

TERRA INCOGNITA: AN EXPLORATION OF
THE MINNESOTA LEGISLATIVE STAFF SYSTEM
AND RECOMMENDATIONS FOR REFORM

by

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If you're a public servant,
there is an obvious risk in
publicly saying something
your political superiors might
take offense with. But you can't
wait until you're safely retired
to speak up. If you've got something
you feel you need to say, you'd better
risk it and say something now. It
will be too late when you're going
down, clutching your heart, to say
"I've got something important to say
before I go."

Tony Bouza
Minneapolis Chief of Police
to a class of MAPA students
April 23, 1986

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INTRODUCTION

This problem analysis is a study of the staff of the Minnesota Legislature. Its methodology is different from that usually encountered in a graduate thesis. It is not original research. Rather, it applies known principles to an area to which the principles have not previously been applied. It also makes use of direct observation of the Minnesota Legislature and argument from the known principles and observations. The differences are appropriate because this study is, technically, not a thesis but a problem analysis. Clarification is needed regarding the method.

There is, of course, extensive research and literature on management. There is also extensive research and literature on legislatures, a part of which concerns legislative staff. So, rather than providing original research into either management or legislatures, this paper synthesizes something new from the existing knowledge in the two disparate areas. The main title to the problem analysis, *Terra Incognita*, is derived from the ancient mapmakers' indication of unexplored lands. In this case, the legislature is largely unexplored land for the application of known public management principles.

This problem analysis also makes use of my own observations and conclusions drawn from those observations. The technique is not common but not unknown in academic studies. The best known scholar on state legislatures, Dr. Alan Rosenthal, relies extensively on the results of his wide-ranging contacts with legislators and staff in drawing conclusions about the legislative institution. His book *Legislative Life*¹ is the pre-eminent text. My feeling is that it is also the most accurate. Another author, J. McIver Weatherford, in his *Tribes on the Hill*² takes an anthropological approach in his study of Congress after several years of service on Capitol Hill. Again, based on my experience, his book has the ring of authenticity. It might be argued that a graduate student is not entitled to make observations or conclusions as do such recognized

experts as Rosenthal and Reynolds. However, I also have fourteen years of staff experience in two different legislatures and am familiar with many others through personal contact with staff from those legislatures. My paper, therefore, uses my experience, beyond that of the usual graduate student, to make observations and draw conclusions. The observations often involve what one legislator or a group of legislators said or did. I never attribute statements or actions observed. This is necessary to keep legitimate confidences of the legislators.

This problem analysis also makes extensive use of several standard sources. The literature on the politics/administration dichotomy in government beginning with Woodrow Wilson's well-known essay "The Study of Public Administration"³ is used to analyze the problems of political management and nonpartisan administration. Graham and Hays' *Managing the Public Organization*⁴ provides references on public administration. Davis and Lawrence's *Matrix*⁵ provides much of the specific analysis on matrix organization. The Citizens Conference on State Legislatures' *The Sometime Governments*⁶ provides the specific analysis of legislative needs.

This problem analysis also refers, where appropriate, to statutory and case law as well as existing legislative rules and legislative custom governing staffing in the Minnesota Legislature. It also makes use of argument, based on the synthesized literature and observed facts, as to the best course of action for the legislature now.

A particular warning to the reader is also appropriate. As indicated earlier, I have fourteen years of legislative experience. While this may justify my observations, a reader might also question the impartiality of my conclusions. In response, I can only assert that I have attempted to set aside any predispositions based on my experience. In judging whether I have been successful, the reader may wish to note that the recommendations do not include the survival and growth of the office that the author has headed for the last ten years but, rather, its abolition. Furthermore, the recommendations include the augmentation in size and influence of partisan staff that the author has never served in. Those recommendations should give adequate evidence that independent judgment was exercised. Nevertheless, a reader may wish to keep the author's background in mind and reserve judgment on the independence of the author's judgment until the conclusion of the problem analysis.

CHAPTER ONE

THE PROBLEM: THE NEED TO FIND A BETTER WAY TO STAFF THE MINNESOTA LEGISLATURE

As a public administration problem, the staffing of the Legislature has been ignored. For legislative staff themselves, legislative staff management is a little like the weather: They talk (privately) about how bad it is but nobody does anything about it. Legislators are not concerned with staff matters except when staff matters intersect with partisan considerations or when there is a crisis. To those outside the legislature, the size and complexity of the legislature's staff are unknown, and its workings are mysterious.

Even study groups directly concerned with the Legislature give staffing short shrift. Three recent studies of the Minnesota Legislature's staff exemplify the difficulty.

The Humphrey Institute is in the midst of a comprehensive project to evaluate the Minnesota Legislature.¹ The project involves many studies of the Legislature,¹ and was originally to include one of staffing. Work was started on that study but was later abandoned.² It now appears that the project will be completed without a study of staffing.

The Citizen's League recently studied the Minnesota Legislature. The study was broad-based, touching only lightly on the issue of staffing.³

The Legislative Coordinating Commission directed a study of fringe benefits for legislative staff.⁴ The study was to consider the possible use of a flexible benefits plan for legislative staff. After a few study committee meetings, a gap of several years and a few more meetings, the committee ceased meeting without completing the study and without making any recommendations.⁵

The indifference to legislative staffing is reinforced by the broader problem that the study of public administration is not really concerned with public administration in the legislative branch of government. Literature and research on public administration focus primarily on the administration of the executive branch, probably because the executive branch is the largest and most visible of the three branches. Work that has been done on the legislative branch is usually descriptive and provides little evaluation and no prescriptions for change. As a consequence, a manager trying to find a workable system for legislative staff management has many alternatives but few recommendations.

Something surely needs to be done to begin to fill the void.

First, the size of the legislature's staff is huge. Reports of the size of the legislature's staff apparently include only the *permanent* staff of the Senate and House. Not included are: temporary and seasonal staff of the Senate and House; all joint staff; all staff of legislative commissions; the employees of the Legislative Auditor that are classified in the civil service system; unpaid staff (interns and others); executive branch staff that are fully controlled by legislators; and executive branch staff who perform services directly for the Legislature. As shown in appendix A, the staff of the Minnesota Legislature consists of over 1000 people. With that size, it cannot be run effectively without careful thought.

Second, the Legislature's staff is complex. There are probably 100 different jobs spread among the 1000 people.⁶ They range from janitors, to electricians, to secretaries, to attorneys, to Ph.D.-level researchers, to executive managers. The heterogeneous nature of the staff means that the peculiarities of different kinds of job types must be dealt with. The difficulty of doing this cannot be minimized.

Third, the environment of the legislature is unlike anything in the private sector or elsewhere in the public sector. Management experts on the private sector periodically mention the need to appreciate the political nature of management activities.⁷ Management experts on the public (executive) sector mention the need to appreciate the effect of politics on activities.⁸ In the legislature, politics is the *sine qua non* of activity. In the end, management activities always have to have a political consideration.

Fourth, it is again time to consider reform in the

legislature. This time it is the legislature's staff to be reformed. Minnesota's legislative staff grew rapidly in the 1970s. Many legislatures' staffs did the same then. It was done in response to the call that the legislature should assume its rightful position as the policy maker for the state and not just be the lackey for the governor or special interests. In the 1980s, the expansion has slowed, but the diversification in staffing has not. Growth and diversification have occurred to the extent that it is time to do some pruning and shaping. In one sense, "reform" is not an accurate term to use regarding the staff. Since the staff was never formed to begin with, it is proposed here that, for the first time, it be formed as a whole.

This study is intended to be a systematic study of staff management in the Minnesota Legislature. More specifically, it is intended to be: (1) a statement that the legislative staff system can be changed to better perform its governmental and political role; (2) a description to outsiders of the inner workings of the legislative staff system; and (3) advice to public administration scholars and professionals about important differences in managing in the executive and legislative branches of government.

Other studies about legislative staffing are available. The best known are Simon's *A Legislator's Guide to Legislative Staffing*⁹ and *A Legislator's Guide to Personnel Management*.¹⁰ These studies are descriptive and specifically disclaim any intent of being evaluative or prescriptive.¹¹ The problem created by this type of study is that it creates the impression that all staff organization systems are equal. A reader of these studies might think that he or she is reading a menu and could select whichever system seemed to look good. But all choices are not equal, and the choice of different staff systems does have substantial consequences. I maintain that descriptive studies provide useful information but reliance should not be placed on them for decision making.

This study is not descriptive. It is intended to determine what I think would work best for the Minnesota Legislature. "Best," in this case, means a staff system that supports both the legislature's governmental and political roles and does so comprehensively, with maximum economy, and within constitutional limitations. Specific recommendations are made on what is necessary to reform the system.

CHAPTER TWO

A HISTORY OF STAFFING THE MINNESOTA LEGISLATURE¹

Introduction

The Minnesota Legislature was not staffed when the state was admitted to the union in 1858. In fact, it is only for the last fifty-one years that staffing, in any real sense, has existed. Only for the past sixteen years has the staffing been significant.

The history of staffing the Minnesota Legislature can be divided into three periods. The first period is the time before 1937. During this time staff consisted of only session-only clerical and service people. The second period is from 1937 to November 7, 1972. During this time, the legislature first began adding professional staff. The third period is the time since November 7, 1972. This time was characterized by the rapid growth in numbers and diversification in types of staff. Considered separately will be the history of some special legislative staff groups and some other matters that have shaped the legislature's staff.

The Early Years: 1849 to 1937

In territorial and early statehood days, legislative staff consisted of the secretary of the Senate, the chief clerk of the House, an assistant to the secretary, an assistant to the chief clerk, and a sergeant-at-arms, a messenger, a fireman, and a printer in each body.

In the 1870's, an engrossing clerk, an enrolling clerk, and an assistant sergeant-at-arms first appeared in the Senate and the House.

In 1889, the first committee clerks appeared. The committee clerks assisted committee chairs in arranging the

details of committee meetings and on other committee business. The positions were not professional but more clerical in nature.²

Around the turn of the century, many more pages, doorkeepers, and sergeants were added. About the same time, clerical help in the form of "stenographers" appeared. Through the early 1960's, the increase in total staff numbers was due mostly to increases in the numbers of pages, doorkeepers, sergeants, and stenographers.

The staff in this entire period were employed only as long as the legislature was in session. When the session ended, all legislative furniture and records were piled into rooms near the chambers, furniture borrowed from the executive branch was returned, legislative rooms were locked, and the legislators and staff went home for 18 to 20 months taking the keys with them. While they were gone, the government effectively had only two branches: the executive and the judicial.

Since the early 1900's, the post-audit function was performed by the public examiner, who was an officer of the executive branch.³ Only in recent times has it been recognized as a legislative function.

The Middle Years: 1937 to 1972

Bill Drafters Are First Professional Staff. Drafting of bills for the legislature had been done on a catch-as-catch-can basis in the legislature's early history. Individual state departments, the attorney general, lobbyists, and law firms often provided drafts. In 1937 the House added a staff member called a "Chief of Legal Bureau" who provided some professional assistance in drafting.⁴ The Senate had a position of "attorney" in 1945 "for drafting bills for members."⁵ These were seasonal positions. The positions were the first professional staff employed by the legislature. It started a trend that was to grow slowly over the next 33 years.

The Crisis in Publishing the State's Laws. Compilation of laws is a legislative function because the laws are the legislature's work product. The publication of compiled laws in Minnesota has had a checkered history.⁶ At various times in its history, the state had engaged in the bulk revision of the state's laws - so called because the entire bulk of the state's laws was updated at one time. Usually, a temporary commission was appointed that, over a period of a few years, completely rewrote or reorganized the state's laws. The legislature then enacted the compilation or otherwise gave it official status.

During the same period, various private publishers also tried to publish sets of compiled statutes. One of these was *Mason's Minnesota Statutes*,⁷ which was first published in 1927. This publication was poorly conceived because the numbering system allowed no room for expansion. To permit the insertion of new text, upper and lower case letters, multiple letters, hyphenation and, finally, fractions were used. The set went downhill from there. Cumulative supplements were first published, then non-cumulative supplements, and, finally, pocket parts to the original set and supplements. By the end of the 1930's someone wanting to find a particular provision of Minnesota law had to look in as many as five different places and use a clumsy numbering system. In 1939, the legislature created, by law, the revisor of statutes to provide a usable compilation of the laws and to maintain it by continuous revision.⁸ The switch from bulk to continuous revision represented an important policy change by the legislature in how its statutes were to be maintained.

The involvement of the government in the publication of state laws was not a new idea. Some states did it from their founding. Minnesota's publication of its own laws was late coming. *Mason's Minnesota Statutes* continued to be published until 1946. While the subsidized state publication undoubtedly had a role in driving *Mason's* out of business, the appearance of West Publishing Company's *Minnesota Statutes Annotated*⁹ in 1946 also played a role. The West publication also affected the state publication. The revisor had published a volume of annotations in 1947 and 1953 and then ceased publishing them.

Despite the fact that the revisor was working on the legislature's work product, the revisor's office was established under the Supreme Court in the state's judicial branch.¹⁰ This was due to the circumstances of its creation, which was in response to complaints by the bench and bar about the quality of statutory publication. Because the courts had complained, the courts were told to supervise the new office. Also, since the legislature only met every two years and the legislators didn't want the office's staff around with no one to supervise them while they were out of town, the courts seemed to be the logical place to locate an office dealing with publishing the law. Despite more legislative functions being added in succeeding years, the revisor remained technically in the judicial branch until quite late in its history.¹¹

Legislative Research Commission Created. In 1947, the Legislature created, by law, the Legislative Research Committee.¹² This committee is often listed as one of the bodies modeled after the Legislative Council first created

in Kansas in 1933 and adopted by some thirty states by the mid-1960's.¹³ However, the Minnesota commission had only some of the powers of the Kansas Legislative Council and never developed the span of activities of the Kansas body. The Kansas Legislative Council was *itself* charged to "collect information..., examine the effects...of laws, deal with important wide interests, and to prepare a legislative program."¹⁴ The Minnesota commission was to "gather information and provide material to be used by the Legislature in its work while in session."¹⁵ The prime vehicle for doing this was to be the creation of interim committees. Standing committees of the legislature did not then operate during the legislative interim. The commission was authorized to appoint a director and to hire other employees. The staff of the LRC were specifically charged to "neither oppose nor urge legislation" and were legislative employees "in the unclassified service of the state."¹⁶ While the creation of the Kansas Legislative Council led to the hiring of significant staff to support the Council, in Minnesota only a director and two other researchers were hired. The researchers were usually law students working for the LRC while going to law school at night. Over time, the Kansas Legislative Council developed a strong central staff and augmented powers. The Minnesota commission did not.

Drafting Duties Imposed on Revisor. In 1947, the revisor of statutes was charged by law with providing drafting services for bills in the legislature.¹⁷ Despite the new statutory mandate to another office, the House kept its Legal Bureau, first created in 1937, through the 1951 session and the Senate attorney position, first created in 1945, didn't disappear until the 1949 session.¹⁸ The pattern of the creation of a staff group that duplicates and then slowly supplants the services of an older staff group will reoccur frequently in the history of the legislature's staff.

The revisor was now unarguably working for the legislature, but the office was still subject to the nominal control of the Supreme Court. In fact, the Supreme Court paid little attention to the operation of the office.

Staffing Expands in Mid-1950s. By the early 1950's, Senate and House staff still had just a small number of people. The people were still usually clerical and technical assistance. By rule, the staff was only allowed to be paid for work on 20 days before the session and 20 days after the session. The staff was 100 percent patronage. That is, to work for the legislature, an employee had to have a sponsor from the majority party. It was typical for a staff member to drive to the legislature with his or her sponsor on Monday morning and return when

the legislator returned home on Thursday afternoon. If an applicant had no sponsor or was from the minority party, the applicant could not get a job. Sometimes a staff member was summarily fired when his or her sponsor voted wrong on a bill.

By the mid-1950's, professional staff was available to assist the appropriations and tax committees. However, these professionals were employees of the public examiner's office and the budget division of the department of administration who were on leave from those offices during the session and returned to their former positions after the session was over.

Staff working for the legislature were paid on a daily basis, just as the legislators were paid. There were no benefits of any kind - no sick leave, no vacation, no health insurance, no pension, and not even social security was deducted from pay. The reasoning was that legislators didn't get those benefits, so neither should the legislative staff.

Changes in Legislators' Pay Generate Staff Changes.

Other staff changes began to occur in 1955 because the legislators changed their pay system. Instead of being paid in a few lump sums during the session, they were now to be paid a monthly amount during the entire two years for which they were elected. The change was motivated by a desire to avoid the consequences of large withholding for federal tax purposes when the salary was paid as a lump sum and to gain the obvious tax benefits if the income was spread over two tax years rather than just one. But there was one problem in making the change. If the legislators wanted to be paid the year around, then someone would have to work the year around to prepare the necessary payrolls.

As a result, the Senate decided to keep the secretary of the Senate's office open all year and the House did the same with the chief clerk's office. The sole full-time staff was to be the secretary to the secretary of the Senate and the secretary to the chief clerk of the House. The secretary and the chief clerk themselves were authorized to claim up to 100 day's pay between sessions. This meant that they could work one or two days a week. The staff processed the payroll for legislators as well as taking care of responding to legislative mail and answering telephones. The duties were fairly minimal and the staff had substantial time with little work.

Staffing Expands But Organization Diverges. By the mid-1950's, about eight to ten other jobs in the Senate and House were made effectively full time by having the people

work for the Senate and House during the session and work for the Legislative Research Commission, or one of the interim committees it created, during the legislative interim. These people stayed within the legislative branch by switching from one legislative agency to another between the session and interim periods.

Subsequently, as the Senate and House staff began further development, the administration of the Senate staff and the House staff began to diverge. The secretary of the Senate was basically in charge of all Senate staff. A variety of different subdivisions reported to the secretary. In the House, the chief clerk was in charge of the chamber staff, excluding the sergeant-at-arms who was appointed by and directly responsible to the speaker. The other subdivisions of the House staff were headed by a director who was essentially on an equal level with the chief clerk. In the Senate, everyone reported to the secretary who, in turn, reported to the Senate Rules Committee. In the House, staff reported to directors, one of whom was the chief clerk, and the directors reported to the House Rules Committee. Observers believe that the different tracks in development were due to the tradition that the secretary was partisan while the chief clerk was not. The house members wanted the new staff that was being added to be partisan and could accomplish this most easily if they could control staff directly without having to work through the nonpartisan chief clerk. Since the secretary was partisan, partisan control of the new senate staff was not seen as a problem. This arrangement continues.

These changes in the status of the secretary and the chief clerk and the few additional "full-time" staff, while modest, represented an important attitudinal change by the legislators. Formerly, it was felt that legislative employees were under the same limits as legislators. That is, the staff worked the same hours, at the same time of the year, and were paid in the same manner as legislators. The changes were the first indication that staff had to support the legislature year around and that different rules applied to the legislature's staff than to the legislators themselves.

The Enrolling Crisis. In 1955, a series of events began that led to another change in the legislative staff. Orville Freeman had been elected governor in 1954. He was elected after a campaign that promised reorganization of the state government. He carried out the promise with a long bill during the 1955 session that reorganized the state government.¹⁹ Unfortunately, a serious error was made in the process of enrolling the bill. Enrolling is the process of putting together a single bill from the original bill and

the various amendments finally adopted to it by both the Senate and House. In this case, errors were made in inserting amendments into the text.

At that time, the Senate and House each maintained their own enrolling staffs. These staff were temporary employees hired under the process then in existence to work during the legislative session. The clerical staff doing the enrolling were the people found to have such poor skills that no senator or representative wanted them to work for him. The proof-reading staff were the former doorkeepers who were of an age that they had to be given a sit-down job. So, at any given time, the enrolling staff were people the least qualified to do the work in the employ of the whole legislature.²⁰

After the error was found, a lawsuit ensued that was appealed to the Minnesota Supreme Court. The Supreme Court in *State ex rel. Foster v. Naftalin*,²¹ found that the entire bill was unconstitutional because the enrolled bill did not agree with the journal entries showing what had actually been adopted. The fallout of the case included a demand that the legislature get decent enrolling staff. In 1957 engrossing and enrolling duty was added to the revisor's office.²² This also had the effect of removing a function from partisan control and placing it with nonpartisan staff. The revisor's office has kept that function to this day. The revisor remained technically part of the judicial branch.

First Caucus Staff. Staff supporting a party caucus first appeared in 1957. The liberals had taken control of the House of Representatives in 1955. (There was no partisan identification yet, so the two caucuses were identified as "liberal" and "conservative.") By 1957, the new speaker and majority leader decided to have some staff do research for the majority caucus. The reason they did so was that they distrusted the Legislative Research Commission. Its director, Louis Dorweiler, was believed by the Democrats to be a Republican. The new caucus staff consisted of one person, an attorney hired as engrossing and enrolling clerk. The person was session-only, not permanent, and worked mostly on constituent relations and some low-level issue backgrounding. This work was permitted because the actual engrossing and enrolling had been transferred to the revisor of statutes. The assistance provided may not have extended far beyond the speaker and the majority leader themselves. The liberals continued in control until 1962. When the conservatives took control again, that kind of assistance for the liberals stopped but, for the first time, the conservative caucus had some of its staff do similar constituent and issue briefing.²³

Standing Committees Activated During Interim. In 1963, the legislature enacted a law that made standing committees and subcommittees of the legislature interim committees.²⁴ The law provided for the filling of vacancies during the interim and for money to pay the costs of operating the committees and subcommittees over the interim. This activation of the standing committees would mean that staff would be needed during the interim as well as during sessions. The standing committees and subcommittees became the primary vehicle of interim activity. Despite the activities of the standing committees, the Legislative Research Commission with its mandate to work through interim committees continued for six more years.

Central Research Staff Created. In 1967, Senate Counsel and the House Research Department were established. The idea for Senate Counsel is credited to Senator Gordon Rosenmeier who wanted to "get our own lawyers" to work for the Senate. After the Senate decided to set up the new agency, the House decided that it too would add its own professional staff office. Several important factors are evident from their creation.

First, they were not created by statute or even rule or resolution of the body but, rather, by directive of the rules committees of the house. This "informal" creation of the agencies was intentional. It was believed that if the agencies were not mentioned in statute, rule, or resolution, they could be easily abolished or changed. The informal status of the agencies continues.

Second, there was apparently no written charge to the respective agencies about exactly what they were supposed to do. At least no document survives from the meetings of the Senate and House Rules Committees showing the nature of what the agencies were to do. Apparently, the only written guidance was in their respective names. The House Research Department was to provide "research" and Senate Counsel was to provide "counsel." In a House committee in 1970, three years after the agency was established, the director of House Research related the department's duties in a way suggesting that it was self-defined.²⁵ The duties included clerical support of the House as much as general duties. The committee discussed whether there was a conflict between the Research Department's duties and the chief clerk's. The self-definition of duties continues. This self-definition should be compared to the statutory creation of the revisor. There, the statutory list of duties served both as a mandate but also as a limitation on the revisor. Both House Research and Senate Counsel have expanded the types of work they provide.

Third, the agencies were established without abolishing a pre-existing agency apparently providing or capable of providing the same services. In 1967, the Legislative Research Commission and its staff still existed. This would not be the last time that the legislature would set up agencies or positions with apparently competing job duties.

At about the time that the standing committees were becoming the primary vehicle of continuing legislative work and new general-purpose research agencies were established, the alternative vehicle of the independent legislative commission was created.

Caucus Research Formalized. Some non-clerical assistance had been provided to at least the House majority caucus as early as 1955. But, in 1967, the first formal research positions appeared.²⁶ The House rules provided for one majority and one minority research consultants. Senate rules provided for six research consultants. All these researchers were still session-only staff.

Retirement Study Commission. In 1967, the Legislature created the Legislative Retirement Study Commission.²⁷ This commission and its staff had the important but limited purpose of oversight over the state's many pension systems. The staff members were to be hired "without regard to political affiliation." The commission was separate from any standing committee of the legislature that might have oversight authority over the matter. Also, the commission did not rely on any central research staff that existed then. Rather, it hired its own specialized pension research staff and clerical help.

Reform Considered. In the 1967 to 1968 interim, a study committee of the House Rules Committee considered a variety of improvements in the legislative procedure and process. It traveled to at least two other states and made a large number of recommendations. Great interest was shown in the possibilities of computerizing the legislature.²⁸

In the 1969 legislative session, one important change was that the minority was allowed for the first time to select its own staff in the House. Always before, the majority had selected all staff and assigned some to work for the minority. The minority regarded the staff assigned to them as real or potential spies.

Legislative Reference Library Created. In 1969, the Legislative Research Commission was abolished by law.²⁹ It was replaced by a new entity, the Legislative Services Commission. This commission, somewhat similar in composition to the old LRC, was charged with supervising the

also newly created Legislative Reference Library. However, the research mandate and the research staff of the old LRC disappeared in the transition.

The reference library was an important addition to the legislative staff. It had a broad charge to collect and index materials that might "aid members of the legislature in the performance of their duties."³⁰ The staff of the Legislative Services Commission, apparently including the new library, were to be "selected on the basis of qualifications required for efficient performance in the position to be filled and without regard to political affiliations."³¹

At the time that the Legislative Reference Library was created, the statutory duties of the Revisor of Statutes included an obligation to "accumulate data regarding the practical operation and effect of statutes of this and other states."³² The duty was analogous to a reference library function. The revisor had, in fact, maintained extensive files of information on substantive issues facing the legislature. After the library was created, the revisor stopped adding to the information files being maintained by the office. About 1979, the revisor's information files were physically turned over to the reference library where they have since been maintained. The revisor's library duty still remains a statutory duty of the office. The creation of the reference library without regard to the revisor's existing duty is another example of duplication of staff duties by the legislature.

Bill Drafting Computerized. In 1970, the revisor of statutes computerized the bill-drafting process. Previously, drafting had been done by typing one original bill using an ordinary typewriter. After a bill was reported out of committee it was sent out for composition and printing. There was then no resemblance between the lines on the official typed bills and the printed copies. Amendments could be drafted to either the official version or the printed version. When the revisor computerized, it was the first computerization in the Minnesota Legislature and among the very first in any state legislature.

Subsequently, the revisor's computer system has expanded until it provides substantial computer support to the legislature. This development in computer systems is much the same as in a private corporation where the accounting department is the first to computerize and users from other corporate departments then go to the accounting department for computer assistance.

Pay and Benefits Changes. Until the mid-1960's, the

state of pay and benefits for legislative staff remained largely the same as before 1955. Only the revisor's staff had a full benefits program and that was because it remained technically part of the judicial branch. In 1965, the legislature enacted a law providing that legislative employees would have the same annual leave and sick leave as did employees in the executive branch.³³ This provision appeared in the state departments' appropriation bill upon the urging of the committee's staff and with the concurrence of the chairs of the senate and house conference committees. Despite the new provision of law, leave was denied to the staff. In 1969, several employees of the House formally requested leave under the law passed in 1965. The request was denied under circumstances suggesting that the legislators were surprised that the staff were asking for time off. However, several months later, legislative staff were given ten days of vacation regardless of the length of their service. In addition, a small number of other staff, who were employed by other state agencies during the legislative interim of 19 months and had Social Security and pension deductions taken from their pay then, were allowed to have Social Security and pension deductions taken out of their legislative pay.

In 1971, some employees of the senate and house requested that they be given a full benefits package equivalent to that in the executive branch. Other employees of both houses formally opposed the request. This group wanted no deductions taken from their pay. The request for benefits was denied. However, any Senate and House employees who wanted to were allowed to have Social Security deducted from their pay.

Photocopiers Make Major Changes. In 1971, the legislature started using photocopiers to make copies of bills for use in committee. Before that, the chair had the original and only copy of the bill. The chair sometimes chose to enlighten committee members about the details of the bill by reading it to them. If the chair didn't read it, the members got their first real look at the bill when it was printed for floor action. The addition of photocopiers served to make the committees a more knowledgeable and powerful vehicle of legislative work.

Staff Changes at Period's Conclusion. In the 1970 election, the liberals made major gains in the Senate and House but did not take control in either body.

A major dispute involving staff occurred in the the Senate in 1971. One of the first acts as each session convenes is the election of a secretary of the senate. With one member's vote not counted because of an election

contest, the vote for the conservative's and the liberal's candidate for secretary was tied 33-33. The presiding Lieutenant Governor broke the tie in favor of the liberal's candidate. An appeal to the Minnesota Supreme Court resulted in a decision that the Lieutenant Governor couldn't vote.³⁴ With the contested seat now voting, the conservative's candidate for secretary won 34-33. This meant that the conservatives would control the entire staff until the next election.

When the legislature met in 1971, the conservatives were much more willing to act favorably on requests for staff than they had been in prior sessions. A small minority caucus staff existed for the first time. A Personnel Subcommittee of the Senate Rules Committee was set up to consider staff changes. A member of the minority was appointed to the subcommittee. This marked the first time that a member of the minority party was given even that limited role on staff matters.

In the period from 1971 to 1973, members got private offices so that mail and other business could be conducted at the capitol during the interim as well as during the session. That change necessitated further staff growth.

In 1972, George Goodwin, the Secretary of the Senate, proposed a comprehensive pay plan for the Senate's staff.³⁵ The plan was prepared for the Personnel Subcommittee of the Senate Rules Committee. The plan was the result of extensive study not only by Goodwin but many other members of the Senate staff. It included a grid-type pay scale, rules for setting pay, job descriptions for all staff, and other factors necessary for an operable pay system. Unfortunately, it was presented in August, 1972, just prior to the November elections. In the change of control that followed, the plan was never formally adopted. Nevertheless, its proposal alone remains an important milestone.

On the eve of the changes coming in 1973, the legislative staff consisted of a few permanent employees working for each body, separate research or counsel in both bodies, the revisor's office providing drafting, publishing, and enrolling from the judicial branch, and several separate legislative commissions. The staff was largely without benefits and was paid on a daily basis. The clerical, service, and political staff had also expanded greatly.

Modern Times: 1972 to 1988

The 1972 Election and Its Fruits. The greatest change in staff was tied to the election that occurred on November

7, 1972. At that election, there were two revolutionary events. First, the voters approved a constitutional amendment that allowed annual sessions of the legislature. Second, for the first time since the early days of statehood, the liberals came into control of both houses of the legislature. Since statehood, the conservatives had controlled the Senate but the House had switched political control frequently.

One of its first acts by the legislature that convened in 1973 was to adopt a law changing the election of legislators from the nonpartisan to the partisan ballot.³⁶ As a result, the election of 1974 elected DFL and Republican legislators for the first time since 1912.

At the 1973 session, there were also many changes affecting staff. Among them were:

First, an Office of Legislative Research was created under the newly created Joint Coordinating Committee.³⁷ The committee was a transmogrification of the Legislative Services Commission. The Legislative Reference Library remained under the control of the new commission. In part, the "coordinating" aspect was motivated by a need to coordinate Senate and House meeting dates. The amendment permitting annual sessions allowed only 120 legislative days every two years. Without coordination between the bodies, many felt that legislative days might be frittered away.

Second, partisan caucus staff were made permanent for the first time. Some partisan caucus staff had existed since 1955 but was session-only staff. The new staffs were larger and more organized as well. The new majorities in each house had directors in charge of their staffs. Before, with only a handful of people the staffs were small enough that no director was needed.

One difference was evident from the beginning between the Senate majority's caucus staff and the staffs of the other three caucuses. Constituent case work was the sole duty of the Senate majority's caucus staff. The other three did constituent case work but did research and some media work as well. The Senate majority took the position that Senate Counsel did its research and policy advisory work. (Several non-lawyer researchers were added to Senate Counsel and the office renamed Senate Research. These people were to perform the research and policy advisory function.) This difference between the Senate majority's staff and the other three caucuses staff continues to the present time.

Third, administrative staff to committee chairs were made year-around staff. In addition, administrative staff

to minority leaders were added. With that change, the type of person hired began to change too. Before, persons with secretarial-like skills were hired. Now, college graduates who were much younger than the earlier administrative staff were hired.

Fourth, the revisor of statutes was finally moved from the judicial branch to the legislative branch with the revisor appointed by the newly created Joint Coordinating Committee.³⁸

Fifth, the old office of the Public Examiner was moved to the legislative branch, renamed the legislative auditor, and assigned to do post-auditing of state agencies.³⁹ The auditing of local governments was given to the state auditor.⁴⁰ However, the legislative auditor was made subject to a separate Legislative Audit Commission, not the Joint Coordinating Commission.⁴¹ Interestingly, the staff of the Public Examiner remained part of the classified civil service after becoming the staff of the legislative auditor.⁴² It remains the only legislative staff in the classified service.

Sixth, as mentioned above, Senate Counsel was renamed Senate Research and several non-lawyers were added to the staff to form the non-legal research component of the expanded agency.

Seventh, full benefits equivalent to those in the executive branch were made available to legislative employees. Different plans were adopted by the Senate, House, and the various commissions and agencies but they all covered the usual types of benefits. Employees could also buy back pension rights for the years they weren't allowed to participate in a pension plan.

