sections 297.01 to 297.13, he the commissioner shall release the *
51 property seized, without further legal proceedings.

52 Subd. 4. DISPOSAL. The property described in
53 subdivision 1, clause 5 shall be confiscated after conviction of
54 the person from whom it was seized, upon compliance with the
55 following procedure: the commissioner or his agents shall file *
56 with the court a separate complaint against the property,
57 describing it and charging its use in the specified violation,
58 and specifying substantially the time and place of the unlawful
59 use. A copy of the complaint shall be served upon the defendant
60 or person in charge of the property at the time of seizure, if
61 any. If the person arrested is acquitted, the court shall
62 dismiss the complaint against the property and order it returned
63 to the persons legally entitled to it. Upon conviction of the
64 person arrested, the court shall issue an order directed to any
65 person known or believed to have any right or title or interest
66 in, or lien upon, any of the property, and to persons unknown
67 claiming any right, title, interest or lien in it, describing
68 the property and (1) stating that it was seized and that a
69 complaint against it, charging the specified violation, has been
70 filed with the court, (2) requiring the persons to file with the
71 clerk of the court their answer to the complaint, setting forth
72 any claim they may have to any right or title to, interest in,
73 or lien upon the property, within 30 days after the service of
74 the order, and (3) notifying them in substance that if they fail
75 to file their answer within the time, the property will be
76 ordered sold by the commissioner or his agents. The court shall *

1 cause the order to be served upon any person known or believed
 2 to have any right, title, interest or lien as in the case of a
 3 summons in a civil action, and upon unknown persons by
 4 publication, as provided for service of summons in a civil
 5 action. If no answer is filed within the time prescribed, the
 6 court shall, upon affidavit by the clerk of the court, setting
 7 forth the fact, order the property sold by the commissioner or
 8 ~~his~~ agents. The proceeds of the sale, after deducting the *
 9 expense of keeping the property and fees and costs of sale, paid
 10 into the state treasury to be credited to the general fund. If
 11 answer is filed within the time provided, the court shall fix a
 12 time for hearing, which shall be not less than ten nor more than
 13 30 days after the time for filing answer expires. At the time
 14 fixed for hearing, unless continued for cause, the matter shall
 15 be heard and determined by the court, without a jury, as in
 16 other civil actions. If the court finds that the property, or
 17 any part of it, was used in the violation specified in the
 18 complaint, ~~he~~ it shall order the property unlawfully used, sold *
 19 as provided by law, unless the owner shows to the satisfaction
 20 of the court that ~~he~~ the owner had no notice or knowledge or *
 21 reason to believe that the property was used or intended to be
 22 used in the violation. The officer making a sale, after
 23 deducting the expense of keeping the property, the fee for
 24 seizure, and the costs of the sale, shall pay all liens
 25 according to their priority, which are established at the
 26 hearing as being bona fide and as existing without the lienor
 27 having any notice or knowledge that the property was being used
 28 or was intended to be used for or in connection with the
 29 violation specified in the order of the court, shall pay the
 30 balance of the proceeds into the state treasury to be credited
 31 to the general fund. Any sale under the provisions of this
 32 section shall operate to free the property sold from any and all
 33 liens on it. Appeal from the order of the district court will
 34 lie as in other civil cases. At any time after seizure of the
 35 articles specified in this subdivision, and before the hearing
 36 provided for, the property shall be returned to the owner or
 37 person having a legal right to its possession, upon execution by *
 38 ~~him~~ of a good and valid bond to the state, with corporate *
 39 surety, in the sum of not less than \$100 and not more than
 40 double the value of the property seized, to be approved by the
 41 court in which the case is triable, or a judge of it,
 42 conditioned to abide any order and the judgment of the court,
 43 and to pay the full value of the property at the time of
 44 seizure. The commissioner may dismiss the proceedings outlined *
 45 in this subdivision ~~may-be-dismissed-by-the-commissioner~~ when ~~he~~ *
 46 the commissioner deems it to be in the best interests of the *
 47 state to do so.

297*#09S

48 297.09 INVESTIGATIONS.

49 Subdivision 1. POWERS OF COMMISSIONER. The
 50 commissioner, or ~~his~~ duly authorized agents, may conduct *
 51 investigations, inquiries, and hearings under sections 297.01 to
 52 297.13, and, in connection with such investigations, inquiries,
 53 and hearings, ~~he~~ the commissioner and ~~his~~ the duly authorized *
 54 agents shall have all the powers conferred upon ~~him~~ the *
 55 commissioner and ~~his~~ the commissioner's examiners by Minnesota *
 56 Statutes 1945, Sections 290.56 to 290.58, and the provisions of
 57 those sections shall apply to all such investigations, inquiries
 58 and hearings.

59 Subd. 2. HEARING; NOTICE; FINDINGS. Every hearing
 60 conducted under sections 297.01 to 297.13 shall be preceded by
 61 ten days notice in writing of the subject of the hearing,
 62 including, in the case of suspension or revocation of a license,
 63 a statement of the nature of the charges against the licensee.
 64 The notice shall be sent by certified mail to the last known
 65 address of the licensee or other person involved, in the
 66 hearing, and service shall be complete upon mailing. After
 67 every hearing the commissioner shall make ~~his~~ findings and ~~his~~ *
 68 an order in writing. The findings and order shall be filed in *
 69 the office of the commissioner, and a copy sent by mail or
 70 otherwise to the person to whom the notice was directed.

71 No change for subd 3

72 Subd. 4. CLAIM OF POSSIBLE INCRIMINATION NOT TO EXCUSE
 73 WITNESS FROM TESTIFYING; NO EXEMPTION FROM PROSECUTION. No
 74 person shall be excused from testifying or from producing,
 75 pursuant to a subpoena, any books, papers, records, or memoranda

1 in any investigation or upon any hearing, upon the ground that
 2 the testimony or evidence, documentary or otherwise, may tend to
 3 incriminate ~~him~~ or subject ~~him~~ the person to a criminal penalty,
 4 but no person shall be prosecuted or subjected to any criminal
 5 penalty for or on account of any transaction made or thing
 6 concerning which ~~he~~ the person may testify or produce evidence,
 7 documentary or otherwise, before the commissioner or an employee
 8 or agent thereof; provided that such immunity shall extend only
 9 to a natural person who, in obedience to a subpoena, gives
 10 testimony under oath or produces evidence, documentary or
 11 otherwise, pursuant to a subpoena. No person so testifying
 12 shall be exempt from prosecution and punishment for perjury
 13 committed in so testifying.

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14 No change for subd 5

297*#10S

15 297.10 ENFORCEMENT.

16 Subdivision 1. DUTIES OF COMMISSIONER. The
 17 commissioner shall enforce the provisions of sections 297.01 to
 18 297.13. ~~He~~ and may prescribe rules and regulations not
 19 inconsistent with the provisions of sections 297.01 to 297.13
 20 for its detailed and efficient administration. In the
 21 enforcement of sections 297.01 to 297.13 the commissioner may
 22 call any county attorney or any peace officer ~~to his~~ for
 23 assistance. ~~He~~ and may appoint such additional employees as may
 24 be required to administer sections 297.01 to 297.13. The
 25 commissioner may bring injunction proceedings to restrain any
 26 person from acting as a distributor without complying with the
 27 provisions of sections 297.01 to 297.13.

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28 No change for subd 2

297*#11S

29 297.11 PROHIBITIONS.

30 Subdivision 1. COUNTERFEITING, TAMPERING WITH TAX
 31 METER. No person shall, with intent to defraud the state,
 32 make, alter, forge, or counterfeit any license or stamp provided
 33 for in sections 297.01 to 297.13 or have in ~~his~~ possession any
 34 forged, spurious, or altered stamps, or tamper with or reset any
 35 tax meter machine with the intent, or with the result, of
 36 depriving the state of the tax imposed by sections 297.01 to
 37 297.13.

*

38 Subd. 2. PROHIBITION AGAINST POSSESSION. No person
 39 other than a licensed distributor shall sell, offer for sale, or
 40 have in ~~his~~ possession with intent to sell or offer for sale, a
 41 package of cigarettes not stamped in accordance with the
 42 provisions of sections 297.01 to 297.13.

*

43 No change for subd 3 to 4

44 Subd. 5. TRANSPORTING UNSTAMPED PACKAGES. No person
 45 shall transport into, or receive, carry, or move from place to
 46 place in this state, any packages of cigarettes not stamped in
 47 accordance with the provisions of this act except in the course
 48 of interstate commerce, unless the cigarettes are moving from a
 49 public warehouse to a distributor upon orders from the
 50 manufacturer or distributor or from one distributor to another.
 51 This subdivision shall not apply to a person carrying for ~~his~~
 52 own personal use not more than 200 cigarettes when those
 53 cigarettes have had the individual packages or seals thereof
 54 broken and are intended for personal use by that person and not
 55 to be sold or offered for sale.

*
*

56 Common carriers transporting cigarettes into this state
 57 shall file with the commissioner reports of all such shipments
 58 other than those which are delivered to public warehouses of
 59 first destination in this state which are licensed under the
 60 provisions of chapter 231. Such reports shall be filed monthly
 61 on or before the 10th day of each month and shall show with
 62 respect to deliveries made in the preceding month: the date,
 63 point of origin, point of delivery, name of consignee, the
 64 quantity of cigarettes delivered and such other information as
 65 the commissioner may require.

66 All common carriers transporting cigarettes into Minnesota
 67 shall permit examination by the commissioner of their records
 68 relating to the shipment of cigarettes.

69 Any person who fails or refuses to transmit to the
 70 commissioner the required reports or whoever refuses to permit
 71 the examination of the records by the commissioner shall be
 72 guilty of a misdemeanor.

297*#23S

73 297.23 CONSUMERS TO FILE RETURN.

1 No change for subd 1

2 Subd. 2. As soon as practicable after any return is filed,
3 the commissioner shall examine the return and correct it, if
4 necessary, according to ~~his~~ the commissioner's best judgment and *
5 information.

6 Subd. 3. In case any consumer required to pay the tax
7 levied by this act fails to file a return or remit the tax as
8 herein required, the commissioner shall have authority to make
9 an assessment of tax against ~~him~~ the consumer according to the *
10 commissioner's best judgment and information.

11 No change for subd 4 to 5

297*#31S

12 297.31 DEFINITIONS.

13 No change for subd 1 to 5

14 Subd. 6. "Subjobber" means any person, other than a
15 manufacturer or distributor, who buys from a distributor tobacco
16 products upon which the tax imposed by this chapter has been
17 paid and sells them to persons other than the ultimate
18 consumers, and any licensed distributor who delivers, sells or
19 distributes tobacco products upon which the tax imposed by this
20 chapter has been paid from a place of business other than that
21 ~~for which he has obtained his~~ licensed in the distributor's *
22 license.

23 No change for subd 7 to 16

297*#32S

24 297.32 TAX ON TOBACCO PRODUCTS.

25 No change for subd 1 to 6

26 Subd. 7. Any distributor having in ~~his~~ possession on July *
27 1, 1961, any tobacco products which were subject to tax at the
28 rate of 20 percent of the wholesale sales price thereof shall be
29 entitled to a credit at the rate of ten percent of the wholesale
30 sales price of such tobacco products. This credit may be
31 applied against any future tax due from the distributor. Each
32 distributor claiming this credit shall, on or before July 20,
33 1961, file a report with the commissioner in such form as the
34 commissioner may prescribe, showing the tobacco products on hand
35 at 12:01 A.M. on July 1, 1961, and shall provide such other
36 information as the commissioner may require.

37 No change for subd 8 to 9

297*#33S

38 297.33 LICENSES; DISTRIBUTORS, SUBJOBBERs.

39 No change for subd 1 to 2

40 Subd. 3. A person without this state who ships or
41 transports tobacco products to retailers in this state, to be
42 sold by those retailers, may make application for license as a
43 distributor, be granted such a license by the commissioner, and
44 thereafter be subject to all the provisions of sections 297.31
45 to 297.39 and entitled to act as a licensed distributor,
46 provided he files on filing proof with ~~his~~ the application *
47 that he has of having appointed the secretary of state for *
48 service of process relating to any matter or issue arising under
49 sections 297.31 to 297.39. A foreign corporation applying for a
50 distributor's license need not qualify as such if it files the
51 proof of appointment of the secretary of state for service of
52 process as provided in this subdivision.

53 Subd. 4. (a) Except as otherwise provided in clause (b),
54 each application for a distributor's license shall be
55 accompanied by a fee of \$37.50. The application shall also be
56 accompanied by a corporate surety bond issued by a surety
57 licensed to do business in this state, in the sum of \$1,000,
58 conditioned upon the true and faithful compliance by the
59 distributor with all the provisions of sections 297.31 to 297.39
60 and the payment when due of all taxes, penalties and accrued
61 interest arising in the ordinary course of business or by reason
62 of any delinquent money which may be due the state of
63 Minnesota. This bond shall be in a form to be fixed by the
64 commissioner and approved by the attorney general. Whenever it
65 is the opinion of the commissioner that the bond given by a
66 licensee is inadequate in amount to fully protect the state, ~~he~~ *
67 the commissioner shall require either an increase in the amount *
68 of said bond or additional bond, in such amount as ~~he~~ the *
69 commissioner deems sufficient. Any bond required by this *
70 subdivision, or a reissue thereof, or a substitute therefor, *
71 shall be kept in full force and effect during the entire period *
72 covered by the license.

73 A separate application for license shall be made for each

1 place of business at which a distributor proposes to engage in
 2 business as such under sections 297.31 to 297.39. A separate
 3 application for a subjobber's license may be made by a licensed
 4 distributor for each place of business, other than that for
 5 ~~which he has obtained his~~ licensed in the distributor's license,
 6 to which ~~he~~ the distributor sells or distributes tobacco
 7 products upon which the tax imposed by this chapter has been
 8 imposed to other than the ultimate consumer.

9 (b) Each application for a distributor's license for the
 10 period beginning July 1, 1971 shall be accompanied by a fee of
 11 \$18.75 and the corporate surety bond prescribed by clause (a) of
 12 this subdivision. Each license issued for the period beginning
 13 July 1, 1971 shall expire on December 31, 1971.

14 No change for subd 5 to 6

15 Subd. 7. The commissioner, upon receipt of the application
 16 (and bond, in the case of the distributor) in proper form, and
 17 payment of the license fee required by subdivision 4 or
 18 subdivision 5, shall, unless otherwise provided by sections
 19 297.31 to 297.39, issue the applicant a license in form as
 20 prescribed by ~~him~~ the commissioner, which license shall permit
 21 the applicant to whom it is issued to engage in business as a
 22 distributor or subjobber at the place of business shown in ~~his~~
 23 the application. The commissioner shall assign a permit number
 24 to each person licensed as a distributor at the time of issuance
 25 of ~~his~~ the first license, which shall be inscribed upon all
 26 licenses issued to that distributor.

27 No change for subd 8 to 11

28 Subd. 12. No license shall be issued under sections 297.31
 29 to 297.39 to any person within one year of the date of final
 30 determination of a revocation of any previous license held by
 31 ~~him~~.

32 No change for subd 13

297*#34S

33 297.34 LICENSEES, DUTIES.

34 Subdivision 1. Every distributor shall keep at each
 35 licensed place of business complete and accurate records for
 36 that place of business, including itemized invoices, of tobacco
 37 products held, purchased, manufactured, brought in or caused to
 38 be brought in from without the state, or shipped or transported
 39 to retailers in this state, and of all sales of tobacco products
 40 made, except sales to the ultimate consumer.

41 When a licensed distributor sells tobacco products
 42 exclusively to the ultimate consumer at the address given in the
 43 license, no invoice of those sales shall be required, but
 44 itemized invoices shall be made of all tobacco products
 45 transferred to other retail outlets owned or controlled by that
 46 licensed distributor. All books, records and other papers and
 47 documents required by this subdivision to be kept shall be
 48 preserved for a period of at least one year after the date of
 49 the documents, as aforesaid, or the date of the entries thereof
 50 appearing in the records, unless the commissioner, in writing,
 51 authorizes their destruction or disposal at an earlier date. At
 52 any time during usual business hours the commissioner, or ~~his~~
 53 duly authorized agents or employees, may enter any place of
 54 business of a distributor, without a search warrant, and inspect
 55 the premises, the records required to be kept under this
 56 subdivision, and the tobacco products contained therein, to
 57 determine whether or not all the provisions of sections 297.31
 58 to 297.39 are being fully complied with. If the commissioner,
 59 or any such agent or employee, is denied free access or is
 60 hindered or interfered with in making such examination, the
 61 license of the distributor at such premises shall be subject to
 62 revocation by the commissioner.

63 Subd. 2. Every person who sells tobacco products to
 64 persons other than the ultimate consumer shall render with each
 65 sale itemized invoices showing the seller's name and address,
 66 the purchaser's name and address, the date of sale, and all
 67 prices and discounts:--~~He~~ and shall preserve legible copies of
 68 all such invoices for one year from the date of sale.

69 Subd. 3. Every retailer and subjobber shall procure
 70 itemized invoices of all tobacco products purchased. The
 71 invoices shall show the name and address of the seller and the
 72 date of purchase. The retailer and subjobber shall preserve a
 73 legible copy of each such invoice for one year from the date of
 74 purchase. Invoices shall be available for inspection by the
 75 commissioner or ~~his~~ authorized agents or employees at the

1 retailer's or subjobber's place of business.

2 No change for subd 4 to 5

297*#35S

3 297.35 DISTRIBUTORS, MONTHLY RETURNS.

4 Subdivision 1. On or before the eighteenth day of each
5 calendar month every distributor with a place of business in
6 this state shall file a return with the commissioner showing the
7 quantity and wholesale sales price of each tobacco product (1)
8 brought, or caused to be brought, into this state for sale; and
9 (2) made, manufactured or fabricated in this state for sale in
10 this state, during the preceding calendar month. Every licensed
11 distributor outside this state shall in like manner file a
12 return showing the quantity and wholesale sales price of each
13 tobacco product shipped or transported to retailers in this
14 state to be sold by those retailers, during the preceding
15 calendar month. Returns shall be made upon forms furnished and
16 prescribed by the commissioner and shall contain such other
17 information as the commissioner may require. Each return shall
18 be accompanied by a remittance for the full tax liability shown
19 therein, less two percent of such liability as compensation to
20 reimburse the distributor for his expenses incurred in the
21 administration of sections 297.31 to 297.39.

*

22 Subd. 2. As soon as practicable after any return is filed,
23 the commissioner shall examine each return and correct it, if
24 necessary, according to his the commissioner's best judgment and
25 information. ~~If the commissioner finds~~ On finding that any
26 amount of tax is due from the taxpayer and unpaid, ~~he the~~
27 commissioner shall notify the taxpayer of the deficiency,
28 ~~stating that he proposes~~ and of the intention to assess the
29 amount due together with interest and penalties as hereinafter
30 provided. If a deficiency disclosed by the commissioner's
31 examination cannot be allocated ~~by him~~ to a particular month or
32 months, ~~he the commissioner~~ shall notify the taxpayer of the
33 deficiency, stating his the intention to assess the amount due
34 for a given period without allocating it to any particular month
35 or months. If any taxpayer making any return shall die or shall
36 become incompetent at any time before the commissioner
37 issues ~~his the notice that he proposes~~ of intention to assess an
38 amount due, that notice shall be issued to the administrator,
39 executor, or other legal representative, as such, of that
40 taxpayer.

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41 Subd. 3. If, within 20 days after mailing of notice of the
42 proposed assessment, the taxpayer or ~~his a~~ legal representative
43 shall file a protest to said proposed assessment and request a
44 hearing thereon, the commissioner shall give notice to that
45 taxpayer or legal representative of the time and place fixed for
46 the hearing, shall hold a hearing on such protest, and shall
47 issue a final assessment to the taxpayer or legal representative
48 for the amount found to be due as a result of the hearing. This
49 hearing shall be held within 45 days after filing of the
50 protest. If a protest is not filed within the time herein
51 prescribed, the commissioner shall issue a final assessment to
52 the taxpayer or legal representative, as such. Any tax due and
53 owing after a final assessment order has been issued to the
54 distributor or legal representative of such distributor shall be
55 paid within 60 days. Any such assessment made by the
56 commissioner shall be prima facie correct and valid, and the
57 taxpayer shall have the burden of establishing its incorrectness
58 or invalidity in any action or proceeding in respect thereto.

*

59 Subd. 4. If any taxpayer required by sections 297.31 to
60 297.39 to file any return shall fail to do so within the time
61 prescribed by sections 297.31 to 297.39, ~~he the taxpayer~~ shall,
62 on the written demand of the commissioner, file such return
63 within 20 days after the mailing of such written demand and at
64 the same time pay the tax due on the basis thereof. If such
65 taxpayer shall fail within that time to file such return, the
66 commissioner shall make for ~~him the taxpayer~~ a return, from ~~his~~
67 the commissioner's own knowledge and from such information as ~~he~~
68 the commissioner can obtain through testimony, or otherwise, and
69 assess a tax on the basis thereof, which tax shall be paid
70 within ten days after the commissioner has mailed to such
71 taxpayer a written notice of the amount thereof and demand for
72 its payment. Any such return or assessment made by the
73 commissioner on account of the failure of the taxpayer to make a
74 return shall be prima facie correct and valid, and the taxpayer
75 shall have the burden of establishing its incorrectness or

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1 invalidity in any action or proceeding in respect thereto.

2 Subd. 5. All taxes shall be due and payable not later than
3 the eighteenth day of the month following the calendar month in
4 which they were incurred, and thereafter shall bear interest at
5 the rate specified in section 270.75. If any tax required to be
6 paid under the provisions of this section is not paid within the
7 time herein specified, a penalty of five percent of the unpaid
8 tax remaining each month up to a maximum of 25 percent is herein
9 imposed but in no event shall the penalty for failing to pay
10 such tax within the time so provided be less than \$10. The
11 commissioner of revenue is authorized to extend the time for
12 paying such tax without penalty for good cause shown.

13 Where, under the provisions of subdivisions 2 and 3, the
14 amount of tax due for a given period is assessed without
15 allocating it to any particular month or months, the interest
16 shall commence to run from the date of such assessment.

17 The commissioner shall have power to reduce or abate the
18 penalty or interest when in ~~his~~ the commissioner's opinion the
19 facts warrant such reduction or abatement. The exercise of this
20 power shall be subject to the provisions of chapter 270 if the
21 reduction or abatement exceeds \$500.

22 Subd. 6. The commissioner in issuing ~~his~~ a final
23 assessment pursuant to subdivision 3 shall add to the amount of
24 tax found due and unpaid a penalty of ten percent thereof,
25 except that, if ~~he~~ the commissioner finds that the taxpayer has
26 made a false and fraudulent return with intent to evade the tax
27 imposed by sections 297.31 to 297.39, the penalty shall be 25
28 percent of the entire tax as shown by the return as corrected.
29 The commissioner in assessing a tax on the basis of a return
30 made pursuant to subdivision 4 shall add to the amount of tax
31 found due and unpaid a penalty of 25 percent thereof.

32 The commissioner shall have power to abate penalties, when
33 ~~in his~~ of the opinion that their enforcement would be unjust and
34 inequitable. The exercise of this power shall be subject to the
35 approval of the attorney general if the abatement exceeds \$500.

36 No change for subd 7 to 9

297*#37S

37 297.37 INVESTIGATIONS AND HEARINGS, TESTIMONIAL POWERS.

38 Subdivision 1. The commissioner, or ~~his~~ duly authorized
39 agents, may conduct investigations, inquiries, and hearings for
40 the purpose of enforcing the provisions of sections 297.31 to
41 297.39, and, in connection with such investigations, inquiries,
42 and hearings, ~~he~~ the commissioner and ~~his~~ the duly authorized
43 agents shall have all the powers conferred upon ~~him~~ the
44 commissioner and ~~his~~ examiners by sections 290.56 to 290.58, and
45 the provisions of those sections shall apply to all such
46 investigations, inquiries and hearings.

47 Subd. 2. Every hearing conducted under sections 297.31 to
48 297.39 shall be preceded by ten days' notice in writing of the
49 subject of the hearing, including, in the case of suspension or
50 revocation of a license, a statement of the nature of the
51 charges against the licensee. The notice shall be sent by
52 certified mail to the last known address of the licensee or
53 other person involved in the hearing, and service shall be
54 complete upon mailing. After every hearing the commissioner
55 shall make ~~his~~ findings and ~~his~~ an order in writing. The
56 findings and order shall be filed in the office of the
57 commissioner, and a copy sent by mail or otherwise to the person
58 to whom the notice was directed.