Eighth, the Senate started using photocopies of the revisor's official version of a bill for distribution rather than printing from newly composed copy. While this hardly sounds revolutionary, as a result, the official version of a bill and the printed copy were now identical. This facilitated the amending process. It was several more years before the House made the same change.

Ninth, Senate and House public information offices appeared. These offices were small but grew within a few years. The offices provided the public with information on legislative activities and documents.

Tenth, the change in control marks the starting point of evolutionary modernization of the administration of Senate and House affairs. The modernization centered

principally in the secretary of the senate's office and the administrative office of the House that did the bookkeeping, personnel, and other related functions.

As shown in appendix B, the total size of Senate and house staff dramatically increased in 1973 over 1971. Most of these people had loyalties to the liberals then in control of the legislature. One motive for the increasing staff was the rapidly rising number of bills being considered. In the past few years, the legislature had seen the number of introductions increase rapidly. In the 1973 to 1974, there was another big jump in introductions from the prior legislature. The number of enactments rose rapidly as well. It was reportedly a common feeling among legislators that they needed more staff help to understand and process all the additional bills.

The change in control of the Senate and House also resulted in changes in the staff who worked for the two bodies.⁴³ The Senate replaced all seasonal staff but kept permanent staff then working. However, some were placed in different jobs. In the House, some key staff in some departments survived the change. Among them were the chief clerk and several of his front desk staff and the two fiscal analysts working for the appropriations committee. Some changes were to be expected because no legislative staff have any protection when control of the legislature shifts.

The many changes in staffing that occurred in 1973 are credited by all observers to the leadership skills of two key legislators: Senator Nick Coleman, who was the majority leader of the Senate, and Representative Martin Sabo, who was Speaker of the House of Representatives.

Despite the long list of changes affecting staff, there was no precise plan on what the liberals wanted to do in the expectation of taking control after the 1972 election. There was some kind of general expectation that staff would be expanded further and professionalized. Remembering their former situation as a minority, the leaders of the new majority felt that the minority needed extensive staff of its own.

Problems Develop With Committee Administrative Staff.
Problems developed with committee administrative staff shortly after the new majority took control. Some of the people hired by committee chairs as administrative assistants in the House or clerks in the Senate seemed to be doing little administrative work. The people had been campaign staff to the chairs and now seemed to be doing work as the chairs' political operatives in the legislature and in the members' districts. Legislative leaders and the

leaders' staff assistants met with committee chairs and warned the chairs to restrict their assistants' activities to legislative business. The warnings had only limited effect.

Still later, some chairs began hiring attorneys and people with other advanced degrees as committee administrative staff. In 1975, committee administrative assistant positions were created in the Senate that were separate from the committee clerk positions.⁴⁴ The chairs asked the administrative assistants to perform not just administrative duties but research and drafting as well. Because of the pay differential between administrative assistants and researchers and drafters, the chairs' hiring practice led to requests to change the pay level of AAs with advanced credentials. The leaders resisted these requests. There was a high turnover among AAs with advanced credentials compared to other professional staff. Some observers feel this is because the AAs become frustrated with the pay differential between themselves and the researchers and drafters. Also contributing to the AAs frustration were power struggles that developed between them and the regular researchers and drafters.

The Experiment in Central Staffing. The Office of Legislative Research created by the 1973 session came into existence in July 1973, with the hiring of Bob Duckstad. Duckstad had previously been a counsel in the office of Senate Counsel. The new office combined not only the Legislative Reference Library and the revisor, as specifically provided by law, but also the staff of the newly named Senate Research and the staff of House Research. The failure to mention the inclusion of Senate Counsel and House Research in the law creating the Office of Legislative Research was not accidental. It was a part of the policy that these agencies were informally created and were never to be mentioned in law or rule anywhere. Their inclusion in the combined agency was reportedly intended from the beginning.

It is also important to note that Duckstad was to be in charge of House Research and Senate Research as a full-time manager. Previously, directors of professional staff had line duties as well. Despite the fact that Duckstad had no experience as a manager, his appointment represented the first appearance of a purely managerial position for the professional staff. Since the Secretary of the Senate and the Chief Clerk of the House had line duties to perform, it could be argued that the creation of this position was the first solely managerial position in the entire legislature.

The creation of the central Office of Legislative

Research was motivated by recommendations to the legislature by outside good-government groups. They argued to legislators that central staffing was the best way to provide professional staff for the legislature. The legislators decided to try it.

Duckstad created five separate divisions of the new office. Three of the divisions were the old Legislative Reference Library, the revisor of statutes, and House Research. The two other divisions were achieved by splitting the newly named Senate Research into Senate Counsel (again) and Senate Investigative Research. (This last division seems to have been named with the hope that its staff would carry out investigative research in the mode of investigative reporting made popular by Woodward and Bernstein of Watergate fame.) The Investigative Research staff included several former newspaper reporters. Duckstad appointed the heads of the five divisions. The former director of the Legislative Reference Library was made director of the library division and the former revisor was in charge of the revisor division. Duckstad appointed Gary Currie, a staff member of House Research, as the new director of the House Research Division; Peter Wattson, a staff member of Senate Counsel, was made director of Senate Counsel, and Bill Riemerman, a former newspaper reporter, was made director of Senate Investigative Research. Later, when the revisor retired, Duckstad appointed a former member of the Revisor's office and House Research, Esther Tomljanovich, as revisor.

The Office of Legislative Research was ill-fated. The pre-existing entities kept their separate institutional identities, and Duckstad was left to run them from a central office consisting of himself and a secretary. He had to depend upon House Research for an office and the revisor for a paycheck. The staff of the separate offices chafed at being melded into one entity. Some legislative leaders (despite being involved in passing the law creating the Legislative Research Office and then appointing a director for it) regularly reminded staff of the former Senate and House offices that they worked for just the Senate or House. Duckstad found that the new office was funded from a joint appropriation, from Senate funds, and House funds. Staff working for the two Senate offices and House Research had to be approved by the respective Rules Committees. In other words, he had only limited control of his own budget and staff. Duckstad's position is the best example of a legislative staff manager with responsibility but no authority. Duckstad requested that the leaders amend the law giving him more authority over the OLR's budget and staff. The bill was introduced but never received serious consideration. In the end, Duckstad was left without

support by the legislators or staff. He quit in January 1975. The office was never again filled and his secretary went to work for the revisor of statutes. The Office of Legislative Research disappeared as a practical matter, but the law creating it still exists. The five former divisions of the office operated independently under the directors appointed by Duckstad before he left.

Annual Sessions Begin. The next year, 1974, marked the first year the legislature had met in an even-year annual session since 1878. Now, rather than an 18- to 20-month gap between sessions, there was only six to eight months.

The Ford Study. In 1974 and 1975 the Ford Foundation funded a study of the Minnesota Legislature by the State Legislative Leaders Foundation and the Citizens Conference on State Legislatures. The study was to be broad-ranging and was something of a follow-up to the recommendations in the book *The Sometime Governments*⁴⁵ that was published by the Citizens Conference in 1971. The report was issued in January 1976, and included several recommendations on staff including the need for a common legislative salary plan.⁴⁶ The study did not lead to any apparent changes in the legislature or its staff. Like many studies, it was put on the shelf and forgotten.

Senate Counsel Starts Drafting. As mentioned above, Senate Counsel and House Research had self-defined duties. From the beginning, these duties had included drafting amendments to bills in committee. Gradually, they began drafting bills for introduction, previously done solely by the revisor, because it was convenient for legislators. Counsel and Research staff staffed the committees to which the bills would be referred while the revisor's staff did not. By 1974, Counsel's official policy was that counsel "rarely" drafted bills for introduction since that service was provided by the revisor,⁴⁷ but this was also an admission that they were doing drafting for introduction in parallel to the revisor's services.

The unplanned switch of duties from the revisor to Counsel and Research is also seen in another area. The statute creating and setting the duties of the revisor provided that, upon the request of a member of the legislature, the revisor could give the legislator advice on the "legal, economic, or social effect of any bill or proposed bill."⁴⁸ Before the creation of Counsel and Research, the drafting of memos giving legal advice to members (mostly constructions of bills and laws) formed a substantial part of the revisor's work load. Shortly after their creation, this work of the revisor evaporated as the requests for advice now went to Counsel or Research. No one

indicated then or subsequently that this switch of duties was intended. The authorization of the revisor to provide legal advice still remains a part of the revisor's statutory duties.

Fiscal Notes. In 1974, the legislature enacted a fiscal note procedure for bills.⁴⁹ No method of putting price tags on bills had previously existed. Interestingly, despite the rapid increase in the size of the legislature's own staff in the prior few years, the new fiscal note procedure was imposed upon executive branch staff, not on the legislative staff. State agencies were required to prepare fiscal notes in response to requests from the chair of a standing committee. The department of administration was to coordinate the process. The fiscal note process has remained largely unchanged despite frequent comments by legislators that the fiscal notes don't give good financial information but just communicate whether an agency likes the proposal (with a low estimate of cost) or doesn't like it (with a high estimate of cost).

Administrative Rules Review. Also in the 1974 session, the Legislature created the Joint Committee to Review Administrative Rules.⁵⁰ This was another independent legislative commission performing oversight over a state function. This commission was to exercise oversight over the rulemaking process and had the power to suspend rules. Despite its establishment by law, Senate leadership maintained that the commission was unconstitutional and refused to "waste senators' time" by appointing them to the unconstitutional commission. The first appointments were not made until 1978 and the commission did not really begin to function until 1980.

Performance Auditing Established. The year 1975 saw a major new addition to the responsibilities of the Legislative Auditor. In that year, the auditor was charged with doing performance audits of state agencies as well as financial audits.⁵¹ Performance audits were a popular new concept by which management review of an entire agency or program was conducted to determine whether it was needed and, if so, whether it was being run as efficiently and effectively as possible. This was an era in which performance auditing and sunset reviews were established by many states. Performance auditing was given to the auditor rather than research agencies that were capable of the work. This was presumably done because the new function was called performance "auditing" and not performance "research." Performance auditing is closer to standard research than it is to financial auditing. A financial audit can include a management review, but such a review is not as comprehensive as a performance audit.

Counsel and Research Drafting Duties Expand. By 1976, both Senate Counsel and House Research had established drafting bills and amendments as their principal responsibility in addition to other duties. No agency directed Counsel or Research to assume this function or directed the revisor to cease or reduce or change the kind of drafting then being done. The legislature again, albeit on a practical basis only, allowed one of its agencies to perform the same function as an agency already in existence and without changing anything about the older agency.

The equipment used for drafting by House Research and Senate Counsel was fairly antiquated compared to the computer word-processing system then used by the revisor. Counsel and research used typewriters. In 1976, the revisor extended the revisor's computerized drafting system to Senate Counsel and House Research. This enabled those offices to use the computerized word-processing capability for their work. It also marked the first extension of the revisor's drafting system outside the immediate office. While this further facilitated drafting by Senate Counsel and House Research in parallel with the Revisor's office, it also marked the beginning of what has been developing into a legislature-wide computer system operated by the Revisor's Office.

Counsel's Experiment in Collective Management. 1976 also marked the beginning of one of the more unconventional management systems in a legislature. In the fall of that year, Peter Wattson, the director of Senate Counsel was asked to resign as director. The office was then reorganized without anyone as a director or manager. Instead, the office was to be run by collective management. Now, instead of a Senate Counsel and several Assistant Senate Counsels, everybody was a Senate Counsel. A variety of committees were formed by the attorneys who were members of senate counsel and one person was elected as a coordinator to be the "spokesman" for the office. However, all decisions were subject to a majority vote. This voting included everything, including each other's recommended pay adjustments. The theory of this management structure was that each individual counsel was responsible to the committee chair or standing committee that the counsel worked for; therefore, the direction of a central manager was unnecessary or inappropriate. The office was supposed to be run like a law firm where all the lawyers were partners in the firm but were responsible to individual clients.

The change in the management of counsel was viewed by other legislative staff outside Counsel as something of a palace coup. Individual counsel had talked to the chairs of

their committees about how a director was not needed. The chairs, in turn, talked to the Senate leadership. The leaders reportedly became convinced and asked the director to resign and let Counsel set up their collective management system.

What followed might have been expected. From the perspective of those outside the office, it was difficult to figure out whom to talk to about an organizational matter and even more difficult to get a decision. If a request involved change, someone always objected and was able to block it. From the inside, the office tended to break into two "caucuses." A lot of questions were decided by votes of seven to five.

Science and Technology Research Established. In June 1976, the legislature was told that the National Science Foundation would provide a grant to the legislature to establish a demonstration project on science and technology research capacity in the legislature. In the 1975 session, the legislature had appropriated its 50 percent of funds for the science and technology project in expectation of the grant.⁵² Other than the appropriation, there was no other statutory authorization for the project. Consequently, there was nothing in the law about the project's organization and operation. The project got under way on January 1, 1977. Its informal status remained the same,⁵³ and money was appropriated to continue the project in 1977,⁵⁴ 1979,⁵⁴ and 1981.⁵⁵ However, the state went through a series of budget retrenchments starting in 1980. A special session was called for December 1981, and lasted until January 18, 1982. The budget reductions enacted by the legislature included a provision ending the project on March 1, 1982.⁵⁶ The staff members were, by law, to be given preference to other legislative jobs but only one of the three employees found another position with the legislature. The project's substantial collection of scientific information was turned over to the Legislative Reference Library.

The science and technology project was similar to the previously established independent legislative commissions with their own specialized research staff. However, it did not have its own commission. It considered the Legislative Coordinating Commission to be its supervising body and had an informal advisory group of legislators. It duplicated some of the services already provided by House Research and Senate Research.

Tax Research Staff Created. The Legislative Tax Study Commission was created by statute in 1977 as part of the session's omnibus tax bill.⁵⁷ The commission was authorized to have its own staff and was charged with the comprehensive

study of state tax policy. Interestingly, money was appropriated for it in the omnibus tax bill each two years rather than in the state departments' appropriation bill where all other legislative operations were funded. In the 1981 regular session, the tax study commission was repealed in the state departments' appropriation bill.⁵⁸ However, in the special session held in June of that year, the commission was revived and funded for another two years in the omnibus tax bill.⁵⁹ Since the tax bill was passed later, its position prevailed.⁶⁰ However, the end came in 1983 when the state departments' bill again repealed the commission, and this time the tax bill didn't save it.⁶¹ The commission went out of existence on July 1, 1983. Again, the research functions of the commission were redundant with the existing or potential tax research capacity in House Research and Senate Counsel and Research.

Computer Enhancements. In the interim between the 1978 and 1979 sessions, the revisor's office switched from a black-box computer program for bill drafting to a home-grown program. The new program provided a much better system for the word-processing work of preparing bills. However, the most important thing to note about this change was that it signaled that the revisor was going to actively push the office's computer development and not passively depend on buying turn-key programs to do the office's work.

In addition, part of the new program permitted Senate staff to pull titles from the revisor's data base to create the official agendas and calendars for use in floor sessions. This represented the first time that the revisor provided even a simple application program specifically for the Senate or House that was not just the same application used by the revisor for the office's own work. The provision of computer applications by the revisor to the Senate and House has expanded greatly since. It also represents about the only occurrence since 1973 where the Senate and House have used central staff to provide services rather than each doing its own.

Employee Relations Commission. In the 1979 session, the Legislative Commission on Employee Relations was created.⁶² This independent legislative commission was given oversight responsibility over the collective bargaining process for state employees. It had the power to approve the contracts negotiated between the department of employee relations and the various executive branch employee unions. It had its own staff of one person. It should be noted that the power to approve contracts was not given either to standing committees or to a more general legislative authority like the Legislative Coordinating Commission. The law providing for collective bargaining for state employees

practically excluded legislative employees from unionizing and collective bargaining.

The First Pay Plan. In the fall of 1979, the revisor of statutes proposed the adoption of a comprehensive pay plan for the office.⁶³ The pay plan covered how decisions on pay for the staff of the revisor's office were to be made. Included were salary ranges and procedures for how cost-of-living adjustments, merit adjustments, and equity adjustments were to be made. It was the first use of a comprehensive salary plan in the legislature. The revisor presented the plan to the Revisor Subcommittee of the Legislative Coordinating Commission with the intent of taking the plan to the full Commission upon approval by the Subcommittee. However, the Subcommittee did not either approve or disapprove it and did not pass it on for consideration by the full commission. After the meeting, the revisor was told privately that if he wanted to have a pay plan he should just adopt it on his own. The revisor did so and the pay plan has been in effect, with updates, since that time.

Revisor Modernizes Minnesota Statutes. Since the first publication of *Minnesota Statutes* in 1941, there had been little change in the set. Beginning in 1979 and continuing through 1980, the staff of the revisor's office conducted a throughgoing review of the publication. It consisted of a user survey and a staff study of publication options.⁶⁴

The user survey was intended to determine whether the set was useful and should be continued. Some thought was given to terminating the publication and allowing West Publishing Company's *Minnesota Statutes Annotated* to serve the existing market. That would save the taxpayers the cost of subsidizing the editing and publishing of the state's set. However, the survey proved the usefulness of the set and also suggested how the set could be made more useful.⁶⁵

The staff study resulted in a written compilation of findings in a 206-page document informally known in the revisor's office as "The White Paper."⁶⁶ The study reviewed everything from the legal status of the set to the section numbering system, typography, supplementation and alternative formats such as loose-leaf publication, utility of tables, and adequacy of the index.

The result of the review was a significantly modernized set published in 1980 with further incremental improvements since.

The modernization of *Minnesota Statutes* is important to the history of legislative staffing because it marked a

significant change in the work of the revisor's staff. Also, the change was completely self-generated.

Legislative Involvement in Administrative Rules. The 1980 session of the legislature marked the addition of a major new function for the office of the revisor of statutes. The revisor was directed to provide the same drafting and publication services for the state's administrative rules as were already being provided for bills and laws.⁶⁷ Included in the new mandate was a requirement that the revisor begin the new duties by compiling the state's administrative rules into a modern publication.

Up to this time, the state's administrative rules were supposed to be published in the *Minnesota Code of Agency Rules (MCAR)*.⁶⁸ Unfortunately, the publisher, the department of administration, lacked any power to control publication.⁶⁹ As a result, many departments never published their rules at all, never republished them after they were revised, or published them with unauthorized editorial "corrections." The set was unindexed and extremely frustrating to use.

The revisor was directed to take over the process to regularize the drafting, provide assistance to small agencies that had no professional drafters, and make the published set of administrative rules of *Minnesota Statutes*. The process and the reasons for the involvement of the revisor in drafting and publishing rules were very similar to those that had applied when the revisor originally became involved in drafting and publishing the state's laws. Concerns were expressed by the department of administration and the attorney general when they reviewed the bill about whether it was appropriate to have the revisor, a legislative branch agency, involved in executive branch rulemaking. It was argued that administrative rules were a delegated legislative function so the revisor's involvement was merely the nondelegation of that part of the function. Also, the revisor played no policy role with drafting and publication duties, only a ministerial role, so there was no problem of encroachment of the legislative branch on executive branch duties.

After a delay because of the 1981 - 1982 fiscal crisis, the first recodification was published by the revisor in 1983⁷⁰ and the set has been supplemented and republished regularly since.

Energy Commission Created. In 1980, the legislature created the *Legislative Commission on Energy*.⁷¹ It is another independent legislative commission performing

oversight functions. In this case, the Commission on Energy was created as part of a bill starting a variety of new state energy expansion or conservation initiatives. The commission was required to use existing legislative staff. The commission had to study a variety of energy issues and report to the legislature annually. The bill set a sunset date for the commission of July 1, 1987.

Counsel Defines Duties Broadly. As late as 1974, Senate Counsel had self-defined its duties in a way that was somewhat restricted albeit conflicting with the duties of the revisor. In late 1980, Counsel published a document claiming that it provided the Senate with "all necessary technical and legal services."⁷² The document also indicated that while drafting for introduction was done by Senate Counsel, a counsel could send some original drafting to the revisor as a matter of the personal choice. According to Senate Counsel, the revisor would just check technical aspects of a counsel's draft and counsel should request that the revisor's attorney clear changes with counsel. Since the revisor maintained the statutory claim to all drafting for introduction, this claim by counsel set up a continuing basis for conflict between the two offices.

Legislative-Wide Staff Benefits Package Adopted. In 1981, the legislature also reformed the collective bargaining process for state employees.⁷³ Because of the changes, there was no longer one state insurance plan that could be extended to legislative employees under the law passed in 1973. As a result, the new law said the Legislative Coordinating Commission would decide what insurance benefits would be available to legislative employees.⁷⁴ The most important change was that the Legislative Coordinating Commission would decide for legislative employees, not the Senate Rules committee for the Senate, the House Rules Committee for the House, and individual commissions for their own employees. This was unusual because, on pay and most other issues, the Senate and House were usually authorized to go their own ways. The new law meant that there would at least have to be a standard legislative-branch-wide policy on insurance benefits.

The Legislative Coordinating Commission actually adopted the first plan under the new law in 1982.⁷⁵ It covered not only leave and insurance, as required by law, but other benefits and work rule and salary matters as well. The commission was practically determining all benefits for legislative employees. The package had to be approved by the respective Rules Committees of each house for those matters beyond the statutory matters, but this was achieved without difficulty. The first package contained a

number of exceptions for various staff groups. The number of exceptions was steadily reduced in the packages adopted in 1984 and 1986. The later packages also expanded their content to cover even wider areas of employee benefits.

Revisor and House Computer Study. In 1980, the revisor of statutes hired Alexander Grant and Company to conduct a management review of the office's computer system. The intent of the study was to reevaluate the use of a home-grown text management system rather than purchased software. In addition, the revisor wished to determine whether the office should in the future depend upon internal development of software or use outside vendors of software. The report was delivered in November 1980.⁷⁶ The consultant's recommendation was to continue with internal development. Internal development would provide greater flexibility was ultimately more economical. The consultant found that the office had sufficient resources to maintain the effort but recommended improvements in software documentation and wider disbursement of knowledge by computer staff of the office's software. The revisor adopted the approach.

Shortly after the revisor's computer study began, the House hired Public Systems Associates to study opportunities for improving computer-based information in the House. In June, 1981, the consultant delivered its report.⁷⁷ The report was basically a compendium of possible computer enhancements by the House with an analysis of methods of achieving the recommended enhancements.

The recommendations were all premised on the House having its own computer facility and ignored the existence of the revisor's computer system. One of the seventeen recommended "service opportunities" was already provided by the revisor's system. The report resulted immediately in the hiring of a computer analyst by the House and eventually in the purchase of several personal computers and one mini-computer. The personal computers were used by House fiscal analysts and the mini-computer was used by the House Finance Office for general ledger, payroll, and accounts payable applications. No work on any of the consultants other recommendations has ever been undertaken.

Legislative Coordinating Commission Staff. The Legislative Coordinating Commission hired its first staff director in 1981. Prior to this, the staff support of the commission had been an auxiliary duty of whoever was the administrative assistant to the Speaker of the House or the President of the Senate. This staff person tried to coordinate the various central staff agencies and commissions.

The House Pay Study. Also in 1981, the House of Representatives hired Stanton Associates to review the pay system for its staff and make recommendations for improvement. The consultant audited every staff position and assigned each to one of twelve pay ranges. Procedures were recommended for how jobs are assigned to pay ranges, how people in the jobs move through the pay ranges, or how jobs change pay ranges.⁷⁸ While the plan left loose ends that are still being dealt with, the systematic approach to salary setting was revolutionary.

In-House Computer Purchased. In 1982, the revisor's office began work on obtaining its own computer. Up to this time the revisor's programs were run on one of the computers of the department of administration in the executive branch. The cause of the change was the continuing difficulty with down time on the department's computer, the difficulty in developing new uses on a computer the revisor didn't control, and the fact that the computer could be bought for less than the usage charges to the revisor by the department.

The new computer went on line in January 1983, and the revisor still maintains an independent computer facility that has grown substantially since. Upon buying computer equipment, the revisor's office was operating a complete computer facility with its own computer staff, its own programming effort, and its own equipment. This would facilitate future use of the revisor's computer by other agencies of the legislature.

In connection with the computer development of the revisor's office and most other computer development in the legislature, it is important to note that no legislative committee ever approved any of the development steps. It was done by the revisor under the revisor's general management authority.

Affirmative Action in the Legislature. A December, 1983, article in the St Paul Pioneer Press said that the legislature had few minorities working for it.⁷⁹ In response, in the 1984 session, the legislature passed a concurrent resolution requiring that a legislative affirmative action program be set up.⁸⁰ The resolution required that a joint affirmative action officer be hired and a joint affirmative action plan be drafted. However, no affirmative action officer was ever hired and no joint plan was ever adopted. Later, in 1987, the House set up its own separate affirmative action guidelines.⁸¹ One effect of affirmative action was that all job openings in the House were publicly posted for the first time. The Senate still has not adopted an affirmative action plan although it does

require the public posting of all job vacancies.

The End of Counsel's Collective Management. In 1983, the collective management of Senate Counsel came to an end. The Senate Rules Committee adopted a resolution that ended the system. A single director would be hired to head both Senate Counsel and Senate Research. The resolution adopted after amendment required the maintenance of two separate organizations under a single director. However, the two organizations soon became one organization called Senate Counsel and Research.

Revisor and Senate Counsel Define Duties Jointly. In the summer of 1983, the revisor and the new director of Senate Counsel and Research began a series of discussions about the apparent conflicting duties of the two offices.⁸² The discussions led to a signed agreement in March 1984. It was believed then that the agreement would end struggles between the two offices for predominance in drafting. The agreement defined the duties of each office in a way designed to keep the duties of the two offices separate. Perhaps more important were provisions designed to end predatory activities by each staff toward the other. Leadership was told of the discussions and agreement. A Senate committee chair, who became aware of the agreement, vociferously objected to it. The senator asserted that the director and the revisor had no power to make such an agreement. Despite the objection, no objection was ever heard from the senate leadership of either party.

Staff of both offices, however, found the agreement hard to accept. By 1985, the revisor was told that Counsel would publicly claim all drafting services to be a primary duty of the office despite the language of the agreement between the offices. Later, a senator who asked a counsel about the agreement was told that the agreement was "a dead letter."

Study of Flexible Benefits. In September 1983, the Legislative Coordinating Commission appointed a special subcommittee to study the possibility of adopting a flexible benefits plan for legislative employees.⁸³ The idea was to consider a plan that not only permitted greater choices among fringe benefits by staff but also was more closely tailored to the needs of legislative employees. It was based upon a belief that the legislative staff was probably demographically different from executive branch employees. It was also felt that legislative staff had different needs because of different expectations placed on them. A subcommittee was appointed and held several meetings lasting into 1984. It then ceased meeting until late 1987.

First Internal Auditing of the Legislature. In 1984, the Senate contracted with a major public accounting firm to perform an audit of the Senate's funds. This audit represented the first time that any legislative branch agency was subject to an audit. The results of the audit were unremarkable: the funds balanced and management advice concerned routine correctable matters.⁸⁴

Joint Staff Pay Study. Also in 1984, the Revisor and then joint staff hired DCA/Stanton, the successor company to the one that conducted the House staff salary system, to perform similar services for them. The result was a salary system substantially the same as that previously adopted by the House.⁸⁵

House Control Shifts. In the 1984 election, the Independent Republicans took control of the House of Representatives for the first time since 1972. When the session convened in 1985, large numbers of the House staff appointed under the DFL were fired. This was not an unexpected development. The DFL had done the same when it took control in 1973 and patronage appointment of house staff was the norm of the Minnesota legislature and most, if not all, other legislatures.

An interesting sidelight on the firings was that there was no lawsuit contesting their legality. Nine years before, in 1976, the United States Supreme Court had decided *Elrod v. Burns*.⁸⁶ The case involved the Sheriff of Cook County, Illinois, not a legislature. However, the court's broad holding was that public employees could not be discharged because of their affiliation or nonaffiliation with a particular political party. To do so violated the employees' rights under the first and fourteenth amendments to the United States Constitution. The court condemned wholesale replacement of public employees upon change of administration and limited dismissals to "policymaking positions." Almost by definition, legislators make policy in the legislature and never staff. So, under *Elrod*, no legislative staff could be dismissed upon a change of administration.

The *Elrod* decision was a matter of notoriety in all legislatures. It was the subject of at least one seminar at the National Conference of State Legislatures' annual meeting in the summer of 1977. The advice at the seminar was that the decision would cause legislatures problems when control shifted. There have been no subsequent decisions modifying *Elrod* or construing its effect in the legislative branch.

When the firings took place there was some discussion

among staff as to whether the firings would be contested in court under the holding of *Elrod*. However, no lawsuit was ever filed.

When the IRs took control, they made a public point of not increasing the total number of staff. They did increase the salaries of some key new staff members above those of their DFL predecessors. Among the staff changes was the firing of all but one of the fiscal analysts working on appropriations and tax bills followed by the hiring of inexperienced analysts. In the view of some, this was a critical error. Fiscal analysts are required to know agency budgets in depth, and that knowledge is only developed over years of experience. Their dismissal seemed to indicate that political loyalty was more importance than on-the-job competence.

Agencies Charged for Revisor's Services. A law passed at the 1985 legislative session required the revisor of statutes to charge executive branch agencies for drafting services.⁸⁷ It also required the revisor to apportion total appropriations among the three branches of government based on a statutory formula stating the work that was to be apportioned to each of the three branches. The new law was attributed by the sponsor to a desire to fix the cost of drafting with the agency or branch causing the cost to be incurred. It was also felt that if agencies had to pay for the services, it would reduce the amount of drafting that they requested. To the first contention, the revisor argued that drafting was always legislative work and drafts were the property of the legislature not the requesting agency. To the second contention, the revisor argued that drafting requests were usually necessitated by a legal mandate of the legislature or other serious reason that no charge was likely to suppress. The revisor also said that the amount of work done for agencies was so small that it was not worthwhile to set up the mechanism to charge the agencies. The revisor did not prevail and has been charging agencies for services since.

Economic Development Commission Established. In 1985, a provision was included in the State Departments' appropriation conference committee report that created a Legislative Commission on Economic Development Strategy and appropriated money to it for staff and operations.⁸⁸ The new independent legislative commission was to have oversight functions for the legislature over economic matters. However, the IR-controlled House and the DFL controlled Senate were never able to agree on who should be chair and what would actually be done by the body. When the DFL took control of the House in January 1987, appointments were again made but no meetings were ever held. As a result, the

commission never started operations. Its authorizing statute was sunsetted by the original law for July 1, 1987. The commission went out of existence without ever having done anything.

Revisor and House Research Try To Define Duties Jointly.

In the summer of 1985, the revisor tried to begin discussions with House Research about defining respective responsibilities as was done with Senate Counsel the year before. The revisor was politely but firmly told that House Research would not participate in any discussions about an agreement similar to that between Counsel and the revisor.

Federal Law Requires Overtime Pay For Staff. In 1985, a change by Congress in the Wage and Hours Act made it evident that the legislatures were required to pay their staffs overtime pay.⁸⁹ The legislatures regarded this as impossible and prevailed upon Congress to pass an exemption to the act so that they could continue not paying overtime. The exemption was enacted by Congress in 1985. Curiously, the law excepted from the exception any Legislative Reference Library.⁹⁰ Consequently, the LRL must pay overtime to its staff but no other legislative staff members receive overtime pay.

Auditing the Auditor. The Legislative Auditor contracted in 1985 for an audit of the agency's funds for the prior two fiscal years. Again, the results showed nothing amiss.⁹¹

Senate Pay Study. Also in 1985, the Senate hired DCA/Stanton to review its staff pay as previously done for House and joint staff. The result was the placing of Senate jobs into the same pay ranges as similar House and joint staff jobs.⁹² Unfortunately, the pay ranges for the Senate were 25 to 50 percent higher than the pay ranges for the House and joint staff. In addition, the Senate had 14 pay ranges rather than twelve. The Senate and House have since tried to agree on common pay ranges. However, the House will not raise pay levels to match the Senate and the Senate will not come down even to halfway between current Senate and House levels. Some staff believe that the higher pay in the Senate was a deliberate choice to be in a better position to attract staff than the House and joint staff.

Media Services in the Senate. 1985 also saw a major expansion in the Senate of the formerly minor duties of media services. The Senate Media Services Office obtained video cameras and studio facilities and started producing video tapes for use by local television stations in news broadcasts and by the senators in their campaigns. The office had for several years produced photographs for the

same purpose but the involvement with television was a major expansion of its duties.

Senate Computer Study. In 1985, the Senate hired Peat, Marwick, Mitchell and Company to study expansion of computerization in the Senate. Like the House study in 1981, this was to be a comprehensive study of possible computer uses by the Senate together with a proposal to implement the recommended systems. The consultants delivered their report in December 1985 to a subcommittee of the Senate Rules Committee.⁹³

The applications recommended for implementation were about double those recommended to the House. Several were much more far ranging. This reflected the general growth in computer technology in the prior four years. Unlike the House study, the Senate's study included the revisor's computer system and recommended that the revisor's computer and computer staff be used for many of the recommended new applications.