59 No change for subd 3

60 Subd. 4. No person shall be excused from testifying or
61 from producing, pursuant to a subpoena, any books, papers,
62 records, or memoranda in any investigation or upon any hearing,
63 upon the ground that the testimony or evidence, documentary or
64 otherwise, may tend to incriminate ~~him~~ or subject ~~him~~ the person
65 to a criminal penalty, but no person shall be prosecuted or
66 subjected to any criminal penalty for or on account of any
67 transaction made or thing concerning which ~~he~~ the person may
68 testify or produce evidence, documentary or otherwise, before
69 the commissioner or an employee or agent thereof; provided that
70 such immunity shall extend only to a natural person who, in
71 obedience to a subpoena, gives testimony under oath or produces
72 evidence, documentary or otherwise, pursuant to a subpoena. No
73 person so testifying shall be exempt from prosecution and
74 punishment for perjury committed in so testifying.

75 No change for subd 5

297*#38S

1 297.38 ENFORCEMENT.

2 Subdivision 1. The commissioner shall enforce the
 3 provisions of sections 297.31 to 297.39--~~He~~ and may prescribe *
 4 rules and regulations not inconsistent with the provisions of
 5 sections 297.31 to 297.39 for its detailed and efficient
 6 administration. In the enforcement of sections 297.31 to 297.39
 7 the commissioner may call upon any county attorney or the
 8 attorney general for assistance--~~He~~ and may appoint such *
 9 additional employees as may be required to administer sections
 10 297.31 to 297.39. The commissioner may bring injunction
 11 proceedings to restrain any person from acting as a distributor
 12 or subjobber without complying with the provisions of sections
 13 297.31 to 297.39.

14 No change for subd 2

297A#04S

15 297A.04 APPLICATIONS; MEMBER; VENDING MACHINES; FORM.

16 Every person desiring to engage in the business of making
 17 retail sales within Minnesota shall file with the commissioner
 18 an application for a permit and if such person has more than one
 19 place of business, an application for each place of business
 20 must be filed. A vending machine operator who has more than one
 21 vending machine location shall nevertheless be considered to
 22 have only one place of business for purposes of this section.
 23 An applicant who has no regular place of doing business and who
 24 moves from place to place shall be considered to have only one
 25 place of business and shall attach such permit to ~~his~~ the *
 26 applicant's cart, stand, truck or other merchandising device. *
 27 The commissioner may require any person or class of persons
 28 obligated to file a use tax return under section 297A.27,
 29 subdivision 2, to file application for a permit. Every
 30 application for a permit shall be made upon a form prescribed by
 31 the commissioner and shall set forth the name under which the
 32 applicant intends to transact business, the location of ~~his~~ the *
 33 applicant's place or places of business, and such other *
 34 information as the commissioner may require. The application
 35 shall be filed by the owner, if a natural person; by a member or
 36 partner, if the owner be an association or partnership; by a
 37 person authorized to sign the application, if the owner be a
 38 corporation.

297A#041S

39 297A.041 OPERATOR OF FLEA MARKETS; SELLER'S PERMITS
40 REQUIRED; PENALTY.

41 The operator of a flea market, craft show, antique show,
 42 coin show, stamp show, comic book show, convention exhibit area,
 43 or similar selling event, as a prerequisite to renting or
 44 leasing space on the premises owned or controlled by the
 45 operator to a person desiring to engage in or conduct business
 46 as a seller, shall obtain evidence that the seller is the holder
 47 of a valid seller's permit issued pursuant to section 297A.04,
 48 or a written statement from the seller that ~~he~~ the seller is not *
 49 offering for sale any item that is taxable under this chapter.

50 Flea market, craft show, antique show, coin show, stamp
 51 show, comic book show, convention exhibit area, or similar
 52 selling event, as used in this section, means an activity
 53 involving a series of sales sufficient in number, scope, and
 54 character to constitute a regular course of business, and which
 55 would not qualify as an isolated or occasional sale pursuant to
 56 section 297A.25, subdivision 1, clause (k).

57 Any operator who fails or refuses to comply with the
 58 provisions of this section shall be subject to a penalty payable
 59 to the commissioner of revenue of \$100 for each day of each
 60 selling event that the operator fails to obtain evidence that
 61 the seller is the holder of a valid seller's permit issued
 62 pursuant to section 297A.04.

63 This section does not apply to an operator of a flea
 64 market, craft show, antique show, coin show, stamp show, comic
 65 book show, convention exhibit area, or similar selling event
 66 which is: (1) held in conjunction with a community sponsored
 67 festival which has a duration of four or fewer consecutive days
 68 no more than once a year; or (2) conducted by a nonprofit
 69 organization annually or less frequently.

297A#07S

70 297A.07 REVOCATION OF PERMITS.

71 Whenever any person fails to comply with any provision of
 72 sections 297A.01 to 297A.44 or any regulation of the

1 commissioner adopted under sections 297A.01 to 297A.44, the
 2 commissioner, upon hearing, after giving the person 30 days'
 3 notice in writing specifying the time and place of hearing and
 4 the reason for the proposed revocation and requiring him the
 5 person to show cause why his the permit or permits should not be
 6 revoked, may for reasonable cause, revoke or suspend any one or
 7 more of the permits held by such person. The notice may be
 8 served personally or by mail in the manner prescribed for
 9 service of notice of a deficiency. The commissioner shall not
 10 issue a new permit after revocation except upon application
 11 accompanied by reasonable evidence of the intention of the
 12 applicant to comply with the aforementioned provisions and
 13 regulations. The commissioner may condition the issuance of a
 14 new permit to such applicant on the supplying of such security
 15 in addition to that authorized by section 297A.28 as is
 16 reasonably necessary to insure compliance with the
 17 aforementioned provisions and regulations.

297A#09S

18 297A.09 PRESUMPTION OF TAX; BURDEN OF PROOF.

19 For the purpose of the proper administration of sections
 20 297A.01 to 297A.44 and to prevent evasion of the tax, it shall
 21 be presumed that all gross receipts are subject to the tax until
 22 the contrary is established. The burden of proving that a sale
 23 is not a sale at retail is upon the person who makes the sale,
 24 but he that person may take from the purchaser an exemption
 25 certificate to the effect that the property purchased is for
 26 resale or that the sale is otherwise exempt from the application
 27 of the tax imposed by sections 297A.01 to 297A.44.

297A#12S

28 297A.12 IMPROPER USE OF SUBJECT OF PURCHASE OBTAINED
 29 WITH EXEMPTION CERTIFICATE.

30 If a purchaser who gives an exemption certificate makes any
 31 use of the subject of the purchase other than for a purpose
 32 exempted by sections 297A.01 to 297A.44, such use shall be
 33 deemed a retail sale by the purchaser as of the time of first
 34 use by him the purchaser, and the sales price to him the
 35 purchaser shall be deemed the gross receipts from such retail
 36 sale. If the sole non-exempt use is rental while holding for
 37 sale, the purchaser shall include in his the purchaser's gross
 38 receipts the amount of the rental charged. Upon subsequent sale
 39 of such property, the seller shall include the entire amount of
 40 gross receipts received therefrom without deduction of amounts
 41 previously received as rentals.

297A#15S

42 297A.15 COLLECTION AND PAYMENT; PENALTY.

43 Subdivision 1. Liability for the payment of the use tax is
 44 not extinguished until the tax has been paid to Minnesota.
 45 However, a receipt from a retailer maintaining a place of
 46 business in Minnesota, or from a retailer who is authorized by
 47 the commissioner under such rules and regulations as he the
 48 commissioner may prescribe, to collect the tax, given to the
 49 purchaser pursuant to section 297A.16 relieves the purchaser of
 50 further liability for the tax to which the receipt refers.

51 Subd. 2. Any retailer not maintaining a place of business
 52 in Minnesota as a prerequisite to receiving authorization from
 53 the commissioner to collect the use tax shall furnish, to the
 54 satisfaction of the commissioner, and in accordance with section
 55 297A.28, adequate security to insure collections and payment of
 56 the tax. When so authorized, such retailer shall, except as
 57 otherwise provided in section 297A.16, collect the tax upon all
 58 tangible property sold to his the retailer's knowledge for use
 59 within this state, as a retailer maintaining a place of business
 60 within this state collects such tax. Such authority and permit
 61 may be cancelled at any time, if the commissioner considers the
 62 security inadequate, or believes that such tax can be collected
 63 more effectively from the person using such property in this
 64 state.

65 No change for subd 3

66 Subd. 4. SEIZURE; COURT REVIEW. The commissioner of
 67 revenue or his the commissioner's duly authorized agents are
 68 empowered to seize and confiscate in the name of the state any
 69 truck, automobile or means of transportation not owned or
 70 operated by a common carrier, used in the illegal importation
 71 and transportation of any article or articles of tangible
 72 personal property by a retailer or his the retailer's agent or
 73 employee who does not have a sales or use tax permit and has

1 been engaging in transporting personal property into the state
2 without payment of the tax. The commissioner may demand the
3 forfeiture and sale of the truck, automobile or other means of
4 transportation together with the property being transported
5 illegally, unless the owner establishes to the satisfaction of
6 the commissioner or the court that ~~he~~ the owner had no notice or *
7 knowledge or reason to believe that the vehicle was used or
8 intended to be used in any such violation. Within two days
9 after the seizure, the person making the seizure shall deliver
10 an inventory of the vehicle and property seized to the person
11 from whom the seizure was made, if known, and to any person
12 known or believed to have any right, title, interest or lien on
13 the vehicle or property, and shall also file a copy with the
14 commissioner. Within ten days after the date of service of the
15 inventory, the person from whom the vehicle and property was
16 seized or any person claiming an interest in the vehicle or
17 property may file with the commissioner a demand for a judicial
18 determination of the question as to whether the vehicle or
19 property was lawfully subject to seizure and forfeiture. The
20 commissioner, within 30 days, shall institute an action in the
21 district court of the county where the seizure was made to
22 determine the issue of forfeiture. The action shall be brought
23 in the name of the state and shall be prosecuted by the county
24 attorney or by the attorney general. The court shall hear the
25 action without a jury and shall try and determine the issues of
26 fact and law involved. Whenever a judgment of forfeiture is
27 entered, the commissioner may, unless the judgment is stayed
28 pending an appeal, cause the forfeited vehicle and property to
29 be sold at public auction as provided by law. If a demand for
30 judicial determination is made and no action is commenced as
31 provided in this subdivision, the vehicle and property shall be
32 released by the commissioner and redelivered to the person
33 entitled to it. If no demand is made, the vehicle and property
34 seized shall be deemed forfeited to the state by operation of
35 law and may be disposed of by the commissioner as provided where
36 there has been a judgment of forfeiture. The forfeiture and
37 sale of the automobile, truck or other means of transportation,
38 and of the property being transported illegally in it, is a
39 penalty for the violation of this chapter. After deducting the
40 expense of keeping the vehicle and property, the fee for
41 seizure, and the costs of the sale, the commissioner shall pay
42 from the funds collected all liens according to their priority,
43 which are established at the hearing as being bona fide and as
44 existing without the lienor having any notice or knowledge that
45 the vehicle or property was being used or was intended to be
46 used for or in connection with any such violation as specified
47 in the order of the court, and shall pay the balance of the
48 proceeds into the state treasury to be credited to the general
49 fund. The state shall not be liable for any liens in excess of
50 the proceeds from the sale after deductions provided. Any sale
51 under the provisions of this section shall operate to free the
52 vehicle and property sold from any and all liens on it, and
53 appeal from the order of the district court will lie as in other
54 civil cases.

55 For the purposes of this section, "common carrier" means
56 any person engaged in transportation for hire of tangible
57 personal property by motor vehicle, limited to (1) a person
58 possessing a certificate or permit authorizing for-hire
59 transportation of property from the interstate commerce
60 commission or the public utilities commission; or (2) any person
61 transporting commodities defined as "exempt" in for-hire
62 transportation; or (3) any person who pursuant to a contract
63 with a person described in (1) or (2) above transports tangible
64 personal property.

65 No change for subd 5

297A#16S

66 297A.16 COLLECTION OF TAX AT TIME OF SALE.

67 Any corporation authorized to do business in Minnesota, any
68 retailer as defined in section 297A.21, or any other retailer as
69 the commissioner shall authorize pursuant to section 297A.15,
70 upon making sales of any items enumerated in this chapter not
71 exempted under sections 297A.01 to 297A.44, shall at the time of
72 making such sales collect the use tax from the purchaser and
73 give to the purchaser a receipt therefor in the form of a
74 notation on the sales slip or receipt for the sales price or in
75 such other form as prescribed by the commissioner. Any such

1 corporation or retailer shall not collect the tax from a
 2 purchaser who furnishes to such corporation or retailer a copy
 3 of a certificate issued by the commissioner authorizing such
 4 purchaser to pay any sales or use tax due on purchases made by
 5 such purchaser directly to the commissioner. The tax collected
 6 by such corporation or retailer pursuant to the provisions of
 7 this section shall be remitted to the commissioner as provided
 8 in other sections of this chapter.

9 Any corporation or any retailer required to collect the use
 10 tax and remit such tax to the commissioner pursuant to this
 11 section shall file with the commissioner an application for a
 12 permit pursuant to section 297A.04. Every such corporation or
 13 retailer shall furnish the commissioner with the name and
 14 address of all ~~his~~ its agents operating in Minnesota and the
 15 location of each of ~~his~~ its distribution or sales houses or
 16 offices or other places of business in this state.

*
*

297A#21S

17 297A.21 REGISTRATION; INFORMATION RELATING TO BUSINESS
 18 LOCATION.

19 Subdivision 1. Every retailer making retail sales for
 20 storage, use or other consumption in Minnesota shall register
 21 with the commissioner and give the name and address of all
 22 agents operating in Minnesota, the location of all distribution
 23 or sales houses, offices or other places of business in
 24 Minnesota, and such other information as the commissioner may
 25 require. When, in the opinion of the commissioner, it is
 26 necessary for the efficient administration of sections 297A.14
 27 to 297A.25 to regard any ~~salesman~~ salesperson, representative,
 28 trucker, peddler, or canvasser as the agent of the dealer,
 29 distributor, supervisor, employer, or other person under whom ~~he~~
 30 that person operates or from whom ~~he~~ the person obtains the
 31 tangible personal property sold ~~by him~~, whether ~~he is~~ making
 32 sales ~~in his own behalf~~ personally or in behalf of such dealer,
 33 distributor, supervisor, employer, or other person, the
 34 commissioner may regard ~~him~~ the salesperson, representative,
 35 trucker, peddler, or canvasser as such agent, and may regard the
 36 dealer, distributor, supervisor, employer, or other person as a
 37 retailer for the purposes of sections 297A.14 to 297A.25.

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38 No change for subd 2

297A#22S

39 297A.22 PRESUMPTION OF PURPOSE OF SALE, BURDEN OF PROOF.

40 For the purpose of the proper administration of sections
 41 297A.01 to 297A.44 and to prevent evasion of the use tax and the
 42 duty to collect the use tax, it shall be presumed that all
 43 retail sales for delivery in Minnesota are for storage, use or
 44 other consumption in Minnesota until the contrary is
 45 established. The burden of proving the contrary shall be upon
 46 the person who makes the sale but ~~he~~ that person may take from
 47 the purchaser an exemption certificate in accordance with
 48 sections 297A.09 to 297A.13.

*

297A#23S

49 297A.23 PROPERTY BROUGHT TO STATE; PRESUMPTION; BURDEN
 50 OF PROOF.

51 Any purchaser of tangible personal property or any items
 52 enumerated in section 297A.14 which are shipped or brought to
 53 Minnesota by ~~him~~ the purchaser after July 31, 1967, shall have
 54 the burden of proving that the same were not purchased from a
 55 retailer for storage, use or consumption in Minnesota.

*

297A#25S

56 297A.25 EXEMPTIONS.

57 Subdivision 1. The following are specifically exempted
 58 from the taxes imposed by sections 297A.01 to 297A.44:

59 (a) the gross receipts from the sale of food products
 60 including but not limited to cereal and cereal products, butter,
 61 cheese, milk and milk products, oleomargarine, meat and meat
 62 products, fish and fish products, eggs and egg products,
 63 vegetables and vegetable products, fruit and fruit products,
 64 spices and salt, sugar and sugar products, coffee and coffee
 65 substitutes, tea, cocoa and cocoa products, and food products
 66 which are not taxable pursuant to section 297A.01, subdivision
 67 3, clause (c). This exemption does not include the following:

68 (i) candy and candy products, except when sold for
 69 fundraising purposes by a nonprofit organization that provides
 70 educational and social activities for young people primarily
 71 aged 18 and under;

72 (ii) carbonated beverages, beverages commonly referred to

1 as soft drinks containing less than 15 percent fruit juice, or
2 bottled water other than noncarbonated and noneffervescent
3 bottled water sold in individual containers of one-half gallon
4 or more in size;

5 (b) the gross receipts from the sale of prescribed drugs
6 and medicine intended for use, internal or external, in the
7 cure, mitigation, treatment or prevention of illness or disease
8 in human beings and products consumed by humans for the
9 preservation of health, including prescription glasses,
10 therapeutic and prosthetic devices, but not including cosmetics
11 or toilet articles notwithstanding the presence of medicinal
12 ingredients therein;

13 (c) the gross receipts from the sale of and the storage,
14 use or other consumption in Minnesota of tangible personal
15 property, tickets, or admissions, electricity, gas, or local
16 exchange telephone service, which under the Constitution or laws
17 of the United States or under the Constitution of Minnesota, the
18 state of Minnesota is prohibited from taxing;

19 (d) the gross receipts from the sale of tangible personal
20 property (i) which, without intermediate use, is shipped or
21 transported outside Minnesota by the purchaser and thereafter
22 used in a trade or business or is stored, processed, fabricated
23 or manufactured into, attached to or incorporated into other
24 tangible personal property transported or shipped outside
25 Minnesota and thereafter used in a trade or business outside
26 Minnesota, and which is not thereafter returned to a point
27 within Minnesota, except in the course of interstate commerce
28 (storage shall not constitute intermediate use); provided that
29 the property is not subject to tax in that state or country to
30 which it is transported for storage or use, or, if subject to
31 tax in that other state, that state allows a similar exemption
32 for property purchased therein and transported to Minnesota for
33 use in this state; except that sales of tangible personal
34 property that is shipped or transported for use outside
35 Minnesota shall be taxed at the rate of the use tax imposed by
36 the state to which the property is shipped or transported,
37 unless that state has no use tax, in which case the sale shall
38 be taxed at the rate generally imposed by this state; and
39 provided further that sales of tangible personal property to be
40 used in other states or countries as part of a maintenance
41 contract shall be specifically exempt; or (ii) which the seller
42 delivers to a common carrier for delivery outside Minnesota,
43 places in the United States mail or parcel post directed to the
44 purchaser outside Minnesota, or delivers to the purchaser
45 outside Minnesota by means of the seller's own delivery
46 vehicles, and which is not thereafter returned to a point within
47 Minnesota, except in the course of interstate commerce;

48 (e) the gross receipts from the sale of packing materials
49 used to pack and ship household goods, the ultimate destination
50 of which is outside the state of Minnesota and which are not
51 thereafter returned to a point within Minnesota, except in the
52 course of interstate commerce;

53 (f) the gross receipts from the sale of and storage, use or
54 consumption of petroleum products (i) upon which a tax has been
55 imposed under the provisions of chapter 296, whether or not any
56 part of said tax may be subsequently refunded, or (ii) which are
57 used in the improvement of agricultural land by constructing,
58 maintaining, and repairing drainage ditches, tile drainage
59 systems, grass waterways, water impoundment, and other erosion
60 control structures;

61 (g) the gross receipts from the sale of clothing and
62 wearing apparel except the following:

63 (i) all articles commonly or commercially known as jewelry,
64 whether real or imitation; pearls, precious and semiprecious
65 stones, and imitations thereof; articles made of, or ornamented,
66 mounted or fitted with precious metals or imitations thereof;
67 watches; clocks; cases and movements for watches and clocks;
68 gold-plated, silver, or sterling flatware or hollowware
69 and silver-plated hollowware; opera glasses; lorgnettes; marine
70 glasses; field glasses and binoculars;

71 (ii) articles made of fur on the hide or pelt, and articles
72 of which such fur is the component material or chief value, but
73 only if such value is more than three times the value of the
74 next most valuable component material;

75 (iii) perfume, essences, extracts, toilet waters,
76 cosmetics, petroleum jellies, hair oils, pomades, hair

1 dressings, hair restoratives, hair dyes, aromatic cachous and
2 toilet powders. The tax imposed by this act shall not apply to
3 lotion, oil, powder, or other article intended to be used or
4 applied only in the case of babies;

5 (iv) trunks, valises, traveling bags, suitcases, satchels,
6 overnight bags, hat boxes for use by travelers, beach bags,
7 bathing suit bags, brief cases made of leather or imitation
8 leather, ~~salesmen's~~ salespeople's sample and display cases,
9 purses, handbags, pocketbooks, wallets, billfolds, card, pass,
10 and key cases and toilet cases;

11 (h) the gross receipts from the sale of and the storage,
12 use, or consumption of all materials, including chemicals,
13 fuels, petroleum products, lubricants, packaging materials,
14 including returnable containers used in packaging food and
15 beverage products, feeds, seeds, fertilizers, electricity, gas
16 and steam, used or consumed in agricultural or industrial
17 production of personal property intended to be sold ultimately
18 at retail, whether or not the item so used becomes an ingredient
19 or constituent part of the property produced. Chemicals used
20 for cleaning food processing machinery and equipment are
21 included in this exemption. Such production shall include, but
22 is not limited to, research, development, design or production
23 of any tangible personal property, manufacturing, processing
24 (other than by restaurants and consumers) of agricultural
25 products whether vegetable or animal, commercial fishing,
26 refining, smelting, reducing, brewing, distilling, printing,
27 mining, quarrying, lumbering, generating electricity and the
28 production of road building materials. Such production shall
29 not include painting, cleaning, repairing or similar processing
30 of property except as part of the original manufacturing
31 process. Machinery, equipment, implements, tools, accessories,
32 appliances, contrivances, furniture and fixtures, used in such
33 production and fuel, electricity, gas or steam used for space
34 heating or lighting, are not included within this exemption;
35 however, accessory tools, equipment and other short lived items,
36 which are separate detachable units used in producing a direct
37 effect upon the product, where such items have an ordinary
38 useful life of less than 12 months, are included within the
39 exemption provided herein. Electricity used to make snow for
40 outdoor use for ski hills, ski slopes, or ski trails is included
41 in this exemption;

42 (i) the gross receipts from the sale of and storage, use or
43 other consumption in Minnesota of tangible personal property
44 (except as provided in section 297A.14) which is used or
45 consumed in producing any publication regularly issued at
46 average intervals not exceeding three months, and any such
47 publication. For purposes of this subsection, "publication" as
48 used herein shall include, without limiting the foregoing, a
49 legal newspaper as defined by Minnesota Statutes 1965, section
50 331.02, and any supplements or enclosures with or part of said
51 newspaper; and the gross receipts of any advertising contained
52 therein or therewith shall be exempt. For this purpose,
53 advertising in any such publication shall be deemed to be a
54 service and not tangible personal property, and persons or their
55 agents who publish or sell such newspapers shall be deemed to be
56 engaging in a service with respect to gross receipts realized
57 from such newsgathering or publishing activities by them,
58 including the sale of advertising. The term "publication" shall
59 not include magazines and periodicals sold over the counter.
60 Machinery, equipment, implements, tools, accessories,
61 appliances, contrivances, furniture and fixtures used in such
62 publication and fuel, electricity, gas or steam used for space
63 heating or lighting, are not exempt;

64 (j) the gross receipts from all sales, including sales in
65 which title is retained by a seller or a vendor or is assigned
66 to a third party under an installment sale or lease purchase
67 agreement under section 465.71, of tangible personal property
68 to, and all storage, use or consumption of such property by, the
69 United States and its agencies and instrumentalities or a state
70 and its agencies, instrumentalities and political subdivisions.
71 Sales exempted by this clause include sales pursuant to section
72 297A.01, subdivision 3, clauses (d) and (f). This exemption
73 shall not apply to building, construction or reconstruction
74 materials purchased by a contractor or a subcontractor as a part
75 of a lump-sum contract or similar type of contract with a
76 guaranteed maximum price covering both labor and materials for

1 use in the construction, alteration or repair of a building or
2 facility. This exemption does not apply to construction
3 materials purchased by tax exempt entities or their contractors
4 to be used in constructing buildings or facilities which will
5 not be used principally by the tax exempt entities;

6 (k) the gross receipts from the isolated or occasional sale
7 of tangible personal property in Minnesota not made in the
8 normal course of business of selling that kind of property, and
9 the storage, use, or consumption of property acquired as a
10 result of such a sale. For purposes of this clause, sales by a
11 nonprofit organization shall be deemed to be "isolated or
12 occasional" if they occur at sale events that have a duration of
13 three or fewer consecutive days. The granting of the privilege
14 of admission to places of amusement and the privilege of use of
15 amusement devices by a nonprofit organization at an isolated or
16 occasional event conducted on property owned or leased for a
17 continuous period of more than 30 days by the nonprofit
18 organization are also exempt. The exemption provided for
19 isolated sales of tangible personal property and of the granting
20 of admissions or the privilege of use of amusement devices by
21 nonprofit organizations pursuant to this clause shall be
22 available only if the sum of the days on which the organization
23 and any subsidiary nonprofit organization sponsored by it that
24 does not have a separate sales tax exemption permit conduct
25 sales of tangible personal property, plus the days with respect
26 to which the organization charges for the use of amusement
27 devices or admission to places of amusement, does not exceed
28 eight days in a calendar year. For purposes of this clause, a
29 "nonprofit organization" means any corporation, society,
30 association, foundation, or institution organized and operated
31 exclusively for charitable, religious, or educational purposes,
32 no part of the net earnings of which inures to the benefit of a
33 private individual;

34 (l) the gross receipts from sales of rolling stock and the
35 storage, use or other consumption of such property by railroads,
36 freight line companies, sleeping car companies and express
37 companies taxed on the gross earnings basis in lieu of ad
38 valorem taxes. For purposes of this clause "rolling stock" is
39 defined as the portable or moving apparatus and machinery of any
40 such company which moves on the road, and includes, but is not
41 limited to, engines, cars, tenders, coaches, sleeping cars and
42 parts necessary for the repair and maintenance of such rolling
43 stock;

44 (m) the gross receipts from sales of airflight equipment
45 and the storage, use or other consumption of such property by
46 airline companies taxed under the provisions of sections 270.071
47 to 270.079. For purposes of this clause, "airflight equipment"
48 includes airplanes and parts necessary for the repair and
49 maintenance of such airflight equipment, and flight simulators;

50 (n) the gross receipts from the sale of and the storage,
51 use or other consumption by persons taxed under the in lieu
52 provisions of chapter 298, of mill liners, grinding rods and
53 grinding balls which are substantially consumed in the
54 production of taconite, the material of which primarily is added
55 to and becomes a part of the material being processed;

56 (o) the gross receipts from the sale of tangible personal
57 property to, and the storage, use or other consumption of such
58 property by, any corporation, society, association, foundation,
59 or institution organized and operated exclusively for
60 charitable, religious or educational purposes if the property
61 purchased is to be used in the performance of charitable,
62 religious or educational functions, or any senior citizen group
63 or association of groups that in general limits membership to
64 persons age 55 or older and is organized and operated
65 exclusively for pleasure, recreation and other nonprofit
66 purposes, no part of the net earnings of which inures to the
67 benefit of any private shareholders. Sales exempted by this
68 clause include sales pursuant to section 297A.01, subdivision 3,
69 clauses (d) and (f). This exemption shall not apply to
70 building, construction or reconstruction materials purchased by
71 a contractor or a subcontractor as a part of a lump-sum contract
72 or similar type of contract with a guaranteed maximum price
73 covering both labor and materials for use in the construction,
74 alteration or repair of a building or facility. This exemption
75 does not apply to construction materials purchased by tax exempt
76 entities or their contractors to be used in constructing

1 buildings or facilities which will not be used principally by
2 the tax exempt entities;

3 (p) the gross receipts from the sale of caskets and burial
4 vaults;

5 (q) the gross receipts from the sale of an automobile or
6 other conveyance if the purchaser is assisted by a grant from
7 the United States in accordance with United States Code, title
8 38, section 1901, as amended;

9 (r) the gross receipts from the sale to the licensed
10 aircraft dealer of an aircraft for which a commercial use permit
11 has been issued pursuant to section 360.654, if the aircraft is
12 resold while the permit is in effect;

13 (s) the gross receipts from the sale of building materials
14 to be used in the construction or remodeling of a residence when
15 the construction or remodeling is financed in whole or in part
16 by the United States in accordance with United States Code,
17 title 38, sections 801 to 805, as amended. This exemption shall
18 not be effective at time of sale of the materials to
19 contractors, subcontractors, builders or owners, but shall be
20 applicable only upon a claim for refund to the commissioner of
21 revenue filed by recipients of the benefits provided in United
22 States Code, title 38, chapter 21, as amended. The commissioner
23 shall provide by regulation for the refund of taxes paid on
24 sales exempt in accordance with this paragraph;

25 (t) the gross receipts from the sale of textbooks which are
26 prescribed for use in conjunction with a course of study in a
27 public or private school, college, university and business or
28 trade school to students who are regularly enrolled at such
29 institutions. For purposes of this clause a "public school" is
30 defined as one that furnishes course of study, enrollment and
31 staff that meets standards of the state board of education and a
32 private school is one which under the standards of the state
33 board of education, provides an education substantially
34 equivalent to that furnished at a public school. Business and
35 trade schools shall mean such schools licensed pursuant to
36 section 141.25;

37 (u) the gross receipts from the sale of and the storage of
38 material designed to advertise and promote the sale of
39 merchandise or services, which material is purchased and stored
40 for the purpose of subsequently shipping or otherwise
41 transferring outside the state by the purchaser for use
42 thereafter solely outside the state of Minnesota. Mailing and
43 reply envelopes and cards used exclusively in connection with
44 the advertising and promotional materials are included in this
45 exemption;

46 (v) the gross receipt from the sale of residential heating
47 fuels in the following manner:

48 (i) all fuel oil, coal, wood, steam, hot water, propane
49 gas, and L.P. gas sold to residential customers for residential
50 use;

51 (ii) natural gas sold for residential use to customers who
52 are metered and billed as residential users and who use natural
53 gas for their primary source of residential heat, for the
54 billing months of November, December, January, February, March
55 and April;

56 (iii) electricity sold for residential use to customers who
57 are metered and billed as residential users and who use
58 electricity for their primary source of residential heat, for
59 the billing months of November, December, January, February,
60 March and April;

61 (w) the gross receipts from the sale or use of tickets or
62 admissions to the premises of or events sponsored by an
63 association, corporation or other group of persons which
64 provides an opportunity for citizens of the state to participate
65 in the creation, performance or appreciation of the arts and
66 which qualifies as a tax-exempt organization within the meaning
67 of Minnesota Statutes 1980, section 290.05, subdivision 1,
68 clause (i);

69 (x) the gross receipts from either the sales to or the
70 storage, use or consumption of tangible personal property by an
71 organization of military service veterans or an auxiliary unit
72 of an organization of military service veterans, provided that:

73 (i) the organization or auxiliary unit is organized within
74 the state of Minnesota and is exempt from federal taxation
75 pursuant to section 501(c), clause (19), of the Internal Revenue
76 Code as amended through December 31, 1982; and

1 (ii) the tangible personal property which is sold to or
2 stored, used or consumed by the organization or auxiliary unit
3 is for charitable, civic, educational, or nonprofit uses and not
4 for social, recreational, pleasure or profit uses;

5 (y) the gross receipts from the sale of sanitary napkins,
6 tampons, or similar items used for feminine hygiene;

7 (z) the gross receipts from the sale of a manufactured
8 home, as defined in section 327.31, subdivision 6, to be used by
9 the purchaser for residential purposes, unless the sale is the
10 first retail sale of the manufactured home in this state;

11 (aa) the gross receipts from the sale of equipment used for
12 processing solid or hazardous waste at a resource recovery
13 facility, as defined in section 115A.03, subdivision 28;

14 (bb) the gross receipts from the sale of repair and
15 replacement parts, except tires, used for maintenance or repair
16 of farm machinery, if the part replaces a farm machinery part
17 assigned a specific or generic part number by the manufacturer
18 of the farm machinery;

19 (cc) the gross receipts from sales of tickets or admissions
20 to regular season school games, events, and activities. For
21 purposes of this clause, "school" has the meaning given it in
22 section 120.10, subdivision 2.

23 No change for subd 2

24 Subd. 3. All articles of tangible personal property
25 brought into Minnesota by a person who was a nonresident of this
26 state immediately prior to bringing such property into this
27 state for ~~his~~ the person's use, storage, or consumption are *
28 hereby exempted from the tax imposed by section 297A.14.

29 No change for subd 4 to 5

297A#255S

30 297A.255 AIRCRAFT; PAYMENT OF TAXES PRIOR TO
31 REGISTRATION AND LICENSING.

32 No change for subd 1 to 2

33 Subd. 3. In the case of aircraft purchased from persons
34 who are not the holder of valid sales and use tax permits under
35 this chapter, the purchaser shall pay the tax to the department
36 of revenue prior to registering or licensing such aircraft
37 within this state. The commissioner of revenue shall issue ~~his~~ *
38 a certificate stating that the sales and use tax in respect to *
39 the transaction has been paid.

40 Subd. 4. In the case of the purchase of an aircraft that *
41 is exempt under this chapter, the commissioner shall issue ~~his~~ a *
42 certificate that no sales or use tax is due and owing in respect
43 to such transaction.

297A#27S

44 297A.27 RETURNS.

45 No change for subd 1

46 Subd. 2. For purposes of the excise tax, a return shall be
47 filed by every retailer. For the purposes of the use tax a
48 return shall be filed by every retailer required to collect such
49 tax and by every person purchasing any items, the storage, use
50 or other consumption of which is subject to the use tax, who has
51 not paid the use tax to a retailer required to collect the tax.
52 All returns shall be signed by the person filing the return or
53 by ~~his~~ the person's agent duly authorized in writing. *

54 No change for subd 3

297A#28S

55 297A.28 SECURITY.

56 ~~Whenever he deems~~ On finding it necessary to insure *
57 compliance with sections 297A.01 to 297A.44 the commissioner may
58 require a retailer subject thereto to deposit with ~~him~~ the *
59 commissioner security in such form and in such amount as ~~he~~ the *
60 commissioner may determine but not more than twice the estimated *
61 average liability for the period for which the returns are
62 required to be filed, or \$10,000, whichever amount is the
63 lesser. The amount of security may be increased or decreased by
64 the commissioner, subject to the limitations herein provided.
65 The commissioner may sell property deposited as security at
66 public auction if necessary in order to recover any tax or any
67 amount required to be collected, including interest and
68 penalties, if any. Notice of the sale must be served upon the
69 person who deposited the security personally, or by mail in the
70 manner hereinafter prescribed for the service of a notice of a
71 deficiency. After any sale any surplus above the amount due not
72 required as security under this section shall be returned to the
73 person who deposited the security. In lieu of security, the

1 commissioner may require a retailer to file a bond, issued by a
 2 surety company authorized to transact business in this state and
 3 approved by the commissioner of commerce as to solvency and
 4 responsibility.

297A#30S

5 297A.30 EXTENSIONS.

6 The commissioner may extend the time for filing returns and
 7 remittance of tax, deficiencies and penalties for not more than
 8 60 days. He The commissioner may require a tentative return at
 9 the time fixed for filing the regularly required return and
 10 payment of a tax therewith on the basis of such tentative return. *

11 Where an extension of time for payment has been granted
 12 under this section, interest shall be payable at the rate
 13 provided in section 297A.39 from the date when such payment
 14 should have been made, if no extension had been granted, until
 15 such tax is paid.

297A#31S

16 297A.31 EXAMINATION OF RETURN, ADJUSTMENTS, NOTICES AND
 17 DEMANDS.

18 Subdivision 1. The commissioner shall, as soon as
 19 practicable after a return is filed, examine the same and make
 20 any investigation or examination of the records and accounts of
 21 the person making the return that he the commissioner deems
 22 necessary for determining its correctness. The commissioner may
 23 use statistical or other sampling techniques consistent with
 24 generally acceptable accounting principles in examining the
 25 returns or records. The tax computed on the basis of such
 26 examination shall be the tax to be paid. If the tax found to be
 27 due exceeds the amount of the tax reported as due on the
 28 taxpayers return, such excess shall be paid to the commissioner
 29 within 60 days after notice of the amount and demand for its
 30 payment shall have been mailed to the person making the return.
 31 If the amount of the tax found due by the commissioner shall be
 32 less than that reported as due on the return, the excess shall
 33 be refunded to the person making the return in the manner
 34 provided by section 297A.35 (except that no demand therefor
 35 shall be necessary), if he the person has already paid the whole
 36 of such tax, or credited against any unpaid tax. Except as
 37 otherwise provided in this chapter, no refundment shall be made
 38 except as provided in section 297A.35 after the expiration of
 39 three years after the filing of the return. *

40 Subd. 2. The notices and demands provided for by sections
 41 297A.31 and 297A.33 shall contain a brief statement of the
 42 computation of the tax and shall be sent by mail to the person
 43 making the return at the address given in his the return, if
 44 any, or to his the person's last known address, or a brief
 45 written statement of the computation of the tax may be
 46 personally served upon the taxpayer. Demand for immediate
 47 payment of the taxes contained in the written statement shall be
 48 made by the person making personal service. *

297A#32S

49 297A.32 FAILURE TO FILE RETURN.

50 If any person required by sections 297A.01 to 297A.44 to
 51 file any return shall fail to do so within the time prescribed,
 52 or shall make, wilfully or otherwise, an incorrect, false, or
 53 fraudulent return, he the person shall, upon written notice and
 54 demand, immediately file such return, or corrected return, and
 55 at the same time pay any tax due on the basis thereof. If such
 56 person shall fail to file such return or corrected return, the
 57 commissioner shall make for him the person a return, or
 58 corrected return, from his the commissioner's own knowledge and
 59 from such information as he can obtain be obtained through
 60 testimony, or otherwise, and assess a tax on the basis thereof,
 61 which tax (less any payments theretofore made on account of the
 62 tax for the taxable period covered by such return) shall be
 63 immediately paid upon written notice and demand. Any such
 64 return or assessment made by the commissioner shall be prima
 65 facie correct and valid, and such person shall have the burden
 66 of establishing its incorrectness or invalidity in any action or
 67 proceeding in respect thereto. *

297A#33S

68 297A.33 FAILURE TO PAY TAX, ACTIONS; PROTECTION AGAINST
 69 EVASION.

70 Subdivision 1. If any portion of a tax imposed by sections
 71 297A.01 to 297A.44, including penalties thereon, is not paid
 72 within 60 days after it is required to be paid, the commissioner

1 shall bring against the person liable for payment of such tax an
 2 action at law, in the name of the state, for the recovery of the
 3 tax and interest and penalties due in respect thereof under
 4 sections 297A.01 to 297A.44. Such action shall be brought in
 5 the district court of the judicial district in which lies the
 6 county of the residence or principal place of business within
 7 this state of the person required to file the return, or, in the
 8 case of an estate or trust, of the place of its principal
 9 administration, and for this purpose the place named as such in
 10 the return, if any, made by such person shall be conclusive
 11 against ~~him~~ the person. If no such place is named in the return *
 12 such action may be commenced in Ramsey county. Only the
 13 homestead and household goods of the judgment debtor shall be
 14 exempt from seizure and sale upon execution issued in such an
 15 action.

16 Subd. 2. If the commissioner has reason to believe that
 17 the person required to file the return is about to leave the *
 18 state or remove himself-or-his the person's property from this *
 19 state with the purpose of evading the tax and penalties imposed
 20 by sections 297A.01 to 297A.44, or that the collection of such
 21 tax will be jeopardized by delays incident to other methods of
 22 collection, ~~he~~ the commissioner may immediately declare such *
 23 person's reporting period at an end and assess a tax on the
 24 basis of ~~his~~ the commissioner's own knowledge or information *
 25 available ~~to-him~~, demand its immediate payment; and, if payment *
 26 is not immediately made, collect the tax by any method
 27 prescribed in chapter 270. It shall not be a defense to any
 28 assessment made under this section that the tax period has not
 29 terminated, or that the time otherwise allowed by law for filing
 30 a return has not expired, or that the notices otherwise required
 31 by law for making an assessment have not been given, or that the
 32 time otherwise allowed by law for taking or prosecuting an
 33 appeal or for paying the tax has not expired.

34 No change for subd 3 to 5

297A#35S

35 297A.35 REFUNDS.

36 Subdivision 1. A person who has, pursuant to the
 37 provisions of this chapter, paid to the commissioner an amount
 38 of tax for any period in excess of the amount legally due for
 39 that period, may file with the commissioner a claim for a refund
 40 of such excess subject to the conditions specified in
 41 subdivision 5. Except as provided in subdivision 4 no such
 42 claim shall be entertained unless filed within two years after
 43 such tax was paid, or within three years from the filing of the
 44 return, whichever period is the longer. The commissioner shall
 45 examine the claim and make and file written findings thereon
 46 denying or allowing the claim in whole or in part and shall mail
 47 a notice thereof to such person at the address stated upon the
 48 claim. Any allowance shall include interest on the excess
 49 determined at a rate specified in section 270.76 from the date
 50 such excess was paid or collected until the date it is refunded
 51 or credited. If such claim is allowed in whole or in part, the
 52 commissioner shall credit the amount of the allowance against
 53 any taxes under sections 297A.01 to 297A.44 due from the
 54 claimant and for the balance of said allowance, if any, the
 55 commissioner shall issue ~~his~~ a certificate for the refundment of *
 56 the excess paid, and the commissioner of finance shall cause
 57 such refund to be paid out of the proceeds of the taxes imposed
 58 by sections 297A.01 to 297A.44, as other state moneys are
 59 expended. So much of the proceeds of such taxes as may be
 60 necessary are hereby appropriated for that purpose.

61 No change for subd 2 to 5

297A#37S

62 297A.37 ADMINISTRATION OF LAW.

63 The commissioner shall administer and enforce the
 64 assessment and collection of the taxes imposed by sections
 65 297A.01 to 297A.44. ~~He~~ The commissioner shall cause to be *
 66 prepared blank forms for the returns required by sections
 67 297A.01 to 297A.44, and shall distribute the same throughout
 68 this state and furnish them on application, but failure to
 69 receive or secure them shall not relieve any person from any
 70 obligation required ~~of-him~~ under sections 297A.01 to 297A.44. *
 71 The commissioner may prescribe rules and regulations governing
 72 the qualification and practice ~~before-him~~ of agents and *
 73 attorneys under the provisions of sections 297A.01 to 297A.44 to
 74 the extent and in the manner provided by Minnesota Statutes

1 1965, Section 290.52. This shall in no way curtail the rights
2 of individuals to appear in their own behalf or partners' or
3 corporations' officers or employees to appear in behalf of their
4 respective partnerships or corporations.

297A#38S

5 297A.38 REVOCATION OF CORPORATE LICENSES TO DO BUSINESS
6 IN STATE.

7 Whenever any retailer authorized to collect the tax herein
8 imposed pursuant to section 297A.14, fails to comply with any of
9 the provisions of sections 297A.01 to 297A.44 or any regulation
10 of the commissioner prescribed and adopted under sections
11 297A.01 to 297A.44 the commissioner if such retailer is a
12 corporation authorized to do business in this state under
13 chapter 303, may, for reasonable cause, certify to the secretary
14 of state a copy of an order finding that such retailer has
15 failed to comply with certain specified provisions or
16 regulations. The secretary of state shall, upon receipt of such
17 certified copy, revoke the license authorizing said corporation
18 to do business in this state, and shall issue a new license only
19 when such corporation shall have obtained from the commissioner
20 an order finding that such corporation has complied with its
21 obligations under sections 297A.01 to 297A.44. No order
22 authorized in this section shall be made until the retailer is
23 given an opportunity to be heard and to show cause why such
24 order should not be made, and he the retailer shall be given 30
25 days notice of the time and place of such hearing and the reason
26 for the proposed order.

297A#39S

27 297A.39 PENALTIES.

28 No change for subd 1 to 2

29 Subd. 3. If any person wilfully fails to file any return
30 or make any payment required by sections 297A.01 to 297A.44, or
31 wilfully files a false or fraudulent return, or wilfully
32 attempts in any manner to evade or defeat any such tax or
33 payment thereof, there shall also be imposed on ~~him~~ the person
34 as a penalty an amount equal to 50 percent of any tax (less any
35 amounts paid by ~~him~~ the person on the basis of such false or
36 fraudulent return) found due ~~from him~~ for the period to which
37 such return related. The penalty imposed by this subdivision
38 shall be collected as part of the tax, and shall be in addition
39 to any other penalties, civil and criminal, provided by this
40 section.

41 Subd. 4. PENALTIES; FAILURE TO FILE OR PAY. In
42 addition to any other penalties prescribed, any person who
43 willfully fails to make a return or willfully makes a false
44 return or willfully fails to pay over taxes imposed by this
45 chapter collected for or on behalf of the state, or attempts in
46 any manner to evade or defeat the taxes imposed by this chapter
47 is guilty of a gross misdemeanor unless the amount of the tax
48 involved exceeds \$300, in which event he the person is guilty of
49 a felony. The term "person" as used in this subdivision
50 includes any officer or employee of a corporation or a member or
51 employee of a partnership who as an officer, member or employee
52 is under a duty to perform the act in respect to which the
53 violation occurs. Notwithstanding the provisions of section
54 628.26, or any other provision of the criminal laws of this
55 state, an indictment may be found and filed, upon any criminal
56 offense specified in this subdivision, in the proper court
57 within six years after the commission of the offense.

58 No change for subd 5 to 7

59 Subd. 8. PENALTY; FALSE CLAIM. Any person who
60 willfully aids or assists in, or procures, counsels, or advises
61 the preparation or presentation under, or in connection with any
62 matter arising under this section, of a return, affidavit,
63 claim, or other document, which is fraudulent or false as to any
64 material matter, whether or not the falsity or fraud is with the
65 knowledge or consent of the person authorized or required to
66 present the return, affidavit, claim, or document, is guilty of
67 a gross misdemeanor unless the tax involved exceeds \$300, in
68 which event he the person is guilty of a felony. Any criminal
69 offense under this subdivision may be prosecuted in the same
70 manner and within the same period of limitations provided in
71 subdivision 4.

297A#40S

72 297A.40 PERSONAL DEBT; LIEN.

73 Subdivision 1. The tax imposed by sections 297A.01 to

1 297A.44, and interest and penalties imposed with respect
 2 thereto, shall become a personal debt of the person required to
 3 file a return from the time the liability therefor arises,
 4 irrespective of when the time for payment of such liability
 5 occurs. The debt shall, in the case of the executor or
 6 administrator of the estate of a decedent and in the case of any
 7 fiduciary, be that of such person in ~~his~~ an official or *
 8 fiduciary capacity only unless ~~he~~ the person shall have *
 9 voluntarily distributed the assets held in such capacity without
 10 reserving sufficient assets to pay such tax, interest, and
 11 penalties, in which event ~~he~~ the person shall be personally *
 12 liable for any deficiency.

13 Subd. 2. Repealed, 1982 c 523 art 2 s 49

297A#41S

14 297A.41 INVESTIGATORY POWERS.

15 For the purpose of determining the correctness of any
 16 return or of determining whether or not any person should have
 17 made a return or paid taxes or for the purpose of collection of
 18 any such taxes hereunder, the commissioner shall have power to
 19 examine, or cause to be examined, any books, papers, records, or
 20 memoranda, which may be relevant to making such determinations,
 21 whether such books, papers, records, or memoranda, are the
 22 property of or in the possession of such person or any other *
 23 person. ~~He~~ The commissioner shall have power to require the *
 24 attendance of any person having knowledge or information which
 25 may be relevant, to compel the production of books, papers,
 26 records, or memoranda by persons so required to attend, to take
 27 testimony on matters material to such determination, and to
 28 administer oaths or affirmations.

297A#42S

29 297A.42 EXAMINERS; APPOINTMENT; POWERS.

30 Subdivision 1. For the purpose of making such examinations
 31 and determinations, the commissioner may appoint ~~such~~ examiners *
 32 as ~~he-may-deem~~ deemed necessary. *

33 No change for subd 2

297A#43S

34 297A.43 CONFIDENTIAL NATURE OF INFORMATION.