The recommendations of the report, if made reality, would have opened all computer systems for use by anybody in the legislature. Anyone could use the drafting system, fiscal system, statistical system, research modeling systems, and other systems. Several staff members recommended that the subcommittee closely consider whether that recommendation was good administrative policy.⁹⁴ It was indicated that opening all systems to everybody would make tremendous differences in staff services to the legislature that might not be beneficial. It was also urged that a decision be made soon on implementing the proposed new systems since accomplishing the work would require additional staff, equipment, and software. All would have to be included in budgets.

The subcommittee formally "accepted" the report.⁹⁵ No determination was made on whether to implement the recommendations. The subcommittee also remained silent on the policy issues presented by the staff. Within months, several decisions were made by Senate leaders or staff that varied from the recommendations in the consultant's report. Consistent with the report, it was decided to establish a Senate Management Information Systems Department. The department began planning for a local area network (LAN) computer system. The many other recommendations of the report were largely disregarded.

House Control Shifts Back. At the 1986 election, the DFL regained control of the House of Representatives. As the 1987 session began, there were again wholesale changes in House staff including almost total replacement of the

fiscal staff. There was again some thought that this time there might be a lawsuit under the holding of *Elrod v. Burns* but, again, no suit developed.

Senate and House Computerization. In January of 1987, the House of Representatives began using the revisor's computer system for its journal. Both the Senate and House began using a new common indexing program on the revisor's system. With those additions, the revisor's computer was being used for all major production work in the legislature. The only major computer work not being done on the revisor's computer by this time was research work in Senate Counsel and Research and House Research, which primarily used a computer at the University of Minnesota.

Humphrey Institute Study. In early 1987, the Humphrey Institute of the University of Minnesota released another of its studies of the legislature. This study was a compendium of the results of polling the legislators on their views of the legislature.⁹⁶ The legislators were polled on a wide variety of subjects, but the response to one item is of interest here.

In the poll, legislators were asked to rate the "adequacy" of various staff offices in the legislature. From this question, the report on the polling concluded that legislators were in general agreement that the legislative staff offices were "less than adequate." The report included a bar chart with the bars hanging down from zero to show how much "less than adequate" each staff office was. (One unfortunate aspect of the study was that the report's narrative never questions whether the legislators' opinion represents reality.⁹⁷)

The effect on the staff was dramatic. As word spread of the survey report office talk grew heated. Many staff members indicated they were depressed over the result. Others, who had substantial experience in research methodology, dismissed the survey as poorly conceived and executed and the report as construing the data far beyond reason. Many staff directors talked to various legislative leaders about the report and the effect on them and their staffs. The directors were promised action to solve the problems created by the release of the report.

All partisan and nonpartisan staff directors met with aides to the bipartisan leadership of the two houses. The directors were told to convey to their staffs that they should "forget it." "The legislators don't believe the report and neither should the staff." Partisan staff members reported that they could find no legislators who even remembered the survey and they believed that many of

the surveys may have been completed not by the legislators but by legislators' administrative assistants and secretaries. Everyone agreed that the reported survey results hurt even though they all questioned the methodology of the research as well as the results.

In the days that followed, reports circulated among the staff of individual legislators apologizing to staff and indicating that they did not believe that the report represented either their ideas or those of legislators generally.

The report is another example of a report that is filed and forgotten upon its arrival.

Fiscal Policy and Tax Study Commission Again. The 1987 session of the legislature also saw the simultaneous creation of two new legislative commissions with overlapping duties. The omnibus tax bill recreated the Legislative Tax Study Commission.⁹⁸ It will be recalled that the earlier commission had also been a creature of the omnibus tax bill where it was created and funded. This new commission had many of the same duties of oversight of state tax policy. It was also given an extensive new mandate regarding studying and proposing changes in the state's property tax system. Unlike the old commission, this one was mandated to use existing legislative staff rather than having its own staff. It was given a large round-number appropriation to fund its activities over the biennium.

Meanwhile, in the State Departments' appropriations bill that was passed only days later, a Legislative Committee on Planning and Fiscal Policy was created.⁹⁹ This committee was given oversight power over both appropriations and revenue (i.e. taxes). It was given a round-number appropriation that was almost as large as the amount for the Tax Study Commission. Unlike the Tax Study Commission, it was authorized to have its own staff.

It is not yet clear whether both commissions will begin to operate, whether they will do the same thing or somehow divide the work, and how the different provisions on staffing will be worked out. How the commissions and their staff will relate to existing staff agencies is also not known.

Revisor Directed to Reindex Minnesota Statutes. Since the creation of *Minnesota Statutes*, its index has presented a variety of problems. It was an afterthought to the original publication¹⁰⁰ and was not uniformly well maintained since. In 1987, the revisor requested appropriations sufficient to reindex the set. The

appropriations bill passed did contain a mandate to reindex Statutes but no funds to do it. As a result, other work of the office was cut back in order to provide the resources to undertake the reindexing. The reindexing is expected to be completed and included in the 1990 set of Statutes.

Energy Commission Disappears. On July 1, 1987, the Legislative Commission on Energy went out of existence under the sunset provision in its law when passed in 1980.¹⁰¹

Revisor Audited. Also in 1987, the revisor contracted for an outside audit of the office.¹⁰² This was the third legislative agency to voluntarily subject itself to an outside audit. Auditing was becoming more of a regular feature, but the House and the legislative commissions have still not been subject to an audit.

The Revisor had been periodically audited by the old Public Examiner up until the time it was moved from the judicial branch to the executive branch of government. The last audit was conducted in July 1972, for fiscal year 1971.¹⁰³

Flexible Benefits Committee Revives. The flexible benefits subcommittee appointed in 1983 by the Legislative Coordinating Commission had ceased meeting after 1984. In mid-1987 it started meeting again with all new membership except for the chair. The committee's considerations diverged from flexible benefits into policy issues relating to benefits. The issues considered included whether it was appropriate to have staff members' dependents covered by state-paid health insurance and whether vacation accrual rates were too high. The subcommittee seemed to be considering the narrowing of benefits not making them more flexible. The subcommittee members indicated substantial disagreement on the policy issues discussed. The subcommittee decided to adjourn without making any recommendations.

Legislative Budget Staff Created. In the 1988 state departments omnibus appropriations bill, the legislature mandated institutionalized research by the Legislature on state appropriations and revenue.¹⁰⁴ The research was to be analogous to the services performed by the Congressional Budget Office for Congress. The mandate was given to the Legislative Committee on Planning and Fiscal Policy, which had just been created the previous year. The name of the body was changed from "committee" to "commission" and its powers were augmented to include the research function. The commission was given plenary power to hire and manage staff necessary to perform the work.

The organization of the new research function was unusual. The pattern had been that research or informational services were imposed on a staff director and policy determination was imposed on a commission. For example, the revisor, the legislative librarian, and the legislative auditor, as staff directors, were charged by law with certain research and informational services and each was given authority over staff to do the work. Alternatively, several legislative commissions were charged by law with determining certain policy and each was given the modest staff necessary to support each commission's policy determination. But, in the case of the new duties of the Planning and Fiscal Policy Commission, the research and informational duties were imposed on the commission itself. The law was partly taken from a bill introduced by many of the bipartisan leaders earlier in the session.¹⁰⁵ That bill, however, imposed the duties on a legislative budget office director whose authority was similar to that given to the revisor, the legislative librarian, and the legislative auditor.

The remarkable feature of the new budget commission was the sweeping scope of its powers. The commission was to study revenue and appropriations as recommended by the governor; to initiate its own studies of revenue and appropriations; to conduct management analysis of the state government departments; to conduct economic analysis of the state; and to analyze physical plant requirements of state government. Altogether, the commission's authority was much broader than the authority of the Congressional Budget Office after which it was modeled.

The provisions in the new law for management analysis will certainly duplicate the performance auditing functions of the legislative auditor. While duplication of a staff function is not new with legislative staff, this time the conflict was created directly by law.¹⁰⁶

Another interesting factor is that the 1988 amendment that created the budgetary duties of the commission maintained a provision from the original law that the commission was not to duplicate the work of standing committees of the legislature.¹⁰⁷ Because of the many conflicts in functions by staff groups elsewhere in the legislature, a provision that attempts to separate functions would seem useful. Here, however, it is difficult to see how the duties of the commission and its staff and the standing committees and their staff can do anything but conflict. While the intention is laudable, delineation of separate functions is needed rather than just a statutory directive not to conflict.

The creation of the budget duties of the Planning and Fiscal Policy Commission was the result of lack of trust in figures supplied to the legislature by the executive branch. In addition, it was felt that the legislature wasn't necessarily going to follow the governor's lead on fiscal matters even when the governor was of the same party that controlled both houses of the legislature. Similar reasons had been voiced twenty years earlier when the legislature set up its own substantive research staff.

Revisor's Budgetary System Changed Back. Also in the 1988 session, the legislature reversed a portion of the budgetary changes imposed on the revisor in the 1985 session. The revisor would no longer be required to apportion appropriations between the three branches of government.¹⁰⁸ No change was made in the requirement that the revisor charge agencies for services provided. As a result, agencies paid the revisor with general fund money and the revisor deposited the money back into the general fund.

Legislative Control of Executive Branch Duties

The legislature has, from time to time, enacted legislation that has insinuated the legislative power into the executive branch or had the legislature running executive-branch-like programs. There are two basic types of legislation. In one, the legislature administers a program. In the other, the legislature makes itself part of the executive branch decision-making process. The history of each is now reviewed.

Program Administration Entities. In 1941, the legislature created, by law, an Iron Range rehabilitation program under a commissioner appointed by the governor in the executive branch.¹⁰⁹ The program used the revenue derived from taxes on the mining of taconite for the development of other natural resources in the area. In 1943, the legislature amended the law to create an Iron Range Resources and Rehabilitation Board.¹¹⁰ The board consisted of three senators, three representatives, and the commissioner of conservation. The board had the power to approve or disapprove expenditures for the rehabilitation of the Iron Range. The board still exists today with essentially the same powers.

The Iron Range Resources and Rehabilitation Board represented the first of a new type of legislative staff group: one that directly administered a program. In this case, the program administered was a grant-in-aid program. Several other program administration boards would be created including at least one other administering a grant-in-aid

program. All require staff support, sometimes extensive staff support. These boards are classified as legislative because their activities are fully controlled by legislators as its board members.

In 1943, the legislature created the Legislative Advisory Commission.¹¹¹ This was the second board doing program administration. It had the authority to review requests by agencies for additional funds and recommended to the governor whether the request should be approved and funds allocated from a contingency fund set up by the legislature. This commission has remained in existence to the present time. The commission was staffed not by legislative staff but by the commissioner of administration of the executive branch, who acted as the commission's secretary. (Later, when the finance department separated from the administration department, the secretary became the commissioner of finance.)

In 1963, the legislature created, by law, the Minnesota Outdoor Recreation Resources Commission.¹¹² This independent legislative commission was composed of seven senators and seven representatives. It had the responsibility to approve expenditures for the betterment of the state's outdoor recreation resources. The money for the program came from the excise tax on cigarettes. This legislative commission was administering another state grant-in-aid program. It was very similar in funding and activities to the Iron Range Resources Rehabilitation Board.

Executive Branch Decision Making. The second type of legislative involvement with the executive branch is when the legislature puts legislators on the controlling boards of executive branch agencies. This has usually happened on human rights protective boards.

In 1963, the legislature created the Indian Affairs Council.¹¹³ This independent legislative commission was composed of a minority of legislators. Nevertheless, the law creating it directed that the law be compiled with the laws relating to the legislative branch. The council was really concerned with monitoring and promoting improvements in Indian affairs. This was another program administration type of body. But, in this case, it administered a human rights protection or promotion program rather than a grant-in-aid program.

In 1976, the Council on the Economic Status of Women was created.¹¹⁴ This was another program administration body, this one administering a human rights promotion program. This commission was originally composed of both citizens and legislators. However, by 1983 the citizens

were removed as an economy move during a fiscal crisis and the council was renamed the Legislative Commission on the Economic Status of Women. It is the only human rights commission that is composed entirely of legislators. The others had legislators but they were always a minority and, on some, a non-voting minority.

In the 1978 session of the legislature, the Council on Spanish-Speaking People was created.¹¹⁵ This commission was composed mostly of citizen members appointed by the governor but four legislators were members and its law was to be codified among the similar legislative-branch provisions.

In the 1981 session, the legislature created the Council on Black Minnesotans.¹¹⁶ Its structure was similar to other groups previously established and its law was again to be codified with the legislative branch laws.

The 1985 session also created another of the human rights program administration bodies. This was the Council on Asian-Pacific Minnesotans.¹¹⁷ It was structured similarly to the earlier created commissions of its type and its law was again to be codified in legislative laws.

Agency Renaming

In 1975, there was a general renaming of state agencies in the three branches of state government following a standard scheme.¹¹⁸ The Iron Range Resources and Rehabilitation Commission became the Iron Range Resources and Rehabilitation Board; the Joint Committee to Review Administrative Rules became the Legislative Commission to Review Administrative Rules; the Legislative Coordinating Committee became the Joint Coordinating Commission; the Legislative Advisory Committee became the Legislative Advisory Commission; the Legislative Retirement Study Commission became the Legislative Commission on Pensions and Retirement; the Minnesota Resources Commission became the Legislative Commission on Minnesota Resources; the State Claims Commission became the Legislative Commission on Claims; and the Indian Affairs Commission became the Indian Affairs Board.

Firing Managers

A factor for the most part not discussed in this chronology of the development of the legislature's staff is the legislature's record regarding the managers it has appointed to head various legislative staff groups and agencies.

In 1956, several legislative leaders went to the

Supreme Court to urge the replacement of William B. Henderson, the revisor of statutes. The Court let Henderson go and made his deputy, Duncan L. Kennedy, the revisor. A year after that, the same thing occurred again and Kennedy was forced out. Joe Bright was then hired as revisor.

In 1969, the Legislative Research Committee was abolished. By law, employees of the Committee were to be transferred to the Senate and the House of Representatives to be "employed by such bodies as they may determine."¹¹⁹ However, none of the staff found a job elsewhere in the legislature.

In 1973, Ron Rued, the director of House Research who had just been appointed the prior summer when Tom Clifford quit and moved to take a similar job in Oregon, was fired by the incoming DFL leadership of the House of Representatives. The exact reasons for the change were never publicly stated. Other House Research staff were kept through the change in partisan control.

Among the laws passed in 1973 after the DFL takeover of the legislature, was a reduction in the age of mandatory retirement from 70 to 68 and then to 65 and the extension of mandatory retirement to legislative staff.¹²⁰ This reportedly was done with the intention of forcing the revisor, Joe Bright, to retire. It had the intended effect. On July 1, 1974, Joe Bright retired one year earlier than he technically would have had to under the new law. In the 1975 session of the legislature, the mandatory retirement law was amended to again exclude the legislature from its coverage.¹²¹

In January 1975, Bob Duckstad quit as director of the Legislative Research Commission after 18 months of trying to organize a central legislative staff office and finding he had support of neither legislative leaders nor staff. Duckstad was offered the possibility of another legislative position but preferred to leave.

In 1976, Peter Wattson, who was then director of Senate Counsel, was relieved of his duties as director. He did stay on as a counsel in Senate Counsel. This was the beginning of the previously discussed collective management of Senate Counsel. The collective management was engineered by other counsel who conducted a putsch by prevailing upon senators and the senate leadership to adopt their management proposal.

In 1979, Eldon Stoehr resigned as legislative auditor amid hints by members of the Legislative Audit Commission in newspapers that he should resign.¹²² Stoehr had been

involved in controversies involving the demotion of two deputy auditors "without authority of the commission" and a lawsuit by a newspaper over whether the working papers on an audit were public information. The audit in question was a politically controversial audit of a program in the governor's office. The Audit Commission had had a hearing on the matter of whether or not Stoehr should be fired.

1983 saw the end of the collective management of Senate Counsel. The resolution adopted by the Rules Committee and the Senate that ended the collective management of Senate Counsel, cut the salaries of Larry Fredrickson, who was the "spokesman" for Senate Counsel. It also cut the salaries of Bill Riemerman and Bob Lacy, who were the director and assistant director of Senate Research.¹²³ Senate Research did not have collective management. A new manager was to be hired for both agencies. Fredrickson and Lacy quit soon after their demotions.

In 1985, the director of the Legislative Reference Library, Linda Feist, was fired after staff complaints to the legislative leaders about her management. After her departure, a national search was undertaken for her successor. Judy Field was hired in January 1986. In November of that same year the staff again complained to leadership about her management and Field was also fired.

Also in 1985, Shirley Nelson was fired as the head of the Legislative Commission on Public Education.

In early 1986, Lee Larson was terminated as the House's coordinator of information and data processing. Larson had been hired in early 1982 as a top-level computer expert to carry out the computer coordination functions recommended by the report of the Public Systems Associates' study in 1981. After he was terminated, the position was downgraded to a personal computer maintenance and training position.

Later in 1986, Karen Dudley, who was director of the Legislative Commission on Pensions and Retirement, was forced out of her job.

This list only includes those directors who departed the legislature under something of a cloud. To this list might be added the staff of the Science and Technology Commission, the first Tax Study Commission, the Legislative Research Commission, and the Visitor Services Office of the House of Representatives that all had their agencies abolished underneath them.

This chronology of the firings of legislative staff managers is intended to emphasize the particularly difficult

position of staff directors. As managers, they understand they are liable for replacement if they don't run their offices effectively. However, dismissals often seem to be inexplicable. As a consequence, the managers become tentative in running the staff. At the same time, the lack of leaders' support for managers reduces the managers' authority over their staffs. Managers typically feel caught in the middle between nonsupportive legislative leaders and resistant staff.

Legislative Internal Budgeting

Budget Cutting in the Legislature. Prior to December 1981, the legislature's appropriations for itself had increased remarkably because of the growth of staff. In 1981, the state suffered a severe economic downturn and state government revenue fell precipitously. As a result, the legislature considered a series of budget reductions in a special session in December 1981, in the regular session in early 1982, and again in another special session in December 1982.

In the December 1981, Special Session, a total of \$139,000,000 was cut from the budget of which \$2,888,700 were in nominal legislative cuts. Of that amount, \$1,514,000 were nominally cuts from the Senate and House budgets.¹²⁴ In fact, because of some particular features of the way the Senate and House appropriate money to themselves, the Senate and House's cuts to themselves are not really the same as for other state agencies.

When money is appropriated to the executive branch, money unspent at the end of each fiscal year reverts to the treasury.¹²⁵ In addition, executive branch agencies are subject to strict accounting under the Statewide Accounting System (SWA)¹²⁶ and rigorous post-auditing by the Legislative Auditor.¹²⁷ However, by law, the Senate and House can carry money over between years and for the year before and after the fiscal biennium.¹²⁸ In addition, another provision of law exempts the legislature from SWA.¹²⁹ Because of that exemption, it is impossible to tell last biennium's dollars from this biennium's dollars for the Senate and House. As a result, no money appropriated to the Senate and House ever reverts to the treasury.

A different system, halfway between the executive branch system and the system for the Senate and House, exists for most joint legislative agencies.¹³⁰ Under it, money can be used in either year of a biennium only. Money for joint legislative agencies does revert.

The system for the revisor is different from the system

used by any of the other joint agencies or by the Senate and House.¹³¹ The revisor is funded partially by appropriations and partially by revenue derived from the sale of publications and other sales.

In the end, the \$1,514,000 cut from the Senate and House in 1981 was not cut from their budgets in the same sense as for the executive branch. For the Senate and House it represented a cut in funds built up over the years and not in funds appropriated for operations just for the current year.

The second episode of budget cutting began with the regular session in 1982. In this session, a total of \$30,000,000 more was cut from the state's budget. Of this amount, \$2,000,000 were nominally cut from legislative funds. The bill provided that the Legislative Coordinating Commission would apportion the cuts within the legislature.¹³² The LCC met in April 1982 to do the apportionment. It allocated 1.5 million to the programs of the Legislative Commission on Minnesota Resources.¹³³ Of the remaining amount, the legislative commissions would be cut first and only the remainder would be taken from the Senate and House on a 60-40 basis.

The LCMR funds are supplied not by the general fund but by the cigarette tax that goes into a special fund.¹³⁴ The programs eliminated involve various rehabilitation projects around the state. Because the projects cut were supported not from the general fund, no funds were freed up for use by other agencies.

The same thing recurred in the special session in December 1982. In that session, \$88,000,000 was cut from state budgets. Of that amount, only \$119,000 was cut from legislative funds. All of it was from the budgets of the revisor of statutes and the legislative auditor.¹³⁵ None of it came from Senate and House funds.

Economic hardship could have been an opportunity for the legislature to look at a more economic deployment of its staff. Because of the duplication, redundancies, and conflict within the legislative staff, economic hard times could have been used as an excuse to do more with less. Instead, little in the way of economizing occurred Senate and House staff. It was an unfortunate opportunity to miss.

Legislative Transfer of Costs. Another feature of legislative budgeting is that the legislature, instead of following the rules it imposes on the rest of government, does not bear all of the costs to support its own operations. Among the legislative costs imposed elsewhere

in government are these:

- All other agencies of government pay "rent" to the Department of Administration for the purpose of paying the cost of furnishing heat, light, electricity, air conditioning, building maintenance, and building security.¹³⁶ The legislature pays nothing. Instead, funds are appropriated in the Department of Administration's budget to cover legislative costs.¹³⁷ By doing this, the legislature deflates its own costs at the expense of inflating the costs of the Department of Administration.

- The Revisor of Statutes Office is required to apportion the office's appropriations between the three branches of government.¹³⁸ It is required to do so on the belief that the statutes and rules as well as bills requested by departments are all the property of the individual departments affected. In reality, they are all directly or by delegation legislative work products. By doing this, the legislature's own costs are deflated and those of the Department of Administration are inflated.

- Assorted specific functions, such as the Legislative Manual,¹³⁹ are carried out by the executive branch staff for the legislature.

Conclusion. By the devices of exemption from the usual budgetary practices and accounting and the transfer of its costs elsewhere in government, the legislature has put its budget beyond public observation. What the legislature has failed to realize is that, because of the same devices, the budget is also out of effective control. As for the legislators' own pay, it is difficult for the legislators to be other than political on its own budget.

The Future of Staffing

Predicting the future, of course, requires some crystal-ball gazing. Different people's crystal balls can show different futures. Some developments, however, seem more likely than others.

Staff size seems unlikely to grow substantially. There may be changes within the same total number of who's doing what. No one seems to think that more of any category of staff is an answer to any problem. So, changes will be qualitative not quantitative.

More staff will undoubtedly be involved in the delivery of computer services. As for all business and government, the desk top computer or computer terminal is becoming pervasive in the legislature. New applications, faster

application, and the interconnection of computers will necessitate more staff. Unlike business, where the trend is to group such functions together in a management information systems (MIS) department, the legislature is likely to continue on a course of developing multiple separate systems.

Sometime in perhaps the more distant future, the legislature will arrange for district staff for members. It will probably come incrementally with leaders, then committee chairs, then other members getting district staff. Another possibility would be legislators from the more distant districts or geographically large districts getting staff first and then expanding district staff to all legislators. Whatever the method, the justification will be the increasing need for ombudsman-like work done by caseworkers for legislators.

The personalization/politicization trend of legislative staff will continue. Part of that trend will be the just mentioned district staff. Eventually, ordinary members as well as leaders, committee chairs, and subcommittee chairs will get administrative assistants. When that happens, the trend will start over with the leaders getting two or three administrative assistants, then the committee chairs getting some more, then subcommittee chairs, then all members. If the leaders and chairs get more administrative assistants, then central staff agencies like the revisor, Senate Counsel, and House Research will be in danger of abolition. The members' personal support staff will have the size to be capable of providing research, drafting, and similar professional services and supplant the central agencies.

The changes will continue to be made by indirection. No agency will be abolished as others are created. The old agencies will just be allowed to atrophy as the new types of staff grow.

It is doubtful that any general reorganization of staff will occur. Too few legislators understand or know enough about the staff of the entire legislature to be able to do so. Changes will be made as a few powerful legislators decide it is time for change.

Conclusions

Certain conclusions can be drawn from this history. The most important of these is that the Minnesota Legislature's staff, like the unfortunately trite analogy of Topsy, "just grewed." There has been no plan for and no consistent pattern for development of staffing in the legislature. No one in 1955 or 1973 or any other time decided what the optimum staff organization would be and

then establish a plan to develop that organization. Staff changes have been caused by what one or a few legislators think they need right now for staff.

The 1950s and 1960s are often labeled as the age of state legislative reform. In reality, it was the era of staff growth and expansion, but not of reform. The growth and expansion was unplanned. Now that the growth may be over, it is the time to begin reform.

The fact that staffing decisions have been based on what one or a few legislators think they need right now has caused:

- (1) the continued development of staffing along multiple and conflicting lines;
- (2) the failure of changes in staff compensation and benefits to keep pace with the definition of new duties for the staff; and
- (3) the continuing failure to acknowledge the sheer size and complexity of the staff being managed and the complexity of management itself.

In the end, the staff system in Minnesota's Legislature is a patchwork. The elements of the patchwork are:

- three older central staff agencies with statutorily designated duties and protections;
- two moderately old in-house general professional service agencies with almost totally self-defined duties and no protections;
- many independent legislative commissions, most of recent vintage, with limited statutory powers and specialized staff competing with central and in-house staff;
- several legislative agencies or legislative controlled agencies performing executive branch functions; and
- growing in-house staff groups to handle a variety of new duties.

The staff has come a long way in the last thirty-two years. It has developed from almost nothing to a large and complex staff system. Having developed this far and with the future needs being defined, it is appropriate to stop and reorganize the staff that has grown without any planning and to reorganize to provide a basis for future needs. The remainder of this problem analysis provides a closer

analysis of the problems with the staff and recommendations about what should be done to arrive at a better staff system for now and for the legislature's future.

CHAPTER THREE

THE CONTEXT OF THE PROBLEM: THE CONFLICTING ROLES OF POLITICS AND ADMINISTRATION IN GOVERNMENT

The Politics/Administration Dichotomy

Woodrow Wilson's 1887 essay "The Study of Public Administration"¹ is widely credited as the source of the study of public administration.² It also gave rise to what became known as the politics/administration dichotomy of government.³ This dichotomy views government as inevitably two different spheres. A policy-making sphere is dominated by the concerns of politics. An administrative sphere is dominated by the concerns of effectively and efficiently carrying out the set policy and is theoretically devoid of politics.

It has been debated whether Wilson really announced the dichotomy, but there is no doubt that the dichotomy dominated governmental theory until after World War II.⁴ Since then, the dichotomy has been disputed and, according to some, discredited.⁵

For the purposes of this problem analysis, I do not need to resolve or take sides in the debate on the origin or correctness of the politics/administration dichotomy. It is sufficient to note that government contains both.

In more modern times, the rift between politics and administration in government has been recognized as creating practical problems. Hugh Heclo's *A Government of Strangers*⁶ describes the continued conflicts between political executives and top-level civil servants in the executive branch of the federal government. The political executives don't understand or respect the concept of politically neutral administration. On the other hand, the top-level civil servants don't understand or respect the role of politics in policy making. Heclo's views on the

relationship of political executives and nonpartisan managers seems to be the practical expression of the dichotomy found 100 years ago by Wilson.

What must be recognized for the purpose of this problem analysis is that the conflicting needs of politics and administration are now as pervasive in the staff system of the legislative branch as they have been in the executive branch. And, as it does for the executive branch, the conflict has practical consequences for the legislative branch. Neither Wilson nor Heclo applied his analysis to the legislative branch. When they talk about politics and administration only relates to the executive branch. This chapter is intended to explore politics and administration in the legislative setting.

The Role of Politics in the Legislature

Introduction. To state that the legislature is a political institution is to state the obvious; nonetheless, it is important to really appreciate what the statement means. Where the legislature is concerned, anyone trying to evaluate the role of politics must not err either on the side of naivete or cynicism. What follows is the author's attempt to meet that tricky requirement.

Politics as Power. A college professor's observation,⁷ which I did not appreciate then but that I have since concluded to be very shrewd, was that to understand politics, one should begin by never saying the word "politics" but substituting the word "power" instead. I define politics as the art of acquiring, maintaining, and exercising power by one person over at least one other person. This definition does not connote anything pejorative. Politics (power) should not be thought of as inherently good or bad.

My definition of politics requires dissection.

Politics involves the acquisition of power. It can be acquired in many ways, many not even involving the legislature or other electoral politics (power). So, for example, an employer has power over an employee because of the nature of the employer-employee relationship. I, however, am concerned with the exercise of politics (power) by legislators. This power is acquired by the electoral process. It should be noted that the acquisition of power is not necessarily easy. Getting elected can be grueling. Once in the legislature, it may take time to acquire significant power within it.

Politics involves the maintenance of power. Just

because a person has power doesn't mean that he or she can keep it. Power is not a solid object that can be put away in a safe and protected from loss. Power is more like holding water in your hands. It easily slips through your fingers and takes substantial work to keep in your hands without loss. Power is relative. Increasing your own power is not the only means of gaining power over others. It can also mean diminishing someone else's power so that, relative to them, you have more power and can affect them. So constant effort is required to maintain power.

Politics involves exercising power. The exercise can either be the objective itself or a means to achieve something else. For example, a legislator may decide to prevent another legislator's bill from passing because the other legislator opposed something that the first legislator wanted. With that motive, the power is being exercised solely to exercise the power. A legislator may oppose or support a bill because he or she believes it is bad or good policy. With that motive, the exercise of power is the means to the end of achieving public policy. In the end, the power affects others whether the motive is to just exercise the power or to achieve something else.

Power is exercised by one person. While things can exercise power in a sense (for example, natural processes can be beneficial or destructive) I am concerned with the cognitive decision by one person to affect another. There can be power in collective action by people. So an organization, group, or corporation collectivizes the power of people. However, I view the collective nature as only the means of exercising power by individual people. For example, in law, a corporation is an artificial person. But there is no doubt that the directors, officers, and employees of the corporation animate it. Even in law the legal fiction that the corporation has a separate existence from its officers can be set aside and the officers can be personally held responsible for the corporate action. I am setting aside any fiction of a collective organization having power itself and looking directly at the person or people who animate an organization.

Lastly, power is exercised over at least one other person. To be sure, power could be exercised over things. For example, a decision by state government to build a new highway will result eventually in bulldozers reshaping the land from rolling farm fields into a highway. The land is obviously affected. However, I am interested in how the exercise affected other people. For example, the decision to build the road affects those who own the land where the road will be built, those who will ultimately use the road, and possibly a much wider community of people. Things

aren't sentient, and are compliant to the exercise of power over them. People are sentient and will react in some way to the exercise of power over them.

Politics as a Game. Politics (power) has been referred to as a "game," and to understand politics it is useful to think of it as a game. The premier quotation about politics as a game is from the great science fiction writer Robert A. Heinlein in his book *Double Star*:

"Are you going to stand for re-election?"

He stared at me. "Huh? Brother, until you've been in politics you haven't been alive."

"But you said-----"

"I know what I said. It's rough and sometimes it's dirty and it's always hard work and tedious details. But it's the only sport for grownups. All other games are for kids."

A computer game of "legislature" could be developed to provide instruction on how the real game of politics works. The rules of the game are these:

First, you can't play "legislature" to start out with. You first have to play and win a preliminary game called "election." Also, at periodic intervals during the legislature game, you are required to go back to the election game and win it again before you can continue the legislature game.

Second, the game is always in progress. You can't start at a beginning with nothing going on. When you start the game, different random factors will be occurring. For instance, in the election game you will sometimes find your opponent in your district to be an entrenched incumbent, a marginal incumbent, or the district might be open. You might or might not get a primary challenge. Your chances of winning the election game are low if there is an incumbent and high if the seat is open.

Third, to win the election game, you have to have more "power points" than your opponent on election day. To get power points, you have to raise money and recruit volunteers in the time before election day. You have to make periodic decisions about spending money and volunteer time. A time clock counts down the time to election day. Depending on how and when you spend your money and volunteer time, you get a lot, some, or few power points or you can lose points. Random events, too, such as a mistake by your opponent or heavy rains in you district or your opponents's on election day, affect the number of power points accumulated. Also, your opponent may do something that

takes away some of your points. (Ideally, the computer would permit one-on-one play with only one of the two people playing election being allowed to go on to play legislature. Failing that, you would play against the computer as an opponent and as long as the computer opponent won, you would have to keep playing election repeatedly until you won before being able to go on to legislature.) You could circumvent problems of the lack of an open district by moving to an open district. By doing so, however, you would lose points when an opponent tags you with the "carpetbagger" issue.