35 It shall be unlawful for the commissioner or any other
 36 public official or employee to divulge or otherwise make known
 37 in any manner any particulars disclosed in any report or return
 38 required by sections 297A.01 to 297A.44, or any information
 39 concerning the affairs of the person making the return acquired *
 40 from ~~his~~ the person's records, officers, or employees while *
 41 examining or auditing under the authority of sections 297A.01 to
 42 297A.44, except in connection with a proceeding involving taxes
 43 due under this chapter from the taxpayer making such report or
 44 return or to comply with the provisions of section 297A.431 or
 45 where a question arises as to the proper tax applicable, that
 46 is, sales or use tax. In the latter instance, the commissioner
 47 may furnish information to a buyer and a seller with respect to
 48 the specific transaction in question. Nothing herein contained
 49 shall be construed to prohibit the commissioner from publishing
 50 statistics so classified as not to disclose the identity of
 51 particular returns or reports and the contents thereof. Any
 52 person violating the provisions of this section shall be guilty
 53 of a gross misdemeanor.

54 The commissioner may enter into an agreement with the
 55 commissioner or other taxing officials of another state for the
 56 interpretation and administration of the acts of their several
 57 states providing for the collection of a sales and/or use tax
 58 for the purpose of promoting fair and equitable administration
 59 of such acts and to eliminate double taxation.

60 Notwithstanding the above provisions of this section, the
 61 commissioner, ~~at-his-discretion,~~ in order to implement the *
 62 purposes of this chapter, may furnish information on a
 63 reciprocal basis to the taxing officials of another state, or to
 64 the taxing officials of any municipality of the state of
 65 Minnesota which has a local sales and/or use tax.

66 In order to facilitate processing of returns and payments
 67 of taxes required by this chapter, the commissioner may contract
 68 with outside vendors and may disclose private and nonpublic data
 69 to the vendor. The data disclosed will be administered by the
 70 vendor consistent with this section.

297B#01S

71 297B.01 DEFINITIONS.

72 No change for subd 1 to 7

1 Subd. 8. "Purchase price" means the total consideration
 2 valued in money for a sale, whether paid in money or otherwise,
 3 provided however, that when a motor vehicle is taken in trade as
 4 a credit or as part payment on a motor vehicle taxable under
 5 Laws 1971, chapter 853, the credit or trade-in value allowed by
 6 the person selling the motor vehicle shall be deducted from the
 7 total selling price to establish the purchase price of the
 8 vehicle being sold and the trade-in allowance allowed by the
 9 seller shall constitute the purchase price of the motor vehicle
 10 accepted as a trade-in. The purchase price in those instances
 11 where the motor vehicle is acquired by gift or by any other
 12 transfer for a nominal or no monetary consideration shall also
 13 include the average value of similar motor vehicles, established
 14 by standards and guides as determined by the motor vehicle
 15 registrar. The purchase price in those instances where a motor
 16 vehicle is manufactured by a person who registers it under the
 17 laws of this state shall mean the manufactured cost of such
 18 motor vehicle and manufactured cost shall mean the amount
 19 expended for materials, labor and other properly allocable costs
 20 of manufacture, except that in the absence of actual
 21 expenditures for the manufacture of a part or all of the motor
 22 vehicle, manufactured costs shall mean the reasonable value of
 23 the completed motor vehicle. The term "purchase price" shall
 24 not include the transfer of a motor vehicle by way of gift
 25 between a husband and wife or parent and child, nor shall it
 26 include the transfer of a motor vehicle by a guardian to ~~his~~ a *
 27 ward when there is no monetary consideration and the title to
 28 such vehicle was registered in the name of the guardian, as
 29 guardian, only because the ward was a minor. There shall not be
 30 included in "purchase price" the amount of any tax imposed by
 31 the United States upon or with respect to retail sales whether
 32 imposed upon the retailer or the consumer.

33 No change for subd 9

297B#03S

34 297B.03 EXEMPTIONS.

35 There is specifically exempted from the provisions of this
 36 chapter and from computation of the amount of tax imposed by it
 37 the following:

38 (1) Purchase or use, including use under a lease purchase
 39 agreement or installment sales contract made pursuant to section
 40 465.71, of any motor vehicle by any person described in and
 41 subject to the conditions provided in section 297A.25,
 42 subdivision 1, clauses (j), (o) and (q).

43 (2) Purchase or use of any motor vehicle by any person who
 44 was a resident of another state at the time of the purchase and
 45 who subsequently becomes a resident of Minnesota, provided the
 46 purchase occurred more than 60 days prior to the date such
 47 person ~~moved-his-residence-to~~ began residing in the state of *
 48 Minnesota.

49 (3) Purchase or use of any motor vehicle by any person
 50 making a valid election to be taxed under the provisions of
 51 section 297A.211.

52 (4) Purchase or use of any motor vehicle previously
 53 registered in the state of Minnesota by any corporation or
 54 partnership when such transfer constitutes a transfer within the
 55 meaning of sections 351 or 721 of the Internal Revenue Code of
 56 1954, as amended through December 31, 1974.

57 (5) Purchase or use of any vehicle owned by a resident of
 58 another state and leased to a Minnesota based private or for
 59 hire carrier for regular use in the transportation of persons or
 60 property in interstate commerce provided the vehicle is titled
 61 in the state of the owner or secured party, and that state does
 62 not impose a sales or motor vehicle excise tax on motor vehicles
 63 used in interstate commerce.

297B#06S

64 297B.06 REGISTRATION NOT TO BE ISSUED UNLESS TAX PAID.

65 No registration plates or certificate shall be issued by
 66 the motor vehicle registrar for the ownership or operation of
 67 any motor vehicle to any applicant for registration other than
 68 for those vehicles which have been previously registered and the
 69 applicant for registration is the same person in whose name the
 70 registration had previously been issued or other than for those
 71 vehicles exempt from the tax under other sections of Laws 1971,
 72 Chapter 853, unless the tax imposed by section 297B.02 shall be
 73 paid by the applicant to the motor vehicle registrar. The
 74 provisions of this section shall apply only to the immediate

1 transaction and if the applicant pays the tax due with respect
2 to ~~his~~ the application, this section shall not constitute *
3 grounds for refusal to issue plates or a certificate because the
4 tax imposed by this chapter was not paid by a previous applicant
5 in a prior transaction involving the same motor vehicle so long
6 as the present applicant had no actual knowledge of the failure
7 to pay the tax prior to ~~his-acquisition-of~~ acquiring the vehicle *
8 and the previous applicant held a certificate of title *
9 indicating ~~he~~ the previous applicant was the owner of the *
10 vehicle.

297B#09S

11 297B.09 ALLOCATION OF REVENUE.

12 Subdivision 1. GENERAL FUND SHARE. Money collected
13 and received under this chapter must be deposited in the state
14 treasury and credited to the general fund. The amounts *
15 collected and received shall be credited to the highway user tax
16 distribution fund and the transit assistance fund as provided in
17 subdivision 2, and transferred from the general fund on July 15
18 and January 15 of each fiscal year. The commissioner of finance
19 must make each transfer based upon the actual receipts of the
20 preceding six calendar months and include the interest earned
21 during that six-month period. The commissioner of finance may
22 establish a quarterly or other schedule providing for more
23 frequent payments to the transit assistance fund if ~~he~~ the *
24 commissioner determines it is necessary or desirable to provide *
25 for the cash flow needs of the recipients of moneys from the
26 transit fund.

27 No change for subd 2

297B#10S

28 297B.10 PENALTIES.

29 (1) Any person, including persons other than the purchaser,
30 who prepares, completes or submits a false or fraudulent motor
31 vehicle purchaser's certificate with intent to defeat or evade
32 the tax imposed under this chapter or any purchaser who fails to
33 complete or submit a motor vehicle purchaser's certificate with
34 intent to defeat or evade the tax or who attempts to defeat or
35 evade the tax in any manner, is guilty of a gross misdemeanor
36 unless the tax involved exceeds \$300, in which event ~~he~~ the *
37 person is guilty of a felony. The term "person" as used in this *
38 section includes any officer or employee of a corporation or a
39 member or employee of a partnership who as an officer, member or
40 employee is under a duty to perform the act with respect to
41 which the violation occurs. Notwithstanding the provisions of
42 section 628.26 or any other provision of the criminal laws of
43 this state, an indictment may be found and filed, upon any
44 criminal offense specified in this section, in the proper court
45 within six years after the commission of the offense.

46 (2) Any person who violates any of the provisions of this
47 chapter, unless the violation be of the type referred to in
48 clause (1), is guilty of a misdemeanor and shall be punished by
49 a fine of not less than \$50 nor more than \$100 or by
50 imprisonment in the county jail for not less than 30 days, or
51 both.

297B#12S

52 297B.12 PRIVATE NATURE OF INFORMATION.

53 It shall be unlawful for the motor vehicle registrar,
54 deputy registrars or any other public official or employee to
55 divulge or otherwise make known in any manner any particulars
56 disclosed in any purchaser's certificate or any information
57 concerning affairs of any person making such certificate
58 acquired from ~~his~~ the purchaser's records, officers or employees *
59 except in connection with state or federal tax proceedings or
60 upon request of the person named on the certificate. Nothing
61 herein contained should be construed to prohibit the publishing
62 of statistics so classified as not to disclose the identity of
63 particular purchasers' certificates and the contents thereof.
64 Any person violating the provisions of this section shall be
65 guilty of a gross misdemeanor.

298*#05S

66 298.05 MINING COMPANIES TO REPORT ANNUALLY.

67 Every person engaged in such mining or production of ores
68 shall, annually, on or before the first day of March, file with
69 the commissioner of revenue, under oath, a correct report, in
70 such form and containing such information as ~~he~~ the commissioner *
71 may require, covering the preceding calendar year.

298*#06S

1 298.06 COMMISSIONER TO DETERMINE TAX.
 2 Upon receipt-by-the-commissioner-of-revenue-of-such *
 3 receiving the report he the commissioner of revenue shall *
 4 determine, from such information as he the commissioner may *
 5 possess or obtain, whether the same is correct or otherwise;
 6 and, if found correct, he the commissioner shall, on or before *
 7 May first, find and determine therefrom the amount of tax due
 8 from such person.

298*#07S

9 298.07 WHEN REPORT INCORRECT COMMISSIONER TO FIX AMOUNT
 10 OF TAX.
 11 Upon receipt-by-the-commissioner-of-revenue-of-such *
 12 receiving the report, he the commissioner of revenue shall *
 13 determine, from such information as he the commissioner may *
 14 possess or obtain, whether the same is correct or otherwise,
 15 and, if found incorrect, from such information as he the *
 16 commissioner may possess or obtain, he the commissioner shall *
 17 find and determine the amount of tax due from such person.

298*#08S

18 298.08 PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR
 19 FAILURE TO REPORT.
 20 If any person subject to sections 298.01, 298.03, 298.05 to
 21 298.16, and 298.21 shall fail to make the report provided for in
 22 section 298.05 at the time and in the manner therein provided,
 23 the commissioner of revenue shall in such case, upon such *
 24 information as he the commissioner may possess or obtain, *
 25 ascertain the kind and amount of ore mined or produced, together
 26 with the valuation thereof, and thereon find and determine the
 27 amount of the tax due from such person. There shall be added
 28 thereto a penalty for failure to report, which penalty shall
 29 equal ten percent of the tax imposed and be treated as a part
 30 thereof.

298*#09S

31 298.09 NOTICES; HEARINGS; DETERMINATION OF AMOUNT OF TAX
 32 IS FINAL; CERTIORARI.
 33 Subdivision 1. On or before May 1 in each year, the
 34 commissioner of revenue shall send to each person subject to an
 35 occupation tax under the provisions of Laws 1921, Chapter 223,
 36 as amended, a notice of the amount of the tax so determined to
 37 be due from him. Said notice shall be sent by certified mail *
 38 and directed to him the person at the address given in the *
 39 report filed by him the person, and, if no report has been filed *
 40 or no address given, then at such address as the commissioner of
 41 revenue may be able to ascertain; but the validity of the tax
 42 shall not be affected by the failure of the commissioner of
 43 revenue to mail such notice or the failure of the person subject
 44 to the tax to receive it.
 45 Subd. 2. On the first secular day following the fourteenth
 46 day of May, the commissioner of revenue shall hold a hearing
 47 which may be adjourned from day to day. All relevant and
 48 material evidence having probative value with respect to the
 49 issues shall be submitted at the hearing and such hearing shall
 50 not be a "contested case" within the meaning of section 14.02,
 51 subdivision 3. Every person subject to such tax may at such
 52 hearing present evidence and argument on any matter bearing upon
 53 the validity or correctness of the tax determined to be due from *
 54 him, and the commissioner of revenue shall review his the *
 55 determination of such tax.
 56 Subd. 3. ORDER; APPEAL. After the hearing the
 57 commissioner of revenue shall make his an order either affirming *
 58 his the determination of the tax due from the person appearing *
 59 or modifying the determination as he the commissioner deems just *
 60 and equitable. Upon the making and filing of the order, the
 61 determination shall, except as otherwise provided, become final
 62 and conclusive. The determination of the amount of tax due from
 63 any person not appearing at the hearing shall, except as
 64 otherwise provided, become final and conclusive on the second
 65 secular day following the 14th day of May without further
 66 order. The determination by the commissioner of the amount of
 67 any tax due shall, except as otherwise provided, be subject to
 68 review only on a writ of certiorari issued out of the court of
 69 appeals on petition for it presented to the court by the person
 70 subject to the tax on or before July first next following the
 71 determination of the tax.
 72 Subd. 4. If the amount of tax determined by the
 73 commissioner is subsequently found to be erroneous, the

1 commissioner may, at any time within three years from the date
 2 the tax is certified as provided in section 298.10, redetermine
 3 the amount thereof. No such redetermination shall be made
 4 increasing the tax unless the person from whom the additional
 5 amount is due is given ten days written notice thereof and an
 6 opportunity to be heard thereon. If an order is made increasing
 7 the tax, the same proceedings shall be had as provided for
 8 occupation taxes originally determined and certified. Any
 9 person who has paid an occupation tax may apply to the
 10 commissioner within the time herein limited for a
 11 redetermination of the tax, and if the commissioner determines
 12 that the tax has been overpaid, he the commissioner shall make *
 13 and file an order determining the amount of such overpayment,
 14 and pay a refund of that amount to the person who has overpaid *
 15 the amount as so determined. If the tax is increased, interest
 16 at the rate specified in section 270.75 from the date payment
 17 should have been made shall be determined and paid; if the tax
 18 is reduced, interest at the rate specified in section 270.76
 19 from the date of overpayment shall be allowed.

20 No change for subd 5

298*#10S

21 298.10 COMMISSIONER TO ASSESS TAXES AND BILL PERSONS
 22 LIABLE FOR TAX.

23 The commissioner of revenue shall ~~enter-on-his-records~~ *
 24 record the amount of taxes found and determined ~~by-him~~ *
 25 from any person, as herein provided; and, on or before June
 26 first, shall make an assessment and send a statement to the
 27 person subject to the tax, which tax shall be payable to the
 28 commissioner of revenue as provided in this chapter and
 29 deposited in the state treasury.

298*#13S

30 298.13 ATTORNEY GENERAL TO COLLECT UNPAID TAXES.

31 On July first each year, the commissioner of revenue shall
 32 deliver to the attorney general a certification of all unpaid
 33 taxes imposed under sections 298.01 to 298.167 and he shall *
 34 bring an action thereon in the district court of Ramsey county,
 35 or of the county where such ores are mined or produced, for the
 36 amount of such taxes, together with interest, penalties, and
 37 costs. The judgment of the court, when so obtained, shall bear
 38 interest at the rate of one percent per month and be enforceable
 39 in the manner provided by law for the enforcement of judgments
 40 obtained in civil actions.

298*#22S

41 298.22 IRON RANGE RESOURCES AND REHABILITATION.

42 Subdivision 1. (1) The office of commissioner of iron
 43 range resources and rehabilitation is created. The commissioner
 44 shall be appointed by the governor under the provisions of
 45 section 15.06.

46 (2) The commissioner may hold such other positions or *
 47 appointments as are not incompatible with ~~his~~ duties as
 48 commissioner of iron range resources and rehabilitation. The
 49 commissioner may appoint a deputy commissioner. All expenses of
 50 the commissioner, including the payment of such assistance as
 51 may be necessary, shall be paid out of the amounts appropriated
 52 by section 298.28, subdivision 1. The compensation of the
 53 commissioner shall be set by the governor.

54 (3) When the commissioner shall determine that distress and
 55 unemployment exists or may exist in the future in any county by
 56 reason of the removal of natural resources or a possibly limited
 57 use thereof in the future and the decrease in employment
 58 resulting therefrom, now or hereafter, he the commissioner may *
 59 use such amounts of the appropriation made to ~~him~~ the *
 60 commissioner of revenue in section 298.28, subdivision 1 as he *
 61 may-determine are determined to be necessary and proper in the *
 62 development of the remaining resources of said county and in the *
 63 vocational training and rehabilitation of its residents. For
 64 the purposes of this section, "development of remaining
 65 resources" includes, but is not limited to, the promotion of
 66 tourism.

67 No change for subd 2

68 Subd. 3. Whenever the commissioner of iron range resources
 69 and rehabilitation has made determinations required by
 70 subdivision 1 and has determined that distress and unemployment
 71 exists or may exist in the future in any county by reason of the
 72 removal of the natural resources or a possible limited use
 73 thereof in the future and the decrease in employment resulting

1 therefrom and he deems that the acquirement of real estate or *
 2 personal property is necessary and proper in the development of *
 3 the remaining resources, he the commissioner may acquire such
 4 property or interests therein by gift, purchase or lease. If
 5 after such property is acquired it is necessary in the judgment
 6 of the commissioner to acquire a right of way for access to
 7 projects operated on property acquired, by gift, purchase or
 8 lease, said right of way may be acquired by condemnation in the
 9 manner provided by law.

10 No change for subd 4

11 Subd. 5. In order to carry out the terms and provisions of
 12 this section, the commissioner of iron range resources and
 13 rehabilitation and the commissioner of administration may lease
 14 any property acquired hereunder for a term not to exceed 20
 15 years upon such terms as they may determine, provided that such
 16 property shall not be leased to any person in such a manner as
 17 to constitute a direct contribution of working capital to a
 18 business enterprise. Such lease may provide that in the event
 19 the property is ever sold by the state to such lessee, the
 20 lessee may obtain a credit on the purchase price covering the
 21 rentals paid under ~~his~~ the lease or any renewals thereof and *
 22 that said real estate can be conveyed by the commissioner of
 23 iron range resources and rehabilitation and the commissioner of
 24 administration and the said commissioners are hereby authorized
 25 to make such conveyances.

298*#2211S

26 298.2211 FINANCING ACTIVITIES.

27 No change for subd 1 to 4

28 Subd. 5. APPROPRIATION OF MONEYS. There is
 29 appropriated to the commissioner for the purpose of carrying out
 30 any project or program undertaken pursuant to this section, all
 31 property and moneys derived by the commissioner through the
 32 exercise of the powers conferred by this section. The
 33 commissioner may pledge all the property or moneys for the
 34 security or payment of bonds or other obligations issued or
 35 entered into by ~~him~~ the commissioner for this purpose. *

36 No change for subd 6

298*#27S

37 298.27 COLLECTION AND PAYMENT OF TAX.

38 The taxes provided by section 298.24 shall be paid directly
 39 to each eligible county and the iron range resources and
 40 rehabilitation board. The commissioner of revenue shall notify
 41 each producer of the amount to be paid each recipient prior to
 42 February 8. The report required by section 298.05 shall be
 43 filed on or before February 1. A remittance equal to 90 percent
 44 of the total tax required to be paid hereunder shall be paid on
 45 or before February 15. On or before February 25, the county
 46 auditor shall make distribution of the payment received by the
 47 county in the manner provided by section 298.28. The balance
 48 due shall be paid on or before April 15 following the production
 49 year, and shall be distributed by the county auditor as provided
 50 in section 298.28 by May 15. Reports shall be made and hearings
 51 held upon the determination of the tax in accordance with
 52 procedures established by the commissioner of revenue. The
 53 commissioner of revenue shall have authority to make reasonable
 54 regulations as to the form and manner of filing reports
 55 necessary for the determination of the tax hereunder, and by
 56 such regulations may require the production of such information
 57 as may be reasonably necessary or convenient for the
 58 determination and apportionment of the tax. All the provisions
 59 of the occupation tax law with reference to the assessment and
 60 determination of the occupation tax, including all provisions
 61 for appeals from or review of the orders of the commissioner of
 62 revenue relative thereto, but not including provisions for
 63 refunds, are applicable to the taxes imposed by section 298.24
 64 except in so far as inconsistent herewith. If any person
 65 subject to section 298.24 shall fail to make the report provided
 66 for in this section at the time and in the manner herein
 67 provided, the commissioner of revenue shall in such case, upon
 68 ~~such information as he may possess or obtain~~ possessed or *
 69 obtained, ascertain the kind and amount of ore mined or produced *
 70 and thereon find and determine the amount of the tax due from
 71 such person. There shall be added to the amount of tax due a
 72 penalty for failure to report on or before February 1, which
 73 penalty shall equal ten percent of the tax imposed and be
 74 treated as a part thereof.

1 If any person responsible for making a partial tax payment
2 at the time and in the manner herein provided fails to do so,
3 there shall be imposed a penalty equal to ten percent of the
4 amount so due, which penalty shall be treated as part of the tax
5 due.

6 In the case of any underpayment of the partial tax payment
7 required herein, there may be added and be treated as part of
8 the tax due a penalty equal to ten percent of the amount so
9 underpaid.

10 If any portion of the taxes provided for in section 298.24
11 is not paid before the fifteenth day of April of the year in
12 which due and payable, a penalty of ten percent of such unpaid
13 portion shall immediately accrue, and thereafter one percent per
14 month shall be added to such tax and penalty while such tax
15 remains unpaid.

298*#28S

16 298.28 DIVISION AND DISTRIBUTION OF PROCEEDS.

17 Subdivision 1. DISTRIBUTION. The proceeds of the
18 taxes collected under section 298.24, except the tax collected
19 under section 298.24, subdivision 2, shall, upon certification
20 of the commissioner of revenue, be allocated as follows:

21 (1) 2.5 cents per gross ton of merchantable iron ore
22 concentrate, hereinafter referred to as "taxable ton," to the
23 city or town in the county in which the lands from which
24 taconite was mined or quarried were located or within which the
25 concentrate was produced. If the mining, quarrying, and
26 concentration, or different steps in either thereof are carried
27 on in more than one taxing district, the commissioner shall
28 apportion equitably the proceeds of the part of the tax going to
29 cities and towns among such subdivisions upon the basis of
30 attributing 40 percent of the proceeds of the tax to the
31 operation of mining or quarrying the taconite, and the remainder
32 to the concentrating plant and to the processes of
33 concentration, and with respect to each thereof giving due
34 consideration to the relative extent of such operations
35 performed in each such taxing district. ~~His~~ The commissioner's *
36 order making such apportionment shall be subject to review by
37 the tax court at the instance of any of the interested taxing
38 districts, in the same manner as other orders of the
39 commissioner.

40 (2) (a) 12.5 cents per taxable ton, less any amount
41 distributed under clause (7), paragraph (a), and paragraph (b)
42 of this clause, to be distributed as provided in section 298.282.

43 (b) An amount annually certified by the county auditor of a
44 county containing a taconite tax relief area within which there
45 is an organized township if, as of January 2, 1982, more than 75
46 percent of the assessed valuation of the township consists of
47 iron ore. The amount will be the portion of a township's
48 certified levy equal to the proportion of (1) the difference
49 between 50 percent of the township's January 2, 1982, assessed
50 value and its current assessed value to (2) the sum of its
51 current assessed value plus the difference determined in (1).
52 The county auditor shall extend the township's levy against the
53 sum of the township's current assessed value plus the difference
54 between 50 percent of its January 2, 1982, assessed value and
55 its current assessed value. If the current assessed value of
56 the township exceeds 50 percent of the township's January 2,
57 1982, assessed value, this clause shall not apply.

58 (3) 29 cents per taxable ton plus the increase provided in
59 paragraph (c) to qualifying school districts to be distributed,
60 based upon the certification of the commissioner of revenue, as
61 follows:

62 (a) Six cents per taxable ton to the school districts in
63 which the lands from which taconite was mined or quarried were
64 located or within which the concentrate was produced. The
65 distribution must be based on the apportionment formula
66 prescribed in clause (1).

67 (b) 23 cents per taxable ton, less any amount distributed
68 under part (d), shall be distributed to a group of school
69 districts comprised of those school districts wherein the
70 taconite was mined or quarried or the concentrate produced or in
71 which there is a qualifying municipality as defined by section
72 273.134 in direct proportion to school district tax levies as
73 follows: each district shall receive that portion of the total
74 distribution which its certified levy for the prior year,
75 computed pursuant to sections 124A.03, 124A.06, subdivision 3a,

1 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12,
2 subdivision 3a, 124A.14, subdivision 5a, and 275.125, comprises
3 of the sum of certified levies for the prior year for all
4 qualifying districts, computed pursuant to sections 124A.03,
5 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10,
6 subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision
7 5a, and 275.125. For purposes of distributions pursuant to this
8 part, certified levies for the prior year computed pursuant to
9 sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision
10 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14,
11 subdivision 5a, and 275.125 shall not include the amount of any
12 increased levy authorized by referendum pursuant to section
13 124A.03, subdivision 2.

14 (c) On July 15, in years prior to 1988, an amount equal to
15 the increase derived by increasing the amount determined by
16 clause (3)(b) in the same proportion as the increase in the
17 steel mill products index over the base year of 1977 as provided
18 in section 298.24, subdivision 1, clause (a), shall be
19 distributed to any school district described in clause (3)(b)
20 where a levy increase pursuant to section 124A.03, subdivision
21 2, is authorized by referendum, according to the following
22 formula. On July 15, 1988 and subsequent years, the increase
23 over the amount established for the prior year shall be
24 determined according to the increase in the implicit price
25 deflator as provided in section 298.24, subdivision 1, paragraph
26 (a). Each district shall receive the product of:

27 (i) \$150 times the pupil units identified in section
28 124.17, subdivision 1, clauses (1) and (2), enrolled in the
29 second previous year or the 1983-1984 school year, whichever is
30 greater, less the product of 1-3/4 mills times the district's
31 taxable valuation in the second previous year; times

32 (ii) the lesser of:

33 (A) one, or

34 (B) the ratio of the amount certified pursuant to section
35 124A.03, subdivision 2, in the previous year, to the product of
36 1-3/4 mills times the district's taxable valuation in the second
37 previous year.

38 If the total amount provided by clause (3)(c) is
39 insufficient to make the payments herein required then the
40 entitlement of \$150 per pupil unit shall be reduced uniformly so
41 as not to exceed the funds available. Any amounts received by a
42 qualifying school district in any fiscal year pursuant to clause
43 (3)(c) shall not be applied to reduce foundation aids which the
44 district is entitled to receive pursuant to section 124A.02 or
45 the permissible levies of the district. Any amount remaining
46 after the payments provided in this paragraph shall be paid to
47 the commissioner of iron range resources and rehabilitation who
48 shall deposit the same in the taconite environmental protection
49 fund and the northeast Minnesota economic protection trust fund
50 as provided in clause (9).

51 (d) There shall be distributed to any school district the
52 amount which the school district was entitled to receive under
53 section 298.32 in 1975.

54 (4) 19.5 cents per taxable ton to counties to be
55 distributed, based upon certification by the commissioner of
56 revenue, as follows:

57 (a) 15.5 cents per taxable ton shall be distributed to the
58 county in which the taconite is mined or quarried or in which
59 the concentrate is produced, less any amount which is to be
60 distributed pursuant to part (b). The apportionment formula
61 prescribed in clause (1) is the basis for the distribution.

62 (b) If an electric power plant owned by and providing the
63 primary source of power for a taxpayer mining and concentrating
64 taconite is located in a county other than the county in which
65 the mining and the concentrating processes are conducted, one
66 cent per taxable ton of the tax distributed to the counties
67 pursuant to part (a) and imposed on and collected from such
68 taxpayer shall be paid to the county in which the power plant is
69 located.

70 (c) Four cents per taxable ton shall be paid to the county
71 from which the taconite was mined, quarried or concentrated to
72 be deposited in the county road and bridge fund. If the mining,
73 quarrying and concentrating, or separate steps in any of those
74 processes are carried on in more than one county, the
75 commissioner shall follow the apportionment formula prescribed
76 in clause (1).

1 (5) (a) 17.75 cents per taxable ton, less any amount
2 required to be distributed under part (b), to St. Louis county
3 acting as the counties' fiscal agent, to be distributed as
4 provided in sections 273.134 to 273.136.

5 (b) If an electric power plant owned by and providing the
6 primary source of power for a taxpayer mining and concentrating
7 taconite is located in a county other than the county in which
8 the mining and the concentrating processes are conducted, .75
9 cent per taxable ton of the tax imposed and collected from such
10 taxpayer shall be paid to the county and school district in
11 which the power plant is located as follows: 25 percent to the
12 county and 75 percent to the school district.

13 (6) Three cents per taxable ton shall be paid to the iron
14 range resources and rehabilitation board for the purposes of
15 section 298.22. The amount determined in this clause shall be
16 increased in 1981 and subsequent years prior to 1988 in the same
17 proportion as the increase in the steel mill products index as
18 provided in section 298.24, subdivision 1 and shall be increased
19 in 1988 and subsequent years according to the increase in the
20 implicit price deflator as provided in section 298.24,
21 subdivision 1. The amount distributed pursuant to this clause
22 shall be expended within or for the benefit of a tax relief area
23 defined in section 273.134. No part of the fund provided in
24 this clause may be used to provide loans for the operation of
25 private business unless the loan is approved by the governor and
26 the legislative advisory commission.

27 (7) (a) .20 cent per taxable ton shall be paid to the range
28 association of municipalities and schools, for the purpose of
29 providing an areawide approach to problems which demand
30 coordinated and cooperative actions and which are common to
31 those areas of northeast Minnesota affected by operations
32 involved in mining iron ore and taconite and producing
33 concentrate therefrom, and for the purpose of promoting the
34 general welfare and economic development of the cities, towns
35 and school districts within the iron range area of northeast
36 Minnesota.

37 (b) 1.5 cents per taxable ton shall be paid to the
38 northeast Minnesota economic protection trust fund.

39 (8) the amounts determined under clauses (4)(a), (4)(c),
40 (5), and (7)(b) shall be increased in 1979 and subsequent years
41 prior to 1988 in the same proportion as the increase in the
42 steel mill products index as provided in section 298.24,
43 subdivision 1. Those amounts shall be increased in 1988 and
44 subsequent years in the same proportion as the increase in the
45 implicit price deflator as provided in section 298.24,
46 subdivision 1.

47 (9) the proceeds of the tax imposed by section 298.24 which
48 remain after the distributions and payments in clauses (1) to
49 (8), as certified by the commissioner of revenue, and parts (a)
50 and (b) of this clause have been made, together with interest
51 earned on all money distributed under this subdivision prior to
52 distribution, shall be divided between the taconite
53 environmental protection fund created in section 298.223 and the
54 northeast Minnesota economic protection trust fund created in
55 section 298.292 as follows: Two-thirds to the taconite
56 environmental protection fund and one-third to the northeast
57 Minnesota economic protection trust fund. The proceeds shall be
58 placed in the respective special accounts.

59 (a) There shall be distributed to each city, town, school
60 district, and county the amount that they received under section
61 294.26 in calendar year 1977; provided, however, that the amount
62 distributed in 1981 to the unorganized territory number 2 of
63 Lake county and the town of Beaver Bay based on the
64 between-terminal trackage of Erie Mining Company will be
65 distributed in 1982 and subsequent years to the unorganized
66 territory number 2 of Lake county and the towns of Beaver Bay
67 and Stony River based on the miles of track of Erie Mining
68 Company in each taxing district.

69 (b) There shall be distributed to the iron range resources
70 and rehabilitation board the amounts it received in 1977 under
71 section 298.22.

72 On or before October 10 of each calendar year each producer
73 of taconite or iron sulphides subject to taxation under section
74 298.24 (hereinafter called "taxpayer") shall file with the
75 commissioner of revenue an estimate of the amount of tax which
76 would be payable by such taxpayer under said law for such

1 calendar year; provided such estimate shall be in an amount not
2 less than the amount due on the mining and production of
3 concentrates up to September 30 of said year plus the amount
4 becoming due because of probable production between September 30
5 and December 31 of said year, less any credit allowable as
6 hereinafter provided. The commissioner of revenue shall
7 annually on or before October 10 report an estimated
8 distribution amount to each taxing district and the officers
9 with whom such report is so filed shall use the amount so
10 indicated as being distributable to each taxing district in
11 computing the permissible tax levy of such county or city in the
12 year in which such estimate is made, and payable in the next
13 ensuing calendar year, except that one cent per taxable ton of
14 the amount distributed under clause (4)(c) shall not be deducted
15 in calculating the permissible levy. In any calendar year in
16 which a general property tax levy subject to sections 275.50 to
17 275.59 has been made, if the taxes distributable to any such
18 county or city are greater than the amount estimated by the
19 commissioner to be paid to any such county or city in such year,
20 the excess of such distribution shall be held in a special fund
21 by the county or city and shall not be expended until the
22 succeeding calendar year, and shall be included in computing the
23 permissible levies under sections 275.50 to 275.59, of such
24 county or city payable in such year. If the amounts
25 distributable to any such county or city after final
26 determination by the commissioner of revenue under this section
27 are less than the amounts by which a taxing district's levies
28 were reduced pursuant to this section, such county or city may
29 issue certificates of indebtedness in the amount of the
30 shortage, and may include in its next tax levy, in excess of the
31 limitations of sections 275.50 to 275.59 an amount sufficient to
32 pay such certificates of indebtedness and interest thereon, or,
33 if no certificates were issued, an amount equal to such shortage.

34 Subd. 1a. Repealed, 1977 c 423 art 10 s 30

35 No change for subd 2 to 3

298*#282S

36 298.282 DISTRIBUTION OF TACONITE MUNICIPAL AID ACCOUNT;
37 TACONITE MUNICIPAL AID; PAYMENT.

38 No change for subd 1 to 3

39 Subd. 4. On or before September 15 of each year, the
40 county auditor shall issue ~~his~~ a warrant in favor of the
41 treasurer of each qualifying municipality in the amount
42 determined by the commissioner of revenue to be due and payable
43 to such qualifying municipality in such year.

44 No change for subd 5

298*#39S

45 298.39 DISTRIBUTION OF PROCEEDS.

46 The proceeds of the tax collected under section 298.35
47 shall be distributed by the state treasurer, upon certificate of
48 the commissioner of revenue to the general fund of the state and
49 to the various taxing districts in which the lands from which
50 the semi-taconite was mined or quarried were located in the
51 following proportions: 22 percent thereof to the city or town;
52 50 percent thereof to the school district; 22 percent thereof to
53 the county; six percent thereof to the state. If the mining and
54 concentration, or different steps in either thereof are carried
55 on in more than one taxing district, the commissioner shall
56 apportion equitably the proceeds of the part of the tax going to
57 cities or towns among such subdivisions, and the part going to
58 school districts among such districts, and the part going to
59 counties among such counties, upon the basis of attributing 40
60 percent of the proceeds of the tax to the operation of mining or
61 quarrying the semi-taconite, and the remainder to the
62 concentrating plant and to the processes of concentration, and
63 with respect to each thereof giving due consideration to the
64 relative extent of such operations performed in each such taxing
65 district. ~~His~~ The commissioner's order making such
66 apportionment shall be subject to review by the tax court at the
67 instance of any of the interested taxing districts, in the same
68 manner as other orders of the commissioner. The amount so
69 distributed shall be divided among the various funds of the
70 state, or of the taxing districts in the same proportion as the
71 general ad valorem tax thereof. If in any year the state shall
72 not spread any general ad valorem tax levy against real
73 property, the state's proportion of the tax shall be paid into
74 the general fund. The amount distributed to any city shall be

1 included in computing the permissible levies of such city under
 2 section 275.11, but shall not be included in computing mill rate
 3 limitations, including cost of living adjustments thereof, so
 4 long as the levies do not exceed the limitations provided by
 5 section 275.11. On or before October 10 of each calendar year
 6 each producer of semi-taconite subject to taxation under section
 7 298.35, hereinafter called "taxpayer," shall file with the
 8 commissioner of revenue and with the county auditor of each
 9 county in which such taxpayer operates, and with the chief
 10 clerical officer of each school district or city which is
 11 entitled to participate in the distribution of the tax, an
 12 estimate of the amount of tax which would be payable by such
 13 taxpayer under said law for such calendar year; provided such
 14 estimate shall be in an amount not less than the amount due on
 15 the mining and production of concentrates up to September 30 of
 16 said year plus the amount becoming due because of probable
 17 production between September 30 and December 31 of said year,
 18 less any credit allowable as hereinafter provided. Such
 19 estimate shall list the taxing districts entitled to participate
 20 in the distribution of such tax, and the amount of the estimated
 21 tax which would be distributable to each such district in such
 22 next ensuing calendar year on the basis of the last percentage
 23 distribution certified by the commissioner of revenue. If there
 24 be no such prior certification, the taxpayer shall set forth its
 25 estimate of the proper distribution of such tax under the law,
 26 which estimate may be corrected by the commissioner ~~if he deems~~
 27 on deeming it improper, notice of such correction being given by
 28 ~~him~~ the commissioner to the taxpayer and the public officers
 29 receiving such estimate. The officers with whom such report is
 30 so filed shall use the amount so indicated as being
 31 distributable to each taxing district in computing, pursuant to
 32 section 275.11, the permissible tax levy of such city in the
 33 year in which such estimate is made, and payable in the next
 34 ensuing calendar year. Such taxpayer shall then pay, at the
 35 times payments are required to be made pursuant to section
 36 298.36, as the amount of tax payable under section 298.35, the
 37 greater of (a) the amount shown by such estimate, or (b) the
 38 amount due under said section as finally determined by the
 39 commissioner of revenue pursuant to law. If, as a result of the
 40 payment of the amount of such estimate, the taxpayer has paid in
 41 any calendar year an amount of tax in excess of the amount due
 42 in such year under section 298.35, after application of credits
 43 for any excess payments made in previous years, all as
 44 determined by the commissioner of revenue, the taxpayer shall be
 45 given credit for such excess amount against any taxes which,
 46 under said section, may become due from the taxpayer in
 47 subsequent years. In any calendar year in which a general
 48 property tax levy subject to section 275.11 or sections 124A.03,
 49 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10,
 50 subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision
 51 5a, and 275.125 has been made, if the taxes distributable to any
 52 such city or school district are greater than the amount
 53 estimated to be paid to any such city or school district in such
 54 year, the excess of such distribution shall be held in a special
 55 fund by the city or school district and shall not be expended
 56 until the succeeding calendar year, and shall be included in
 57 computing the permissible levies under section 275.11 or
 58 sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision
 59 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14,
 60 subdivision 5a, and 275.125 of such city or school district
 61 payable in such year. If the amounts distributable to any such
 62 city or school district, after final determination by the
 63 commissioner of revenue under this section are less than the
 64 amounts indicated by such estimates, such city or school
 65 district may issue certificates of indebtedness in the amount of
 66 the shortage, and may include in its next tax levy, in excess of
 67 the limitations of section 275.11 or sections 124A.03, 124A.06,
 68 subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision
 69 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and
 70 275.125 an amount sufficient to pay such certificates of
 71 indebtedness and interest thereon, or, if no certificates were
 72 issued, an amount equal to such shortage.

73 There is hereby appropriated to such taxing districts as
 74 are stated herein, from any fund or account in the state
 75 treasury to which the money was credited, an amount sufficient
 76 to make the payment or transfer.

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298*#392S

1 298.392 QUALIFICATION OF AGGLOMERATING FACILITIES;
 2 PROCEDURE AND ORDER.
 3 An agglomerating facility shall be or become subject to
 4 taxation under sections 298.391 to 298.396 after it shall have
 5 been approved as such by order of the commissioner. Request for
 6 such approval shall be in writing and shall contain a
 7 description of the facility, together with such additional
 8 information and supporting data as the commissioner may
 9 require. The commissioner may make reasonable regulations not
 10 inconsistent herewith prescribing the form of such requests. ~~If~~ *
 11 ~~the-commissioner-determines~~ On determining that the facility, *
 12 which may include existing structures, buildings, machinery,
 13 equipment, tools and supplies, qualifies as an agglomerating
 14 facility under sections 298.391 to 298.396, ~~he~~ the commissioner *
 15 shall by order approve the same as such and the facility shall
 16 thereupon become subject to the provisions of sections 298.391
 17 to 298.396.

298*#396S

18 298.396 DISTRIBUTION OF PROCEEDS.
 19 The proceeds of the tax collected under section 298.393
 20 shall be distributed by the state treasurer, upon certificate of
 21 the commissioner to the general fund of the state and to the
 22 various taxing districts in which the agglomerating facility is
 23 located in the following proportions: 22 percent thereof to the
 24 city or town; 50 percent thereof to the school district; 22
 25 percent thereof to the county; 6 percent thereof to the state.
 26 If the agglomerating facility is located in more than one tax
 27 district, the commissioner shall apportion equitably the
 28 proceeds of the part of the tax going to cities or towns among
 29 such subdivisions, and the part going to school districts among
 30 such districts, and the part going to counties among such
 31 counties, giving due consideration to the relative extent of the
 32 facilities located in each such taxing district. ~~His~~ The *
 33 commissioner's order making such apportionment shall be subject *
 34 to review by the tax court at the instance of any of the
 35 interested taxing districts, in the same manner as other orders
 36 of the commissioner. The amount to be distributed among the
 37 several taxing districts of the state shall be divided by such
 38 districts among the funds of such districts in the same
 39 proportion as the general ad valorem tax thereof. The amount
 40 distributed to any city shall be included in computing the
 41 permissible amount of the levies of such city under section
 42 275.11, but shall not be included in computing mill rate
 43 limitations, including cost of living adjustments thereof, so
 44 long as the levies do not exceed the limitations provided by
 45 section 275.11.

298*#46S

46 298.46 EXPLORATORY DRILLING FOR IRON ORE.
 47 No change for subd 1 to 3
 48 Subd. 4. When the county assessor has verified the
 49 existence of reserves of iron ore and has ascertained the value
 50 of such reserves, or in the alternative has failed to locate any
 51 reserves susceptible of being economically exploited, ~~he~~ the *
 52 assessor shall notify the county attorney, and the county *
 53 attorney shall then, by appropriate means, request the district
 54 court to discharge the easement secured for the purpose stated
 55 above.
 56 No change for subd 5
 57 Subd. 6. If any taxing district refuses to pay its share
 58 of the reimbursement as provided in subdivision 5, the county
 59 auditor is hereby authorized to reduce payments required to be
 60 made by the county to such taxing district under other
 61 provisions of law. Thereafter ~~he~~ the auditor shall draw ~~his~~ a *
 62 warrant, which shall be deposited with the state treasury in
 63 accordance with section 298.221, to the credit of the iron range
 64 resources and rehabilitation board.
 65 No change for subd 7

298*#47S

66 298.47 NOTIFICATION OF COMMISSIONER OF REVENUE OF
 67 UNMINED IRON ORE.
 68 ~~In the event that the county assessor ascertains~~ On *
 69 ascertaining that there are in existence reserves of unmined *
 70 iron ore previously unreported, ~~he~~ the county auditor shall *
 71 transmit all the relevant information to the commissioner of
 72 revenue as soon as expedient.

298*#48S

1 298.48 MINERAL RIGHTS; EXPLORATION DATA; FILING
2 REQUIREMENTS; PENALTIES.

3 No change for subd 1

4 Subd. 2. USE OF DATE. Notwithstanding any other law
5 to the contrary, the commissioner of revenue may use any data
6 filed pursuant to subdivision 1 and any similar data otherwise
7 obtained to the extent and in the manner he the commissioner *
8 deems necessary to project the future availability, value, and
9 utilization of the metallic mineral resources of this state. In
10 making such projections the commissioner of revenue may consult
11 with, and provide data as deemed appropriate to, the *
12 commissioner of natural resources ~~and may provide him with data~~ *
13 ~~as he deems appropriate.~~ *

14 No change for subd 3

15 Subd. 4. CONFIDENTIAL NATURE OF INFORMATION. The
16 data filed pursuant to subdivision 1 shall be considered
17 confidential for three years from the date it is filed with the
18 commissioner. Nothing herein contained shall be construed to
19 prohibit the commissioner from disclosing information or
20 publishing statistics so classified as not to disclose the
21 identity of particular data.

22 Notwithstanding the other provisions of this subdivision,
23 the commissioner, ~~at his discretion,~~ may furnish any information *
24 supplied under this section to the commissioner of natural
25 resources, the commissioner of energy and economic development,
26 or a county assessor. Any person violating the provisions of
27 this section shall be guilty of a gross misdemeanor.

299*#05S

28 299.05 ASSESSMENT BY COMMISSIONER.

29 Upon receipt of the report provided for in section 299.03,
30 the commissioner of revenue shall determine, from information as
31 may be possessed, or obtained, whether the report is correct, or
32 incorrect; and, if found correct, the commissioner shall
33 determine the amount of tax due from the person, enter the
34 amount of the tax in department records, make assessment of
35 taxes due from the person, and the amount that has been paid;
36 and, on or before June 30, of each year, demand payment from the
37 person. ~~The commissioner of revenue shall have power,~~ In case *
38 he the commissioner shall deem the report incorrect, or in case *
39 the report is not made and filed ~~with the commissioner~~ as *
40 provided in section 299.03, to the commissioner may make *
41 findings as to the amount of taxes due after hearing upon notice
42 to the person interested, and the findings shall have the same
43 effect as the determination of the amount of such taxes upon a
44 report made as hereinbefore provided.

45 A person subletting land for the use of which is received
46 royalty shall be required to pay taxes only on the difference
47 between the amount of royalty paid ~~by him or her~~ and the amount *
48 received.

49 If the amount of tax determined by the commissioner is
50 subsequently found to be erroneous, the commissioner may, at any
51 time within three years from the date allowed above for the
52 original assessment, redetermine the amount of the tax. No
53 redetermination shall be made increasing the tax unless the
54 person from whom the additional amount is due is given ten days
55 written notice of the proposed increase and the person's right
56 to a hearing pursuant to chapter 14. Any person who has paid a
57 royalty tax may apply to the commissioner within three years
58 from the date allowed above for the original assessment for a
59 redetermination of the tax ~~and if.~~ The commissioner determines *
60 on determining that the tax has been overpaid, ~~he or she~~ shall *
61 make and file an order determining the amount of the overpayment
62 and credit the overpayment against the royalty taxes otherwise
63 payable by the person who overpaid the tax. If the tax is
64 increased, interest at the rate specified in section 270.75 from
65 the date payment should have been made shall be determined and
66 added to the tax. If the tax is reduced, interest at the rate
67 specified in section 270.76 from the date of the overpayment
68 shall be allowed.

299*#06S

69 299.06 FAILURE TO MAKE REPORTS; PENALTY; PROCEDURE.

70 If any person subject to the tax provided by this chapter
71 shall fail to make the report provided for in section 299.03, at
72 the time and in the manner therein provided, there shall accrue
73 upon the tax herein imposed a penalty in an amount equal to ten

1 percent of the tax so imposed, the said penalty to be imposed
 2 ratably in proportion to the number of days delinquent but not
 3 exceeding 60 days after which the full penalty of ten percent
 4 shall be applied. After the said penalty or any proportion
 5 thereof has been assessed the commissioner of revenue shall
 6 serve notice by certified mail to the royalty recipient at ~~his~~ *
 7 the recipient's last known address of the amount of penalty due *
 8 and of ~~his~~ the commissioner's intention to demand payment *
 9 thereof from the royalty payor by withholding the same in the
 10 same manner as provided for withholding the royalty tax under
 11 section 299.08. Thereupon the commissioner not earlier than ten
 12 days after notice to the royalty recipient shall direct the
 13 royalty payor to withhold from any royalties due, or thereafter
 14 to become due said recipient, the amount of the penalty so
 15 assessed and remit the same to the commissioner of revenue in
 16 the same manner and under the same conditions as prescribed by
 17 said section 299.08 for the withholding and remitting of the
 18 royalty tax.

299*#08S

19 299.08 LIEN; PAYMENT OF TAX.