Fourth, once you won the election, you would start playing "legislature." In legislature, you would also accumulate points of several different types. You can accumulate legislative power points, election power points, citizenship points or a combination of the three. For example, activities while playing legislature would give you legislative power points, others would give you both legislative and election power points, and still others would give only election power points. You could also choose activities that could lead to citizenship points. Citizenship points, however, could not be converted into either legislative power points or election power points. It would be possible also to have phantom power points on either a positive or negative basis. So you might actually have more points than you were told you had or you might have less and, in either case, you would be unaware of it.

You would gain power points in several ways: by passing bills supported by particular interest groups; by preventing bills of other legislators or interest groups from passing; by getting your name or photograph published in newspapers or on television; by agreeing to support or oppose bills of other legislators (some who already have a lot of power and others who don't); and by many other activities. The wrong choice could reduce your legislative power points. You would have to make choices periodically about spending power points in the hope of getting even more power points back. You would get citizenship points by passing bills relating to improving government but not supported by any interest group. You would also be forced, periodically, into various dilemmas, in which no matter what you decide you will lose points. The way you would lose fewer points would not be evident.

Fifth, as you got more power points, you would be able to spend them to become a committee chair or a leader. Either of those capacities would automatically give you a lot more power points. It would also provide new kinds of ways to gain power points and new choices about how power points could be spent in a try to gain more points. For

example, a committee chair would find it easier to pass bills through their own committee and to prevent bills of other legislators from passing. You would also get staff power points. Your staff would, under your direction, also be able to undertake activities that gain or lose you power points.

Sixth, the game would have no ending. As long as you kept playing you would keep accumulating more and more power or citizenship points. (Ideally, at a time you could choose to spend points on an election for governor, but that is really beyond what needs to be discussed here.) You could stop the game at any time, however, by "resigning" if in office, and by "quitting" if running for election. When resigning or quitting, you would be told the maximum number of power points you had at any time during the game and the number of citizenship points you had at the end of the game. You would not be told whether you "won" or whether it was more important to have power points or citizenship points.

This statement of the "game" should not be taken as either demeaning or trivializing the legislative process. To be sure, the output of the legislative process has serious consequences. Those consequences can affect, following the truism, every man's life and property. Nevertheless, there is often an air of unreality on the inside, that is, a seeming belief that the game has no external effect.

Observed Consequences. Several points should be observed from the described game. The first is the pervasiveness of the election process. In the legislature, an election is always around the corner and what you do in the legislature affects how you are going to do in the election. The legislature is not an academic think-tank or a recommended laws group that makes decisions solely on the persuasiveness of evidence and rational argument. The decisions can be and are made on the basis of the way they will affect the next election. If this sounds crass then perhaps the more acceptable way to say it is that the decisions are made by legislators based on what they think the majority of their constituents want or, at least, would accept. That is getting to the representative essence of the institution.

Another point is that ideology has more influence on legislative decisions than evidence or argument. Legislators often get elected on the basis of a general ideology or partisan affiliation and not on a pledge of how they will vote while in office. Once elected, they fall back on that ideology or party position to determine how to

vote. This can be particularly frustrating for staff. A staff member might spend a year studying a question, considering alternatives, and making carefully considered recommendations only to have the legislators never look at it and vote instead according to how the liberal or conservative legislators they associate with are voting. One legislative staff member has said that a research report shorter than a single eight and a half inch by eleven inch page has a 100% greater chance of being read by a legislator than a report longer than that. So, in the end, the ability of evidence and argument to win the day are limited.

Another factor is the justified complaint by legislators that solutions proposed by outsiders to legislative system problems often attempt to de-politicize the inherently political system. This is trying to take the politics out of politics. And obviously, if you take the politics out of politics you've got nothing left. When the United States Constitution was written, there were no political parties and apparently an expectation that the Congress would be free of them. However, the ink wasn't dry before the founders and the populace split into the Federalists and the Anti-Federalists. The factional division has continued to the present day. In Minnesota, before the Legislators were elected on a partisan ballot, there was a liberal and a conservative caucus. In Nebraska, where the sole "nonpartisan" legislature still exists, insiders say that it is known who is a Democrat and who is a Republican. Formal attempts to remove politics succeed only in camouflaging politics, not eliminating it. It should be clear that efforts at reform that depend on depoliticizing the process are doomed to failure. The political nature of the process must be accounted for and cannot be controlled.

Lastly, there is the matter of trying to find common ground between the legislators as politicians and any nonpartisan staff who happen to be responsible to them. Again, Hugh Heclo's book *A Government of Strangers* provides a lengthy analysis of the problems of the many new political managers who come together under a new president to run the federal government. These managers, in Heclo's analysis, are and remain strangers to each other. One of the principal discussions in the book concerns the the problems the political managers have in relating to the top-level civil servants under them and the difficulties the top-level civil servants have in relating to the political managers.⁹ There is a clear resemblance between these problems in the executive branch and problems in the legislative branch of the relationship between the legislators (as political managers) and the nonpartisan staff. The mind-sets of legislators and nonpartisan staff can be entirely different and the differences can lead to problems. Just as Heclo

prescribes steps to lessen the problems between the political managers and civil servants in the executive branch, the same steps can lessen problems between legislators and nonpartisan staff.

Staff Role in Politics. The conclusion from the political background is that any reform to the staff system must serve the political needs of the legislature. Some of the political consequences of this finding are:

First, the ultimate imperative of legislative life is that you must win an election to be able to do anything. Any staff system must recognize that imperative or it will not survive.

Second, politics (power) will often determine what is considered and what the outcome will be. These considerations may take precedence over impartial decision making.

Third, the visible lawmaking process is not where the decisions are really made. The public forums are where the private decisions are publicly announced or ratified. The manner of announcement may be accompanied by a good deal of drama, but drama should not be mistaken for actual decision making. The staff members must be able to exert influence where the decisions actually occur or they will be irrelevant to the process. That means that they have to be perceived as loyal, confidential, and capable.

Fourth, politics is always accompanied by a good deal of paranoia. This is ultimately the cause of the reoccurrence of cover-ups in politics. There are frequent fears of leaks and double dealing. The staff system must be structured to minimize paranoia directed toward the staff.

Fifth, patronage is inevitable and must be shaped so that it supports rather than detracts from the ultimate effectiveness of the legislative process.

However, consideration of the politics in the legislature is not enough to design a successful staff system. The legislature has an administrative role as well. It is necessary to consider that part of the background.

The Role of Administration in the Legislature

Policy Making. Politics is not the sole background against which the problem of legislative staffing is to be considered. The constitutional role of the legislature as the policy maker in government must also be considered.

While politics may be the "only sport for grownups," as Adlai Stevenson said, "good government is good politics."¹⁰ In the final analysis, changes cannot just improve the game of politics. The administration of government must be improved as well.

The principle role of the legislature in government is that it is the policy-making branch of government. The constitutional role of the executive branch is to implement the laws and that of the courts is to interpret them. The fact that the legislature is intended to make policy, is, in fact, the siren call motivating people to run for election to the legislature. The fact that the staff has a role in making policy is the primary attraction of belonging to the legislature's staff. In fact, movement within the staff often has to do with staff moving to positions they perceive as having more of a role in determining policy.

The legislature must have the tools of policy making. Without attention to the tools of policy-making, the legislature becomes a lottery, in which policy is determined purely by chance, or, as is more likely, it becomes a purely political area in which whoever has the most power prevails regardless of the merits of his or her position.

There is plentiful literature on policy-making in the legislature. Although somewhat old, the most comprehensive study is *The Sometime Governments*,¹¹ which was written and published in 1971 by Legis 50, a private legislative consulting organization. The study is best known for its rating of the state legislatures from best to worst among the 50 states. Less celebrated is the comprehensive discussion of recommendations it considered necessary for state legislatures to perform their policy-making role. Legis 50's recommendations were grouped into five areas. A legislature must be functional, accountable, informed, independent, and representative. Using those five areas, it is appropriate to consider the staffs' role in each of them.

Staff Role in Policy Making. According to Legis 50, to be functional, a legislature must:

- utilize time effectively;
- have personal assistants for members;
- have adequate physical facilities;
- be of moderate size;
- have procedures that ease the work flow;

- have adequate leadership power and interhouse coordination; and

- have order and decorum in procedure.

To be accountable, a legislature must:

- have comprehensible and rational organization and procedure;

- provide adequate information to the public on its activities; and

- establish the proper role for leaders and the minority.

To be informed, a legislature must:

- have enough time to do its work;
- be subdivided efficiently into committees;
- make efficient use of the interim;
- have adequate records and information resources;
- have adequate research and legal staff; and
- have adequate fiscal staff.

To be independent, a legislature must:

- control its own appropriations;
- be independent of the executive;
- exercise oversight over the government;
- control lobbyists; and
- limit dilution of interest.

To be representative, a legislature must:

- be elected from single-member districts;
- be diverse in membership; and
- permit responsible activity and decision making.

These recommendations are very comprehensive and go far beyond the ground to be covered by this problem analysis.

All are directed toward making the legislature a better policy-making institution. Many of the recommendations, however, directly or indirectly, have to do with the amount, management, and usage of legislative staff. The specific recommendations are that a legislature must have:

- a separate management committee to take care of administrative management (including personnel and general oversight over legislative agencies);
- sufficient research, legal, fiscal, and planning staff;
- permanent committee staff;
- sufficient staff support for leaders;
- sufficient personal staff for ordinary members including a professional-level administrative assistant and a secretary;
- no party patronage; and
- a legislative office in Washington, D.C.

Other recommendations by implication necessitate more and different kinds of staff. Examples of these include a recommendation of a district office for each member (which would have to be staffed), official summaries of all bills (staff would have to write them), strengthening the minority party role (the minority party is traditionally deprived of staff), and many more.

The modern legislature needs competent staff with a wide variety of specialties and abilities. The complexity of the policy-making function has grown to the point that the legislature can no longer go it alone.

Conclusion: Satisfying Both the Political and Administrative Needs of the Legislature

Returning to the introductory point of this chapter, government has two elements: politics and administration. Historically, discussions of the role of politics and administration purport to address government in general, but in reality the discussions are only addressed to the executive branch. It is the conclusion here that the elements of politics and administration must be considered in the organization of legislative branch staff. Both must be served. You can't just say that the staff takes care of administration and the legislators take care of the politics. To do so would repeat the same error that the

critics of Woodrow Wilson's dichotomy present and that Hugh Heclo finds causes substantial problems for the federal executive branch.

Satisfying the elements of politics and administration is no easy task. It isn't easy because sufficient attention has not been paid to the entire issue of the comprehensive organization of legislative staff. In the 1960s and earlier, the staff of the legislature was small and homogeneous enough that casual attention to global staff matters didn't really matter. There wasn't global anything to pay attention to. Now, the staff is too large, too complex, and performing too important a function to be run on a casual basis.

Operation of the legislative staff system must start with a real understanding of the dual needs of the roles of politics and administration in the legislative branch as it applies to staff.

The political needs involve elements that the staff must, in some ways, support, and in other ways, be protected against. For example, failure of staff to understand the reelection imperative and react appropriately is foolishness.

The administrative needs of the legislature involve recognition of the full panoply of services needed by the legislature and the best method of delivering them efficiently.

Given that background, it is necessary to analyze how staff can meet the legislature's political and administrative needs.

CHAPTER FOUR

SELECTION OF EVALUATION CRITERIA

Introduction

There is a big difference between random complaining (a common by-product of any human endeavor) and identification, analyzing, and reaching solutions to problems that arise in human activities. If a system of analysis can be reached and standards for analysis determined, the problem solving process has a better chance for success. This chapter introduces the system of analysis and the standards against which the Minnesota legislative staff system can be measured.

Whose Standards?

Introduction. The first matter considered is which standards should be used to judge the staff organization. Among the possibilities are: (1) an absolute standard of what is "best;" or (2) what is believed better by comparison to the private sector, government generally, legislative staff including either or both partisan and nonpartisan staff, and the legislators themselves.

Absolute "Best" Management. The first alternative, a single best theory of management does not seem possible. It should be evident from the various competing theories, management fads, and debate on new theories that there is no single "best" for the legislature to aspire to.

The Private Sector as the Standard. Using the private sector as the standard for management has strong appeal. For years, politicians have campaigned on the slogan that they would "operate government like a business."

Realistically, there are strong reasons why government in general, and the legislature in particular, can't be run like a business. The first is that government is not supposed to be efficient. The pattern of government in this

country from the national government down to all state governments has been to set up three branches and provide other "checks and balances" to ensure that the government is never so strong as to be able to deny anyone's liberty. Legislatures were to be deliberative bodies. In Minnesota, various checks, like a requirement of extraordinary majorities for rapid action, were put in place to deliberately slow things down. The founders were more afraid of tyranny than inefficiency. It is doubtful that people today would make a different choice.

In addition, the goals of government and business are entirely different. This is usually expressed in terms like "government is not in business to make a profit." But this statement is not adequate.

An executive of General Motors is reported to have once asked other executives "what business are we in?" A second executive responded, with apparent logic, "manufacturing and selling automobiles." The first executive replied, "Wrong." "We're in the business of making money. We make money by manufacturing and selling automobiles." If government rather than General Motors were involved in the work, it would not be in the business of "making money" or even of "breaking even." It would be in the business of "manufacturing and selling automobiles."

But government is not in manufacturing. It is, however, in the business of ensuring that our lakes and rivers are free of pollution, of ensuring that children are educated and not abused or neglected, of building highways to facilitate public transportation and commerce, and a large array of other tasks. Even people who feel that the government's role should be limited to "carrying the mail, defending our shores, and staying the hell out of my life" at least feel that the carrying of mail and military defense are responsibilities of government. These people in particular, would find the prospect of the government making a profit anathema. This does not mean that governments shouldn't attempt to meet its goals efficiently and effectively. But the goals of government cannot change if a goal cannot be met without a lot of "waste." In business, the goal of making money remains constant - making money - but the method may change. An example is United States Steel, now USX, because it found it could make more money in other business than making and selling steel. What for business is the method of achieving the goal is, for government, the goal itself.

So, looking to the private sector does not provide an appropriate standard for evaluating the management of legislative staff.

Government as the Standard. Can government standards be used as the standard for evaluating the legislative staff? A review of most literature on public sector management would say yes. The literature, almost uniformly, treats public sector management as a single entity. Closer reading reveals that only the executive branch is being considered. If the legislative branch is mentioned at all, it is only to show that it is assumed that what is said is as applicable to it (or the courts) as to the executive branch.

In chapter 3, the inherent political nature of the legislative process was explored as well as the role of the legislature in government. Political and administrative considerations also affect the executive branch, but the mixture is different. The executive branch's constitutional role is administering policy. The legislative branch's role is making policy. The executive branch is going to be dominated by administrative concerns. The legislative branch is going to be dominated by political concerns. For that reason, the standards of the executive branch staff are not adequate to judge the legislative branch staff.

Legislative Staff's Own Standards. Can the partisan or nonpartisan staff's standards be used to judge the legislature? First note that partisan and nonpartisan staff do not necessarily have an identity of interest. The inherent difficulties between nonpartisan staff and the legislators were noted in chapter 3. There are difficulties between partisan and nonpartisan staff as well. Partisan staff are much more aligned to their partisan masters than to nonpartisan staff. In any case, it should be clear that it is the legislators, not the staff, who are running the institution of the legislature. To find that staff standards rule in legislative management is to find something that never has been and never will be. That does not mean, that the views of staff, partisan and nonpartisan, should be ignored. The problems noted by the staff can be the primary source of finding what problems should be remedied. But whether those problems will be remedied, or remedied in accordance with standards suggested by the staff, is purely up to the legislators.

Legislators' Standards. How about using the legislators' standards to judge the staff? It is the legislators, after all, who run the place.

Having suggested that the legislators' standards could be used to judge the staff, it must also be said that this may be easier said than done. The primary problem is that what legislators want may be difficult to determine. In 1987, the Hubert Humphrey Institute of the University of

Minnesota published the results of a survey it took of legislators. The survey concluded that Minnesota legislators: (1) don't like any of the staff services available to them; and (2) don't much like any of the proposed alternatives or additions to the staff proposed in the survey.¹ Most legislative staff managers would say they have known this all along.

To resolve this problem, it is necessary to find at least a few legislators to make decisions on staff matters. The legislators designated as staff managers would have to be as skilled at management and have to spend as much time on staff management as do the political managers of a similar sized executive branch agency.

System of Analysis

It is now necessary to consider the system by which the analysis of legislative staff will be made. The system followed is the classic statement of the elements of public sector management: POSDCORB. To that statement will be added one additional element not contemplated by the POSDCORB acronym to make the system the acronym stands for better reflect the need to consider both the concerns of politics and administration in government.

The POSDCORB Elements. POSDCORB is an acronym for the elements of public administration created by Gulich and Urwick in the year 1937.² The acronym stands for: planning, organizing, staffing, directing, coordinating, reporting, and budgeting. Since its introduction, a continuing debate has raged over whether POSDCORB correctly states the elements of public administration. Among the criticisms are: the elements are not specific enough to public administration and could relate to administration anywhere; important elements are left out; minor elements are included; or the elements should be combined or formulated differently. The development and criticisms of POSDCORB are succinctly stated by Graham and Hays.³

The debate over POSDCORB will not be repeated or resolved here. My purpose is to use a system of analysis to analyze the staff organization of the legislature and POSDCORB is used, not because there is common agreement that it is best, but because it is the classic statement of the elements of public administration.

Planning. Planning involves the projection of goals and needs and the systematic organization of resources to meet those goals and needs. The resources include money, space, and time. The planning should be comprehensive and involve both the near term and distant future. The latter

involves strategic planning. Regarding legislative staff, planning would involve the determination of future needs of the legislature as a whole and the step-by-step planning of how the legislative needs will be met.

Organizing. Organizing involves the determination of the relationship, authority, and control of parts of a unit of government to achieve a specific objective. In a large unit having diverse duties, determining the best organization can be difficult. Regarding legislative staff, organization involves determining who will do what work and how the staff will be controlled.

Staffing. Staffing involves the whole area of human resources including the employment process, discipline, pay, benefits, work rules, training, and the work environment.

Directing. Directing involves decision making and leadership in an organization. As might be implied by the use of the term "leadership," the element involves much more than just giving orders. Among the factors involved are the proper uses and limits of authority and the motivation of employees. It is distinct from political management in that "directing" relates to line management not policy determination.

Coordinating. Coordinating involves determining the best interrelationship of parts of a job in order to achieve a common goal. This function is very close to the directing function. In fact, alternatives to the POSDCORB formula proposed by other authors incorporate the two together. The concept of coordinating, however, involves a recognition that the diverse functions of an organization must be drawn together.

Reporting. Reporting involves the informational component of the organization. Information is a two-way street. A manager needs information to run an organization and employees need information to do their jobs properly. The information is conveyed through a formal process, not an informal (rumor) or haphazard process. Measurement forms an important part of the system. For example, resources used and output are constantly measured.

Budgeting. Budgeting is the financial control of an organization. It is one of public management's chief tools. It involves the final determination of what will be done, the calculation of its price, and the planning of the expenditures to have the plan implemented.

Political Management Added. The POSDCORB formula was derived originally to analyze administration of government

that is free of politics. It has been criticized because of that fact. Politics and administration are intimately involved in the legislature. For that reason, a new element must be added: political management. For the purpose of the acronym, it is stated as PM/POSDCORB.

Political management is policy making for the overall management of legislative staff. The policy making is done through the politics of representative government. Policy making involves the choice of goals for the administrative managers and staff and some of the choices on method.

Conclusion

These, then, are the elements of public administration that will be used as the system to appraise the Minnesota Legislature's staff system. Just as POSDCORB has been criticized for not really being *public* but just administrative generally,⁴ it can also be criticized for not being specific to *legislative* public administration. The making of PM/POSDCORB into a specifically legislative analysis is done by keeping the two background elements in mind - the role of the legislature in government and the role of politics in the legislature. It is necessary to keep the two balanced.

The next task is to use the PM/POSDCORB elements to consider meeting the balanced governmental and political needs of the legislature so that the legislators would be satisfied.

CHAPTER FIVE

PROBLEMS IN STAFFING THE MINNESOTA LEGISLATURE

Introduction

Having considered the background, the analysis system, and the standards, it is now appropriate to consider the specific problems of the legislative staffing system in Minnesota. The PM/POSDCORB elements of administration will be used as the system to analyze problems with administration of legislative staff.

Political Management

Political management of legislative staff is the key difficulty in legislative staffing. If the problems in this area could be solved, then the problems in other areas could be resolved as well. The problems with political management of legislative staff can be classified in three ways. These are that legislators: (1) don't see themselves as staff managers; (2) don't pay attention to management matters; and (3) don't manage well. Each will be considered in turn.

Legislators as Staff Managers. In Hugh Heclo's *A Government of Strangers*, substantial time is spent explaining the difficulties of federal cabinet secretaries and other top-level political appointees in dealing with the top level civil servants who report to them.¹ Legislative staff managers will find this familiar. The same kind of misunderstandings and conflicts occur between legislators and staff, particularly between legislators and nonpartisan staff. There is a key difference between the executive branch and the legislative branch. In the executive branch, the secretaries and other top-level political appointees consider themselves to be the managers of the civil servants. In the legislature, the legislators consider themselves to be many things (lawmakers, policymakers, representatives, ombudsmen, etc.) but don't see themselves

as staff managers.

This is not surprising. Legislators get elected because they promise to see that certain laws their constituents want passed are passed; to see that certain laws they want defeated are defeated; or to have government services wanted by the district or individuals in the district actually delivered. Nobody gets elected, or is likely to, by claiming "I'm a crackerjack staff manager." Given that fact, it isn't surprising that when a person gets to the legislature, much time is spent on getting laws passed and trying to get the government off the back of a constituent. This lack of attention to staffing didn't cause a problem until the modern legislature started to develop after World War II. Before then, there was essentially no legislative staff. The few people hired to assist in the chamber by processing the paperwork and guarding the chamber doors could be handled on a casual basis. Now the legislature has a huge staff and is managing them on the same casual basis as when the staff consisted of a chief clerk and a sergeant-at-arms.

Legislator Attention to Staff Management. Legislators seem to have the belief that staff will manage themselves. They arrange the creation of some staff group, put someone in charge (with the responsibility to manage but not necessarily the authority) and request services. A legislator's interest in staff tends to be in only the staff who provide services most conveniently. No one is interested in staff on a global basis. There can be orphan staff groups that don't have anybody interested in them. Examples of this are the old Tax Study Commission and the Science and Technology staff. Largely because they became orphans, they got abolished.

When legislators must give attention to staff matters, often because of the required authority that they have reserved to themselves, they don't take the time to do it. Meetings on serious staff matters tend to be few and far apart. Interest in major staff matters is low. Staff matters considered tend to be mostly routine matters such as approval of employee roster changes and pay adjustments.

Among themselves, staff are often not kind to the legislators they serve. They complain that legislators: are difficult to get work direction from; complain about work delivered to them; expect the highest quality of work and rapid turn-around on requests but rarely give thanks for extraordinary efforts; take credit for good work but give staff the blame for mistakes; say they want in-depth research and information on complicated subjects but most of it goes unread and unused. That number of complaints

indicates that legislators are not paying attention to routine matters of staff relations.

Conclusion. In the final analysis, legislators are not providing effective management to their staff. But, with a large and complex staff, it has gone past the time when legislators can ignore their management responsibilities.

Planning

There is a saying that "24 hours is an eternity in politics." The saying may also tell something about planning in the legislature. That is, 24 hours of preparation is often long-range planning. Most changes in legislative staff have occurred without planning. Some planning that has occurred has led to no particular changes.

A quick reference back to the history of the development of the legislature's staff can explain the difficulties caused by the lack of planning.

It will be recalled from chapter two that a consistent pattern in the history of Minnesota's legislative staff is the creation of new agencies with duties that wholly or partially duplicate the duties of existing agencies. If redundant services are not intentionally created, then they are permitted to occur through the "informal" status of some agencies. The informality also means a lack of definition of the agency's mission resulting in permitting the practical expansion of duties into the duties already performed by other staff. These types of activities show a lack of planning regarding the effect of a new agency on the duties already performed by another agency. Change was occurring without planning. There has been no advance planning on what staff services the legislature needs and no plan created for offering those services on a continuing basis.

The reverse is also true. As an example, in 1985 the Minnesota Senate paid dearly to have management consultants examine the computer needs of the Senate and to plan how the Senate was going to meet the needs. When completed, the study was formally "accepted" by the Senate. Nothing was subsequently done with the report and within months, decisions were made on Senate computerization that took it down a different road than that recommended in the consultants' report. A few years earlier, the House paid almost as much for another consultant to develop a plan for it to computerize. The chief result was that a staff office was set up to oversee the computer development for the House. In 1985, the incumbent in the office was fired and the job itself reduced in status to manage the computer

equipment the House already had. In the meantime, the Revisor's office computerized the House's index and journal without any formal review by anyone.

The planning function also contemplates strategic planning as well as operational planning. Today, no one is examining what the legislature will need to be in the year 2000 and beyond, and no one is making decisions on what changes should occur in the staff and when to be sure that the legislature gets there. As data and communications possibilities advance at an ever increasing pace, there is no doubt that the legislature could be revolutionarily different from what it is now. Someone must see that vision and prepare for it.

Organizing

Since the staffing of the legislature was not planned, its staff organization is what might be expected in an unplanned organization. There are three primary defects. First, legislative staff's duties may not exceed the legislative role in government. Second, there are gaps in the services legislative staff should provide. Third, the pattern of internal organization is a patchwork and resembles no particular organizational format. Each defect will be considered in turn.

Staff Exceeding Legislative Role. The outside limits on what legislative staff may do is exceeded because the legislature exceeds the limits on what the legislature may do. It is a popularly known principle of constitutional law that in American government the legislative, executive, and judicial functions are separate.² When one branch performs a function of another branch, it is known, in law, as encroachment.³ As the Minnesota Legislature encroaches on the executive branch, legislative staff that do the work are outside the proper limit of what legislative staff may do.

The limit on the legislative branch comes from three sources: the constitutional separation of powers; the constitutional prohibition on legislators holding another office; and the common law principle that no person can simultaneously hold incompatible offices.

The constitutional separation of powers in Minnesota originates in Article III of the Minnesota Constitution. That article provides:

The powers of government shall be divided into three distinct departments: legislative, executive, and judicial. No person or persons belonging to or constituting one of these departments shall

exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.⁴

The provision is clear on its face that legislators, as members of the legislative branch, cannot exercise "any of the powers" of the executive branch.

The law of separation is strict as summarized by *Corpus Juris Secundum*:

In accordance with constitutional provisions separating the departments of government, the legislature cannot interfere with, or exercise any of the powers properly belonging to, the executive department.⁵

and by *American Jurisprudence Second*:

It is a fundamental principle of the American governmental system that the legislature cannot usurp the powers of the executive department by exercising functions of the latter. The two departments should be kept as distinct and independent as possible.⁶

Although there is no Minnesota Supreme Court case directly on point, the court has said:

Generally, the distinction between the jurisdiction of the Legislature and that of the regents is that between the legislative and executive power. "Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. *Springer v. Philippine Islands*, 48 S.Ct. 408, 482, 72 L.Ed. 522, 525."⁷

In addition to the separation of powers provision the constitution also provides that legislators may not hold another office in government. Article IV, section 4, of the Minnesota Constitution provides:

No senator or representative shall hold any other office under the authority of the United States or the state of Minnesota, except that of postmaster or of notary public.⁸

Again, the provision is clear on its face. Legislators may not hold offices in either the executive or judicial branches of government.

The provision has not been a frequent source of litigation in Minnesota but has been the source of numerous attorney generals' opinions. The issue for the attorney general usually revolves around whether a second position is an "office" or merely an "employment" as those terms are legally understood. Where the position is found to be an office, the Attorney General has uniformly found that a legislator cannot simultaneously hold the second office.⁹

Again, the law on the point is summarized by *Corpus Juris Secundum* as:

Under state constitutional provisions, a member of the legislature is precluded from holding or being appointed to other designated offices during the term of office,....

The purpose of such constitutional provisions is to protect against a conflict of interests, such as the performance of duties incompatible with the public service and which the legislator has chosen to render, and to prevent self-aggrandizement, pecuniary in nature or otherwise, concentration of power, and a dilution in the implementation of the separation of powers doctrine.¹⁰

and *American Jurisprudence Second*:

Persons who hold state offices are considered ineligible to membership in the legislature and there are in the constitutions or laws of many states express inhibitions against dual officeholding by members of the legislature.¹¹

Furthermore, there is an acknowledged common-law prohibition¹² against any public officer holding incompatible offices.¹²

It is not the purpose of this problem analysis to provide exhaustive research on the point of encroachment by the legislature, dual office holding, or the holding of incompatible offices. It is admitted that there are some court-sanctioned exceptions to the iron rule of separation.¹³ But those exceptions don't apply to the situation at issue here. It is the purpose of this problem analysis to say that the clear provisions of the Minnesota Constitution and recognized common-law principles have apparently and regularly been violated by the legislature. The legislature has done so by setting up a program to administer laws in the legislative branch or by putting itself in direct control of executive branch programs. To the extent that staff are involved in administering or

controlling those functions, they are operating beyond the powers that they can validly be given. For that reason, any reform of the legislature's staff should include proper difference to the prohibitions against encroachment into the executive branch, dual officeholding, or the holding of incompatible offices by members of the legislature.

Despite the constitutional and common law limitations, the legislature is constantly encroaching on the executive branch. Several different legislative staff groups violate that restriction. They are:

--The Iron Range Resources and Rehabilitation Board, which is composed of ten legislators and the commissioner of natural resources. The board effectively controls an executive branch grant-in-aid program.

--The Legislative Commission on Minnesota Resources, which is composed of fourteen legislators and operates its own grant-in-aid program that is like that of an executive branch agency.

--The Legislative Commission to Review Administrative Rules, which is composed of 12 legislators and has the power to unilaterally suspend the rules of an executive branch agency.

--The Legislative Commission on Employee Relations, which is composed of 12 legislators and has the power to approve or disapprove collective bargaining contracts between the executive branch and executive branch employees.

--The revisor of statutes, who has the power to deny approval of the executive branch's administrative rules.

In addition, appropriations bills contain a variety of requirements that executive branch agencies obtain a legislative committee's permission before taking certain action.

Organizational Gaps. To perform its policy-making duty properly, the legislature needs a comprehensive set of tools. Staff forms the key tool to carrying out the policy-making duty. There is no secret about the kind of staff assistance needed to make the legislature's staff comprehensive. One of them, *The Sometime Governments* was reviewed extensively in chapter two while considering the role of the legislature in administration. Others include Rosenthal's *Legislative Life* and Simon's *A Legislator's Guide to Legislative Staffing* and *A Legislator's Guide to Personnel Management*. Even the Council of State Government's legislative organization reference *State*

Legislative Leadership, Committees and Staff provides a reference on types of staff commonly available in many states.

It would not be useful here to review all the possible types of staff a legislature might have. Minnesota has most of them. But, from a review of those references, it is evident that Minnesota does lack some staff. The staff it lacks will be reviewed.

First, the legislature needs its own economic analysis staff to project revenue and expenditures. Depending on the executive branch for this information is inconsistent with the independence of the legislative branch from the executive branch.

Second, the legislature needs fiscal staff to put price tags on substantive bills. The present system of having executive agencies provide the information does not yield useful information and is inconsistent with the independence of the legislature from the executive branch.

Third, the legislature needs law revision work done. While the revisor provides technical revision, no one works on a consistent basis on substantive revision. Many states have Law Revision Commissions to do this important work.

Fourth, the legislature needs slip law publication carried out. No one now does this and, as a consequence, many laws are not generally available to the public until long after passage and even after their effective date.

Fifth, the legislature needs a comprehensive post-auditing program of its own institution.

Sixth, the legislature needs to maintain its own building spaces. The legislature used to provide its own maintenance and service staff but has stopped doing so in the last 20 years.

Seventh, the legislature needs an augmented oversight activity. One way to improve oversight would be to strengthen performance auditing work. Now, only about six major projects are completed each year. More staff should be made available to increase the coverage of this work.

Eighth, and last, political assistance must be augmented where it will do the most good: in legislators' districts. When it comes to maintaining contact with the district, especially in some geographically large districts, paid staff in the districts would be unquestionably useful. In particular, it would boost the ombudsmanlike activity

carried out by legislators.

Undertaking these staff services would bring to a final conclusion the trend started 30 years ago of the legislature's becoming truly separate from the executive branch.

Organizational Patchwork. Staff organization is motivated by two primary principles: the necessity of division of labor; and the limited span of control of a manager. Based on those two principles, several organizational patterns have been identified. There are five types of departmentalization:

- functional;
- program, product, or service;
- matrix;
- client; and
- process.¹⁴

Functional departmentalization involves the grouping around the obvious functions of an organization. A corporation, for example, may have a financial, legal, personnel, research and development, and production departments. Departmentalization by program, product, or service involves the consolidation of functions relating to a program, product, or service into one department. A corporation, for example, might have a widgets department with the financial, legal, personnel, research and development, and production functions for widgets within that department. Another department would be the gidgets departments with the functions within that department.