20 The situs of royalty, for all purposes of this chapter,
 21 shall be in this state; and the tax herein provided for shall be
 22 a specific lien from the time the royalty accrues upon all and
 23 singular the right, title, and interest of the person to whom
 24 such royalty is payable, in and to the land, for permission to
 25 explore, mine, take out, and remove ore on which the royalty is
 26 paid, and shall be a specific lien upon such royalties as they
 27 accrue. Every person paying royalty to another which is subject
 28 to tax hereunder, upon which the royalty tax has not been paid,
 29 shall withhold the amount of the tax upon such royalty and remit
 30 the same to the commissioner of revenue at the time the royalty
 31 is paid. Such payment shall operate to discharge to that extent
 32 the liability of the person paying such royalty to the royalty
 33 recipient. In addition thereto, he the person paying shall *
 34 withhold any additional amounts certified pursuant to section *
 35 299.012, subdivision 3. At the time of such payment he the *
 36 person paying shall file with the commissioner of revenue a *
 37 report thereof on forms to be prescribed by the commissioner of
 38 revenue. If any person paying royalty to another shall fail to
 39 withhold the tax thereon or the penalty imposed by section
 40 299.06, after notice thereof as therein provided, and pay the
 41 same to the commissioner of revenue, he the person shall be *
 42 liable for the amount of such tax and penalty, with interest at
 43 the rate of 20 percent per annum, adjusted as provided in
 44 section 270.75, from the time the same should have been paid, to
 45 be recovered in an action by the attorney general for and on
 46 behalf of the state. The commissioner of revenue, may, upon
 47 petition of any royalty payor or recipient, upon such conditions
 48 as he the commissioner may impose, permit the paying of the tax *
 49 in one annual payment instead of as such royalty accrues, in
 50 which case such annual payment shall be made at such times as
 51 the commissioner of revenue directs, not later than June 30 of
 52 the year following the accrual of the royalty. No such
 53 extension of time shall be granted unless, as one of the
 54 conditions thereof, the royalty payor shall guarantee the
 55 payment of the tax.

56 In the event the royalty is paid in ore instead of in cash
 57 the tax provided for herein shall be a specific lien upon the
 58 ore apportioned to the royalty recipient; or, if such ore be not
 59 apportioned, upon the royalty recipient's interest in the ore
 60 mined, and such ore shall not be shipped from this state unless:

- 61 (1) The royalty tax be paid; or
- 62 (2) A bond be given to secure such payment, upon a form and
 63 with sureties approved by the commissioner of revenue, in an
 64 amount 25 percent in excess of ~~his~~ the commissioner's estimate *
 65 of the tax; or
- 66 (3) The estimated amount of the tax, such estimate to be
 67 made by the commissioner of revenue, be deposited with the state
 68 treasurer as security for such payment; or
- 69 (4) The payment of the tax be guaranteed or secured in some
 70 other manner satisfactory to the commissioner of revenue.

299A#02S

71 299A.02 COMMISSIONERS OF PUBLIC SAFETY AND REVENUE;
 72 LIQUOR CONTROL FUNCTIONS.

73 Subdivision 1. DIRECTOR OF DIVISION OF LIQUOR CONTROL.
 74 No employee of the department of public safety or the

1 department of revenue having any responsibility for the
 2 administration or enforcement of Laws 1985, chapter 305,
 3 articles 2 to 11 shall have a direct or indirect interest,
 4 except through ownership or investment in pension or mutual
 5 funds, in the manufacture, transportation or sale of
 6 intoxicating liquor or any malt or vinous beverages,
 7 intoxicating, nonintoxicating, or commercial or industrial
 8 alcohol. The commissioner of public safety or the commissioner
 9 of revenue may remove an employee ~~of his department~~ in the
 10 unclassified civil service for any intentional violation of any
 11 provision in Laws 1985, chapter 305, articles 2 to 11.
 12 Intentional violation of the preceding sections by a classified
 13 employee of one of the departments may be grounds for removal of
 14 that employee pursuant to section 43A.33.

15 No change for subd 2 to 3

16 Subd. 4. SUBPOENAS. In all matters relating to ~~his~~
 17 official duties, the commissioner shall have the powers
 18 possessed by courts of law to issue subpoenas and cause them to
 19 be served and enforced. All public officials, and their
 20 respective deputies and employees, and all individuals,
 21 partnerships, firms, corporations, incorporated and
 22 unincorporated associations, and others who manufacture,
 23 transport, or sell intoxicating liquor, or are connected
 24 therewith in any manner, shall at all times attend and answer
 25 under oath the commissioner's lawful inquiries, produce and
 26 exhibit such books, accounts, documents and property as ~~he~~ the
 27 commissioner may desire to inspect, and in all things aid ~~him~~
 28 the commissioner in the performance of ~~his~~ the commissioner's
 29 duties.

299C#01S

30 299C.01 CRIMINAL BUREAU.

31 No change for subd 1

32 Subd. 2. A division in the department of public safety to
 33 be known as the bureau of criminal apprehension is hereby
 34 created, under the supervision and control of the superintendent
 35 of criminal apprehension, who shall be appointed by the
 36 commissioner and serve at ~~his~~ the commissioner's pleasure in the
 37 unclassified service of the state civil service, to whom shall
 38 be assigned the duties and responsibilities described in this
 39 section.

40 Subd. 3. Repealed, 1984 c 649 s 6

41 No change for subd 4

299C#03S

42 299C.03 SUPERINTENDENT; RULES, REGULATIONS.

43 The superintendent, with the approval of the commissioner
 44 of public safety, from time to time, shall make such rules and
 45 regulations and adopt such measures as ~~he~~ the superintendent
 46 deems necessary, within the provisions and limitations of
 47 sections 299C.03 to 299C.08, 299C.10, 299C.11, 299C.17, 299C.18,
 48 and 299C.21, to secure the efficient operation of the bureau.
 49 The bureau shall cooperate with the respective sheriffs,
 50 constables, marshals, police, and other peace officers of the
 51 state in the detection of crime and the apprehension of
 52 criminals throughout the state, and shall have the power to
 53 conduct such investigations as the superintendent, with the
 54 approval of the commissioner of public safety, may deem
 55 necessary to secure evidence which may be essential to the
 56 apprehension and conviction of alleged violators of the criminal
 57 laws of the state. The various members of the bureau shall have
 58 and may exercise throughout the state the same powers of arrest
 59 possessed by a sheriff, but they shall not be employed to render
 60 police service in connection with strikes and other industrial
 61 disputes.

299C#07S

62 299C.07 RESTORATION OR DISPOSAL OF STOLEN PROPERTY.

63 The bureau of criminal apprehension shall make every effort
 64 for a period of 90 days after the seizure or recovery of
 65 abandoned or stolen property to return the property to the
 66 lawful owner or to the sheriff of the county from which it was
 67 stolen.

68 Any such property held by the bureau for more than 90
 69 days, in case the owner cannot be found or if it cannot be
 70 determined from what county the property was stolen, shall be
 71 sold at public auction by the superintendent of the bureau, or
 72 ~~his~~ the superintendent's agent, after two weeks' published
 73 notice thereof in a legal newspaper in Ramsey county, stating

1 the time and place of the sale and a list of the property to be
2 sold.

3 The proceeds of the sale shall be applied in payment of
4 the necessary expenses of the sale and all necessary costs,
5 storage, or charges incurred in relation to the property. The
6 balance of the proceeds shall be paid into the general fund.

299C#08S

7 299C.08 BONDS OF SUPERINTENDENT AND EMPLOYEES.

8 The superintendent and each employee in the bureau whom he
9 the superintendent shall designate, before entering upon the
10 performance of his duties under sections 299C.03 to 299C.08,
11 299C.10, 299C.11, 299C.17, 299C.18, and 299C.21, shall take the
12 usual oath and give bond to the state, in such amount as the
13 governor shall direct and approve, conditioned for the faithful
14 performance of his the duties. If a surety bond is given, the
15 premium thereon shall be paid as an expense of the bureau, upon
16 the approval of the amount of the premium by the commissioner of
17 administration. The state, the several governmental
18 subdivisions thereof, or any person damaged by any wrongful act
19 or omission of either the superintendent or any of such
20 employees in the performance of his duties under sections
21 299C.03 to 299C.20, may maintain an action on such bond for the
22 recovery of damages so sustained.

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299C#11S

23 299C.11 PRINTS, FURNISHED TO BUREAU BY SHERIFFS AND
24 CHIEFS OF POLICE.

25 The sheriff of each county and the chief of police of each
26 city of the first, second, and third classes shall furnish the
27 bureau, upon such form as the superintendent shall prescribe,
28 with such finger and thumb prints, photographs, and other
29 identification data as may be requested or required by the
30 superintendent of the bureau, which may be taken under the
31 provisions of section 299C.10, of persons who shall be convicted
32 of a felony, gross misdemeanor, or who shall be found to have
33 been convicted of a felony or gross misdemeanor, within ten
34 years next preceding their arrest. Upon the determination of
35 all pending criminal actions or proceedings in favor of the
36 arrested person, he the arrested person shall, upon demand, have
37 all such finger and thumb prints, photographs, and other
38 identification data, and all copies and duplicates thereof,
39 returned to him, provided it is not established that he the
40 arrested person has been convicted of any felony, either within
41 or without the state, within the period of ten years immediately
42 preceding such determination.

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299C#12S

43 299C.12 RECORDS KEPT BY PEACE OFFICERS; REPORTS.

44 Every peace officer shall keep or cause to be kept a
45 permanent written record, in such form as the superintendent may
46 prescribe, of all felonies reported to or discovered by him the
47 officer within his the officer's jurisdiction and of all
48 warrants of arrest for felonies and search warrants issued
49 to him the officer in relation to the commission of felonies,
50 and shall make or cause to be made to the sheriff of the county
51 and the bureau reports of all such crimes, upon such forms as
52 the superintendent may prescribe, including a statement of the
53 facts and a description of the offender, so far as known, the
54 offender's method of operation, the action taken by the officer,
55 and such other information as the superintendent may require.

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299C#17S

56 299C.17 REPORTS TO BUREAU BY CLERKS OF COURT.

57 The superintendent shall have power to require the clerk of
58 court of any county to file with the department, at such time as
59 the superintendent may designate, a report, upon such form as
60 the superintendent may prescribe, furnishing such information as
61 he the superintendent may require with regard to the prosecution
62 and disposition of criminal cases. A copy of the report shall
63 be kept on file in the office of the clerk of court.

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299C#18S

64 299C.18 REPORTS.

65 Biennially, on or before November 15, in each even-numbered
66 year the superintendent shall submit to the governor and the
67 legislature a detailed report of the operations of the bureau,
68 of information about crime and the handling of crimes and
69 criminals by state and local officials collected by the bureau,
70 and his the superintendent's interpretations of the information,
71 with his comments and recommendations. In such reports he the

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*

1 superintendent shall, from time to time, include his *
 2 recommendations to the legislature for dealing with crime and
 3 criminals and information as to conditions and methods in other
 4 states in reference thereto, and shall furnish a copy of such
 5 report to each member of the legislature.

299C#22S

6 299C.22 SECURITY GUARD; DISCHARGE OF FIREARMS; REPORT.
 7 Subdivision 1. DEFINITIONS. (a) For purposes of this
 8 section, "security guard" means any person who is paid a fee,
 9 wage or salary to perform one or more of the following functions:

10 (a) Prevention or detection of intrusion, unauthorized
 11 entry or activity, vandalism, or trespass on private property;

12 (b) Prevention or detection of theft, loss, embezzlement,
 13 misappropriation, or concealment of merchandise, money, bonds,
 14 stocks, notes, or other valuable documents or papers;

15 (c) Control, regulation, or direction of the flow or
 16 movements of the public, whether by vehicle or otherwise, to
 17 assure protection of private property;

18 (d) Protection of individuals from bodily harm; or

19 (e) Enforcement of policies and rules of his the security *
 20 guard's employer related to crime reduction insofar as such *
 21 enforcement falls within the scope of his the guard's duties. *

22 The provisions of this subdivision are not intended to
 23 include within the definition of "security guard" auditors,
 24 accountants, and accounting personnel whether or not they are
 25 employees of a private firm, corporation or independent
 26 accounting firm.

27 Subd. 2. REPORTS. Each discharge of a firearm by a
 28 security guard in the course of his employment, other than for *
 29 training purposes, shall be reported to the chief of police of
 30 an organized full time police department of the municipality in
 31 which the discharge occurred or to the county sheriff if there
 32 is no local chief of police. Reports required to be made under
 33 this subdivision shall be forwarded to the bureau of criminal
 34 apprehension upon forms as may be prescribed and furnished by
 35 the bureau. The superintendent shall cause a summary of the
 36 reports to be compiled and published annually.

299C#32S

37 299C.32 POLICE CARS TO HAVE RADIOS.

38 When the broadcasting station or stations authorized by
 39 sections 299C.30 to 299C.38 have been established and are ready
 40 for operation, the bureau shall notify immediately the board of
 41 county commissioners in each county of the state that such radio
 42 service has been established; and forthwith the board shall
 43 provide for the purchase and installation in the office of the
 44 sheriff and at such other places within each county as it may
 45 direct, and in at least one motor vehicle used by the sheriff in
 46 the conduct of his the sheriff's office, a locked-in radio *
 47 receiving set of the character prescribed by the bureau for use
 48 in connection with the broadcasting station or stations so
 49 established.

299C#37S

50 299C.37 POLICE COMMUNICATION EQUIPMENT; USE, SALE.

51 Subdivision 1. No person other than peace officers within
 52 the state and the members of the state patrol shall equip any
 53 motor vehicle with any radio equipment or combination of
 54 equipment, capable of receiving any radio signal, message, or
 55 information from any police emergency frequency, or install, use
 56 or possess the same in such motor vehicle without first
 57 obtaining permission to do so from the superintendent of the
 58 bureau upon such form of application as he the superintendent *
 59 may prescribe. Any person who is convicted of a violation of
 60 this subdivision shall, upon conviction for the first offense,
 61 be guilty of a misdemeanor, and for the second and subsequent
 62 offenses shall be guilty of a gross misdemeanor.

63 Subd. 2. Repealed, 1971 c 71 s 2

64 No change for subd 3

299C#46S

65 299C.46 ESTABLISHMENT, USE.

66 No change for subd 1 to 3

67 Subd. 4. The commissioner of public safety shall *
 68 administer the datacommunications network and shall coordinate
 69 matters relating to its use by other state agencies and
 70 political subdivisions. He The commissioner shall receive the *
 71 assistance of the commissioner of administration on matters
 72 involving the department of administration and its information

1 systems division. Other state department or agency heads shall
 2 assist the commissioner where necessary in the performance
 3 of ~~his~~ the commissioner's duties under this section.

*

299D#01S

4 299D.01 DIVISION OF STATE PATROL.

5 No change for subd 1

6 Subd. 2. The chief supervisor, with the approval of the
 7 commissioner, may appoint a chief assistant supervisor who shall
 8 serve at ~~his~~ the chief supervisor's pleasure in the unclassified
 9 service. The salary of the chief supervisor and the salary of
 10 the chief assistant supervisor is fixed by the commissioner of
 11 public safety except when such salaries are otherwise expressly
 12 provided for by law. The chief assistant supervisor may perform
 13 and exercise every power, duty, and responsibility imposed by
 14 law upon the chief supervisor when authorized so to do by the
 15 commissioner of public safety. If the chief assistant
 16 supervisor is removed from ~~his~~ the chief assistant supervisor's
 17 position for other than cause as defined in section 299D.03, ~~he~~
 18 the chief assistant supervisor shall be reinstated to the
 19 position ~~that he~~ held in the patrol prior to being promoted to
 20 the position of chief assistant supervisor and shall otherwise
 21 be subject to the provisions of subdivision 12 of said section.

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22 Subd. 3. Subject to the provisions of this section and to
 23 other applicable laws the commissioner of public safety shall
 24 organize the division, employ such persons for the Minnesota
 25 state patrol including assistant supervisors and sergeants in
 26 the manner and in the number otherwise authorized by law and
 27 such other employees and agents as ~~he~~ the commissioner may deem
 28 necessary to discharge the functions of the division, define the
 29 duties of such employees and agents and to delegate to them such
 30 of ~~his~~ the commissioner's powers, duties and responsibilities,
 31 which are not specifically fixed by law, subject to ~~his~~ the
 32 commissioner's control and under such conditions as ~~he~~ the
 33 commissioner may prescribe. Appointments to exercise delegated
 34 power shall be by written order filed with the secretary of
 35 state. Except for the chief supervisor, the chief assistant
 36 supervisor and state patrol officers of the Minnesota state
 37 patrol, the other employees and agents listed in this section
 38 are in the classified service of the state civil service.

39 Subd. 4. Before entering upon the duties of ~~his~~ office the
 40 chief supervisor of the Minnesota state patrol shall take and
 41 subscribe an oath and give ~~his~~ bond to the state of Minnesota,
 42 to be approved by the commissioner of public safety and filed
 43 with the secretary of state, in the sum \$10,000 conditioned for
 44 the faithful performance of ~~his~~ duties.

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45 No change for subd 5 to 8

299D#03S

46 299D.03 STATE PATROL.

47 Subdivision 1. MEMBERS. The commissioner is hereby
 48 authorized to employ and designate a chief supervisor, a chief
 49 assistant supervisor, and such assistant supervisors, sergeants
 50 and officers as are provided by law, who shall comprise the
 51 Minnesota state patrol. The members of the Minnesota state
 52 patrol shall have the power and authority:

53 (1) As peace officers to enforce the provisions of the law
 54 relating to the protection of and use of trunk highways.

55 (2) At all times to direct all traffic on trunk highways in
 56 conformance with law, and in the event of a fire or other
 57 emergency, or to expedite traffic or to insure safety, to direct
 58 traffic on other roads as conditions may require notwithstanding
 59 the provisions of law.

60 (3) To serve warrants and legal documents anywhere in the
 61 state.

62 (4) To serve orders of the commissioner of public safety or
 63 ~~his~~ the commissioner's duly authorized agents issued under the
 64 provisions of the Drivers License Law, the Safety Responsibility
 65 Act, or relating to authorized brake and light testing stations,
 66 anywhere in the state and to take possession of any license,
 67 permit or certificate ordered to be surrendered.

*

68 (5) To inspect official brake and light adjusting stations.

69 (6) To make appearahces anywhere within the state for the
 70 purpose of conducting traffic safety educational programs and
 71 school bus clinics.

72 (7) To exercise upon all trunk highways the same powers
 73 with respect to the enforcement of laws relating to crimes, as
 74 sheriffs, constables and police officers.

1 (8) To cooperate, under instructions and regulations of the
2 commissioner of public safety, with all sheriffs and other
3 police officers anywhere in the state, provided that said
4 employees shall have no power or authority in connection with
5 strikes or industrial disputes.

6 (9) To assist and aid any peace officer whose life or
7 safety is in jeopardy.

8 (10) As peace officers to provide security and protection
9 to the governor, governor elect, either or both houses of the
10 houses of the legislature, and state buildings or property in
11 the manner and to the extent determined to be necessary after
12 consultation with the governor, or ~~his~~ a designee. Pursuant to *
13 this clause, members of the state patrol, acting as peace
14 officers have the same powers with respect to the enforcement of
15 laws relating to crimes, as sheriffs, constables and police
16 officers have within their respective jurisdictions.

17 (11) To inspect school buses anywhere in the state for the
18 purposes of determining compliance with vehicle equipment,
19 pollution control, and registration requirements.

20 (12) As peace officers to make arrests for public offenses
21 committed in their presence anywhere within the state. Persons
22 arrested for violations other than traffic violations shall be
23 referred forthwith to the appropriate local law enforcement
24 agency for further investigation or disposition.

25 Notwithstanding any provision of law to the contrary, the
26 state may contract for state patrol members to render services
27 in excess of their regularly scheduled duty hours to a
28 governmental unit pursuant to section 471.59, and patrol members
29 rendering such services shall be compensated in such amounts,
30 manner and under such conditions as the agreement provides.

31 Employees thus employed and designated shall subscribe an
32 oath and furnish a bond running to the state of Minnesota, said
33 bond to be approved and filed in the office of the secretary of
34 state.

35 No change for subd 1a to 6

36 Subd. 7. DISCHARGE OF TROOPER. Every person
37 employed and designated as a state trooper under and pursuant to
38 the provisions of this section, after six months of continuous
39 employment, shall continue in service and hold ~~his~~ the position *
40 without demotion, until suspended, demoted, or discharged in the
41 manner hereinafter provided for one or more of the causes
42 specified herein.

43 Subd. 8. CAUSES FOR DISCHARGE. A trooper who has
44 completed six months of continuous employment shall not be
45 suspended, demoted or discharged except for just cause. For
46 purposes of this section, just cause includes, but is not
47 limited to:

48 (1) conviction of any criminal offense in any court of
49 competent jurisdiction subsequent to the commencement of such
50 employment;

51 (2) neglect of duty or willful violation or disobedience of
52 orders or rules;

53 (3) inefficiency in performing duties;

54 (4) immoral conduct or conduct injurious to the public
55 welfare, or conduct unbecoming an officer; or

56 (5) incapacity or partial incapacity affecting ~~his~~ the
57 trooper's normal ability to perform ~~his~~ official duties. *

58 Subd. 9. CHARGES AGAINST TROOPERS. (a) Charges
59 against any state trooper shall be made in writing and signed
60 and sworn to by the person making the same, which written
61 charges shall be filed with the commissioner. Upon the filing
62 of same, if the commissioner shall be of the opinion that such
63 charges constitute a ground for suspension, demotion, or
64 discharge, a hearing shall be held on them. The hearing shall
65 be conducted by an arbitrator selected by the parties from a
66 list of five arbitrators provided by the bureau of mediation
67 services. At least 30 days before the time appointed for the
68 hearing, written notice specifying the charges filed and stating
69 the name of the person making the charges, shall be served on
70 the employee personally or by leaving a copy thereof at ~~his~~ the *
71 employee's usual place of abode with some person of suitable age *
72 and discretion then residing therein. If the commissioner
73 orders a hearing ~~he~~ the commissioner may suspend such employee *
74 before the hearing.

75 (b) Members of the state patrol shall have the option of
76 utilizing either the contractual grievance procedure or the

1 legal remedies of this section, but in no event both.
 2 (c) The commissioner, after having been informed by the
 3 exclusive representative that the employee against whom charges
 4 have been filed desires to utilize the grievance procedure of
 5 the labor agreement, may immediately suspend, demote or
 6 discharge the employee without the hearing required by clause
 7 (a).

8 Subd. 10. HEARING ON CHARGES, DECISION, PUNISHMENT.
 9 The arbitrator may compel the attendance of witnesses at the
 10 hearing and examine them under oath, and may require the
 11 production of books, papers, and other evidence at the hearing,
 12 and for that purpose may issue subpoenas and cause them to be
 13 served and executed in any part of the state. The employee
 14 accused is entitled to be confronted with the witnesses against
 15 ~~him~~ the employee and may cross-examine them and may introduce at
 16 the hearing testimony in ~~his~~ the employee's own behalf, and to
 17 be represented by counsel at the hearing.

18 No change for subd 11

19 Subd. 12. APPLICATION OF SUBDIVISIONS 5 TO 12.
 20 Subdivisions 5 to 12 shall apply to all persons employed and
 21 designated under and pursuant to this section, except the chief
 22 supervisor and chief assistant supervisor of the state patrol.
 23 If the chief supervisor or the chief assistant supervisor is
 24 removed for other than cause as defined herein ~~he~~ the chief or
 25 assistant supervisor shall be reinstated to the position ~~that he~~
 26 held in, the patrol prior to being promoted to the position of
 27 chief supervisor or chief assistant supervisor.

28 Upon the effective date of this act the individual
 29 occupying the position of chief assistant supervisor of the
 30 state patrol shall retain such position for a period of at least
 31 12 months, or until removed for cause.

299D#05S

32 299D.05 RADIO REPEATER STATION IN WISCONSIN.

33 Subdivision 1. AUTHORITY TO ACQUIRE SITE. The
 34 commissioner is authorized to acquire by gift or purchase for
 35 trunk highway uses and purposes such land in the state of
 36 Wisconsin as ~~he may determine~~ is determined necessary for use as
 37 a site for and to construct, operate, and maintain thereon a
 38 radio repeater station to be used in connection with the
 39 Minnesota statewide two-way radio system operated by the
 40 Minnesota state patrol.

41 No change for subd 2 to 3

299F#011S

42 299F.011 UNIFORM FIRE CODE; ADOPTION.

43 No change for subd 1 to 5

44 Subd. 6. A person who violates a provision of the uniform
 45 fire code shall be guilty of a misdemeanor. No person shall be
 46 convicted for violating the uniform fire code unless ~~he~~ the
 47 person shall have been given notice of the violation in writing
 48 and reasonable time to comply.

299F#04S

49 299F.04 ORIGIN OF FIRES INVESTIGATED.

50 No change for subd 1

51 Subd. 2. The investigation shall be begun within two days
 52 of the occurrence of the fire and the state fire marshal shall
 53 have the right to coordinate the investigation ~~when he deems~~ on
 54 deeming it necessary.

55 Subd. 3. The officer making investigation of fires
 56 occurring in cities, statutory cities and towns shall forthwith
 57 notify the state fire marshal and shall, within one week of the
 58 occurrence of the fire, furnish to the state fire marshal a
 59 written statement of all the facts relating to the cause and
 60 origin of the fire and such further information as may be called
 61 for by the blanks furnished by the state fire marshal. The
 62 state fire marshal shall keep ~~in his office~~ a record of all
 63 fires occurring in the state, together with all facts,
 64 statistics, and circumstances, including the origin of the
 65 fires, which may be determined by the investigation provided by
 66 this chapter. These statistics shall be at all times open to
 67 public inspection.

68 No change for subd '4

299F#05S

69 299F.05 EVIDENCE, TAKING OF.

70 Subdivision 1. INVESTIGATIONS. If The state fire
 71 marshal ~~determines,~~ on determining that reasonable grounds exist
 72 to believe that a violation of sections 609.561 to 609.576 has

1 occurred, or ~~has~~ reasonable grounds to believe that some other *
 2 crime has occurred in connection with a fire investigated *
 3 pursuant to section 299F.04, ~~he~~ shall so inform the *
 4 superintendent of the bureau of criminal apprehension. The
 5 superintendent shall cooperate with the fire marshal and local
 6 officials in further investigating the reported incident in a
 7 manner which may include supervising and directing the
 8 subsequent criminal investigation, and taking the testimony on
 9 oath of all persons supposed to be cognizant of any facts
 10 relating to the matter under investigation. If the
 11 superintendent believes that there is evidence sufficient to
 12 charge any person with a violation of sections 609.561 to
 13 609.576, or of any other crime in connection with an
 14 investigated fire, ~~he~~ the superintendent shall arrest or cause *
 15 the person to be arrested and charged with the offense and
 16 furnish to the proper prosecuting attorney all relevant
 17 evidence, together with the copy of all names of witnesses and
 18 all the information obtained by ~~him~~ the superintendent or the *
 19 state fire marshal, including a copy of all pertinent and
 20 material testimony taken in the case.

21 No change for subd 2

299F#054S

22 299F.054 DISCLOSURE OF INFORMATION.

23 Subdivision 1. An authorized person may, in writing,
 24 require an insurance company to release to the requesting person
 25 any or all relevant information or evidence the authorized
 26 person, ~~in his discretion,~~ deems important, which the company *
 27 may have in its possession, relating to a fire loss or potential
 28 fire loss. Relevant information may include, and is limited to:

29 (a) pertinent insurance policy information relevant to a
 30 fire loss or potential fire loss under investigation including
 31 the application for a policy;

32 (b) policy premium payment records which are available;

33 (c) a history of previous claims made by the insured,
 34 including, where the insured is a corporation or partnership, a
 35 history of previous claims by a subsidiary or any affiliates,
 36 and a history of claims of any other business association in
 37 which individual officers or partners or their spouses were
 38 known to be involved; and

39 (d) material relating to the investigation of the loss or
 40 potential loss, including statements of any person, proof of
 41 loss or potential loss, and any other evidence relevant to the
 42 investigation.

43 Subd. 2. (a) If an insurance company has reason to believe
 44 that a fire loss or potential fire loss in which it has an
 45 interest may be of other than accidental cause, the company
 46 shall, in writing, notify an authorized person and provide ~~him~~ *
 47 the person with all relevant material specified in this section *
 48 developed from the company's inquiry into the fire loss or
 49 potential fire loss.

50 (b) If an insurance company provides any one of the
 51 authorized persons with notice of a fire loss or potential fire
 52 loss, it is sufficient notice for the purpose of this
 53 subdivision.

54 No change for subd 3 to 4

299F#06S

55 299F.06 TESTIMONIAL POWERS.

56 Subdivision 1. ATTENDANCE OF WITNESSES. In order to
 57 establish if reasonable grounds exist to believe that a
 58 violation of sections 609.561 to 609.576, has occurred, or to
 59 determine compliance with the uniform fire code or corrective
 60 orders issued thereunder, the state fire marshal, chief
 61 assistant fire marshal, and deputy state fire marshals, shall
 62 each have the power in any county of the state to summon and
 63 compel the attendance of witnesses before them, or either of
 64 them, to testify and may require the production of any book,
 65 paper, or document deemed pertinent thereto by them, or either
 66 of them. The summons shall be served in the same manner and
 67 have the same effect as subpoenas from district courts. All
 68 witnesses shall receive the same compensation as is paid to
 69 witnesses in district courts, which shall be paid out of the
 70 fire marshal fund upon vouchers signed by the state fire
 71 marshal, chief assistant fire marshal, or deputy fire marshal
 72 before whom any witnesses shall have attended and this officer
 73 shall, at the close of the investigation wherein the witness was
 74 subpoenaed, certify to the attendance and mileage of the

1 witness, which certificate shall be filed in the office of the
2 state fire marshal. All investigations held by or under the
3 direction of the state fire marshal, or any subordinate, may in
4 ~~his~~ the state fire marshal's discretion be private and persons *
5 other than those required to be present by the provisions of
6 this chapter may be excluded from the place where the
7 investigation is held, and witnesses may be kept separate and
8 apart from each other and not allowed to communicate with each
9 other until they have been examined.

10 No change for subd 2 to 3

299F#08S

11 299F.08 PREMISES, WHEN ENTERED.

12 Subdivision 1. IMMEDIATE ENTRY. In the performance
13 of the duties imposed by the provisions of this chapter, the
14 state fire marshal and ~~any-of-his~~ subordinates, during and *
15 within a reasonable time after a fire has been extinguished, may
16 enter any building or premises where a fire has occurred and
17 other buildings and premises adjoining or near thereto to
18 investigate and gather evidence. In determining whether a
19 search is reasonable within the meaning of this subdivision, the
20 need for investigatory search for the cause of the fire shall be
21 balanced against the privacy rights of the occupant or owner of
22 the building or premises.

23 Subd. 2. ADMINISTRATIVE SEARCH WARRANT. After the
24 reasonable time prescribed by subdivision 1 for an investigatory
25 search has expired, subsequent entries to the building or
26 premises to investigate and gather evidence may be made only if
27 there is consent from the owner or occupant of the building or
28 premises or pursuant to an administrative search warrant issued
29 by a judge.

30 In determining whether to issue an administrative search
31 warrant for the purposes of this subdivision, the judge, in
32 conforming ~~his~~ the decision to constitutional doctrine governing *
33 warrant procedures for administrative searches, shall consider
34 but not be limited to the following factors:

- 35 (a) Scope of the proposed search;
- 36 (b) Number of prior entries by fire officials;
- 37 (c) Time of day when the search is proposed to be made;
- 38 (d) Lapse of time since the fire;
- 39 (e) Continued use of the building; and
- 40 (f) The owner's or occupant's efforts to secure the

41 building against intruders.

42 Subd. 3. CRIMINAL SEARCH WARRANT. If during the
43 course of an investigatory search under an administrative search
44 warrant issued in accordance with subdivision 2, the fire
45 marshal or ~~any-of-his~~ subordinates find probable cause to *
46 believe arson has occurred and require further access to the
47 building or premises to gather evidence for possible
48 prosecution, a criminal search warrant must be obtained from a
49 judge.

50 No change for subd 4

299F#09S

51 299F.09 BUILDINGS, ENTERED WITHIN REASONABLE HOURS.

52 The state fire marshal, ~~his~~ chief assistant, deputies, and *
53 subordinates, the chief of the fire department of each city
54 where a fire department is established, the mayor of a city
55 where no fire department exists, or the clerk of a town in
56 territory without the limits of a city, at all reasonable hours
57 may enter into all buildings and upon all premises within their
58 jurisdiction for the purpose of examination, after proper
59 consent from the occupant or owner or pursuant to an
60 administrative search warrant. If the examination occurs
61 subsequent to a fire, entry into a building or premise is
62 governed by section 299F.08.

299F#11S

63 299F.11 STRUCTURES REPAIRED OR DEMOLISHED.

64 Subdivision 1. The state fire marshal is hereby authorized
65 to petition the district court of any county for an order of
66 condemnation directing the destruction, repair, or alteration of
67 any building or structure located on land owned by, or on land
68 held in trust by, the state which is especially liable to fire
69 and dangerous to life and limb within the purview of the
70 provisions of section 299F.10. In case the petition is for an
71 order requiring repairs, the person authorized by law to make
72 the repairs and upon whom the order is served, shall make these
73 repairs as thereby directed and the order may direct that the

1 building or structure be closed and not further used or occupied
 2 until the repairs are made. Upon the filing of the petition
 3 with the district court wherein any such building or structure
 4 is located, the court shall make a temporary order directing the
 5 state fire marshal to serve a copy of the petition and a copy of
 6 the temporary order upon the commissioner of revenue and the
 7 county board of the county wherein the lands are situated; and,
 8 if the lands are situated in a city of the first class, then
 9 upon the assessor of this city of the first class, within such
 10 time as may be fixed by the court in its order. If, within 20
 11 days, no objections are filed to the petition by the parties so
 12 served, the court may require the state fire marshal to present
 13 sufficient proof to sustain the allegations set forth in his the *
 14 petition, and thereupon the court may or may not, as the case
 15 may require, make an order of condemnation and direct the state
 16 fire marshal to proceed with the destruction of the building or
 17 structure; but if objections are filed and a copy of the
 18 objections have been duly served upon the state fire marshal
 19 within 20 days of the service of the copy of the temporary order
 20 and copy of the petition hereinbefore referred to, the court
 21 upon application by the state fire marshal shall make its order
 22 fixing the time and place for hearing of the matter, which place
 23 may be at any convenient point, at any general or special term,
 24 or out of the term, or in chambers, within the judicial district
 25 where the lands are situated, and which time shall be within ten
 26 days from the date of the filing of the objections or as soon
 27 thereafter as may be. If upon the hearing the petition shall be
 28 sustained, the court shall issue an order of condemnation and
 29 fix the time within which the building or structure shall be
 30 destroyed, repaired, or altered in compliance with the order and
 31 that upon failure of the proper person or persons to comply with
 32 the order the state fire marshal shall proceed with the
 33 destruction thereof. If upon the hearing the petition of the
 34 state fire marshal is not sustained, the court shall deny the
 35 petition.

36 Subd. 2. In all cases where the order of the court has not
 37 been complied with and the state fire marshal is authorized to
 38 proceed with the demolition of any building or structure, the
 39 state fire marshal shall sell and dispose of the salvage
 40 materials therefrom at public auction upon three days posted
 41 notice and all expenses incurred by the state fire marshal shall
 42 be paid out of the moneys received from the auction of salvage
 43 material, and any deficit remaining unpaid thereafter may be
 44 paid out of the funds created by and provided for in section
 45 299F.21. Should any surplus remain of the amount received for
 46 salvage material, after deducting the expenses incurred by the
 47 state fire marshal, this surplus shall be paid to the treasurer
 48 of the county where the property was situated to be distributed
 49 by him the treasurer as provided by law. *

299F#12S

50 299F.12 EXITS OPENED, ORDER.

51 When the state fire marshal upon inspection shall find a
 52 building of such construction and use that the exits and means
 53 of egress already provided do not afford reasonably safe escape
 54 in case of fire for the number of people customarily within he *
 55 the state fire marshal may order such exits to be opened and *
 56 such means of escape to be provided as in-his-judgment are *
 57 judged reasonably necessary to eliminate the danger arising *
 58 therefrom.

299F#14S

59 299F.14 NOTICE, SERVICE.

60 A copy of the order filed in accordance with section
 61 299F.13, together with a written notice that the same has been
 62 so filed and will be put in force unless the owner or occupying
 63 tenant shall file with the clerk of the court his any objections *
 64 and answer thereto within the time specified in section 299F.15,
 65 shall be served upon the owner of the building or structure so
 66 directed to be altered, repaired, or demolished; and, if there
 67 be a tenant occupying the building, then also upon this
 68 occupant. Service shall be made upon the owner and occupying
 69 tenant, if there be one, personally, either within or without
 70 the state. It shall be deemed a personal service of the order
 71 and notice if the copy thereof be left at the house of the usual
 72 abode of the person to be served, with some person of suitable
 73 age and discretion then residing therein. If the whereabouts of
 74 the owner is unknown and the same cannot be ascertained by the

1 state fire marshal in the exercise of reasonable diligence,
 2 then, upon ~~his~~ the state fire marshal's filing in the office of
 3 the clerk of the district court ~~his~~ an affidavit to this effect,
 4 service of the notice upon the owner may be made by publishing
 5 the same once in each week for three successive weeks in a
 6 newspaper printed and published in the county in which the
 7 building or structure is located and by posting a copy thereof
 8 in a conspicuous place upon the building or structure, and the
 9 service so made shall be deemed to be complete upon the
 10 expiration of the publication period. Proof of service of the
 11 notice shall be filed in the office of the clerk of the district
 12 court not less than five days before the filing of a motion for
 13 an order affirming the state fire marshal's order of
 14 condemnation in case of default as provided for by section
 15 299F.15, or in case written objections are filed and served, not
 16 less than five days before the time fixed for the hearing
 17 provided for by section 299F.16.

299F#15S

18 299F.15 WRITTEN OBJECTIONS FILED BY OWNER.

19 The owner of any building or structure so condemned, or any
 20 occupying tenant upon whom the notice and order are served,
 21 within 20 days from the date of the service, as herein provided,
 22 may file with the clerk of the district court and serve upon the
 23 state fire marshal, either personally or by certified mail,
 24 written objections to the order in the form of an answer denying
 25 the existence of any of the facts therein recited which ~~he~~ the
 26 owner desires to controvert. If no answer is so filed and
 27 served, the owner and all other persons in interest shall be
 28 deemed to be in default and thereupon the court shall affirm the
 29 order of condemnation and direct the state fire marshal to
 30 proceed with the enforcement thereof; but, if an answer be filed
 31 and served, as herein provided, the court shall hear and
 32 determine the issues so raised and make its order as provided
 33 for by section 299F.16.

299F#17S

34 299F.17 FAILURE TO COMPLY WITH ORDER.

35 Subdivision 1. SALE OR DESTRUCTION OF BUILDING. If
 36 the owner or other party in interest shall fail to comply with
 37 the order of the state fire marshal within the time fixed
 38 thereby, or with such order as affirmed or modified by the
 39 court, within the time fixed by court, in case a trial is had as
 40 provided for in section 299F.16, the state fire marshal may
 41 proceed to cause the building or structure to be altered,
 42 repaired, or demolished in accordance with the directions
 43 contained in the order. Where a building or structure is
 44 demolished in accordance with the order the state fire marshal
 45 may sell and dispose of the salvage materials therefrom at
 46 public auction upon three days' posted notice. In lieu of
 47 demolishing the building or structure the state fire marshal may
 48 sell it at a public auction, upon the same notice, provided the
 49 purchaser signs a written agreement to demolish the building and
 50 remove the salvage within such time from the date of sale as the
 51 state fire marshal shall announce before the sale. In case any
 52 such purchaser shall fail to so demolish the building or
 53 structure and remove the salvage within the specified time, the
 54 sale to ~~him~~ the purchaser shall be void, and the purchase price
 55 paid ~~by him~~ shall be retained by the state fire marshal as
 56 liquidated damages for breach of the agreement. Any amount
 57 collected for the sale of salvage, or the building or structure,
 58 or as liquidated damages for breach of the agreement shall be
 59 deposited with the state treasurer and credited to the fund of
 60 the state fire marshal.

61 Subd. 2. STATEMENT OF MONEYS RECEIVED AND EXPENSES

62 INCURRED; SURPLUS TO OWNER. The state fire marshal shall
 63 keep an accurate account of the expenses incurred in carrying
 64 out the order and all other expenses theretofore incurred in
 65 connection with its enforcement, including specifically, but not
 66 exclusively, initial inspection fees incurred before the filing
 67 of the order of condemnation, including costs of photographs of
 68 building, filing fees, service fees, publication fees,
 69 appraisers' fees, witness fees, including expert witness fees,
 70 and traveling expenses incurred by the state fire marshal and
 71 ~~his~~ deputies from the time the order was originally made, and
 72 shall credit thereon the amount, if any, received from the sale
 73 of the salvage, or building or structure, or as liquidated
 74 damages for breach of the agreement, and shall report ~~his~~ the

1 action under the order, with a statement of moneys received and
2 expenses incurred to the court for approval and allowance.
3 Thereupon the court shall examine, correct, if necessary, and
4 allow the expense account and, if the amount received from the
5 sale of the salvage, or of the building or structure, or for
6 liquidated damages for breach of the agreement does not equal or
7 exceed the amount of expenses as allowed, the court shall by its
8 order certify the deficiency in the amount so allowed to the
9 county auditor for collection. The owner or other party in
10 interest shall pay the same within 30 days thereafter, with 25
11 percent penalty added thereon, and in default of payment the
12 auditor shall enter this expense on the tax lists of the county
13 as a special charge against the real estate on which the
14 building is or was situated and the same shall be collected in
15 the same manner as other taxes and the amount so collected,
16 including the penalty thereon, shall be paid into the state
17 treasury and credited to the fund of the state fire marshal.
18 When any real estate on which the building or structure is or
19 was situated forfeits to the state for taxes, this expense shall
20 be apportioned by the county auditor from the net proceeds of
21 the sale or rental of such forfeited land to the state treasury
22 to be credited to the fund of the state fire marshal in the same
23 manner as any other special assessment is apportioned as
24 provided in section 282.08, clause (2). If the amount received
25 for the sale of the salvage, or of the building or structure, or
26 for liquidated damages for breach of the agreement to remove the
27 building or structure exceeds the expense incurred by the state
28 fire marshal, as allowed by the court, and if there are no
29 delinquent taxes, the court shall direct the payment of the
30 surplus to the owner or the payment of the same into court for
31 his the owner's use and benefit. If there are delinquent taxes
32 against the property, the court shall direct the payment of the
33 surplus to the county treasurer to be applied on such taxes.
34 There is hereby appropriated to the persons entitled to
35 such surplus, from the fund in the state treasury to which the
36 money was credited, an amount sufficient to make the payment.

299F#22S

37 299F.22 EXAMINATION OF RETURNS; ASSESSMENT; RETURNS.

38 The commissioner of revenue shall, as soon as practicable
39 after a return required by section 299F.21 is filed, examine the
40 same and make any investigation or examination of the company's
41 records and accounts that he the commissioner deems necessary
42 for determining the correctness of the return. The tax computed
43 by him the commissioner on the basis of the examination and
44 investigation is the tax to be paid by the company. If the tax
45 found due is greater than the amount reported as due on the
46 company's return, the commissioner shall assess a tax in the
47 amount of the excess and the whole amount of the excess shall be
48 paid to the state treasurer within 60 days after notice of the
49 amount and demand for its payment is mailed to the company by
50 the commissioner. If the understatement of the tax on the
51 return was false and fraudulent with intent to evade the tax,
52 the installments of the tax shown by the company on its return
53 which are not paid shall be paid to the commissioner of revenue
54 within 60 days after notice of the amount thereof and demand for
55 payment is mailed to the company by the commissioner. If the
56 amount of the tax found due the commissioner is less than that
57 reported as due on the company's return, the excess shall be
58 refunded to the company in the manner provided by section
59 299F.26, except that no demand therefor is necessary, if they
60 have already paid the whole of the tax, or credited against any
61 unpaid installment thereof; provided, that no refundment shall
62 be made except as provided in section 299F.26, after the
63 expiration of three and one-half years after the filing of the
64 return.

65 If The commissioner examines, having examined returns of a
66 company for more than one year, he may issue one order covering
67 the several years under consideration reflecting the aggregate
68 refund or additional tax due.

69 The notices and demands provided for by sections 299F.22 to
70 299F.24 shall be in the form the commissioner determines,
71 including a statement, and shall contain a brief explanation of
72 the computation of the tax and shall be sent by mail to the
73 company at the address given in its return, if any, and if no
74 such address is given, then to the last known address.

299F#23S

1 299F.23 ASSESSMENT, FAILURE TO FILE RETURN; FALSE OR
2 FRAUDULENT RETURN FILED; PENALTIES.

3 Subdivision 1. FAILURE TO FILE; FALSE OR FRAUDULENT
4 RETURN. If any company required by section 299F.21 to file
5 any return fails to do so within the time prescribed or makes,
6 wilfully or otherwise, an incorrect, false, or fraudulent
7 return, it shall, on the written demand of the commissioner of
8 revenue, file the return, or corrected return, within 60 days
9 after the mailing of the written demand and at the same time pay
10 the whole tax, or additional tax, due on the basis thereof. If
11 the company fails within that time to file the return, or
12 corrected return, the commissioner shall make for it a return or
13 corrected return, from ~~his~~ the commissioner's own knowledge and
14 from the information ~~he-can-obtain~~ obtained through testimony,
15 or otherwise, and assess a tax on the basis thereof, which tax,
16 less any payments theretofore made on account of the tax for the
17 taxable year covered by the return, shall be paid within 60 days
18 after the commissioner has mailed to the company a written
19 notice of the amount thereof and demand for its payment. Any
20 return or assessment made by the commissioner on account of the
21 failure of the company to make a return, or a corrected return,
22 is prima facie correct and valid, and the company has the burden
23 of establishing its incorrectness or invalidity in any action or
24 proceeding in respect thereto.

25 No change for subd 2 to 4

299F#26S

26 299F.26 OVERPAYMENTS, CLAIMS FOR REFUND.

27 Subdivision 1. PROCEDURE, TIME LIMIT, APPROPRIATION.

28 A company which has paid, voluntarily or otherwise, or from
29 which there was collected an amount of tax for any year in
30 excess of the amount legally due for that year, may file with
31 the commissioner of revenue a claim for a refund of the excess.
32 Except as provided in subdivision 4, no claim or refund shall be
33 allowed or made after 3-1/2 years from the date prescribed for
34 filing the return (plus any extension of time granted for filing
35 the return but only if filed within the extended time) or after
36 two years from the date of overpayment, whichever period is
37 longer, unless before the expiration of the period a claim is
38 filed by the company. For this purpose a return or amended
39 return claiming an overpayment constitutes a claim for refund.

40 Upon the filing of a claim the commissioner shall examine
41 the same and shall make and file written findings thereon
42 denying or allowing the claim in whole or in part and shall mail
43 a notice thereof to the company at the address stated upon the
44 return. If such claim is allowed in whole or in part, the
45 commissioner shall issue ~~his~~ a certificate for the refundment of
46 the excess paid by the company, with interest at the rate
47 specified in section 270.76 computed from the date of the
48 payment of the tax until the date the refund is paid or the
49 credit is made to the company, and the commissioner of finance
50 shall cause the refund to be paid as other state moneys are
51 expended. So much of the proceeds of the taxes as is necessary
52 are appropriated for that purpose.

53 No change for subd 2 to 5

299F#28S

54 299F.28 RECORDS TO BE PUBLIC, EXCEPT IN CERTAIN CASES.

55 All records on file in the state fire marshal's office
56 shall be public, except any testimony, correspondence, or other
57 matter taken in an investigation under the provisions of this
58 chapter, which the state fire marshal ~~in-his-discretion~~ may
59 withhold from the public.

299F#29S

60 299F.29 COUNTY AND CITY ATTORNEYS TO ASSIST.

61 The county and city attorneys of any political subdivision,
62 upon request of the state fire marshal, ~~his~~ deputies or
63 assistants, shall assist such officers upon an investigation of
64 any fire, which in their opinion is of suspicious origin.

299F#30S

65 299F.30 FIRE DRILLS REQUIRED IN SCHOOLS; DOORS AND EXITS
66 TO BE KEPT OPEN.

67 Subdivision 1. It shall be the duty of the state fire
68 marshal, ~~his~~ deputies and assistants, to require public and
69 private schools and educational institutions to have at least
70 nine fire drills each school year and to keep all doors and
71 exits unlocked from the inside of the building during school
72 hours.

1 No change for subd 2 to 3

299F#36S

2 299F.36 FIRE EXTINGUISHERS.