Matrix departmentalization involves the combination of both functional and program styles. In this model, there are both program and functional managers so any one employee reports to both. An organizational wiring chart literally looks like a grid or matrix with someone reporting up to the functional manager and over to the program manager.

Client departmentalization involves the organization of functions around a particular client.

Process departmentalization involves the organization around successive stages of a linear process.

The Minnesota Legislature's staff organization represents all of them. The legislative auditor and the

Legislative Reference Library are largely functional in organization; the revisor has partially functional and partially process organization; House Research has partially client, partially functional, and partially program organization; most legislative commissions have program organization. There is no identifiable organizational pattern to the staff of the legislature as a whole.

There are, however, several organizational themes apparent in the way Minnesota's legislative staff is organized.

First, there is a trend towards balkanization or personalization of the legislature's staff. As will be recalled from chapter two, recent staff growth has not been by increasing the size or augmenting the duties of existing staff. Rather, growth has been by the creation of small specialized staff groups. These groups are often promoted by a particular legislator as part of his or her interest in oversight of a new executive branch program or specific legislative staff activity. Some have disappeared when their sponsor has left the legislature.

This balkanization or personalization trend is an extension of other widely noted trends. One is the trend away from party dominance of elections toward dominance of elections by individual candidates. The candidates raise their own funds and establish their own organizations largely independent of a party except for the party name. They are personal organizations. Also widely noted has been the lessening of legislators' concern for the institution of the legislature toward self-centered concern. So, just as legislators depend upon themselves and not a party to get elected and are concerned with their own ends and not the needs of the institution, they want to control their own staff and not depend on staff selected and controlled by others. If money were no object (i.e., if the legislators thought there would be no consequences to augmenting staff) then each one would have his or her own researcher, drafter, lawyer, auditor, and so forth.

Second, the trend is toward the politicization of the staff. This trend is subtle and probably not susceptible to objective proof.¹⁵ Nonetheless, recent staff growth has occurred in political and personal staff, not in nonpartisan staff. There has also been pressure on nonpartisan staff to perform duties that have partisan consequences.

The politicization of the staff is, in part, because legislators don't understand the concept of neutral competence of staff. Neutral competence is defined as the tradition by which staff effectively and efficiently work to

obtain the governmental policy objectives of political superiors regardless of which political party controls the government. As one staff member said, asking legislators to understand neutral competence is like asking someone to convert to another religion.

As mentioned before, in *A Government of Strangers*, Hugh Heclo reviews the problems between political appointees and top level civil servants in the federal executive branch. A consistent theme of the book is the failure of political managers to work in a productive fashion with civil servants.¹⁶ It is clear that this phenomenon exists in the legislative branch of state government as well.

Third, there is an apparent willingness to have professional services appear to be but not actually be professional. One example is the fiscal note system for the Minnesota Legislature. The fiscal notes are suppose to be the "price tag" put on a bill. The legislature does not have its own fiscal-note staff. Fiscal notes are prepared by the agency that will implement the bill. It is commonly accepted that the fiscal notes are not useful as far as projecting actual costs. They only tell whether the agency likes the bill (the cost estimate is low) or doesn't like the bill (the cost estimate is high). Legislators refer to fiscal notes to show their interest in fiscal responsibility. However, there seems to be little apparent interest in providing really good cost information on bills.

Fourth, there is no communications system in the relationship of staff to legislators. Everybody is equal and everybody demands legislators' time. It is, of course, impossible for legislators to deal with all the possible staff who may want to or need to deal with them. They usually deal with this by picking favorites and shutting the others out. Because of the lack of contact by some staff, there are many chances for miscommunication and noncommunication. There needs to be a structure in place by which some staff communicate *through* other staff. Those staff must also know that they will still be heard. A communications system would be better than uniform direct contact with the shutting out of some staff as a defense.

Lastly, there is a lack of definition of the duties of various staff groups that has led to the duplication of many services. Some would argue "So what if there's some duplication?" "As a political institution, some messiness in organization is to be expected. The duplication may even be beneficial by letting legislators find staff members each legislator is most comfortable with. It also protects against concentration of staff resources with a few legislators."

To the contrary, the benefits are illusory and some real problems are created.

First, duplication leads to disparities in the quantity of work done by different people in the legislature. Some are overused while others, capable of doing the same work, are underused.

Second, it leads to turf struggles between different staff groups. Virtually all staff groups are presently subject to these turf struggles. The typical pattern is that each staff group is predatory toward the duties of at least one other agency and is defensive regarding at least one other agency. Examples of how some agencies are predatory and defensive regarding the duties of other agencies are:

The Office of the Revisor of Statutes is predatory regarding the document processing duties of Senate and House front desk staff and committee secretarial staff. It is defensive regarding the assumption of additional drafting by Senate Counsel and House Research.

Senate Counsel and House Research are predatory regarding the drafting and research work done by the revisor's staff. They are defensive regarding the assumption of research and policy advisory duties by caucus and personal staff.

Caucus research staff are predatory regarding the research and policy advisory role of Senate Counsel and House Research and the drafting duties of the revisor's staff. They are defensive regarding assumption of research and policy advisory roles by personal staff especially committee chairs' administrative assistants.

Personal staff, especially committee chairs' administrative assistants, are predatory regarding the research and policy advisory role of caucus staff. To a lesser extent, they are predatory regarding the research and drafting duties of the revisor's staff and Senate Counsel and House Research. They are defensive regarding research work of the caucus staff.

Commission staff are predatory regarding research and drafting work in the commission's subject area by the revisor's staff, Senate Counsel, and House Research. They are defensive toward the same staff groups.

Managers and office directors are predatory regarding the assumption of managerial duties by executive or administrative assistants to legislative leaders. They are

defensive regarding the same staff.

In the end, there is a continuous pattern of predatory and defensive actions among staff groups. The only staffs that seem totally free of predatory and defensive actions are the Legislative Reference Library and the legislative auditor's post-audit staff. Their duties are specialized enough that it is difficult for anyone to be covetous of their duties or for those agencies to be covetous of the duties of others.

To be sure, there are examples of staff from various agencies cooperating in mutually beneficial relationships. Unfortunately, these relationships are not the rule but the exception.

To the argument that "it's just politics and all politics is messy" is the reply that to be political you don't have to be disorderly. As an example, many politicians organize modern political campaigns that are better organized than the governmental agencies they operate after a successful election. There is a division of labor and a hierarchial structure, among other things. If the modern political campaign can be well organized, so can the governmental agencies run by the former candidate after election.

In summary, the legislature's organization is typified by work beyond its legal limit, the absence of necessary services, and an organizational patchwork. These patterns need to be cured in any organizational reform.

Staffing

Staffing concerns many separable elements that must be individually examined. The elements of staffing to be considered are: pay, benefits, work environment, work rules, employment process, and discipline.

Pay. The existing pay system sows resentment among staff. The chief source of the problems with the pay system is that there is not one legislative pay system but four. They are:

- the Senate staff system;
- the House staff system;
- the joint staff system; and

--the regular civil service system (used by most of the legislative auditor's staff).

Because these systems are not standardized, each staff member tends to feel that someone somewhere else in the legislature in a similar job is getting a better deal than he or she is. This is not the usual kind of carping that always exists about pay systems. The complaints are specific and based on reality. Those complaints are as follows.

First, the Senate system has uniformly higher pay for its staff than staff in the other systems who perform identical duties. (This complaint could, of course also be stated that the others are uniformly lower than the Senate. It isn't clear that the Senate rates are too high or that the others are too low.) There is about a 25% average differential between the minimums and maximums for comparable responsibility levels. The dollar difference can be significant. In addition, the Senate has fourteen pay ranges while the House and joint systems only have twelve. In the end, someone on the House or joint staff can be confident that they would be paid more in the Senate for doing the same work. The symbology of the Senate always paying more is resented by the House and joint staff. The amount of resentment created by having one favored staff group within the Legislature cannot be underestimated.

Second, the systems permit unjustified "bracket creep" by favored employees or groups of employees. When a consultant was originally hired to assist on the design of the pay systems, the result was the creation of three separate systems which classified similar jobs into the same pay levels. However, there was no formal or informal system put in place to ensure that this important development didn't get tampered with. Over time, several jobs were reclassified into higher pay levels. There was probably consensus originally among the staff about the fairness of rating the same jobs at the same pay levels throughout the legislature. That consensus has now been lost because of the reclassification of some jobs.

Third, pay adjustments are frequently subject to unconscionable delay. Cost-of-living pay adjustments and many other types of adjustments are scheduled to go into effect each July 1. Rarely have the decisions been made in time so that pay adjustments go into effect on time rather than retroactively. The length of delay has reached up to eight months. In the meantime, the employees are wondering whether they really will get the promised adjustments. The fat retroactive paychecks that ultimately arrive do not make up for the employees' months of uncertainty about what will happen to their pay.

Fourth, staff performance reviews are faulty. A

variety of factors make the performance review system unlikely to be effective in most parts of the legislature. Among them are:

(1) those staff who report on a one-on-one basis to one legislator are unlikely to ever be rated less than "outstanding" because the legislators have no basis for comparison;

(2) many staff managers and supervisors have little management or supervisory experience and doing high-quality performance reviews takes a lot of training and experience;

(3) many managers know they are not really in charge of the staff they are charged with controlling and are not willing to rate anyone less than outstanding when to do so will offend the staff member's protector;

(4) many managers or supervisors feel that they must use high performance adjustments to remedy inadequacies elsewhere in the pay system; and

(5) working in the legislature is difficult and few supervisors are willing to take a elective action that will cause them even more problems.

Benefits. By contrast with pay, there has been an attempt to create an institution-wide staff benefits package. As will be recalled from the history in chapter two, there is no authority for an institution-wide comprehensive staff benefits package. So, while adoption of the package is commendable, it is technically unauthorized. This situation must be resolved before the Senate, House, or joint staff are authorized to make a major departure from the benefits package.

The problem with legislative staff benefits is not with trying to get uniformity but with what benefits are made uniform. The benefits are not really tailored to legislative staff needs. Legislative benefits are tailored to match collective bargaining agreements for executive branch employees. Usually these benefits are patterned after the agreement of AFSME Council 6, which is the bargaining agent for the largest number of executive branch employees. Council 6 represents groups consisting mostly of service employees. This is not an accurate match to a legislative staff that employs mainly professional level staff. If benefits for legislative branch staff are to be patterned after any group of executive branch employees, then the commissioner's plan for unrepresented employees is more demographically similar.

The Legislative Coordinating Commission seemed to recognize that the benefits could be tailored more closely to legislative branch staff. As will be recalled from chapter two, it adopted a resolution directing a study of a flexible benefits plan for legislative branch employees. No conclusions were reached and the committee disbanded without returning recommendations to the commission.

There is reason to feel that a flexible benefits plan tailored to the special needs and oddities of legislative staff would make more sense.

First, the legislature has a heterogenous staff. There are a substantial number of committed careerists and committed non-careerists; a large number of professional level staff as well as a variety of other types of staff; a substantial number of younger workers; a growing number of staff who are single parents; and a substantial number of seasonal staff who are ignored for the purposes of benefits. One benefits package cannot meet the needs of all of those people.

Second, the heavy and light working cycles of the legislature create problems and strains that could be dealt with more effectively in a flexible benefits plan. A plan should allow for recuperation from intensive work periods.

Third, progressive thinking on legislative staff benefits could go a long way towards attracting and keeping the high-quality staff that the legislature needs. For example, offering sabbaticals or advanced education to long-time staff who commit to lengthy additional service would be beneficial to both the legislature and staff.

Work Environment. The physical accommodations for staff in the legislature are very good. There are no incidents of overcrowded conditions, inadequate equipment, poor lighting or ventilation, or the like. The problem with work at the legislature is that it can be psychologically grueling. The factors that make it so stressful are:

First, the long hours of work day after day with little rest eventually leaves staff members exhausted. The legislature works long hours but its staff works even longer. Unfortunately, the long hours become a macho thing among staff. Stories that "I'm working on 30 hours without sleep" may be greeted with "I'm working on 48!" But that kind of activity doesn't lead to good lawmaking. The quality of research, writing, or legal analysis going into a document at four or five in the morning is very low.

Second, there is insufficient reward for quality work.

Blaming someone else is human, but politics puts a premium on deflecting blame and staff can be a convenient target. It is an elementary part of management or human relations that showing gratitude encourages repetition of an action. Showing ingratitude encourages the action to stop. More has to be done to educate legislators about the consequences of withholding rewards and assigning blame.¹⁷ A partial solution would be to extend to staff the procedural rule that no legislator may impugn the motives of another legislator.

Third, it is very difficult for a staff member to overcome any adverse impression by legislators. If in no other way, a bad impression is kept alive when a staff member is told repeatedly that the mistake from years ago doesn't really matter. It obviously does matter. The solution is grounding in good management skills so legislators are able to judge skills comprehensively rather than just gunny-sacking adverse information.

Fourth, the best work of staff often goes unread as well as unappreciated. A solution would be to recognize that the production of long and complex reports on long and complex problems is of doubtful utility for legislators. Legislators' political staff, however, could read the reports and advise the legislator as appropriate.

Fifth, conflicts between staff for predominance wear staff out. The stories of conflicts between political and nonpartisan staff are almost as frequent as the stories of problems between legislators themselves and nonpartisan staff. The solution would be to educate everyone about the difficulties and remedies for communication problems between different staff groups.

Work Rules. Work rules include such features as the daily starting and ending time, the pace of work, the length and timing of breaks, and the time-keeping for hours worked and on leave. These elements are different for each staff group. There are many different office-like entities in the legislature and probably each is somewhat different in the work rules it follows. While some flexibility is necessary, total inconsistency is harmful.

Work rules relate to how each person must conduct his or her job. If a staff member in one office of the legislature has ostensibly the same job as another staff member in another office but is required to work harder or longer, the inequity leads to resentment and possibly poorer work. It is contrary to the accepted principle of the same pay for the same work. Staff members doing any job in the legislature know where there are other staff performing the

same type of work and know whether there is a difference in work rules. Just as some uniformity in pay throughout the legislature is necessary for internal equity, so too are uniform work rules necessary for internal equity.

Employment Process. The employment process includes the hiring, retention, and advancement of staff. In the legislature, these processes are carried out by many different offices. As a result, there is little standardization. As a result, there are disparities within the legislature for the standards on who gets hired, who stays, and how fast advancement occurs. More efforts must go into standard procedures to identify skilled people, to put them in the right job and to keep them there.

A main problem with the employment process is the failure to recognize that sometimes neutral competence is a better aid to them than political loyalty. A prime example of this occurred in 1985 and 1987 in the House of Representatives. On both occasions, fiscal analysts were fired after the party control of the House changed. The fiscal analysts are the people who assist the legislature in making the decisions on appropriations. They are required to know departments' budgets like the backs of their hands; to be able to tell where money is hidden; and to know what will happen to money in any given change in policy. They also have to know agency people well and to know who they can trust and who they can't. If any job in the legislature requires long incumbency for competency, it is the fiscal analyst's. However, on both occasions, the new House majority found that political loyalty was preferable to knowledge.

Another problem with the employment process in the legislature is with affirmative action. As shown in chapter two, legislative affirmative action has been half-hearted. The legislature should still make better efforts to comply with affirmative action standards.

Discipline. The legislature has adopted disciplinary policies in such areas as sexual harassment. However, only the revisor has adopted general disciplinary policies on a wide variety of potential matters over which a staff member should be subject to discipline. Disciplinary policy needs to include elementary matters such as stealing, assault, and similar conduct. Confidentiality is always a matter of concern in the legislature. The discipline policy should set standards on confidentiality. A comprehensive and uniform discipline policy is needed.

Training. Staff development is essential to ensure that the staff member's skills are current with legislative

needs. Unfortunately, several unfortunate attitudes have grown in the legislature regarding training. One is that training is equated with travel and travel is suspected to be an unnecessary frill. In some states all staff are prohibited from traveling. Another unfortunate attitude denies training that would involve college or graduate credit. This is apparently based on a fear of political criticism for what is perceived as a frill. The fear exists even when college or graduate courses are cheaper and have more teacher and student contact hours than expensive weekend seminars. Another unfortunate attitude is the statement of a key aide to a top legislative leader that "If a staff member needs more training, then he or she shouldn't have been hired." The staff's skills must be kept current and bettered.

There are also skills that are particularly needed by legislators, not the least of which is training on staff management. Since legislators never have and never will be elected based on their staff management skills, concentrated effort needs to be given to both in-house and outside training that will improve legislators' skills in staff management. This is not a side-line of other activity, but a major effort that needs to be undertaken with the full support of legislative leaders.

Exemption from laws. The legislature has exempted itself from laws affecting other employers and has persuaded Congress to exempt it from federal laws. For example, state legislatures are exempt from the federal Wage and Hours Act. Consequently, the legislatures don't have to pay staff overtime. When the legislature's staff was composed of all political staff, no one complained. They would stay late just for the thrill of political contention. Now, however, the legislature is more and more competing in the open market for its employees. They don't get a thrill from politics and don't understand why they don't get overtime pay when friends working at similar jobs for other employers do get paid overtime.

Another example is the Minnesota Legislature exempting its staff from the Public Employees Labor Relations Act. The effect of this is to deny legislative staff the right to organize into unions and to collectively bargain for better wages, hours, and conditions of employment. The exemption from this law may be more symbolic than real. The legislative staff is dominated by young clerical and professional staff who are, historically, the least likely to organize.

Directing

The chief problem with line management of legislative staff is the reciprocal of the problems discussed earlier with political management. That is, without good political management, the line managers are, on a practical basis, the top level of management for the staff. This is not a benefit for the line managers. They are selected to be in charge of a legislative staff agency or legislative staff group. However, this has only the appearance and not the actuality of power as a staff manager. Many managers will say they have the responsibility but not the authority to manage. For example, a manager may find himself or herself designated the director but find that he or she:

- does no budgeting since it is done by another office and he or she may not even be consulted on what funds the agency needs;

- does the mechanical part of advertising, interviewing, and selecting staff but must have the person selected approved by a legislative leader, committee chair, or both;

- cannot fire anyone;

- disciplines or gives a poor performance review at his or her peril; and

- plays no role in determining what work will be assigned to the agency.

Effectively, the director may be reduced to providing only work direction.

Some directors do have more authority. For example, the oldest staff agencies, the revisor and legislative librarian, have substantial authority over their staffs. That is because their authority dates from the time when legislative agencies were created by law and the manager's powers were included in the law. However, the rule of thumb is that if a power looks like it is important, the legislators are likely to reserve it for themselves. An example of this is that the signing of payroll and expense abstracts has been reserved to legislators. An abstract is a document that causes money to be deducted from funds appropriated to an agency and to have a check issued to pay a bill. It is part of the process to pay the bills for money already owed. For years, however, legislators erroneously have regarded it as the decision point to decide whether money should be spent. Because the signing of the abstract looks like an important decision to spend money, they feel they had better keep it themselves.

The basic problem is whether the staff directors are top-level executives or are middle managers. The directors believe they are top-level executives. However, their position might be analogized to that of middle managers where the executive is absent. Because of the absence, they get no direction from above. When no direction ever comes, they make their own decision and find that they aren't punished. They make more and more decisions. Only when things go badly does the executive return and exact consequences. The story of "The Sorcerer's Apprentice" is an apt analogy of the management of legislative staff agencies.

The staff managers are in a particularly difficult situation. They try to get feedback from legislators on how they and their staffs are performing. Little is learned. At the same time, staff may resist a manager's directions because they feel only a legislator, not a manager, has real power. The legislators have a poor record with staff managers. As shown in chapter two, there is a long list of managers who have been fired or forced out. The possibility that the legislators have just had phenomenal bad luck in hiring managers isn't plausible. Even if it were, the record would still call into question the skill of those who did the hiring.

Coordinating

Little effort has been made to provide coordination of staff services in the legislature. The lack of coordination is evident from the history of the development of Minnesota's legislative staff. It will be recalled that various staff groups were created without considering the staff that already existed to perform the same duties, part of the same duties, or related duties. Some staff groups were created without mission definitions and have defined their missions themselves to include duties already performed by others. The extent of the lack of coordination can be shown by looking at the multiple sources of several different legislative services.

If a legislator wants a bill drafted, he or she can turn to:

--staff of the Office of the Revisor of Statutes;

--staff of Senate Counsel or the House Research
Department;

--the staff of the research department of their caucus

- (except for the Senate DFL caucus staff);
- the committee administrator where a professional has been hired in the position;
- staff of a specialized legislative commission that deals with the subject area; or
- an intern who happens to be a law student or graduate student and who has skill or even just interest in the area.

This list includes only sources within the legislature. Outside the legislature, the staff of an executive branch department or agency as well as lobbyists have been asked by legislators to draft bills.

For research, the options available to a legislator wanting a particular project are even broader. The legislator could turn to:

- staff of the House Research Department or Senate Counsel and Research;
- staff of the Office of the Revisor of Statutes as preparatory to bill drafting;
- staff of the research department of their caucus (except for the Senate DFL to whom this option is apparently not available);
- the staff of a specialized legislative commission that deals with the subject area;
- an intern who happens to be a law student or graduate student and who has skill in the area;
- the staff of the Legislative Reference Library to the extent of "spot research" necessary to identify

existing research on the topic; or

--the staff of the Performance Audit Division of the Legislative Auditor (if a full-blown performance of an office or program is desired).

Outside sources are available here too.

Another example of multiple sources of services is indexing. Within the legislature, there are four different indexes of essentially the same material being simultaneously prepared by three different staff, each group using different technology. Senate and House staff index the journals. A key component of the journal indexes is the action on each bill. Different staff groups in the Senate and House prepare indexes of all bills including the dates of action on each. The revisor's staff separately indexes *Laws of Minnesota* and *Minnesota Statutes*.

This kind of duplication of legislative services occurs, to a lesser extent, on most other services available to legislators. In the end, because the legislators have never set up service limitations for different staff groups, there is probably no staff group that would refuse to perform any function that a legislator might request. A legislator never hears "It's not my job."

Among the adverse effects of duplication are:

--there are continual predatory actions by different staff to expand the area of services they provide into areas

other staff already provide;

--continuous paranoia by a staff group that another staff group will preempt their job leading to insecurity and

low job satisfaction;

--dispersal of some work so broadly that some staff do not have enough work to really get good in the area;

--confusion among legislators about who does what; and

--duplication of staff and consequent waste of money.

In sum, attention must be given to coordinating staff duties in the legislature to ensure that necessary functions are provided and are not unnecessarily duplicated.

Reporting

As has been shown elsewhere, there is virtually no effective system for staff to communicate to legislators. In addition, legislators don't communicate back to staff their expectations about what services they want and when.

Staff directors are starting to create more information processes on how staff are functioning. Important elements of these reports should be passed on to key legislators.

Budgeting

Budgeting is a key activity of staff management. To do effective budgeting requires effective action on all the PM/POSDCORB elements. The reverse is also true. Limits on budget will place limits on the other PM/POSDCORB elements.

Budgeting in the legislature is a problem because of the problems noted earlier with the other PM/POSDCORB elements. Furthermore, because of the casualness of legislative budgeting for itself, budgeting imposes few limits on the other PM/POSDCORB elements. This last factor is of greatest concern. While correction of the other PM/POSDCORB elements would enable effective budgeting, until there is a desire for effective budgeting there is little motivation for serious action on the other PM/POSDCORB elements.

The casualness of legislative budgeting for itself is shown in several different ways.

First, the legislature has generally exempted itself from the budgeting process effective for the rest of state government. As discussed in chapter two, Senate and House funds never revert to the treasury. For that reason, there isn't planning in advance of yearly operational budgets on any serious basis. An argument might be made that the casual system is necessary because expenses relate to session length and special sessions that are not predictable. To the contrary, regular session length is predictable and the cost of permanent staff and most other costs are independent of session length. Special session expenses could be covered by a variety of devices including contingency funds.

Second, there is no control of the legislative budget as a whole. As seen from chapter two, there are four

different budgetary systems in the legislature: the Senate's, the House's, the revisor's, and joint commissions'. Each is subject to the nominal control of one of three different committees. The Senate and House budgets are nominally approved by their respective rules committees. Joint commissions' budgets are controlled by each commission and only reviewed by the Legislative Coordinating Commission. The revisor's budget is partially subject to approval of the LCC but to the extent the office generates its own revenue it is independent. Control is nominal because none of the controlling committees devotes time to budgets and none apparently has any practical effect on the appropriations finally approved. The Legislative Coordinating Commission has usually mechanically passed on budgets without comment late in the legislative session leaving decisions to the Senate and House money committees.

In the Senate and House money committees, hearings are held only on joint commissions, the revisor, the library, and the legislative auditor. The funds requested by the Senate are always used for the Senate and the funds requested by the House are always used for the House. There is no coordination of the budgets of the Senate and House with those of joint agencies. As shown in chapter two, the joint commissions, the library, revisor, and auditor bear the brunt of budget cutting.

Third, there is minimal oversight over legislative budgeting. As also noted in chapter two, some legislative expenses are effectively transferred to the executive branch. In addition, budgetary records are closely held. Unlike the legislature's public review of state agencies, no one sees the public record of legislative expenses. (The governor makes no decisions on legislative budgets and the Department of Finance inserts dummy numbers in the state's consolidated budget.) Lastly, until recently, there has been no post-auditing of legislative expenditures. Even now, post-auditing has yet to cover the entire legislature and no common post-auditing standards exist. There is also no connection of audited expenditures to appropriations requests.

Fourth, and last, there is little in the way of effective administration of legislative budgets. Apparently the revisor is the only legislative agency that maintains a formal spending plan with regular reviews of expenditures against the spending plan.

If the budget system were regularized, it would mean that the budget imperative would operate on the legislature and its staff system as it does for the rest of government. If it were done, it would impact the rest of the PM/POSDCORB

elements in a variety of ways.

The political managers would have to control the budget of the staff system of the legislature as a whole.

Planning on both the biennium and long-range basis would have to be carried out. This would involve the decision making on staff and equipment to meet budgetary limits.

Organization of the staff would have to be with a budget limit in mind. This would involve more utilization of organizational devices that economize on the delivery of staff services.

Staffing decisions on pay and benefits would directly affect the budget and the budget would determine what could be done on pay and benefits for staff.

Direction on staff would involve the implementation of budgetary decisions.

Coordination to achieve objectives would have to be done to achieve maximum benefits from the resources available.

Reporting is integral to both the budget making and budget administration process. Extensive information would have to be reported to both plan and carry out a budget.

In sum, there is no real budgeting in the legislature. To make it real, the legislature should end the perpetual roll-forward of funds, and adopt a real advance budgeting, spending plan, and post-auditing procedure. This does not mean that the legislature should participate in the executive branch's procedures. In fact, the constitutional separation of powers prohibits this. But the legislature should have its own real procedures and follow them. If it does so, the legislators will be forced to adopt better procedures in other areas of legislative staffing.

Conclusion

The problems of the legislative staff cover all possible elements of the system and the problems are serious. The collective nature of the problems is undoubtedly a product of the history showing that the staff developed without thought or advance planning.

It is now time to revisit the same elements of public administration to find solutions.

CHAPTER SIX

SOLUTIONS: PM/POSDCORB REVISITED

Introduction

Having defined the problems, it is appropriate to consider solutions to them. Again, the PM/POSDCORB elements of management will be used as the framework of analysis. The solutions selected have both the political and governmental needs of the legislative institution in mind.

Political Management

The problem of political management of staff in the legislature is complicated. The first complication is that the problems of legislators as political managers of staff, discussed in chapter five, also work against any solution. That is, if legislators don't see themselves as staff managers, don't spend time on staff management, and don't manage well, then getting them even to accept the need for effective political management is doubtful. The second complication is that the solution to be proposed for organizational problems, matrix organization, is one of the most difficult environments for managers.

One possible solution is that all legislators become sophisticated managers. It might be argued that this is something that never has happened and never will. However, one of the complex problems of a modern legislature is the complex staff situation necessary to deal with other complex modern problems. Even if, realistically, all legislators can't become managers, surely a solution compatible with a modern legislature can be reached.

Another solution might be to remove legislators from any role in directing their own staff. The management of staff might be turned over to one or more staff czars who, upon selection, would manage the staff free of legislators' control. This is not realistic. Even though they lack

interest in management, legislators do not wish to relinquish control in this fashion. And even if they did, this would not be a wise solution. The staff should keep direct responsibility to those whom they serve.

A compromise between these two extremes offers an unusual but better and more practical solution. That is, train a few legislators extensively on staff management and train all to the limited extent necessary. The few receiving extensive training would become members of the new Legislative Staff Management Committee. This committee would be the top-level executive of the legislature's staff. In essence, the legislative staff would become more like an executive branch agency that is overseen by a plural executive. The Legislative Staff Management Committee would consist of four members with one from each party caucus in each house.

As shown earlier, the legislative staff is large and very complex. With a large and complex organization, it is necessary that the top level of management have effective control of the organization.

If anything is evident from the years of analyzing and theorizing about organizations, it is that effective management doesn't just happen. Management skills can come as a gift, but long periods of learning and practice are usually required. This applies to a legislator as well as any other potential manager. In the proposed compromise solution, legislators would be given formal training and practice at staff direction and would be given control over the staff to the extent that they were prepared for that role.

But will legislators accept the need to participate in extensive training? There are several reasons to suggest they might. First, if the institution establishes the principle for its members that a member can't have any role in staff management until after completing an appropriate level of training, then the natural motivation to seek power should ensure that the training is taken. Second, on the positive side, prestige would be attached to the top level of legislators doing staff management. The four members of the Legislative Staff Management Committee would also get leadership status and pay. For those reasons, there should be interest in the positions.

The training would be sequential so that the longer a legislator stayed in the legislature the more training he or she could take. There would be a parallel between a legislator's natural rise in authority in the legislature and the management training provided. The courses would

focus on legislative staff management, not general public management or business management. Introductory training would include an orientation on the Legislative Staff Service system and basic supervision. Advanced training would include effective operation of the matrix organization and maintaining effective partisan/nonpartisan relations. The training would include practical exercises for the legislators with the client and functional managers.

The object of these efforts would be to have the legislators become better managers. Under the matrix organization, they would not have the full burden of management. There would be the functional managers who would manage staff functional areas and client managers to manage the client areas. However, in order for the organization to work, all legislators would have to exercise a part of the total management responsibilities. In addition, a few legislators would have extensive management responsibilities and would have to be very adept managers capable of the management responsibilities at that level.

Planning

The legislature must actively engage in realistic planning for its staff. Where change occurs without planning, it is likely to slow progress if not harm the legislative institution. Where planning occurs without change, everybody's time is wasted. Planning for legislative staffing should be marked by four elements:

First, top-level management must do the planning. That means it should be done by the members of the staff management committee supported intensively by the functional client staff directors. The Senate and House together constitute the legislative institution. The Senate and House may each engage in the fiction that they are Minnesota's Unicameral, but they are part of one legislative institution and what happens in one part of the institution will have consequences elsewhere. Only by planning at the top can the institution-wide effects be determined. That does not mean that the independence of the two houses would be ignored. The staff system proposed here supports that independence. Top-level planning can continue to make the best use of all staff resources to support the independent needs of each house.

Second, the planning should cover the entire legislative institution. No part of the institution should be ignored. The betterment of any part of the institution will benefit the whole and deficiencies in any part of the institution will also affect the whole institution. The whole staff of the whole institution should be within the

purview of the planning effort.

Third, short-term planning is also necessary. Every session has its nuances and planning should include proposal for how staff resources will be marshalled and deployed during each session.

Fourth, strategic planning is necessary. The future approaches more rapidly every day. The legislature today is not what it must be in ten, twenty, or fifty years. Planning will ensure that the legislature of the future still meets its constitutional responsibilities. As an example, the effective planning for and use of the computer and communications will provide many opportunities. It may be desirable to use advanced communications to permit legislators to remain in their districts more and to rely on electronic meetings and information dissemination. That would facilitate the retention of the citizen's legislature that is a principal desire of legislators and the people alike. Another example is that legislative computers will eventually result in a paperless legislature. That may sound good, but it will also increase the velocity of action and reduce the time for careful thought. Planning is necessary to avoid problems caused by future developments.

Organizing

Eliminating Executive Branch Work. In organizing the legislative staff, it is necessary to limit the staff duties to legislative work. Staff identified as executive branch staff or performing executive branch functions would be transferred to an appropriate place in the executive branch. The changes would be as follows:

The staff of the IRRRB perform work related to the Department of Natural Resources. The Commissioner of Natural Resources is the lone executive branch member of the board, and its projects involve developing natural resources in a way that is analogous to the projects of the Department of Natural Resources. The problem with the IRRRB staff is that they are controlled by a board of legislators. That makes them effectively legislative staff. The alternative view that they are executive branch staff fully controlled by legislators is organizationally poor because it diverts legislators from running just what is properly legislative staff.

In view of this, it would be necessary to change the composition of the IRRRB by replacing the legislators with citizen members. The governor could *nominate* members subject to senate confirmation rather than *appoint* members subject to Senate confirmation. (If the governor

"nominates" then the nominee can't serve until confirmed. If "appointed" the appointee could serve pending confirmation.¹ The nomination procedure clearly gives more power to the legislature.) The legislature's position regarding a citizen IRRRB could also be strengthened by adding to the law a requirement that the IRRRB report approved projects to the senate and house standing committees on natural resources. This provision would facilitate oversight by the legislature. Note that the committees would only be told of the nature of an approved project. They would not have the power of unilateral veto. Together, the changes would still keep the legislature in a strong position regarding the IRRRB and its staff but would no longer put them in the unconstitutional position of either running an executive branch programs from the legislature or controlling executive branch staff.

The entire Legislative Commission on Minnesota Resources is obviously a creature of the legislative branch. Its name, its total control by legislators, and its housing with other legislative staff shows its legislative branch status. The LCMR would be changed in the same way as the IRRRB. The legislators would be replaced by citizens nominated by the governor and confirmed by the senate. It would be required to report new projects to the senate and house standing committees on appropriations or finance. In addition, the organization with its staff would be moved to the Department of Natural Resources in the executive branch.

The Legislative Commission to Review Administrative Rules has a problem with executive duties only in so far as it is involved in the unilateral suspension of executive branch rules contrary to the holding of *Immigration and Naturalization v. Chadha*.² Under the holding of *Chadha*, the legislature cannot suspend an executive branch administrative rule by any other method than passing a law to that effect. To obviate this difficulty, the power of the board would be changed from suspending the rules to changing the presumption of validity. Then, if anyone challenged the validity of a rule in court, the agency would have to prove its validity. Ordinarily, the challenger would have to prove the invalidity. The threat of this sanction is usually enough to persuade an agency to change the rule rather than face the reversed presumption. The reversed presumption of validity is that recommended by the Commission on Uniform Laws. In addition, the LCRAR would be affected by the general staff reorganization to be discussed later.

The Legislative Commission on Employee Relations is in a similar position to the LCRAR in that it can unilaterally void an action of the executive branch of agreeing to

collective bargaining contracts with public employee unions. The commission would be best abolished. The executive branch could only give binding force to contracts to the extent funds are then available. The legislature would not be irrevocably committed to fund a collective bargaining agreement until appropriating money to fund the contract. The timing of negotiations with state employee unions would have to be changed so they would be completed before the legislature meets rather than after the legislature adjourns. The appropriations and finance committees would exercise oversight over bargaining but would not control the agreement.

The revisor of statutes involvement with the drafting and publishing of administrative rules gives a legislative staff member the power to disapprove executive branch rules. The revisor has never used this power, but it still exists and presumably violates *Chadha* in the same way that the LCRAR's power of suspension violates that holding. In addition, it could be argued that the the involvement of the revisor with the executive branch also violates the Minnesota Constitution's prohibition of any involvement of one branch in another branch.³

It is clear that the revisor's centralized powers on the form of rules and the publishing of rules have made a major improvement in the form of rules and the method of publication over what formerly existed. A change should not be made to revert to every agency's controlling the form of its own rules and none having any effective power on publishing rules. It is suggested that the revisor's powers on rules be transferred to a new agency. A new agency is necessary so that the agency does not exercise control of its own rules adopted under an existing rulemaking mandate. The new agency would have more direct contact with the governor. This would augment information and control by the governor's office in rulemaking by agencies.

Filling Organizational Gaps. In chapter five, the many gaps in legislative services were reviewed. The reform of legislative staff must include filling those gaps. For convenience, the additional services are reviewed as part of the following discussion of the matrix organization.

Matrix Organization. Having paired the staff down to just legislative business, it is necessary to add missing services and determine the best organizational pattern for legislative staff. As noted in the prior chapter, the present staff structure is a mixture of identified types of organizational types. The legislature should adopt a special form of matrix organization for its functional staff.

In the wiring diagram of the usual matrix organization, any given person reports to a functional manager and to a project manager. This causes the organizational wiring diagram to look like a grid or matrix. The usual type of matrix organization uses functional and project managers. The legislature should use functional and client managers to control staff in a matrix organization. Under this system, all staff performing the same function in the legislature would report to a single functional manager. At the same time, they would also report to a client manager.

This is a radical organizational departure for the legislature. Some of the important differences between the proposed matrix organization and the existing organization are these:

First, the one matrix organization would provide functional service to clients throughout the entire legislature. At present, no one management system covers more than one agency and sometimes several management systems exist in one agency.

Second, functional and client managers would have real authority and not just the responsibility to deal with staff.

Third, all staff performing each identified function would be grouped together into single-function groups. Not only would Senate and House staff performing the same function be consolidated but a variety of separate agencies performing the function would be consolidated. These functions would be broadly defined. Because of the desire to limit the span of control of client managers, it would not be appropriate to have 20 or 30 narrowly defined functional areas. Ten is believed to be the practical limit of effective control. Organization of legislative services into functional areas yields six functional units - well within the theoretical limit of control.

Fourth, the client areas within the legislature would provide part of the management of functional staff through the matrix organization. They are considered client areas because they are the consumers of the services provided by the functional staff.

The matrix organization would be more like the usual governmental organization in one sense. In the usual executive-branch organization, nonpartisan staff serve at all levels except the top-most level where politically-appointed people control the policy-making level. In the legislature, there are either political agencies or nonpartisan agencies. A nonpartisan staff under partisan control is unknown. Nonpartisan staff with

partisan control could not exist in the legislature, apart for a matrix organization, for any agency controlled by one party at the top level wouldn't be trusted by the members of the other party. Through the use of a matrix system, where both principal political parties would have management authority over functional staff, this could be achieved.

It is next necessary to consider the six functional and six client areas in detail. The six functional areas and their duties are:

-Legislative Research Office. This office would perform policy and informational research functions for the legislature. Somewhat more prosaically, it is to be the legislature's think tank. The new office would perform duties presently done by the Legislative Reference Library, the Performance Audit Division of the Legislative Auditor, the House Research Department (minus drafting duties), the Office of Senate Counsel and Research (minus drafting duties), plus additional staff to perform functions not done now by legislative staff.

The duties of the reference library are included because it does spot research (that is, question answering) and it supports research in the other offices. Performance audit is included because, despite its name, the work is closer to research analysis than to financial auditing. It is really research analysis directed to a particular agency or program rather than to an issue or subject area. (It is not management advice frequently performed as an adjunct of financial audits.) Legal counsel duties of the House Research Department and Senate Counsel are included because legal counsel is a particular kind of research, not really a separate discipline. In addition, the legal character of other research must always be considered. Drafting becomes a duty of the Legislative Technical Services Office. This is because drafting is not just a minor adjunct of other duties but something that must be performed in its own right. Obviously, it is necessary that the researchers and drafters cooperate closely and the matrix organization will ensure that.

-Legislative Technical Services Office. This office would perform drafting functions for bills, amendments, committee reports, engrossments, conference committee reports, and enrollments. The new office would perform duties presently done by the Office of the Revisor of Statutes, the drafting duties of the House Research Department, the drafting duties of the Office of Senate Counsel and Research, the drafting duties of the Senate Engrossing Clerk, and the drafting duties of committee and personal secretaries and clerks. The office would do code

editing, including the publishing of session laws and compiled statutes. The work of editing and publishing is an appropriate adjunct of writing the law.

This office would also prepare legislative indexes. Included are the indexing of introduced bills, journal entries, session laws, and compiled laws. Now, the indexing of essentially the same material is performed at least four times (when the bills are considered, in the journals, for *Laws of Minnesota*, and for *Minnesota Statutes*) by at least five different groups of people. Included in this office would be the indexing operations of the Revisor of Statutes, Senate and House journal staff, and the Senate and House indexing offices.

The office would do production work (keyboarding, proofing, printing, etc.) of the Senate and House Journals, agendas, and calendars. Editorial control of all of these publications would remain with the Secretary of the Senate and the Chief Clerk of the House. Under the matrix organization the Secretary and the Chief Clerk would still control production through control of the functional staff performing the work.

An important addition to the drafting duties would be the creation of a Law Revision Commission. This advisory body would be similar to the prestigious commissions now existing in many other states. Currently, the revisor is charged with continuous revision of statutes which is concerned with nonsubstantive maintenance of the law. The new technical services offices would have the same mandate. The Law Revision Commission, working with the technical services office, would deal with substantive improvement of the laws including the common law. Part of this work would be done by acting as a clearing house for the recommendations of the national Uniform Laws Commission.

Another addition to drafting duties would be that the technical services office would arrange for the publication of new laws in the *State Register* immediately after they are enacted. This is intended to fill the three to four month gap from the time the first laws are enacted each session until the session laws are published. Since many laws are immediately effective despite the fact that they are practically unavailable, this addition to the staff's duties fills an important gap in legislative information offered to the public.

-Legislative Management Information Systems Office.
This office would perform all management information system services (that is, computer-based data services) for the legislature. Having such an office would not necessarily

mean having a central computer for all services but a staff that would devise the best means of using the computer to deliver data to legislators and staff. A distributed information system would, in fact, be best for the legislature. With a distributed system, there would be a variety of smaller computers each selected for specific work. All the computers would be interconnected to facilitate communication. The office would include the computer staff of the former Office of the Revisor of Statutes, computer staff of Senate and House, and computer staff of the House Research Department. Because of the increasing computer needs of the legislature, consolidation of staff performing this function would not reduce staff levels. There is enough MIS work to require additional staff.

-Legislative Fiscal Office. This office would furnish a variety of money related services to the legislature. Included would be post-audit duties on the state government; fiscal analysis on appropriations, tax, and other money bills; and fiscal analysis on all substantive bills. The staff affected would be the financial audit staff of the legislative auditor, the fiscal staffs of the Senate and House appropriations, tax, and education committees, and the executive branch staff who now perform fiscal note functions

-Legislative Administrative Services. This office would furnish housekeeping services for the legislature. Included are payroll, personnel, training, purchasing, accounting, and building maintenance duties in designated legislative spaces. Included in the office would be the staff of the Senate, House, commissions, and other legislative agencies who perform those functions.

Among all its duties, two are a key importance to the new system. These are personnel and training duties.

On personnel matters, the office would conduct the examination for entry into the Legislative Staff Service as well as assist the other functional and client offices in the evaluation of applicants and current staff. It would also assist on the difficult matters of affirmative action, staff discipline, and the discharge of staff. The matrix organization should ensure that all these duties are performed in support of the other functional and client offices and not controlled by the office.

The administrative services office is also the focus of the extensive training to be maintained for both members of the Legislative Staff Service and legislators. The Legislative Staff Management Committee is directed to ensure that adequate training exists, but it is the Administrative

Services Office that will implement the committee's decisions.

-Legislative Information Office. This office would provide information to the public and media on the Legislature. It would provide paper and computer feeds of legislative documents as well as especially created summary and scheduling information. Included would be the staff of the Senate and House bill rooms, public information offices, media offices, and educational services offices.

The other axis of the matrix would consist of the clients. The client groups would be:

-The Senate and the House of Representatives. Functional services would be rendered to the Senate and House without distinction between members or identifiable factions of the legislature. The managers would be the Secretary of the Senate for the Senate and the Chief Clerk of the House of Representatives for the House. Each would act both as a staff manager of functional staff in the matrix and as a staff manager of a large staff that would perform services directly for each house. Services included would be front desk, journal editing, calendar and agenda editing, and service and security (Sergeant-at-Arms) functions. The security function would be performed in all legislative spaces not just Senate and House chambers. To be effective as a security force, the security staff would have to cooperate closely with the Capitol Security Division of the Department of Administration.

-Caucus of Each Party in Each House. Functional services would be provided to each caucus without distinction between members or identifiable factions within the caucus. The managers would be the staff directors of the various caucuses. Each staff director would act both as a staff manager of functional staff in the matrix and a staff manager of extensive staff performing analysis and constituent services functions for that caucus.

Analysis is a key function. Caucus staff would assimilate information and assist legislators on the determination of policy. The functional staffs, working interactively with caucus staffs, would provide the research, information, and other services. The caucus analysts would provide communications, summarization, and policy recommendations to legislators.

Constituent services would be part of caucus services because responses to constituents obviously relate to party positions. Constituents' opinions also provide input to determine party positions. Constituent services would also

make use of research and information provided by functional staff.

Functional services would be provided personally to individual members of the Senate and the House of Representatives. However, the individual members, as such, would not be client managers. This would be done for several different reasons. First, on a practical basis, there is no way that 201 separate members could personally participate in the management of the staff even if they were willing and qualified to do so. Second, it is best to encourage member cohesion within caucuses by requiring that members work through caucus staff rather than by continuing of the personalization trend.

In summary, the legislative staff matrix would consist of all functional staff organized into six areas and managed by twelve qualified managers. Six of the managers are functional managers and six are client managers. The client managers would also manage staff working exclusively for the client group. All functional staff, client staff, and personal staff are part of the legislative staff service. However, only the functional staff would be part of the matrix organization that is the principal management organization.

This proposed matrix organization is not just another centralized staff services system. The various current staffing patterns are identified by Simon in *A Legislator's Guide to Staffing Patterns*. It lists eleven identifiable types from highly centralized to highly decentralized plans. Organizational wiring diagrams from that publication are in appendix C. Using the same format as used by Simon, the wiring diagram for the matrix organization proposed here appears in appendix D. The difference between the current possible organizations to that proposed here can readily be seen by comparing the eleven organization wiring diagrams appearing in appendix C to that in appendix D.

The key difference in a centralized and matrix legislative staff organization is that in the matrix organization the clients are not just served by the functional staff but are active managers of functional staff as well. The key to ensuring that client groups act as effective managers is to have them trained as matrix managers.

Classic matrix organization is intended to blend the strong points of functional and project management and minimize the disadvantages of both. Under classic functional management there is a high degree of specialization and centralized control. Under classic

program management, there is a high degree of coordination of functions and high job satisfaction by the staff. The problem of classic functional management is the tendency to inter-functional warfare and maintenance of specialties even when generalization would be best. The problem of classic program management is the duplication and waste of resources, difficulty of central management, and the difficulty of finding capable managers in the cross-disciplinary program environment.⁴

Many of the advantages and disadvantages of the classic organizations would be inherent in the functional/client organization proposed here. The functional/client matrix organization, like the classic program/functional matrix, maintains strong management over each functional specialty while also maintaining strong coordination through the client manager. In the legislature, as in any matrix organization, the success of the matrix organization depends on the quality of the managers. In particular, the caucus staff directors would have to be both partisan and highly skilled matrix managers.

In the prior chapter, it was stated that current development trends in the organization of legislative staff include the personalization of staff and politicization of staff, and the maintenance of only the appearance of professionalism in some staff services. The choice of the matrix organization is an attempt to work against these trends.

First, the matrix management permits actual control of staff by individual legislators while still maintaining the efficiencies of a centralized system. This is an attempt to let legislators have their cake and eat it too. But, unlike having your cake and eating it too, matrix organization is possible and does work. This system is preferable to giving in to the tendency to balkanize and personalize staff and have 201 separate staff offices.

Second, the matrix organization effectively blends the tradition of nonpartisan service and political control. Matrix organization should halt the trend toward balkanization and personalization of the existing staff.

Third, this system would ensure that professionalization of staff is actually extended. It fills gaps in the existing staff structure, eliminates duplication of services, and makes the overall system more responsive to legislators' needs. It would also give permanence to both partisan and bipartisan staff by stabilizing their role in the legislative process.

Staffing

The response to the problems of staffing will use the same topics identified in the discussion of staffing problems in chapter three.

Pay. A common pay plan for all staff in the legislature must be adopted. There would be no exceptions, exemptions, or "special cases." The key elements of the plan are these:

(1) A single set of responsibility levels would exist with all positions assigned to a level. Pay ranges would be established for each level and steps within each range where appropriate.

(2) A single set of standards would exist for determining where a staff member's salary is initially set within the pay range and for determining progress through the range.

(3) A job audit system would determine the correct responsibility level for any new position or any existing position being reassigned to a different level.

(4) A permanent system for all types of pay adjustments that would remain in effect unless changed using an established procedure. When pay adjustments are necessary, there would be an allowance made for scheduling of necessary preliminary activity.

(5) A common performance evaluation system would appraise the job performance of all legislative and counsel improvements. The system would have appropriate different standards for managers, professional, technical, and other types of staff.

Flexibility and individual control would be allowed where appropriate:

(1) The plan would leave staff job descriptions, performance evaluations, decisions on work site, and line supervision to functional and client managers.

(2) The decisions on initial salary setting and progressions under the established standards would be made by the functional and client managers.

The plan would be reviewed and adjusted yearly.

Benefits. Fortunately, the legislature now determines benefits on an institution-wide basis. Certain changes

could be made, however.

First, the authority for an institution-wide plan covering all benefits must be authorized by law. Now, the benefits plan is far beyond the limited authority in law to regulate insurance and leave benefits on an institution-wide basis. That power should be extended to cover all benefits.

Second, different legislative staff members have different needs for fringe benefits. A study should be made to identify common need patterns and several benefit plans developed with these individual groups' needs in mind. Each staff member could select from a flexible benefits package the benefits that best suit him or her.

It is suggested that there are probably four common demographic groups in the legislature's staff to direct benefits toward. They are:

--the young, single, non-career employee who will serve a session to a few years at the most, then leave and not return;

--the career or long-term employee with several dependents;

--the single working parent who has great concern with meeting the costs of parenthood; and

--the older employee who is nearing retirement.

The variation in benefits would require adjustment depending on what the offsetting costs of the addition and deletion of benefits for each group proves to be.

Third, some benefits should be designed to meet the specific needs of the legislature. Among them are:

(1) Sick leave and vacation leave accrual rates are very high. While that is generous, some staff may need other benefits more. As an example, the payment of more of dependents health care coverage may be of more use to some staff than large accrual rates for vacation or sick leave. Allowing election of a lesser accrual rate in exchange for a higher lever of other benefits would be an important addition to the staff benefits package.

(2) A law now prevents the cashing out of vacation or sick leave. This law was adopted when one group of employees negotiated a very large vacation accrual rate together with the right to cash it out, creating a back-door salary increase. The closing off of that abuse also closed

off the positive use of cashing out vacation or sick leave. The option of cashing out leave (under limits) provides an additional way of meeting an individual staff member's needs. Additional cash rather than time off may be an appropriate option. The opportunity to cash out sick leave has another salutary effect. It can encourage employees not to use sick leave. That basically means that the employer pays people for being well rather than for being sick. It is also less expensive for the employer to pay off excess vacation leave at the salary rate when it is accumulated rather than years later when the employee quits and his or her salary rate is higher.

(3) Legislative staff accrue vacation and sick leave on the same formula as executive branch employees. That is, for so many days worked, each staff member gets so many days of vacation. The use of the executive branch formula ignores that a day in the executive branch is not the same as a day in the legislative branch. The formula should be changed to allow so many hours of leave for so many hours worked. The ratio of time worked to time off could be exactly the same. However, the extensive overtime in the legislative branch would at least be rewarded by getting more vacation. Doing so presupposes accurate time-keeping and supervisors willing to send staff home when they are not really needed.

(4) At the end of the session, the work days become endless. Staff offices effectively are open 24 hours a day, seven days a week, during the last month of so of the session. Individual staff members might go 24 to 48 hours with no sleep and longer periods with very little sleep. As discussed elsewhere, although the staff is apparently willing to endure those working hours, it is not productive and needs change. Failing that, there should be mandatory vacation (for decompression) after the end of the session. The amount of mandatory vacation might be tied to the amount of mandatory overtime worked.

(5) Staff receive a variety of insurance benefits. Included are health, life, and disability insurance. The insurance benefits need to be coordinated better with staff needs and with each other. For example, younger staff who have no family arguably do not need life or disability insurance. Middle-aged and older staff have different insurance needs. Some of the insurance duplicates other insurance. For example, disability insurance often contains a life insurance provision. The insurance should be purified so it is evident what is being bought. The new administrative services office would be large enough and its operations concern enough staff to make it worthwhile to have a benefits specialist on its staff to work out the very

complicated problems of coordinating benefits.

Work Environment. Contrary to general belief, the stress problems in the legislative work environment can be alleviated. This might be the most productive step that could be taken to improve staff morale and keep good people to in the Legislative Staff Service.

First, establish an unwaivable rule that no staff may ever work longer than a set maximum without a period for sleep. If sixteen hours were established as the maximum, it would mean that few staff would be in attendance after midnight. It might be objected that the legislature couldn't operate if staff weren't required to work all night. On the contrary, effective professional assistance cannot be provided at three or four o'clock in the morning after 19 or 20 hours of work. In addition, too much work requires contacting senators or representatives to verify directions or resolve problems. Staff can be left with the dilemma of getting a senator or representative out of bed at three or four in the morning or guessing. Too often, guessing is the choice.

Legislators sometimes direct staff to go home for sleep rather than working all night to get ready for a meeting the next morning. The product produced when rested is always better than the product of a sleepless night. In addition, the legislator who thought of the staff member's well-being gets a high level of loyalty and dedication from the staff member for the rest of the legislator's legislative career.

Because of the end-of-session logjam, it would probably be necessary to back up the deadlines to recognize that long conference committee reports are not going to be researched and drafted overnight and ready the next morning. Whatever time was "lost" by allowing more time to do anything would probably be made up by the better quality achieved by having work done by people who are rested and alert.

Second, the rules of the Senate and House should provide that no member may criticize a staff member in debate. This amounts to a formal rule that the legislature doesn't wash its dirty linen in public. If there were complaints about staff, those complaints would be handled through the Legislative Staff Service System system.

Third, the training of all legislators on appropriate techniques of staff evaluation should eliminate judgments based on a single incident.

Fourth, if legislators don't have time for detailed reports, the legislators' political caucus staff does.

Efforts should be undertaken to improve relations between political and nonpartisan staff. As shown in the discussion of organization, functional staff would work through caucus staff to serve the legislature. Caucus staff could take the time to appreciate the significance of long reports and could advise their political superiors accordingly.

Fifth, careful delineation of each other's role and improved communication should help reduce misunderstandings between political and nonpartisan staff.

It will be difficult to accomplish these recommendations. But accomplishing them will go far in making the legislature a better place to work.

Work Rules. Work rules that are common to the whole legislature would ensure both equity in the work done by staff and eliminate hard feelings due to similar pay for different levels of effort.

Employment Process. The establishment of a personnel office with trained personnel administrators would resolve the employment process problems in the legislature. However, a common complaint against personnel offices is that they often come to believe that they control the personnel process in the institution rather than serving the managers in the institution. For that reason, care must be exercised to ensure that the structure of any personnel office reinforces the service concept rather than the control concept. The matrix organization should assist in assuring cooperation by the Administrative Services Office rather than control by that office.

The new employment system would recognize the organizational features of the staff that were stated earlier. Where staff longevity is required, as with fiscal staff, the administrative services office would be instrumental in maintaining the longevity of staff. The personnel staff could also assist on the complicated issues of affirmative action, discipline, and similar problems as well. The professional personnel staff would assist on properly identifying the skills needed for a particular job, with identifying persons with those skills, getting the skilled people in the proper job, and keeping them there.

Discipline. An institution-wide discipline policy covering all areas of possible discipline should be adopted. Presently, only harassment is the subject of a discipline policy. A wide variety of other subjects for possible discipline must be covered. For example, a policy on punishment for stealing should be in effect. It is clear that major theft would result in dismissal, but it isn't so

clear what to do if someone takes paperclips off incoming mail and takes them home. Stealing is just one of many subjects to be covered in disciplinary rules.

Training. Staff training has been neglected and legislator training on staff management is totally absent in the legislature. Improvements in training are second in importance in a reform program to improvements in work environment. Improved training would augment the legislative staff's capabilities. It is necessary to eliminate the view that training means frivolous trips or disguised vacations. The training program would include an intensive in-service training program for staff and legislators. In addition, outside training would be encouraged where inside training cannot meet the needs of the legislature. The training would cover two areas, occupational training designed to improve the technical skills of each staff member, and general training on the legislative process, the legislative staff service system and the matrix organization of the staff.

Training should be ongoing, not just an orientation program for new staff. Senior legislators and staff could be expected to complete a thorough program in management over an extended period. This would be crucial for the legislators who are members of the Legislative Staff Management Committee and the directors who are members of the Legislative Staff Directors Committee. This group of people will need a thorough grounding in the matrix organization. In addition, they would have to have a close and trusting work relationship. Training designed to enhance team building and teamwork, such as the Outward Bound program for executives, would foster such a relationship.

To overcome the present resistance to training within the legislature, it may be appropriate to seek private foundation support for a demonstration training program to make the benefits of such a broad training program obvious.

The responsibility to provide training is the responsibility of the Legislative Staff Management Committee. It is made their responsibility because of the importance of training. The director of the Administrative Services Offices would be the key staff member developing the training program for the use of the other staff and legislators.

Exemption from Laws. There are few valid reasons why laws applicable to all employers or to the state as an employer should not be made applicable to the legislature as well. The presumption that the legislature is exempt from

personnel laws unless the contrary is specifically stated should be reversed.

This policy even includes permitting the unionization of legislative staff. It may be hoped by many people, legislators and staff alike, that the staff of the legislature wouldn't unionize. However, the way to avoid unionization is by having the Legislative Staff Service run effectively, not by using a law to prevent staff from organizing. This is the same advice given to private companies wishing to avoid unionization: If you want to avoid unions, don't make unions the only way employees can ensure fair treatment.

Directing

As shown in chapter five, most of the problems of line managers originate in problems with political management. Solutions to the problems of political management have already been dealt with. However, there still remain some matters specific to line managers with which to deal.

The authority of the functional and client managers must be equal to their responsibilities. They must have the clear power to affect the staff who work for them and the staff must know it. Part of their power comes from the managerial authority they are given by law but part of it must also come from the confidence the members of the legislative staff management committee show in them.

The changes in organization discussed in this chapter would also be of assistance to the line managers. If duties of various staff offices were clearly identified, have two salutary effects would follow. First, the managers would be able to lead organizations with narrow and related goals. No longer would some staff managers have to juggle wholly different duties or objectives. Second, it would end staff wars as staff groups would no longer be preying upon one another.

Coordinating

The problems of coordinating staff are partially resolved by the matrix organization. Under this system, each functional service is offered by only one staff group. Functional staff groups would have written mission statements that would keep them in their own functional areas. Client staff groups would also have mission statements that would provide for their duties. The mission statements of both functional and client staff would provide for mutual support and interaction. Mission statements would be tied to job descriptions. So, even if

overqualified staff were hired for positions, it would be clear that they would not be permitted to expand the jobs by personal initiative into areas covered by other staff.

The responsibility for coordination in a matrix organization belongs to both the Legislative Staff Management Committee and the functional and client managers. As shown in discussions of the matrix organization, failure of coordination is often the chief source of the failure of matrix organization. Several organizational features would be added to the legislative system to ensure that coordination does occur.

First, the ultimate responsibility for the whole staff system would be with the Legislative Staff Management Committee. These four members, as mentioned before, would be full-time executives for the legislative staff. Their duties would include the ongoing oversight of coordination between functional and client managers.

Second, the functional and client staff managers would be expected to meet together on a regular basis to work out coordination problems. To facilitate this, one of the twelve staff directors would act as chair of a managers' coordinating group. The chair would rotate each year among the managers. The rotation is intended to prevent any of them from becoming the staff czar.

Third, the functional and client staff managers would be charged with short- and long-term planning that would provide for functional staff response to the legislature's continuing needs.

Fourth, the functional and client staff managers would receive the proper training to make the above process work smoothly. The training would include work on resolving partisan/nonpartisan misunderstandings and suspicions.

Reporting

The reporting function would be facilitated by requiring the functional and client staff managers to report regularly to the Legislative Staff Management Committee. The Legislative Staff Management Committee would be provided with reports on staff utilization.

With more information flowing up the management chain, it is believed that more and better information would flow down the chain. This would cure the problem of only negative reinforcement of staff by legislators.

Budgeting

The legislature should use a modern governmental budgeting system for itself that is similar to that imposed on the whole state government. The budgeting system should apply to the whole legislature including the Legislative Staff Service System.

The budgetary process for this legislature would be facilitated by the creation of the Legislative Administrative Services Office. This office would work with the various functional and client managers to prepare the legislature's consolidated budget. These managers would all administer certain portions of the legislature's overall budget. Upon adoption of the budget and appropriation of the necessary funds, this office would then facilitate expenditures through the general ledger, accounts payable, accounts receivable, and payroll and personnel systems. These systems would be distributed throughout the legislature for the appropriate managers and their staff to use.

The two statutes that exempt the legislature from the reversion of funds and the statewide accounting system would be repealed and replaced by the legislature's own system. The legislature's system would operate under the same rules as the rest of state government, including the reversion of funds. It is constitutionally impermissible to have legislative expenditures controlled by the executive branch. For that reason, a law would be enacted providing for a legislative accounting system and that necessary approvals for legislative expenditures would be given by legislative branch officials only. For example, payroll and accounts payable checks would be signed in the legislature by the director of the Legislative Administrative Services Office and the chair of the Legislative Management Committee rather than the commissioner of finance and the state treasurer.

The budget process would handle legislative expenditures in the same way as agency expenditures. All legislative expenditures would be included in the legislature's budget. No expenditures would be laid off against the executive branch. This is partially taken care of by the organizational system that would move executive branch expenses now in the legislature (LCMR, IRRRB, etc.) to the executive branch and move legislative branch costs now in the executive branch (Legislative Manual, etc.) to the legislative branch. Included in the latter category would be expenses like space rental that support the care and maintenance of legislative spaces.

One budgeting problem for the legislature is that it

has to both propose its own budget and then appropriate funds to itself. There is no constitutional way that this double consideration can be avoided. However, the system described here would permit accurate public knowledge of the state of the legislature's budget. With that, there could be public reaction to inappropriate action by the legislature on its own budget.

Under the new system, the consolidated budget for functional agencies would be approved by the Legislative Management Committee and the Senate and House's budget by the respective rules committees. The final budgets would be reviewed by the appropriations committees. The money committees could make changes just as they do to the budget and appropriations of any state agency. A difference, however, would be that the whole of the legislature's budget would be subject to review, not just budgets of the joint agencies. If budget retrenchment became necessary, the whole of the legislative budget could be considered.

Another change would be the requirement of yearly post-audits. The problem of auditing the legislature is who audits the auditors since the legislature controls the rest of the government's expenditures. The post-audit of the legislature would have to be performed under contract by a private sector auditing firm and its report would be public.

Conclusion

The proposed solutions in this chapter to the problems in chapter five are not just minor tinkering. Rather, they constitute a total reform of everything connected with legislative staffing.

It is now necessary to consider whether the solution is consistent with what the legislators want and how to change to the new system. This is necessary since it was concluded in chapter four that it is the legislators' standards that must be used in evaluating proposals for reform.

CHAPTER SEVEN

ALTERNATIVE SOLUTIONS: WHAT THE LEGISLATORS WANT

Introduction

Are the recommendations of the previous chapter what the legislators want in staffing? If they aren't, then the chances for implementing the recommendations are slim. This chapter reviews the concerns that legislators might have with the recommendations of this problem analysis and provides responses.

Going Against the Personalization Trend

Desire For Personalization. Legislators say that they want staff services delivered efficiently and effectively. But the staff services legislators have established do not necessarily tend toward that objective. Based on recent trends, if legislators had their way and money and political consequences were not an issue, they would personalize the legislative staff. That is, they would abolish existing staff groups and each member would hire his or her own researcher, drafter, policy analyst, fiscal analyst, case workers, political operatives, and large clerical staff.

Chapter three showed that the legislative staff system must serve both political and governmental needs. If legislators set up a personalized staff system, it would serve the political needs of the legislature but could neglect governmental needs. It is necessary to substantiate that legislators want to personalize the staff and to consider the effect that view is likely to have on any proposal to change the legislative staff system.

Rosenthal states that when a legislator talks about staff, it is clear that the legislator means those who serve him or her on a personal basis. The legislator doesn't consider staff working for centralized agencies to really be

legislative staff.¹ Weatherford finds that the number of personal staff each United States Congressman and Senator has in his or her "clan" is the key indicator of his or her power.²

Staff managers working in the Minnesota Legislature have observed that the legislators relate to staff on a personal and not an institutional basis. That is, each legislator knows a few staff members well and likes their work. It doesn't matter what office these staff members work in. The legislators may not, in fact, be able to differentiate between the offices or the functions that different offices perform. Thus, a legislator may establish a relationship with one staff member and then ask this person to do a variety of tasks that aren't in the area the staff member is assigned to or qualified to perform. That staff member is not about to clarify the situation for the legislator.