3 No change for subd 1 to 2

4 Subd. 3. The state fire marshal, ~~his~~ chief assistant, *
5 deputies, and subordinates, the chief of the fire department of
6 each city or other subdivision of government where a fire
7 department is established, who finds in any building or upon any
8 premises any fire extinguisher containing any of the materials
9 listed in subdivision 1, or in dangerous or not in efficient
10 operating order, or does not conform to the standards described
11 in subdivision 2, shall order the extinguisher removed or
12 repaired. This order shall be in writing and directed generally
13 to the owner, lessee, agent or occupant of the building or
14 premises and shall allow a period of 15 days in which to make
15 required repairs or to remove the extinguisher, and any owner,
16 lessee, agent, or occupant who fails to comply therewith shall
17 be guilty of a misdemeanor, and the party issuing the order may
18 remove the fire extinguisher.

19 Subd. 4. It shall be the duty of the sheriff and ~~his~~ *
20 deputies in areas not served by a fire department to report the
21 existence of any extinguisher containing any of the materials
22 listed in subdivision 1, or any extinguisher not in an efficient
23 operating order, to the fire marshal, ~~his~~ chief deputy *
24 assistants, or subordinates when such extinguishers are found. *

25 No change for subd 5

299F#38S

26 299F.38 NO SMOKING SIGNS; POSTING.

27 The state fire marshal, ~~his~~ deputies, or assistants may *
28 prominently post "no smoking" signs wherever they deem public
29 safety requires. It shall be unlawful to violate the
30 prohibition of such a sign. Smoking shall include carrying a
31 lighted cigar, cigarette, pipe, or any other lighted smoking
32 equipment.

299F#40S

33 299F.40 LIQUEFIED PETROLEUM AND INDUSTRIAL GAS
34 CONTAINERS.

35 No change for subd 1 to 2

36 Subd. 3. CONTAINERS, IDENTIFYING DEVICES; UNLAWFUL
37 ACTS. If a liquefied petroleum or industrial gas container
38 shall bear upon the surface thereof in plainly legible
39 characters the name, mark, initials or other identifying device
40 of the owner thereof, it shall be unlawful for any person except *
41 the owner or a person authorized in writing by ~~him~~ the owner:
42 (a) To fill or refill such container with liquefied petroleum or
43 industrial gas or any other gas or compound;
44 (b) To buy, sell, offer for sale, give, take, loan, deliver
45 or permit to be delivered, or otherwise use, dispose of, or
46 traffic in any such container; or
47 (c) To deface, erase, obliterate, cover up or otherwise
48 remove or conceal or change any name, mark, initials or other
49 identifying device of the owner or to place the name, mark,
50 initials or other identifying device of any person other than
51 the owner on the container.

52 Subd. 4. PRESUMPTIVE EVIDENCE OF UNLAWFUL USE OF
53 CONTAINERS. The use of a liquefied petroleum or industrial
54 gas container or containers by any person other than the person
55 whose name, mark, initial or device shall be or shall have been
56 upon the liquefied petroleum or industrial gas container or
57 containers, without written consent or purchase of the marked
58 and distinguished liquefied petroleum or industrial gas
59 container, for the sale of liquefied petroleum or industrial gas
60 or filling or refilling with liquefied petroleum or industrial
61 gas, or the possession of liquefied petroleum or industrial gas
62 containers by any person other than the person ~~having-his~~ whose *
63 name, mark, initial or other device is thereon, without the *
64 written consent of the owner, shall and is hereby declared to be
65 presumptive evidence of the unlawful use, filling or refilling,
66 transition of, or trafficking in liquefied petroleum or
67 industrial gas containers.

68 Subd. 5. VIOLATIONS, SEARCH WARRANTS. Whenever any
69 person or officer of any corporation mentioned in this section,
70 or ~~his~~ the person's or officer's duly authorized agent who has *
71 personal knowledge of the facts, makes an oath in writing before
72 any judge, that the party making affidavit has reason to and
73 does believe that any of the person's or the corporation's

1 liquefied petroleum or industrial gas containers marked with the
 2 name, initials, mark or other device of the owner, are in the
 3 possession of or being used, filled, refilled, or transferred by
 4 any person whose name, initials, mark or other device does not
 5 appear on the containers, and who is in the possession of,
 6 filling or refilling, or using the containers without the
 7 written consent of the owner of the name, initials or trade
 8 mark, the judge may, when satisfied that there is reasonable
 9 cause, issue a search warrant and cause the premises designated
 10 to be searched for the purpose of discovering and obtaining the
 11 containers. The judge may also order the person in whose
 12 possession the containers are found to appear, and inquire into
 13 the circumstances of the possession. If the judge finds that
 14 the person has been guilty of a violation of this section, ~~he~~ *
 15 the judge shall impose the punishment prescribed, and award the *
 16 property taken upon the search warrant to its owner.

17 No change for subd 6

299F#454S

18 299F.454 REQUESTS FOR DEACTIVATION OF FIRE ALARM SYSTEMS.

19 Subdivision 1. The principal, headmaster, administrator,
 20 or supervisor of an educational facility experiencing repeated
 21 malicious false alarms may request approval for the deactivation
 22 of the fire alarm system only after ~~he has~~ having exhausted all *
 23 other means of stopping the malicious false alarms with the
 24 guidance of the local fire service personnel. Requests for
 25 approval to disconnect a fire alarm system shall be made in
 26 writing to the local fire chief or to the state fire marshal if
 27 not in a city of the first class. The request shall include the
 28 times, dates, and exact locations of the facilities where the
 29 malicious false alarms were initiated as well as all pertinent
 30 details regarding these incidents and the effect they have on
 31 the educational process of the facility.

32 No change for subd 2 to 6

299F#46S

33 299F.46 ENFORCEMENT.

34 Subdivision 1. (1) It shall be the duty of the
 35 commissioner of public safety to inspect, or cause to be
 36 inspected, at least once every three years, every hotel in this
 37 state; and, for that purpose, ~~he the commissioner,~~ or ~~any-of-his~~ *
 38 the commissioner's deputies, or designated alternates or agents *
 39 shall have the right to enter or have access thereto at any
 40 reasonable hour; and, when, upon such inspection, it shall be
 41 found that the hotel so inspected does not conform to or is not
 42 being operated in accordance with the provisions of sections
 43 157.01 to 157.14, in so far as the same relate to fire
 44 prevention or fire protection of hotels, or the rules
 45 promulgated thereunder, or is being maintained or operated in
 46 such manner as to violate the uniform fire code promulgated
 47 pursuant to section 299F.011 or any other law of this state
 48 relating to fire prevention and fire protection of hotels, the
 49 commissioner and ~~his~~ the deputies or designated alternates or *
 50 agents shall report such a situation to the hotel inspector who
 51 shall proceed as provided for in sections 157.01 to 157.14.

52 (2) The word "hotel", as used in this subdivision, has the
 53 meaning given in section 299F.391.

54 No change for subd 2

299F#57S

55 299F.57 MINIMUM SAFETY STANDARDS.

56 No change for subd 1 to 3

57 Subd. 4. ~~Whenever~~ The state fire marshal ~~shall find,~~ on *
 58 finding a particular facility to be hazardous to life or *
 59 property, ~~he~~ shall be empowered to require the person operating *
 60 such facility to take such steps necessary to remove such
 61 hazards.

62 Subd. 5. Upon application by any person engaged in the
 63 transportation of gas or the operation of pipeline facilities,
 64 the state fire marshal may, after notice and opportunity for
 65 hearing and under such terms and conditions and to such extent
 66 as ~~he the state fire marshal~~ deems appropriate, waive in whole *
 67 or in part compliance with any standards established under *
 68 sections 299F.56 to 299F.64, if-he-determines on determining *
 69 that a waiver of compliance with such standard is not
 70 inconsistent with gas pipeline safety. The state fire marshal
 71 shall state ~~his~~ the reasons for any such waiver. *

299F#61S

72 299F.61 INJUNCTIVE RELIEF.

1 Subdivision 1. The district courts of the state of
 2 Minnesota shall have jurisdiction, subject to the provisions of
 3 the statutes and the rules of practice and procedure of the
 4 state of Minnesota relative to civil actions in the district
 5 courts, to restrain violations of sections 299F.56 to 299F.64,
 6 including the restraint of transportation of gas or the
 7 operation of a pipeline facility, or to enforce standards
 8 established hereunder upon petition by the attorney general on
 9 behalf of the state of Minnesota. Whenever practicable, the
 10 state fire marshal shall give notice to any person against whom
 11 an action for injunctive relief is contemplated and afford him
 12 the person an opportunity to present his views, and, except in
 13 the case of a knowing and willful violation, shall afford him
 14 the person reasonable opportunity to achieve compliance.
 15 However, the failure to give such notice and afford such
 16 opportunity shall not preclude the granting of appropriate
 17 relief.

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18 No change for subd 2
 19 299F#62S

20 299F.62 PLAN FOR INSPECTION AND MAINTENANCE.
 21 Each person who engages in the transportation of gas or who
 22 owns or operates pipeline facilities subject to sections 299F.56
 23 to 299F.64 shall file with the state fire marshal a plan for
 24 inspection and maintenance of each such pipeline facility owned
 25 or operated by such person, and any changes in such plan, in
 26 accordance with the regulations prescribed by the state fire
 27 marshal. ~~If the state fire marshal finds~~ On finding that such
 28 plan is inadequate to achieve safe operation, ~~he~~ the state fire
 29 marshal shall, after notice and opportunity for a hearing,
 30 require such plan to be revised. The plan required by the state
 31 fire marshal shall be practicable and designed to meet the need
 32 for pipeline safety. In determining the adequacy of any such
 33 plan, the state fire marshal shall consider the following:

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*
*

- 34 (a) relevant available pipeline safety data;
- 35 (b) whether the plan is appropriate for the particular type
- 36 of pipeline transportation;
- 37 (c) the reasonableness of the plan; and
- 38 (d) the extent to which such plan will contribute to public

39 299F#63S

40 299F.63 RECORDS AND REPORTS; INSPECTIONS; TRADE SECRETS.
 41 Subdivision 1. Each person who engages in the
 42 transportation of gas or who owns or operates pipeline
 43 facilities shall establish and maintain such records, make such
 44 reports, and provide such information as the state fire marshal
 45 may reasonably require to ~~enable him to~~ determine whether such
 46 person has acted or is acting in compliance with sections
 47 299F.56 to 299F.64 and the standards established under sections
 48 299F.56 to 299F.64. Each such person shall, upon request of an
 49 officer, employee, or agent authorized by the state fire
 50 marshal, permit such officer, employee, or agent to inspect
 51 books, papers, records and documents relevant to determining
 52 whether such person has acted or is acting in compliance with
 53 sections 299F.56 to 299F.64 and the standards established
 54 pursuant to sections 299F.56 to 299F.64. For purposes of
 55 enforcement of sections 299F.56 to 299F.64, officers, employees,
 56 or agents authorized by the state fire marshal, upon presenting
 57 appropriate credentials to the individual in charge, are
 58 authorized to enter upon, at reasonable times, pipeline
 59 facilities, and to inspect, at reasonable times and within
 60 reasonable limits and in a reasonable manner, such facilities.
 61 Each such inspection shall be commenced and completed with
 62 reasonable promptness.

*

63 Subd. 2. In the course of the exercise of his duties and
 64 responsibilities under sections 299F.56 to 299F.64, the state
 65 fire marshal shall wherever practicable employ a practice of
 66 spot checking and issuance of certificates of compliance, with
 67 respect to persons subject to sections 299F.56 to 299F.64, to
 68 limit costs of enforcement of the safety standards established
 69 pursuant to sections 299F.56 to 299F.64.

*

70 Subd. 3. All information reported to or otherwise obtained
 71 by the state fire marshal or his a representative, which
 72 contains or relates to a trade secret, as referred to in section
 73 1905 of title 18 of the United States Code, or otherwise
 74 constitutes a trade secret under law, shall be considered
 confidential for the purpose of such laws, except that such

*

1 information may be disclosed to other officers or employees
2 concerned with carrying out sections 299F.56 to 299F.64 or when
3 relevant in any proceeding under sections 299F.56 to 299F.64.

4 No change for subd 4

299F#73S

5 299F.73 LICENSE REQUIRED.

6 No change for subd 1

7 Subd. 2. In order to obtain the license herein required
8 such person shall make application to the commissioner of public
9 safety. The application shall be on forms provided by the
10 commissioner of public safety and shall require such information
11 as ~~he~~ the commissioner deems necessary including but not limited *
12 to the name, address, age, experience and knowledge of the
13 applicant in the use, handling, and storage of explosives and
14 explosive devices, and whether the applicant is a person to whom
15 no such license may be issued pursuant to section 299F.77. The
16 commissioner of public safety may refuse to issue a license to
17 any person who does not have sufficient knowledge of the use,
18 handling, or storage of explosives to protect the public
19 safety. Any person aggrieved by the denial of a license may
20 request a hearing before the commissioner of public safety. The
21 provisions of sections 14.57 to 14.70 shall apply to such
22 hearing and subsequent proceedings, if any.

299F#74S

23 299F.74 PERMIT REQUIRED.

24 No person shall ~~have-in-his-possession~~ possess explosives, *
25 unless said person shall have obtained a valid license as
26 provided in section 299F.73, or unless said person shall have
27 obtained a valid permit for the use of explosives as hereinafter
28 provided. The transportation of an explosive by a common
29 carrier for hire shall not be deemed to be possession of an
30 explosive for purposes of this section.

299F#76S

31 299F.76 AFFIRMATION.

32 Subdivision 1. A license or an explosives use permit shall
33 have printed thereon a statement underlined that the applicant
34 affirms under penalty of perjury that the information provided
35 thereon is true to the best of ~~his~~ the applicant's knowledge and *
36 belief. No license or permit shall be issued unless the
37 applicant signs the application.

38 No change for subd 2

299F#77S

39 299F.77 ISSUANCE OF A LICENSE OR PERMIT TO CERTAIN
40 PERSONS PROHIBITED.

41 The following persons shall not be entitled to receive an
42 explosives license or permit:

43 (a) Any person who within the past five years has been
44 convicted of a felony or gross misdemeanor involving moral
45 turpitude, is on parole or probation therefor, or is currently
46 under indictment for any such crime;

47 (b) Any person with mental illness or mental retardation as
48 defined in section 253A.02 who has been confined or committed in
49 Minnesota or elsewhere for mental illness or mental retardation
50 to any hospital, mental institution or sanitarium, or who has
51 been certified by a medical doctor as being mentally ill or
52 mentally retarded, unless ~~he-possesses~~ in possession of a *
53 certificate of a medical doctor or psychiatrist licensed to
54 practice in this state, or other satisfactory proof, that ~~he~~ the *
55 person no longer has this disability; *

56 (c) Any person who is or has been hospitalized or committed
57 for treatment for the habitual use of a narcotic drug, as
58 defined in section 152.01, subdivision 10 or a controlled
59 substance, as defined in section 152.01, subdivision 4, or who
60 has been certified by a medical doctor as being addicted to
61 narcotic drugs or depressant or stimulant drugs, unless ~~he~~ *
62 possesses in possession of a certificate of a medical doctor or *
63 psychiatrist licensed to practice in this state, or other *
64 satisfactory proof, that ~~he~~ the person no longer has this *
65 disability;

66 (d) Any person who by reason of the habitual and excessive
67 use of intoxicating liquors is incapable of ~~managing-himself~~ *
68 self-management or ~~his~~ management of personal affairs and who *
69 has been confined or committed to any hospital, or treatment *
70 facility in this state or elsewhere as a "chemically dependent
71 person" as defined in section 253B.02, or who has been certified
72 by a medical doctor as being addicted to alcohol, unless ~~he~~ *

1 possesses in possession of a certificate of a medical doctor or *
 2 psychiatrist licensed to practice in this state, or other
 3 satisfactory proof, that ~~he~~ the person no longer has this *
 4 disability;

5 (e) Any person under the age of 18 years.

299F#78S

6 299F.78 TRANSFER.

7 No change for subd 1

8 Subd. 2. No person shall purchase more than five pounds of
 9 black powder without providing suitable identification and such
 10 other information as the commissioner may require. The records
 11 shall be submitted to the local fire marshal designated in
 12 section 299F.19, subdivision 4 at such times as the commissioner
 13 may by rule prescribe and such records shall be open to the
 14 inspection of any peace officer acting in the normal course of
 15 ~~his~~ duties as such. *

299F#79S

16 299F.79 POSSESSION WITH INTENT.

17 Whoever ~~has-in-his-possession~~ possesses one or more of the *
 18 components necessary to manufacture or assemble explosives, with
 19 the intent to manufacture or assemble explosives, unless said
 20 person shall have a valid license or permit as provided by
 21 sections 299F.73 and 299F.75 may be sentenced to imprisonment
 22 for not more than five years.

299F#80S

23 299F.80 POSSESSION WITHOUT A PERMIT.

24 Subdivision 1. Except as provided in subdivision 2,
 25 whoever ~~has-in-his-possession~~ possesses explosives without a *
 26 valid license or permit may be sentenced to imprisonment for not
 27 more than three years.

28 Subd. 2. Whoever ~~has-in-his-possession,~~ possesses dynamite *
 29 or other explosives commonly used for agricultural, forestry,
 30 conservation, industry or mining purposes, without a valid
 31 license or permit, with intent to use the same for legitimate
 32 agricultural, forestry, conservation, industry or mining
 33 purposes, and in only such quantities as are reasonably
 34 necessary for such intended use, may be sentenced to
 35 imprisonment for not more than 90 days or to a payment of a fine
 36 of not more than \$300 or both.

299G#16S

37 299G.16 EMPLOYEES NOT COVERED.

38 No liability shall be created under sections 299G.13 to *
 39 299G.15 as to ~~workmen~~ workers who are employees of a material
 40 supplier, contractor, subcontractor, or other employer
 41 responsible for compliance with the provisions herein.

299H#22S

42 299H.22 LICENSES; MOVING PICTURES.

43 No change for subd 1

44 Subd. 2. Upon receipt of the application, the state fire
 45 marshal shall make ~~such any necessary~~ investigation ~~as he shall~~
 46 ~~deem necessary and shall grant a.~~ The license must be granted
 47 to the applicant unless it appears to him the state fire marshal
 48 that the applicable provisions of sections 299H.211 to 299H.27
 49 are being violated or are about to be violated. The license thus
 50 granted shall not be transferable to any other building, room,
 51 or place than that stated in the license. The state fire
 52 marshal, in-his-discretion-and-under-such has discretionary
 53 authority to grant and to prescribe regulations and
 54 conditions as he may prescribe therefor, may grant for granting
 55 a permit for the exhibition of moving pictures in an unlicensed
 56 building, and without a formal license therefor, for not more
 57 than seven consecutive days. These exhibitions are to be given
 58 solely for religious, benevolent, educational, or scientific
 59 purposes. No license shall be granted except after examination
 60 by the state fire marshal, or his the state fire marshal's
 61 authorized deputy or agent; provided, that the state fire
 62 marshal may issue a temporary license upon the verified
 63 application herein provided for, which shall be good until
 64 revoked for cause or until a permanent license is substituted
 65 therefor. There shall be deducted from the fee for the
 66 permanent license a part thereof proportionate to the unexpired
 67 portion of the year for which the temporary license was
 68 granted. All public exhibitions of moving pictures in any
 69 place, except a building or open-air drive-in theater, shall be
 70 subject to such rules, conditions, and regulations, in addition
 71 to those provided by law with reference to the safety of the

1 public, as the fire marshal may deem necessary. Any person,
 2 firm, or corporation giving public exhibitions of moving
 3 pictures in any place, except a building or open-air drive-in
 4 theater, shall be classified as itinerant moving picture
 5 exhibitors. No such person, firm, or corporation shall give any
 6 such public moving picture exhibition at any place, except under
 7 a permit from the state fire marshal authorizing the exhibition,
 8 and after the person, firm, or corporation has made and executed
 9 a bond of indemnity to the state in such sum as the fire marshal
 10 may approve, conditioned to pay any and all liability for
 11 damages ensuing through the negligence of the exhibitor. The
 12 fee for each such permit shall be \$5. No licenses or bond shall
 13 be required or necessary to operate a moving picture machine or
 14 to exhibit moving pictures by any firm, person, association, or
 15 corporation in any statutory city having a population of less
 16 than 700 where no admission charge is made therefor and where
 17 there is no licensed moving picture business.

18 No change for subd 3

299H#23S

19 299H.23 INSPECTION.

20 The state fire marshal, or ~~his~~ a deputy under ~~his~~ the
 21 direction of the state fire marshal, may enter any moving
 22 picture theatre or show or place where moving pictures are being
 23 exhibited at any reasonable time for the purpose of determining
 24 whether the provisions of sections 299H.211 to 299H.27 are being
 25 complied with. ~~If he shall find~~ Upon finding that any
 26 provisions thereof are being violated, ~~he~~ the state fire marshal
 27 shall notify the licensee, in writing, stating wherein the
 28 licensee is at fault; and, if the violations continue beyond a
 29 time within which the violations can be reasonably corrected, ~~he~~
 30 shall cause the license to be revoked and canceled.

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299H#24S

31 299H.24 COUNTY ATTORNEY TO PROSECUTE.

32 ~~When the state fire marshal shall find~~ Upon finding a
 33 moving picture show which is being operated without a license ~~he~~
 34 the state fire marshal shall communicate that fact, together
 35 with any evidence ~~he may have~~, possessed to the county attorney
 36 of the county in which the moving picture show is located and it
 37 shall thereupon be the duty of this attorney to cause the arrest
 38 and prosecution of the offender.

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299I#02S

39 299I.02 DRY CLEANING, DRY DYEING BUSINESS, OPERATION,
40 LICENSES.

41 No person shall:

- 42 a. Advertise as conducting dry cleaning or dry dyeing
43 business, or either, until such person shall have made
44 application to the state fire marshal for permission to engage
45 in such business and paid the fee hereinafter provided.
- 46 b. Operate any establishment of a class for which a
47 license has not been obtained or use in any establishment except
48 as herein provided, a solvent utilized in establishments of any
49 lower class than that for which license has been obtained.
- 50 c. Keep or store any flammable liquids in any building or
51 room in which dry cleaning or dry dyeing is done without a
52 license from the state fire marshal and then only subject to
53 rules and regulations prescribed by ~~him~~ the state fire marshal.

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299I#03S

54 299I.03 BUILDING, APPROVAL OF USE.

55 No building or establishment shall be used for the business
 56 of dry cleaning or dry dyeing, or for the storage of inflammable
 57 or volatile substances for use in such business until an
 58 application for permission to do so shall have been filled out
 59 and approved by the state fire marshal on blanks provided ~~by him~~
 60 for that purpose by the state fire marshal.

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299I#05S

61 299I.05 INSPECTION, PERMITS.

62 When any application is filed with the state fire marshal
 63 and the fee paid, the state fire marshal, ~~by himself, his~~ or the
 64 state fire marshal's deputies or assistants, shall make an
 65 inspection of such building, buildings, or establishments; and,
 66 if the same conform to the requirements of law, the ordinances
 67 of the municipality where located, and the rules which may be
 68 prescribed by the state fire marshal for such places, ~~he~~ shall
 69 issue a permit to the applicant for the conduct of such
 70 business, which permit shall extend until the first day of
 71 January next after the date of issuing of same.

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299I#07S

1 299I.07 PERMITS, SHOWN UPON REQUEST.

2 All permits must be exhibited for inspection to the state
3 fire marshal, or any of ~~his~~ the state fire marshal's deputies or *
4 assistants when the same are requested; and no one, except the
5 person to whom the same are issued, shall have a right to
6 operate a business or establishment under any permit.

299I#23S

7 299I.23 ENFORCEMENT.

8 Subdivision 1. ~~It shall be the duty of~~ The state fire *
9 marshal, ~~his~~ or the state fire marshal's deputies and assistants *
10 ~~to shall~~ enforce the provisions of this chapter, ~~and he.~~ The *
11 state fire marshal shall have the same power and authority as *
12 under the provisions of chapters 299F to 299I.

13 No change for subd 2 to 3

299I#24S

14 299I.24 MONEY COLLECTED PAID INTO GENERAL FUND.

15 All fees, penalties or forfeitures collected by the state
16 fire marshal, ~~his~~ or the state fire marshal's deputies or *
17 assistants under the provisions of this chapter, shall be paid
18 into the state treasury, credited to the general fund.