Personalization shows up in other ways as well.

First, staff managers form their best relationships with the legislative leaders who hired them. Some staff managers have found themselves replaced by the appointing leader's successor not because of poor performance but because the new leader wants to appoint someone he or she trusts. But, in something of a Catch-22, the leader only trusts someone he or she appoints.

Second, some legislative staff have developed the habit of going over the head of a designated manager to a legislator on staff issues. This has occurred often enough that some staff managers feel legislative leaders will not support them against any staff complaints.

Third, the collective management of Senate Counsel is a good example of personalization. It was formally based on the belief that the staff worked personally for individual legislators and not for a manager.

Fourth, many duties are performed by more than one staff group. Because of the competitive situation, staff learn that if they wish to do important work for important legislators, they had better be first and frequent in their contacts when the legislator is a freshman. The staff members' skill at maintaining personal relationships with legislators will determine their future professional opportunities in the legislature.

Lastly, personalization is also shown by the proliferation of independent legislative commissions each with its own staff. Several of these commissions were

created in response to a legislator's desire to do something in a particular area and to control the staff who will do it. These staff groups can be the fiefdoms of the legislators creating the commissions. Sometimes, when the legislator responsible for the creation of a board and staff group leaves and no one else steps in, the board and its support staff disappears.

Relation of Personalization to Politicization. The personalization of staff inherently involves the politicization of staff. The ongoing conflict between politics and administration in the Minnesota Legislature has already been discussed. It is difficult to find the balance point for politics and administration. However, there is reason to feel that the Minnesota Legislature already tilts toward the political. Rosenthal, in a paper recently presented to the State of the States Symposium, argued that there was a growing politicization in legislatures in many states.³ In Minnesota, politicization is observable in several ways:

First, a large number of staff members have duties that relate to ensuring reelection. There is a pool of people using sophisticated computer equipment to generate mailings to constituents. At the same time, there is a large corps of staff attending to media affairs. Their function is to find ways to get their party's senators or representatives in the district's newspapers and on radio and television.

Second, on a rather regular basis, seemingly neutral issues acquire a strong partisan slant as they are considered before the legislature. To be sure, not everything is partisan and legislators in most states would probably say that the majority of issues are not partisan. However, politicization of issues occurs more frequently now than in the past in the Minnesota Legislature. An example is that each party finds a very large number of issues on which to force record votes. The record votes are used to publicly portray members of the other party consistently with the stereotype each paints of that party. The Independent Republicans creatively portray all kinds of issues supported by the Democratic Farmer Laborers as high spending, as high taxing, and as anti-business. The Democrats, on the other hand, creatively portray all kinds of issues supported by the Republicans as favoring the rich and soaking the poor, as insensitive to the poor, and as anti-labor. Another example is that matters relating to administration of the body are regularly subject to partisan contention. This includes matters relating to staff salaries and staff administration.

Third, particularly in the House, the minority

(regardless of which party it is) seems to regularly resort to obstructionist tactics.

Fourth, nonpartisan staff regularly report attempts to have them tilt in the direction of the majority party.

In summary, there is reason to believe that personalization of the staff goes hand in hand with politicization of the staff.

Satisfying Legislators' Desire for Personalization. If it is true that the legislators want personal staff rather than agencies giving services, then the likelihood of the legislators accepting any proposal doing anything other than personalizing the staff is remote. The proposal in this problem analysis is unorthodox and doesn't have the usual hallmarks of power. Nevertheless, the intent of the proposed solution is to have staff be more responsive to legislators personally than now. Appropriate organization and management is a better guarantee of responsiveness than one-on-one personal contact between legislators and staff.

The legislators may not find that response satisfactory. Nonetheless, there are features in the plan to make the whole package attractive to them. There is reason to believe that, although the proposal may be going against the trend to personalization of staff, the proposal could achieve sufficient support to be passed.

First, the structure proposed would appeal to "good government" legislators who would find the the suggested reforms attractive. The proposal offers the likelihood that there will be better information available in a more usable form.

Second, the plan would appeal to legislative leaders. The plan not only supports but strengthens the caucuses. Caucuses always have centrifugal force that tends to make them fly apart. The organization of staff to support the caucuses would supply some centripetal force to hold the them together. If the caucuses are strengthened, the leaders are strengthened. That should be attractive to them.

Third, the plan would be attractive to committee chairs and to those who want to be committee chairs. The plan eliminates the competing policy centers of the independent commissions. At the same time it gives committees a stronger oversight role. The chairs would have statutory power to appoint members to oversight committees and to require reports and recommendations from the oversight committees. Increasing the power of committees and committee chairs should be attractive to them.

Fourth, it could appeal to ordinary rank-and-file members in several ways:

(1) It augments the re-election capability of members by putting staff resources behind these efforts.

(2) It institutionalizes patronage by giving each party control of some of the bipartisan staff regardless of which party controls the body.

(3) It provides members with district offices and staff. The staff would provide the legislators with ongoing active contact in the district as well as political operatives for election purposes.

The proposal will not please those who are members of various boards or commissions. They will be out of jobs that many of them like. However, they may find the appointment to statutory oversight subcommittees a satisfactory alternative.

Despite the fact that the recommendations go against the trend toward personalization and politicization of staff, there would seem to be enough advantages in the plan to get it adopted.

Personalization and At-Will Employment. The desire for personalization of staff by legislators shows up in the exemption of legislative employees from the classified civil service.⁴ Legislators feel that it is necessary to maintain the right to terminate an employee at any time for any reason. In law, this is known as at-will employment. Many private employers have tried to maintain at-will employment. Yet developments in employment law indicate that at-will employment is being severely eroded. Among the limitations is that the courts have found a "covenant of fair dealing" between an employer and employee. Sooner or later, a court is likely to impose the same kind of restrictions on legislative at-will employment as have already been imposed on at-will employment in the private sector. It would be better for the legislature to modify its claim of at-will employment in favor of a system that both legislators and staff can live with. The alternative may be to have limitations imposed by the courts that no one will like.

Do Leaders Lose Power Over Staff Under the New System?

The changes discussed in the previous chapter could be viewed as diminishing the power of the rules committees and of legislative leaders over staff. If so, it is doubtful that the proposal would even be considered, let alone

adopted.

In fact, however, it is only the manner in which the leaders exercise power that is changed. The control of staff is actually increased. For example, the Legislative Staff Management Committee would have as its sole function the control of staff. The members of the committee are appointed by the leaders of the four caucuses and subject to their continuing approval. The committee members would spend substantial time on staff matters. Because the committee would be spending extensive time in exercising its duties, the ultimate control of legislative leaders over the management of staff would substantially increase.

Perhaps of more importance is that the leaders' power is increased by the matrix organization. Under it, the client managers, who are political, would play a role in the daily management of functional staff, something they do not do now. By being under the partial control of political staff, the functional staff would be more responsive to the political agenda of the caucus and its leaders. So, if power is measured by the ability of a leader to focus staff efforts on the caucuses' political agenda rather than by who is given the formal power to approve or disapprove hiring, pay, and similar matters, then it is obvious that the leaders' power is enhanced.

Do Staff Accept the System As It Is?

It could be argued that despite the problems in the legislature, staff accept the risks when they agree to work there. This is the "It's just life in the Lege" viewpoint. This view gets some validation from the surplus of people seeking jobs with the legislature. This surplus exists because the problems involved in working for the legislature are not well known. The lack of knowledge, in turn, accounts for the phenomenon in which staff burn out and leave the legislature after a few years. There is a price paid for not resolving the problems.

The argument that "the employees accept the risks" has been rejected by the legislature as applied to private sector employees. Before the development of modern labor law, it was believed that in a free market employees were free to accept or reject unsafe working conditions, poor wages, and the lack of job security. When enough employees rejected these conditions, the employers, in theory, would respond by improving working conditions, raising wages, and increasing job security in order to keep the employees. In practice, it was found that there were always enough people who were sufficiently disparate for work to accept jobs under any conditions, so that employers did not have to

effect reforms. Consequently, legislatures rejected the free market contention and provided standards on working conditions, wages, and collective bargaining. In the legislature, the contention that the employees will accept anything should also be rejected. The result would be an improvement in the long-term stability of legislative staff.

Institutionalized Messiness

It could also be argued that the legislature is by nature a messy institution and that the messiness of staff matters is only a partial reflection of the messiness inherent in the institution. This argument is grounded on one hand in the belief that it's all politics and nothing will ever make politics unmessy. On the other hand, it is grounded in the more academic theory that the inefficiency of the policy-making process is designed into the process as a check against the centralization of power and a possible loss of freedom.

To respond to the messy legislature argument grounded on the messiness of politics, it is only necessary to note that if it is politically advantageous to be unmessy, then politics will cease to be messy. In the case of legislative staff, if it becomes clear that there is more to be gained than lost politically by having a well-organized staff, then the staff will be well-organized. The organization plan for staff is intended to make the staff politically responsive. There is, then, political advantage to having the staff well organized.

To respond to the messy legislature argument grounded on inefficiency as one part of the checks against tyranny, it is necessary to agree that checks and balances are built into the state constitution. These checks and balances create certain inefficiencies in government.⁵ However, simply because *some* inefficiencies are built into the constitution as a barrier to tyranny does not mean that *all* inefficiency is justifiable. Inefficiency in government should end where the constitutional checks and balances end. In regard to staff, the constitution imposes no mandate of inefficiency to preserve against concentration of power. Since it doesn't, the staff should be organized as efficiently as possible.

Existing Relations Between Legislators and Staff

As indicated in chapter five, many legislators establish personal relations with a few staff members and exclude others providing the same service. It can be expected that legislators won't like any plan if it threatens to cut off a work relationship they find

comfortable.

The new plan would not cut off any relationships the legislators have established. It will rearrange virtually all staff relations. The legislators would be encouraged, but not required, to adapt to the new system. Over time, it is expected that the old personal relationships would change to new relationships.

The key change from the legislators' perspective would be the augmentation of the involvement of their partisan caucuses' staff in their daily work. The partisan staff, in turn, would have continuing relationships with the functional staff necessary to develop the legislator's and the caucuses' work. The relationship between the partisan caucus staff and functional staff would be a two-way street. The functional staff would advise the political caucus staff. The caucus staff, in turn, would advise the legislators. It is intended that contacts between functional and partisan staff would be ongoing and more mutually beneficial than the present erratic, direct contact between legislators and functional staff. This system would establish the new method by which legislators deal with staff on a hierarchical basis, not a personal basis. The legislators would control functional staff activity by working through the partisan staff.

The change of relations has another important consequence. Legislators receive much their information orally. The caucus staffs, as the political confidants of the legislators, could be in the best position to provide that oral information. The caucus staffs could have more time and opportunity than legislators to review the extensive information provided by the functional staff, and to then digest and summarize this information for the legislators. This would be a better system than having functional staff compete for each legislator's time with partisan staff. It puts the functional staff in the position of being influential with the caucus staff who are then influential with the legislators.

In sum, there would not be any rule that legislators could not call directly upon functional staff. They could maintain existing personal relations. As the new system proves workable, these direct contacts would be replaced by the new indirect contact.

Legislator Aversion to Central Staffing

The clear trend in legislative staffing in Minnesota is away from centralized staff agencies and toward highly decentralized personal staffing. If legislators see this

plan as just another plan for central staffing (the organizational wiring diagram might be the chief source for assuming this) they won't like it.

In response, it is necessary to emphasize that the proposal of matrix organization is not another plan for central staffing. It is really an attempt to let legislators have their cake and eat it too. It is intended to provide qualitatively better response to the needs of individual legislators (providing the personal control they crave) while making efficient use of staff resources (providing the cost control they need for political reasons). Demonstrating this to the legislators will not be easy. Their sophistication in management is low. They are likely to believe that something that looks like central staffing on an organizational wiring chart is central staffing no matter what the experts say. They would have to be convinced that matrix isn't really central staffing and that it is more likely, not less likely, to give them personal control. To convince them, the best approach is first to convince staff members in whom the legislators confide that matrix organization makes it possible for the legislators to have their cake and eat it too. If this is done, then those staff can convince the legislators that this is really true.

Partisan Concerns

Legislators may object that organizing much of the staff into functional groups is yet another attempt to depoliticize the inherently political legislature.

To the contrary, it is argued that this problem analysis is an attempt to give legislators the best of both worlds regarding partisanship. The matrix organization is specifically designed to ensure a continuing concern with partisanship in everything that the staff does. Currently, a nonpartisan staff director depends strictly upon his or her own political sensitivity to keep his or her staff politically responsive. Under the new system, each political caucus in each house would play a direct role in the management of all the staff. It is hard to argue that the partisan concerns of legislators would not be met when there is more, not less, partisan involvement in running the staff.

For example, it can be expected that more of the work of the functional staff would support election efforts albeit indirectly through the partisan caucus staff. Caucus staff could and would request or use information that would support caucus positions and, ultimately, caucus electoral efforts.

Persons concerned with good government may then object that supporting electoral efforts is not an appropriate staff concern. As seen from chapter three, politics, including electoral politics, is inseparable from any work that staff members do. To argue otherwise is politically naive. In addition, because the staff efforts support the caucuses, staff support of electoral efforts is not just an incumbent-protection effort. This is because information is available to nonincumbent legislative candidates through the party caucus. If better information is furnished by the new staff system to each caucus, then better information is available to support the electoral concerns of each caucus including nonincumbent candidates of the caucus.

Legislators' Reaction to Criticism

Legislators do not react positively to criticism. To anyone involved in politics, all criticism is politically motivated. Legislators criticize each other to gain power points in the political game. Other people criticize them for the same reasons. Political campaigns are often exercises in finding something for which to criticize an incumbent.

As indicated in an earlier chapter, political people have difficulty understanding neutral competence on the part of civil servants. One reflection of this is that criticism from civil servants is not regarded as a proper display of neutral competence to political superiors. It is regarded as opposition just like the criticism they get from all their political opponents. That is why there is difficulty between civil servants and their political masters.

This problem analysis contains a great many criticisms of the existing staff system of the legislative institution. I make them not because I am another political opponent, but because of the loyalty inherent in the tradition of neutral competence. It is loyal, not disloyal, to speak truth to power. Here, I say there is something really wrong with legislative staffing that ought to be fixed. It is possible that this problem analysis will be misconstrued. Nevertheless, this problem analysis presents loyal criticism, not disloyal criticism.⁶

In addition, it must be noted that the criticisms in this problem analysis are directed to the institution and not to any members of the institution. No one may take the criticisms here as charges of personal inadequacy against any member of the legislature.

Problems With Matrix Organization

The proposed method of staff organization, matrix organization, is a rare form of organization in the private sector and is now unknown in legislatures. Matrix organization has something of a reputation in the private sector of being a fad that was popular once but is now discredited.⁷ The proponents of matrix say its reputation is undeserved and it can be an effective organization pattern. Those proponents have identified a variety of claimed problems with matrix organization and, for each, they also provide a diagnoses, a preventative, and a treatment.⁸ A few of the more serious problems, ones that the legislative staff might be particularly subject to, are discussed here.

First is the problem of alleged devolution of the organization into anarchy. It is asserted that in a matrix, people don't know who their boss is and the organization doesn't work or falls apart.

This objection originates with those who are only familiar with the usual pyramid hierarchal organization. Many organizations do use matrix effectively. Proponents feel that to be effective, the matrix has to be explicit not latent. The matrix must be explained so everyone knows his or her relation to both matrix managers.

Second is the problem of power struggles between the various managers. It is argued that matrix encourages power struggles by the fact that the matrix managers are of equal strength.

Again, training is a solution. Matrix managers must be aware that if anybody wins a power struggle then the whole organization loses. Struggles must be punished and the chief executive officer to whom all the matrix managers report (in this case, the Legislative Staff Management Committee) must administer the punishment.

Third is the problem of the belief that matrix is some kind of collective management. This usually takes the form of all decisions being made in meetings of all the matrix managers.

This problem is caused by unfamiliarity with a matrix organization. Education in how a matrix organization really operates is again the remedy. The only people who have to be involved in any decision are those effected by the decision.

Fourth is the problem of the belief that all issues must be cleared with the manager on the other side of the matrix.

This problem is really a lack of trust or faulty delegation, not anything inherent in the matrix. The managers must have confidence that they will be able to act alone when the issue doesn't involve anything that would effect the matrix.

Fifth, is the excessive care and tending of the matrix itself to the exclusion of the real business of the organization. Proponents of matrix call this "navel gazing."

The problem is eliminated by continued vigilance against its occurrence. Matrix bosses must be aware that the business of the organization is the product or service supplied and not the care and treatment of the matrix.

It should be evident from the problems discussed that the basic problem often associated with the matrix is the misapprehension of what the matrix is. The prevention and cure is also common: education on what a matrix is and training how to properly operate within it.

Experts on matrix find that organizations need to use a matrix when three preconditions exist. They are:

- 1 when it is absolutely essential that [the organization] be highly responsive to two sectors simultaneously...;

- 2 when they face uncertainties that generate very high information processing requirements; and

- 3 when they must deal with strong constraints on financial and/or human resources.⁹

All three preconditions are present in the legislature.

As demonstrated at length in chapter three, there are two sectors that the staff system must be simultaneously answerable to: politics and administration. The staff must provide for the administrative needs of the legislative institution and the needs of the politicians who inhabit the institution. The use of the matrix for legislative staff is specifically intended to meet both needs simultaneously by having management by two sets of managers, each concerned with one sector. The staff will both supply the institutional needs and be politically sensitive.

The legislature as a policy-making body has very high information processing needs. As seen from the history in chapter two, most of the recent staff additions were to generate or process information for the legislature. The legislature needs both political and substantive information

and processes tremendous volumes of information in doing its work.

As a governmental entity, the legislature should have strong constraints on fiscal and human resources. In view of the present budgetary situation of the legislature disclosed in in chapter two, it could be argued that the fiscal constraints on the legislature are not strong. However, upon regularization of the legislative budgetary process, the financial imperative on the legislature should be strong.

In sum, the matrix would be a particularly appropriate organization for legislative staff. Alleged problems can be prevented or cured with proper education on the matrix organization and training on its practical operation.

If Not This Reform, Then What?

It is the main argument of this problem analysis that now is the best opportunity for the legislature to manage a large staff with the competing demands of politics and administration. But if this opportunity is lost, then what will happen to staff? In view of the personalization and politicization trends, the answer is that the trends will undoubtedly continue until the legislature's staff is fully personalized and politicized. If that is to happen, then the choice should be consciously made. That choice will make major differences in legislative staffing. Two of the most important effects will be discussed here.

First, serious in-depth and long-range research is likely to disappear. Legislators are typically not interested in major research projects.¹⁰ They usually want just spot research. That is, they want answers to specific questions and specific information supporting their current positions. Unfortunately, the lack of in-depth and long-range research is likely to lead to legislation that is less well thought out.

Second, drafting of legislative documents is likely to take on a much more adversarial role. The consequences will be that more staff will be needed to analyze the drafts of others and more procedural difficulties will ensue as the trust level in drafted documents spirals lower and lower.

These results are bad for both the legislature and the people of Minnesota. The proposal of this problem analysis remains a good opportunity to really meet the political and governmental needs of the legislative institution.

Does Staff Committee Disfunction Bode Ill for Matrix?

A Legislative Staff Directors' Committee is used to manage the matrix. That committee looks like collective management by staff that has been tried in several different ways and has failed. Specifically, Senate Counsel's collective management eventually failed; periodic meetings of House staff directors are marathons and subject to rancorous disputes; and joint staff directors have had difficulties in dealing with coordinating salary recommendations from each other's offices.

But matrix is not collective management of staff by staff. The legislators on the Staff Management Committee are the top-level managers. The Staff Directors' Committee has a very limited role to ensure coordination within the matrix. Despite the failure of or problems with former or existing staff groups, matrix is not repeating earlier failures. The reasons why matrix is not collective management and the remedy for preventing it becoming such were reviewed in the prior section. Examples of the failure of collective management do not strengthen theoretical arguments against matrix because matrix is not collective management.

A second reason that this proposal is not the same as past collective management failures is that past failures were caused, in part, by the absence of any effective top-level management by legislators. Here, the legislators in the form of the Legislative Staff Management Committee are to be involved on a daily basis as the chief executive officer of the staff. As seen earlier, matrix demands close tending by the top executive. That must occur here not only because matrix organization requires it but also to prevent the inevitable failure of attempts by mid-level managers to fill the void left by the lack of top-level direction.

Conclusion

Legislators have several concerns with the proposal in this problem analysis. As shown, these concerns have been considered and are met by specific features of the proposal. For that reason, the problems of implementation the proposal can next be dealt with.

CHAPTER EIGHT

IMPLEMENTATION

Introduction

Now that a solution to Minnesota legislative staffing problems has been proposed, the solution must be implemented. Implementation would take new laws, the revision of present laws, amendment to legislative rules, and the adoption of a variety of plans and procedures. Most of these are accomplished by the bill draft in appendix E. Some matters are left to be determined after the new system is operating. This chapter gives a further explanation of some changes and provides some thoughts on changing from the existing to the proposed system.

The Legislative Staff Service

The bill draft in appendix E abolishes everything connected with the existing legislative staff and establishes a new comprehensive system. The new system is a new entity called the Legislative Staff Service. The service includes all employees of the legislature. It is not just a legislative civil service system. In concept, admission to the Legislative Staff Service is to be more analogous to admission to a profession than to hiring for a job. To accomplish this, all connections with the executive branch's civil service are broken. The Legislative Staff Service would be set up so that members of the service have rights and obligations determined solely by reference to the nature of legislative life.

The bill creating the Legislative Staff Service provides for a coordinated staff system for the legislature rather than the patchwork quilt staff system that now exists. The Legislative Staff Service would be controlled by the Legislative Staff Management Committee rather than the diverse pattern of legislators and staff managers now in charge of the staff.

The complete change to a new system also has the effect of abolishing all existing staff offices. This is intended to avoid any indications of winners or losers among the current staff offices. Individual staff members are grandfathered but no agency survives. This is necessary during transition because a surviving agency would be more likely to resist other changes than would the more disorganized new offices.

One current feature of the existing legislative staff system will not change. That is, all staff will remain legally at-will employees dependent upon the logically organized and well-run Legislative Staff Service to maintain their position rather than job protections written into law.

Executive Management

The control of the Legislative Staff Service by the Legislative Staff Management Committee has already been described. Explanation of some further details about the committee is necessary.

The members of the Legislative Staff Management Committee would elect one of their number to be chief of staff and another as deputy chief. The chief of staff would preside over the committee and coordinate some of its activities but could not act in the name of the full committee.

Unlike present staff management committees, which have a variety of functions of which only one is supervising staff, the sole duty of this committee will be staff management. Also, unlike present committees controlling staff that restrict their involvement to only a few matters, the legislative staff management committee is to be the hands-on executive manager of the staff.

In order to entice legislators to serve on the Legislative Staff Management Committee, certain features of the position should make it attractive. The members of the committee are automatically assistant majority leaders of their caucuses; are automatically members of the Rules Committee of their respective houses; receive extra pay equivalent to 140% of the regular pay for legislators; and receive advanced management training and experience that would be transferable to other public and private sector positions. Another attractive feature of committee membership is that it would provide expertise to its members in the inner workings of the staff. That expertise would be useful in the member legislators' legislative careers by making them personally influential in the legislative process.

It may be questioned whether there are enough benefits to the position to make service on the Legislative Staff Management Committee attractive to legislators. As stated earlier, legislators don't get elected because of staff management capability so it is doubtful that there would be natural gravitation by many legislators to the committee. The benefits offered and the fact that only four legislators serve as committee members each biennium, should be enough to attract some active and interested members. If not, more ways of making the positions attractive would have to be found. There is no other choice: The other alternatives, training all legislators in management and turning staff management over to a staff czar, are not possible solutions.

To ensure adequate time on the job, the bill provides that legislators who are already leaders or committee chairs can't serve on the Legislative Staff Management Committee. Freshmen would not be appointed as a practical matter but are not formally excluded. (This would permit a freshman who is already a skilled manager to serve.) So, legislators who are beyond the freshman years but who haven't yet advanced to leadership responsibilities would serve. Members of the committee might move on to be committee chairs and leaders thereby ensuring that the leadership has a well-developed knowledge of the staff. When this occurs, the committee would be seen by legislators as a stair-step to leadership providing another incentive for membership.

Legislators serving on the Legislative Staff Management Committee would have to be skilled staff managers, so completion of appropriate training would be required. Legislators would have to have some legislative experience so they could bring familiarity with the legislative institution to the job.

Legislators who currently serve on committees that deal with personnel matters are used to having to consider these matters every few months or, in the case of the Legislative Coordinating Commission, about once a year. In order to truly manage the staff, the Legislative Staff Management Committee would probably have to meet weekly and could have other business on a daily basis. That is one reason for their extra pay.

Total Number of Staff

One of the factors requiring too much detail to be dealt with here is the total number of staff and the number in each staff group. In the new system, the overall capitol staff level is expected to remain where it is now at about 1100. (See appendix A) The staff will be more efficiently deployed. Room for additional staff to provide several

functions not now carried out by legislative staff would be made through staff reductions in other areas. In particular, the number of functional staff needed is expected to drop because of the elimination of duplication. Additional staff will be necessary to perform economic analysis, to provide additional fiscal information, and to perform management information services. The number of political caucus staff will go up. They will be needed to provide the close and frequent contacts between the political caucus staff and individual legislators and to facilitate the desired increased communication between the caucus staffs and functional staff.

The addition of district staff will add to the total number of staff hired, but it is only a net gain, not a total gain in staff, as the personal staff numbers at the capitol should go down. The capitol staff will be dominated by functional and client staff not personal staff. Also, the increase in total staff numbers made by adding district staff will be partially offset by the transfer of executive branch functions to the executive branch.

It should be noted that both political parties get the same number of political caucus staff. This should help to ensure longevity for the political staff as there is as great a need for long-term experience for partisan staff as for nonpartisan staff. This continuity for all staff should ensure the growth of familiarity and mutual respect between the partisan, bipartisan, and nonpartisan staff groups.

Partisan Classification

The different staff groups are also classified as partisan, bipartisan, and nonpartisan. Among the functional staff, research, technical, management information systems, and fiscal divisions are nonpartisan. Among the functional staff, the administrative and public information divisions are bipartisan. Among the client staff, the secretary of the Senate division and chief clerk of the House division are also bipartisan. The four caucus divisions in the client staff are, obviously, partisan. These classifications are carefully defined and limited. The nonpartisan staff must be free of partisan involvement to get a job and remain nonpartisan to keep the job. The nature of their work requires both confidentiality and trust that service is being provided equally to all legislators without any hint of personal political beliefs.

The bipartisan staff can have both past and present partisan political involvement; however, they must serve all legislators equally. These people provide services that are nonconfidential and could not be of political significance.

Each party caucus in each house will control half of that house's bipartisan staff. This is intended to allow room for a career in these positions while still ensuring the continuance of patronage. This should serve the legislature better than the current practice of total staff turnover when the administration of either house changes. But, more important, in view of the United States Supreme Court's decision in *Elrod v. Burns*, discussed earlier, the legislature is in jeopardy from an eventual lawsuit that would result in a decision that staff could not be fired upon a change of control. It is important to achieve an equitable and permanent division of the service staff before a court decision freezes the staff with one party in control of all of it.

The partisan staff must be and must remain partisan and serve only the members of their caucus.

As may have been observed, among the twelve functional and client staff groups, four are nonpartisan, four are bipartisan, and four are partisan. This is intentional so that no particular group will control the Legislative Staff Service and all groups must work together for the benefit of the legislative institution.

Admission to the Legislative Staff Service

Admission to the LSS is not modeled after procedures for admission to a civil service system but after the requirements for admission to a profession. The principal requirement for admission is an examination. Unlike civil service systems, where applicants are selected solely on the basis of the examination score and certain other point factors, for the Legislative Staff Service only passing the examination is required. The score can be considered as a factor in making the final selection but the high score isn't binding. Other appropriate factors can be considered as well.

One unusual factor in the examinations is that it can include testing on knowledge of one or both of the principal political parties. Nonpartisan staff would have to have knowledge of both political parties because they serve both parties. This feature is part of the desire to ensure that the functional staff relate to the political needs of the environment.

Personal staff would also be required to pass an examination. However, both political and personal staff could be appointed provisionally pending passing the examination within one year.

The requirement of an examination is part of the desire to professionalize the entire legislative staff and to ensure that all staff, including personal and patronage employees, maintain a high level of competence.

Rule Changes

The bill draft in appendix E also includes several proposed modifications in Senate and House rules.

One change is necessary to reflect the fact that the respective Rules Committees will no longer be in operational control of the staff. But, while operational control will be performed by the Legislative Staff Management Committee, significant powers are kept by the Rules Committees. The most important of these is the requirement that any bill affecting the Legislative Staff Service must be referred last to the Rules Committee of the body. This is intended to ensure that changes in the Legislative Staff Service will be considered and approved by the Rules Committees. In addition, the Rules Committees review and approve the budget of the Legislative Staff Service. This is the Rules Committees' opportunity to control the size and services performed by the Legislative Staff Service. It is intended to recognize that there will be changes over time in both the kind and amount of services that the legislature may need. The respective Rules Committees are to be the clearing house for these decisions.

The proposed rules changes also include the limitations on the length of time that staff can be required to work and the limitation on blaming staff for errors. These provisions are part of the provisions, discussed in chapter six, designed to improve the staff's work environment.

Implementation Strategy

There are a variety of barriers to adopting the proposal of this problem analysis. The most serious of these is the destabilizing effect on existing staff. All change causes uncertainty and uncertainty is stressful. The changes proposed here are extensive and certain to cause high levels of uncertainty and stress among the staff. People will be concerned not just with what will happen but whether they will have a job when it ends. Consequently, it is appropriate to consider what to do to alleviate the uncertainty.

Several actions should be considered. They are:

First, the proposal should not even be attempted unless there is bipartisan agreement by legislative leaders to seek

adoption of the proposal.

Second, no attempt should be made to maintain confidentiality of the proposal. Any plan to have a steadily widening circle of people who are informed about the proposal will fail. Leaks are inevitable as is the misinformation resulting from leaks. A proponent of this plan must be prepared to go public early and to guide public discussion. This would mean plenty of opportunity to explain the proposal both to legislators and to staff.

Third, there must be a real opportunity for legislators and staff to influence the final plan for the legislative staff system. No pretense is made that it's all or nothing with the proposal made here or that the author knew everything or considered everything that could possibly have been considered. Alterations and improvements should be encouraged and seriously considered. But, while changes are considered, the leaders should make it clear from the beginning that they regard the issue as not whether to go ahead but what to go ahead with.

Fourth, there will be significant educational and training costs to establish and operate the new system. The new system is complex to explain, to implement, and to run once in place. Many people will have to learn new skills not the least of which is understanding the matrix organization. Because of the innovative nature of the proposal, foundation support might be sought to support some of the start-up costs.

Fifth, a long lead time will be necessary to adopt the proposal. Several elements to the proposal, such as the pay and benefits plan, are suggested only. Significant time will be necessary to work out the actual plan. Time is also necessary for all the preliminary education. Time is necessary to work out the examination procedures for admission to the Legislative Staff Service, to determine the numbers of staff in each of the new staff offices and to allocate staff to the offices. In total, at least a year is required before beginning the new system. During that time, the Legislative Staff Management Committee and the matrix managers would attend to all of those details.

Lastly, certain assurances should be given to the staff at the very start of the process. The chief among these is that nobody is going to lose his or her job because of the change from the existing system to the Legislative Staff Service System. Basically, everyone presently employed will be grandfathered or blanketed in. While blanketing in is not favored in most civil service systems, in the case of such a massive change as this, it is necessary to lower the

stress level and get on with the business of getting the new system in place.

Conclusion

The case has been made that there is a serious need to reform the Minnesota Legislature's staff and the nature of the reform has been specified. Two final thoughts are appropriate.

The proposal of this problem analysis is made because the author believes it would better serve the staff, the legislators, and the public. There are a lot of very good people working for the Legislature now and they deserve the best staff system available. With a better system, they can do a better job. If they do a better job, the legislature will do a better job of making thoughtful policy decisions among the competing interests. If the legislature does better at that, then the public will be better served. That result is worth the transitional problems.

Even if there is no agreement on the nature of proper reform of the staff, it is hoped readers will recognize that the analysis of legislative staff from a management perspective is a good way to look at the legislature's staff. Any analysis from a management perspective should yield identification of the breadth and depth of the problems with legislative staff.

If another analysis also recognizes the same problems, it is hoped that the solution of that analysis would not be to Congressionalize the legislature's staff. That alternative would represent yielding totally to the political considerations inherent in legislative life. As an observer of the recent performance of Congress should conclude,¹ the total politicization of the staff does not yield happy results for the Republic.

It is also hoped that any reader would seriously consider matrix organization as a worthy organizational plan to ensure that both politics and administration are simultaneously and continuously served in the legislature.

ENDNOTES

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6. Citizens Conference on State Legislatures, *The Sometime Governments* (Kansas City: Citizens Conference on State Legislatures, 1971).

CHAPTER ONE

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3. Citizens League, *Power to the Process* (Minneapolis: Citizens League, 1985). An earlier report, *Broaden Opportunities For Legislative Service* (Minneapolis: Citizens League, 1975), also dealt only peripherally with staffing.
4. Legislative Coordinating Commission minutes; meeting of September 22, 1983; files of the Office of the Staff Director of the Legislative Coordinating Commission.
5. Flexible Benefits Subcommittee minutes; meeting of February 10, 1988; files of the Office of the Staff Director, Legislative Coordinating Commission.
6. Job descriptions are maintained by all offices. Even a casual review of them reveals a large number of different jobs.
7. Joseph L. Bower, *The Two Faces of Management* (Boston: Houghton Mifflin Company, 1983). Richard L. Daft, *Organization Theory and Design* (St. Paul: West Publishing Co., 1983) 380-418.
8. Fred A. Kramer, *Dynamics of Public bureaucracy* (Cambridge: Winthrop Publishers Inc., 1981) 26-53. John Rehfuss, *Public Administration As Political Process* (New York: Charles Scribners' Sons, 1973) 1-22, 127-157. B. Guy Peters, *The Politics of bureaucracy A Comparative Perspective*, (New York: Langman, 1978) 167-201.
9. Lucinda S. Simon, *A Legislator's Guide to Staffing Patterns* (Denver: National Conference of State Legislators, 1979).
10. Lucinda S. Simon, *A Legislator's Guide to Personnel Management* (Denver: National Conference of State Legislators, 1979).
11. Simon, *Staffing Patterns*, 4.

CHAPTER TWO

1. Where no specific authority is otherwise indicated, this history is the product of interviews as well as the author's own recollections. Reference is not made to specific statements by those interviewed because in almost all cases those interviewed preferred not to have anything attributed to them. Those interviewed include: Peter Wattson, Senate Counsel; Lois Mizuno, former executive assistant to the Speaker; Kathy Anderson, former chief House

committee secretary; Bob Duckstad, former director of House Research; Pat Flahaven, secretary of the Senate; Ed Burdick chief clerk of the House; The Honorable Martin Sabo, MC, former Speaker of the House; Harry Walsh, deputy revisor of statutes; Gary Currie, House Research; and John Redmond, executive director of the Senate Committee on Rules and Administration and former chief of staff of the House DFL caucus; and Tom Clifford, former director of House Research. Numerous other staff members furnished particular facts or recollections.

2. *The Minnesota Legislative Manual 1889*, page 596, shows a "Clerk Judiciary" in the roster of "officers of the House." House Rule 62 (1891) shows "clerks" for eight committees. *The Minnesota Legislative Manual 1899*, page 132, shows a "chief clerk, Judiciary Committee" in the roster of the "officers of the Senate." The position of clerk was apparently different from the position of "stenographer" that also appeared about the same time. By 1933, some committees had both a clerk and a stenographer. Despite the differences in title, both positions were basically clerical and remained so until the 1970's when committee clerk positions began to be more professional.

3. 1913 Minn. Laws ch. 555.

4. House Rule 58 (1937).

5. Senate Rule 64 (1945).

6. Minn. Stat. "Preface" viii-xxii (1986).

7. William H. Mason, ed., *Mason's Minnesota Statutes 1927* (St. Paul: Citer-Digest Company, 1951).

8. 1939 Minn. Laws ch. 442.

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10 1939 Minn. Laws ch. 442, sec. 2.

11. 1973 Minn. Laws ch. 598.

12. 1947 Minn. Laws ch. 306.

13. Harold W. Davey, "The Legislative Council Movement, 1933-1953," *The American Political Science Review* (Sept., 1953), 785-787. Frederic H. Guild, "Legislative Councils: Objectives and Accomplishments" *State Government* (Sept., 1949), 217-219, 226.

14. Marvin A. Harder and Raymond G. Davis, *The*

Legislature as an Organization (Lawrence: The Regents Press of Kansas, 1979), 152-153.

15. 1947 Minn. Laws ch. 306, sec. 2.
16. *Id.* at secs. 2 & 5.
17. 1947 Minn. Laws ch. 617, sec. 1.
18. Senate Rule 64 (1949) and House Rule 64 (1953) do not show the drafting positions.
19. 1955 Minn. Laws ch. 857.
20. An alternative version of the cause of the differences between the journal entries and the enrolled bill is that some legislative leaders directed the enrolling staff to make the changes.
21. State ex rel. Foster v. Naftalin, 246 Minn 181, 74 NW2d 249 (1956).
22. Senate and House leaders apparently directed the revisor to do enrolling. Statutes and joint rules were not amended to reflect this until much later. 1977 Minn. Laws ch. 292, sec. 1, para. (8). Joint Rule 2.07 (1977).
23. House Rule 58 (1955) lists all authorized House staff positions. None of those listed are obviously researchers. Persons doing this work must have been either volunteers or some of the many clerks. House Rule 58 doesn't show research positions until 1967.
24. 1963 Minn. Laws ch. 887.
25. House Rules Subcommittee on Personnel Policy, meeting of October 31, 1969; Minnesota State Archives, Minnesota Historical Society.
26. House Rule 58 (1967). Senate Rule 69 (1967).
27. 1967 Minn. Laws ch. 549.
28. "Report of House Rules Subcommittee on Improvement of the Legislative Process 1967-1968;" Minnesota State Archives, Minnesota Historical Society.
29. 1969 Minn. Laws ch. 1130, sec. 4, subd. 6.
30. *Id.* at sec. 2, subd. 2.
31. *Id.* at sec. 1, subd. 5.

32. 1947 Minn. Laws ch. 617, sec. 1, para. (2).
33. 1965 Minn. Laws ch. 901, sec. 76.
34. State ex rel. Goodwin v. Flahaven, 289 Minn. 149, 182 NW2d182 (1971)
35. "A Position Classification and Salary Plan for Minnesota Senate Employees" prepared by the Secretary of the Senate, August, 1972; files of the Office of the Secretary of the Senate.
36. 1973 Minn. Laws ch. 3.
37. 1973 Minn. Laws ch. 598, sec. 2.
38. *Id.* at sec. 2, subd. 1.
39. 1973 Minn. Laws ch. 492, sec. 12, subd. 3.
40. *Id.* at sec. 2, subd. 2.
41. *Id.* at sec. 12, subd. 2.
42. *Id.* at sec. 13, subd. 8.
43. There is a factual dispute among people interviewed on whether the number of staff changes in 1973 were "massive" or "modest." It is clear that: the staff was not totally changed; key people survived; and the many new staff added were loyal to the new majority caucus.
44. Senate Rule 62 (1975).
45. See Intro. n.7.
46. Charles H. Geer, Jr., *A Program for Legislative Improvement in Minnesota* (Milwaukee: State Legislative Leaders Foundation, 1976).
47. Office memorandum of the Senate Counsel Division, Office of Legislative Research, "Senate Counsel Division" (December 5, 1974); files of Senate Counsel and Research.
48. 1947 Minn. Laws ch. 617, sec. 4, subd. 3.
49. 1974 Minn. Laws ch. 355, sec. 34.
50. *Id.* at sec. 69.
51. 1975 Minn. Laws ch. 204, sec. 91, subd. 2.

52. *Id.* at sec. 2, subd. 3, para. (3).
See also History of the Science and Technology Research Office (St. Paul: Science and Technology Research Office, 1981).
53. 1977 Minn. Laws ch. 455, sec. 2, subd. 3, para. (3).
54. 1979 Minn. Laws ch. 333, sec. 2, subd. 7.
55. 1981 Minn. Laws ch. 356, sec. 2, subd. 4.
56. 1982 Minn. Laws, 1981 Third Special Session ch. 2, art. 1, sec. 2, subd. 1, para. (8).
57. 1977 Minn. Laws ch. 423, art. VIII.
58. 1981 Minn. Laws ch. 356, sec. 377.
59. 1981 Minn. Laws, 1981 First Special Session ch. 1, art. 10, sec. 26.
60. Minn. Stat. sec. 645.26, subd. 4 (1986).
61. 1983 Minn. Laws ch. 301, sec. 235.
62. 1979 Minn. Laws ch. 332, art. 1, sec. 2.
63. Legislative Coordinating Commission Subcommittee on the Office of the Revisor minutes, meetings of Sept. 18 & 25, 1979; files of the Office of the Staff Director, Legislative Coordinating Commission.
64. Minn. Stat. "Preface" xxi-xxv (1980).
65. "Minnesota Statutes Survey" (March, 1980); files of the Office of the Revisor of Statutes.
66. "Whitepaper" (undated); files of the Office of the Revisor of Statutes.
67. 1980 Minn. Laws ch. 615, secs. 5 & 57.
68. Minn. Stat. sec. 15.047 (1980).
69. Minn. Stat. sec. 15.047 (1980) provides no editorial authority of any kind. *Cf.* Minn. Stat. sec. 14.47 (1986).
70. Revisor of Statutes, *Minnesota Rules 1983* (St. Paul: State of Minnesota, 1984).
71. 1980 Minn. Laws ch. 579, sec. 1.

72. "Office of Senate Counsel" (10/3/80); files of the Office of the Revisor of Statutes.
73. 1981 Minn. Laws ch. 210.
74. Minn. Laws 1981 ch. 210, sec. 18, subd. 6. Minn. Stat. sec. 3.095 (1980) also authorized the Legislative Coordinating Commission to determine vacation and sick leave for legislative staff.
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77. Public Systems Associates, Inc., "Final Report For the Minnesota House of Representatives"; June 3, 1981, files of the Office of the Revisor of Statutes.
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79. "Legislature lags in minority hiring," St. Paul Pioneer Press, December 19, 1983, 1A, 6A.
80. *House Journal* 1984, 73rd Legislature, April 19, 1984 9054-9055. *Senate Journal* 1984, 73rd Legislature, April 19, 1984, 6499.
81. *House Journal* 1987, 76th Legislature, January 22, 1987, 94-95.
82. "Memorandum of Agreement Between the Office of the Revisor of Statutes And The Office of Senate Counsel and Research" (April 6, 1984); files of the Office of the Revisor of Statutes.
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84. Peat, Marwick, Mitchell & Co., "Annual Financial Report of the Minnesota State Senate for the year ended June 30, 1984"; files of the Office of the Secretary of the Senate.

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86. Elrod, etc., et al. v. Burns et al., 427 U.S. 347, 49 L.Ed.2d 547, 96 S.Ct. 2673 (1976).
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88. *Id.* at sec. 66.
89. 22 U.S.C.A. sec. 207.
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95. minutes, *supra*.
96. Backstrom, *Legislators View* (see chap. 1, n.1).
97. *Id.* at 18-22; fig. 2.3. Among other features that the report was questionable for were the clearly erroneous findings that: legislators rely on the governors of both parties for *information* on legislation; legislators rely on governors for voting cues; staff are inadequate because legislators don't rely on them for voting cues; and committee staff were adequate but research staff were not adequate (they are the same people).
98. 1987 Minn. Laws ch. 268, art. 7, sec. 1.

99. 1987 Minn. Laws ch. 404, sec. 63.
100. 1987 Minn. Laws ch. 404, sec. 4, subd. 4, para. (b).
101. 1980 Minn. Laws ch. 579, sec. 34.
102. Letter of Steven C. Cross, revisor of statutes, to Steven W. Laible, Peat Marwick Main & Co., of September 14, 1987; files of the Office of the Revisor of Statutes.
103. Peat Marwick Main & Co., "Annual Financial Report of the Office of the Revisor of Statutes for the year ended June 30, 1987; Office of the Revisor of Statutes.
104. 1988 Minn. Laws ch. 686, art. 1, sec. 32.
105. House File No. 1623 (1987).
106. Compare 1988 Minn. Laws ch. 686, art. 1, sec. 32, subd. 5, para. (a), cl. (7) with Minn. Stat. sec. 3.971, subd. 2 (1986).
107. 1988 Minn. Laws ch. 686, art. 1, sec. 32, subd. 5, para. (c).
108. 1988 Minn. Laws ch. 686, art. 5, secs. 1-7, 10.
109. 1941 Minn. Laws ch. 544, sec. 4.
110. 1943 Minn. Laws ch. 590, sec. 4.
111. 1943 Minn. Laws ch. 594.
112. 1943 Minn. Laws ch. 790, art 2, sec. 2.
113. 1963 Minn. Laws ch. 888, sec. 2.
114. 1976 Minn. Laws ch. 337, sec. 1.
115. 1978 Minn. Laws ch. 510, sec. 1.
116. 1980 Minn. Laws ch. 614, sec. 187.
117. 1985 Minn. Laws, First Special Session ch. 13, sec. 68.
118. 1975 Minn. Laws ch. 271.
119. 1969 Minn. Laws ch. 1130, sec. 4, subd 4.
120. 1973 Minn. Laws ch. 653, sec. 12.

121. 1975 Minn. Laws ch. 368, sec. 12.
122. "Legislative auditor may be asked to resign,"
Minneapolis Star, August 15, 1979, 12A.
123. 1983 *Senate Journal*, 73rd Legislature, February 2,
1983, 86-87.
124. 1982 Minn. Laws, 1981 Third Special Session ch. 2, art.
1, sec. 2, subd. 1, para. (a).
125. Minn. Stat. sec. 16A.28 (1986).
126. Minn. Stat. sec. 16A.15 (1986).
127. Minn. Stat. sec. 3.971, subd. 1. The legislative
auditor audits only "state departments, boards, commissions,
and other state agencies" which are all executive branch
agencies.
128. Minn. Stat. sec. 16A.281 (1986).
129. Minn. Stat. sec. 16A.18 (1986).
130. Minn. Stat. sec. 16A.281 (1986).
131. Minn. Stat. sec. 3C.057 (1986).
132. Minn. Stat. sec. 3C.056 (1986).
133. Legislative Coordinating Commission minutes, meeting of
April 16, 1982; files of the Office of the Staff Director,
Legislative Coordinating Commission.
134. Minn. Stat. sec. 297.13, subd. 1 (1986).
135. 1983 Minn. Laws, 1981 Third Special Session ch. 1, art.
2, sec. 2, subd. 1, paras. (1) & (2).
136. Minn. Stat. sec. 16B.24, subd. 5, para. (e) (1986).
137. For example: 1987 Minn. Laws ch. 404, sec. 16, subd. 4,
third paragraph.
138. Minn. Stat. sec. 3C.055, subd. 1 (1986).
139. Minn. Stat. sec. 5.08 (1986).

CHAPTER THREE

1. See Intro. n.4.
2. Jack Rabin and James S. Bowman, ed., *Politics and Administration* (New York: Marcel Dekker, Inc., 1984), 2.
3. Rabin, 203. Richard J. Stillman II, "Woodrow Wilson and the Study of Administration: A New Look at an Old Essay," *American Political Science Review* (June, 1973): 582-588.
4. Stillman, 202. Rabin, 5.
5. Graham, *Managing* (see Introduction, note 5), 24.
6. Hugh Heclo, *A Government of Strangers*, (Washington, D.C.: The Brookings Institution, 1977)
7. Prof. Rene R. Beauchesne, Creighton University. Professor Beauchesne was the author's teacher in several undergraduate political science courses. Politics as power is the author's recollection of some of Professor Beauchesne's teaching in those courses. Unfortunately, Professor Beauchesne never published his thoughts.
8. Robert A. Heinlein, *Double Star* (New York: New American Library, 1956), 105.
9. Heclo, 232-234.
10. Adlai Stevenson, *Kansas City Star*, January 30, 1977, 4B.
11. See Intro. n.6.

CHAPTER FOUR

1. See Chapter 1 note 1.
2. Graham, *Managing* (see Intro. n.4), 24.
3. Graham, *Managing* (see Intro. n.4), 25-26.
4. Graham, *Managing* (see Intro. n.4), 24.

CHAPTER FIVE

1. Heclo, *Government* (see chap. 3, n.6), chaps. 5 & 6.
2. Alexander Hamilton, James Madison, John Jay, *The Federalist Papers* (New York: New American Library, 1961)

- 300-308. (Federalist No. 47).
3. 16 C.J.S. *Constitutional Law* sec. 134 (1979).
4. Minn. Const. art. III.
5. 16 C.J.S. *supra* n. 3.
6. 16 Am. Jur. 2nd *Constitutional Law* sec. 323 (1979).
7. *State v. Chase*, 175 Minn. 259, 267, 220 NW 951, 954 (1928).
8. Minn. Const. art IV, sec. 4.
9. Minn. Stat. Ann. Minn. Const. art. IV, sec. 5, annotations (West 1976).
10. 67 C.J.S. *Officers* sec. 29 (1978).
11. 63A Am. Jur. 2nd *Public Officers and Employees* sec. 73 (1984).
12. 67 C.J.S. *supra* n. 10, sec. 27. 63A Am. Jur. 2nd *supra* n. 11, sec. 65.
13. The most usual is that the constitutional provision does not prevent cooperation among the three branches. Here, the issue is control by the legislature not just cooperation.
14. Graham, *Managing* (see Intro., n.4), 85-96.
15. Alan Rosenthal "The Legislative Institution Transformation and/or Decline." (Paper prepared for State of the States Symposium, December 17-18, 1987; Eagleton Institute of Politics, Rutgers University.)
16. Heclo, *Government* (see chap. 3, n.6), 181-190.
17. At a recent national meeting, a state senator from Connecticut urged legislators to frequently show gratitude to their staffs for the work they do. A Minnesota legislator responded "Oh, I don't think you need to do that. They know we're grateful." The Connecticut senator responded with a story of a legislator who never gave a word of thanks to his gifted speech writer even after years of work. One day, the legislator was reading a speech, not previously practiced, at a large meeting. He came to a place in the speech where all the remaining pages of the speech were blank except for one page. That page read "You're on your own now, you SOB. I quit."

CHAPTER SIX

1. The Minnesota Constitution, Article V, section 3, provides that "with the advice and consent of the senate he may appoint ... other officers provided by law." This can be compared to the United States Constitution, Article II, Section 2, Paragraph 2, that provides "he shall nominate, and by and with the advice and consent of the Senate, shall appoint ... all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law" It is clear even though the state constitution doesn't use the term "nominate," that "appointment" may be contingent upon the prior advice and consent of the state Senate. See also John Murdoch Dowley, "The Governors Constitutional Powers of Appointment And Removal," *Minnesota Law Review* 22 (March 1938): 465-466.
2. *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919, 77 L.Ed.2d 317, 103 S.Ct. 2764 (1983).
3. See chap. 1, n.4-12.
4. Graham, *Managing* (See Intro., n.4): 85-86.

CHAPTER SEVEN

1. Rosenthal, *Legislative Life* (See Intro., n.1): 210.
2. Weatherford, *Tribes on the Hill* (See Intro., n.2): 45-84.
3. See Chap. 5, n.15.
4. Minn. Stat. sec. 43A.08, subd. 1, cl. (g).
5. See Chap. 5, n.2.
6. James P. Pfiffner, "Political Appointees and Career Executives: The Democracy-bureaucracy Nexus in the Third Century," *Public Administration Review* 47 (January/February 1987): 62. Hugh Heclo, "OMB and the Presidency -the Problem of Neutral Competence," *The Public Interest*.
7. Harvey F. Kolodny, "Managing in a Matrix," *Business Horizons* 24 (March/April 1981): 17-18
8. Davis, *Matrix* (See Intro., n.4): 129-143.
9. Stanley M. Davis and Paul R. Lawrence, "Problems of Matrix

Organizations," *Harvard Business Review* 56 (May/June 1978): 134. See also Davis, *Matrix* (See Intro., n.4): 11-18.

10. Rosenthal, *Legislative Life* (See Intro., n. 1): 220.

CHAPTER EIGHT

1. Gregg Easterbrook, "What's Wrong With Congress?" *The Atlantic*, 254 (December 1984): 57-84.

APPENDIX A

Total Legislative Staff Complement

<u>OFFICE</u>	<u>PERMANENT</u>	<u>SEASONAL</u>	<u>OTHER</u>	<u>TOTAL</u>
Senate	183	133	60	376
House	248	59	96	403
<u>Agencies</u>				
Revisor	43	13	1	57
Auditor	66	0	0	66
LRL	16	11	0	27
Total	<u>125</u>	<u>24</u>	<u>1</u>	<u>150</u>
<u>Commissions</u>				
Gt.Lks.Cm.	0	0	1	1
Int.Co.Cm.	0	0	0	0
LCESW	3	0	1	4
LCER	1.6	0	0	1.6
LCLTHC	0	0	0	0
LCMR	4	0	1	5
LCPR	3.5	.5	0	4
LCPE	1	0	0	1
LCRAR	2.5	.5	0	3
LCWM	2	0	0	2
LCPPF	0	0	0	0
LCC	3.4	0	0	3.4
LTSC	0	0	0	0
MRPC	0	0	1	1
LAC	0	0	1	1
Total	<u>21</u>	<u>1</u>	<u>5</u>	<u>27</u>
<u>Dp. Admin.</u>				
Eng.	2	0	0	2
Maint.	7.5	0	0	7.5
Doc.	.5	0	0	.5
Total	<u>10</u>	<u>0</u>	<u>0</u>	<u>10</u>
Pub. Saf.	5	0	0	5
Sec. State	1	0	0	1
IRRRB	86	13	17	116
TOTAL	<u>679</u>	<u>230</u>	<u>179</u>	<u>1088</u>

The numbers indicated above are the authorized staff positions for each legislative staff office, legislative controlled function, or office that serves the legislature.

The numbers are derived from information provided by staff in various payroll or accounting offices.

All numbers are as of March 1, 1988. "Other" positions include contractors, positions that work for several states in an interstate agency; and other unusual staff positions. Where multiple people are cycled through a position (like chaplains, interns, and high school pages), the regular number working, not the total number cycled through, is used. Positions are included even if they receive no pay but only the payment of expenses. Some positions are full time, some part time, and some are irregular. The IRRRB is included because its activities are controlled by a board of legislators.

The legend for the abbreviations used in the table is:

Gt.Lks.Cm.	= Great Lakes Commission
Int. Co. Cm.	= Interstate Cooperation Commission
LCESW	= Legislative Commission on Economic Status of Women
LCER	= Legislative Commission on Employee Relations
LCLTHC	= Legislative Commission on Long Term Health Care
LCMR	= Legislative Commission on Minnesota Resources
LCPR	= Legislative Commission on Pensions and Retirement
LCPE	= Legislative Commission on Public Education
LCRAR	= Legislative Commission to Review Administrative Rules
LCWM	= Legislative Commission on Waste Management
LCPPF	= Legislative Commission on Planning and Fiscal Policy
LCC	= Legislative Coordinating Commission
LTSC	= Legislative Tax Study Commission
MRPC	= Mississippi River Parkway Commission
LAC	= Legislative Advisory Commission
Dp. Admin.	= Department of Administration
Eng.	= Building engineers
Maint.	= Maintenance and housekeeping
Doc.	= Public Documents Division
Pub. Saf.	= Department of Public Safety
Sec. State	= Secretary of State (Legislative Manual staff)
IRRRB	= Iron Range Resources and Rehabilitation Board

APPENDIX B

Senate and House Staff Growth

<u>Year</u>	<u>Senate</u>	<u>House</u>
1849	5	6
1851	5	7
1853	7	7
1855	7	7
1857	10	8
1859	8	6
1861	8	8
1863	10	8
1865	8	10
1867	7	7
1869	7	7
1871	9	9
1873	7	9
1875	9	13
1877	9	13
1879	9	15
1881	9	15
1883	7	9
1885	13	14
1887	12	14
1889	13	36
1891	22	29
1893	20	28
1895	27	27
1897	27	22
1899	36	37
1901	35	53
1903	41	57
1905	43	58
1907	46	68
1909	57	73
1911	53	73
1913	56	64
1915	46	64
1917	57	70
1919	67	83
1921	70	98
1923	69	102
1925	69	90
1927	64	114
1929	61	115
1931	62	125
1933	56	125
1935	78	133
1937	93	146
1939	78	151
1941	88	149

1943	91	164
1945	95	166
1947	99	166
1949	102	166
1951	115	167
1953	120	167
1955	128	158
1957	134	186
1959	142	196
1961	146	170
1963	151	158
1965	152	170
1967	145	163
1969	181	169
1971	180	147
1973	225	175
1975	257	222
1977	299	269
1979	300	282
1981	255	288
1983	238	295
1985	289	285
1987	323	302

No single source exists that provides these figures over the entire period covered by the table. Consequently, several different sources had to be used. Caution should be exercised in comparing figures coming from different sources. In addition, the accuracy of some of the more recent sources can be questioned.

For 1849 to 1869, and for 1873, the numbers are taken from the *Senate Journal* and *House Journal* for the indicated years. Usually on the first day of each session, "officers" are elected. Those elected apparently included all staff working for the two bodies.

For 1871 and 1875 to 1899, the numbers are taken from *The Legislative Manual* for the indicated years. The manuals contain rosters of Senate and House "officers" that are apparently inclusive of all staff working for the two bodies.

For 1901 to 1927 for the Senate, the numbers are taken from the *Senate Journal* for the indicated years. Usually on the first day of each session, officers are elected and a report of employees hired is adopted. The numbers are apparently inclusive of all staff working for the Senate.

For 1901 to 1919 for the House, the numbers are taken from the list in House Rules of authorized employees. Since the rules didn't show officers, to the number of employees listed in the rules is added the number of non-member officers shown as elected in the *House Journal* on the opening day of the indicated years.

For 1929 to 1979 for the Senate and for 1921 to 1969 for the House, the numbers are taken from the list of officers

and employees authorized by Senate Rules and House Rules. The Senate Rules always authorized, and the House Rules for 1969 authorized, some "additional" employees in unspecified numbers. As a result, the number indicated is probably low. Except for 1969, the House number is apparently inclusive of all staff working for the House.

For 1981 to 1985 for the Senate and for 1971 to 1987 for the House, the numbers are based on the number of people listed as working for each body for the year indicated in the year's *Official Directory of the Legislature*. These numbers are clearly low because the numbers apparently don't include many seasonal staff and some other classes of staff (chaplains, contractors, etc.) that were apparently included in the numbers listed by the source used for the years immediately prior to these years.

For 1987 for the Senate, the number is based on a count of the number of people shown in the Senate's *Employee Photo Directory for the Seventy-Fifth Legislative Session*.

The entire table only includes Senate and House staff and not joint agency, commission, and staff controlled by or providing services to the legislature. It also uniformly excludes from the count the member officers (the speaker and president) and the Lieutenant Governor as the president of the Senate.

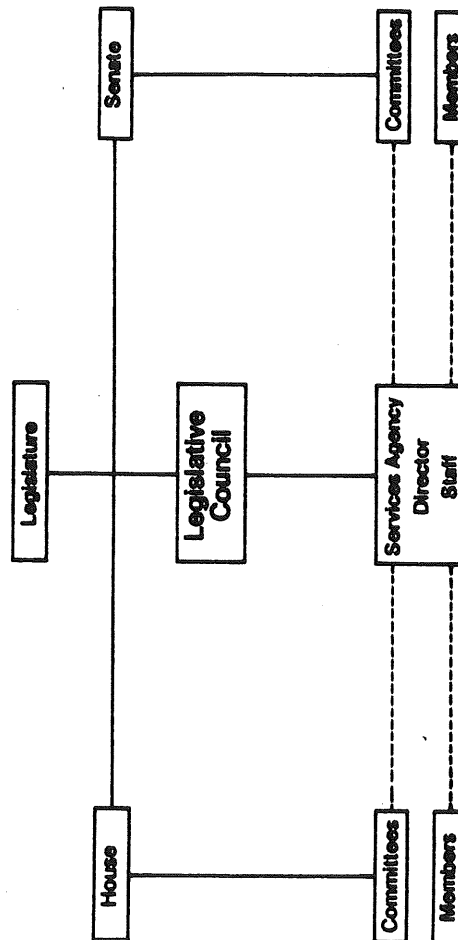
The numbers for 1987 should not be compared to those in appendix A. That appendix is based on a different counting method and does include joint agency, commission, and other staff.

APPENDIX C

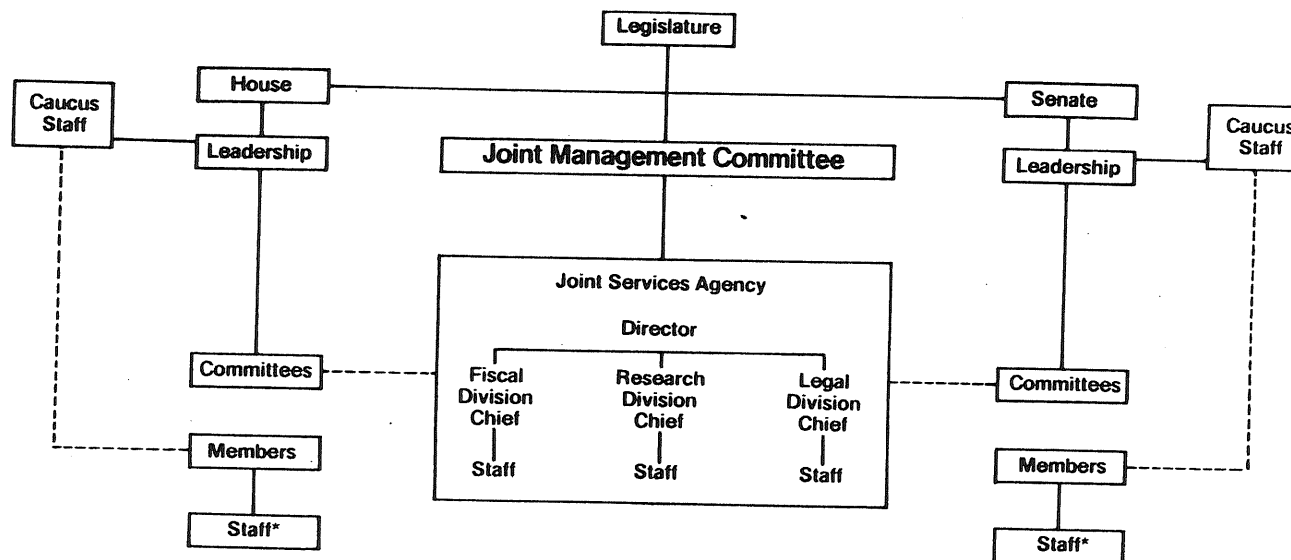
Existing Legislative Staff Patterns

These eleven types of staff patterns are photocopied from Lucinda S. Simon's *A Legislator's Guide To Legislative Staffing Patterns* (Denver, National Conference of State Legislatures, 1979).

TYPE A--LEGISLATIVE COUNCIL

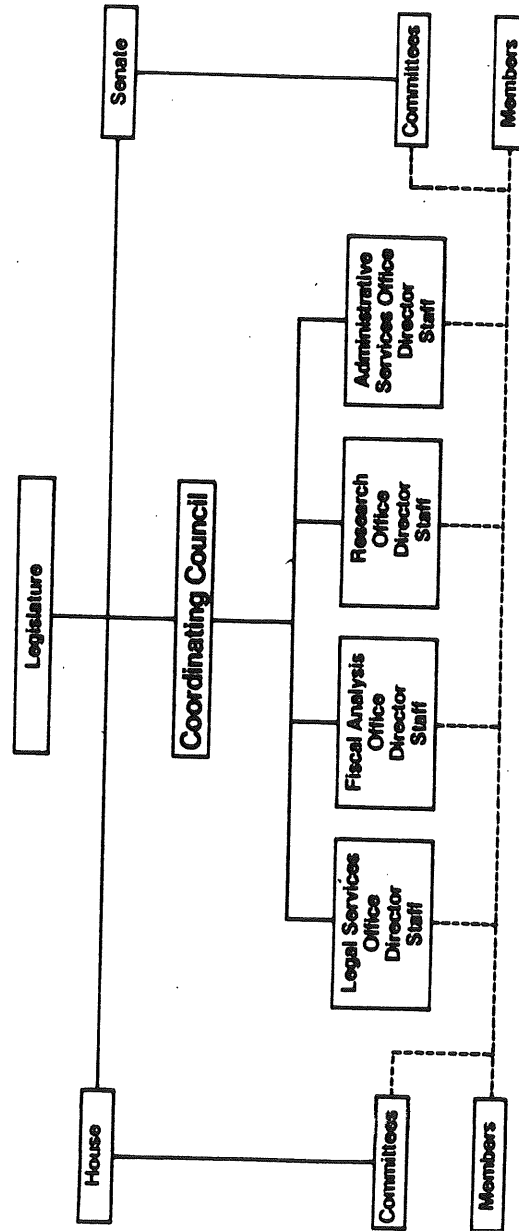


TYPE B—COUNCIL PLUS PARTISAN STAFF

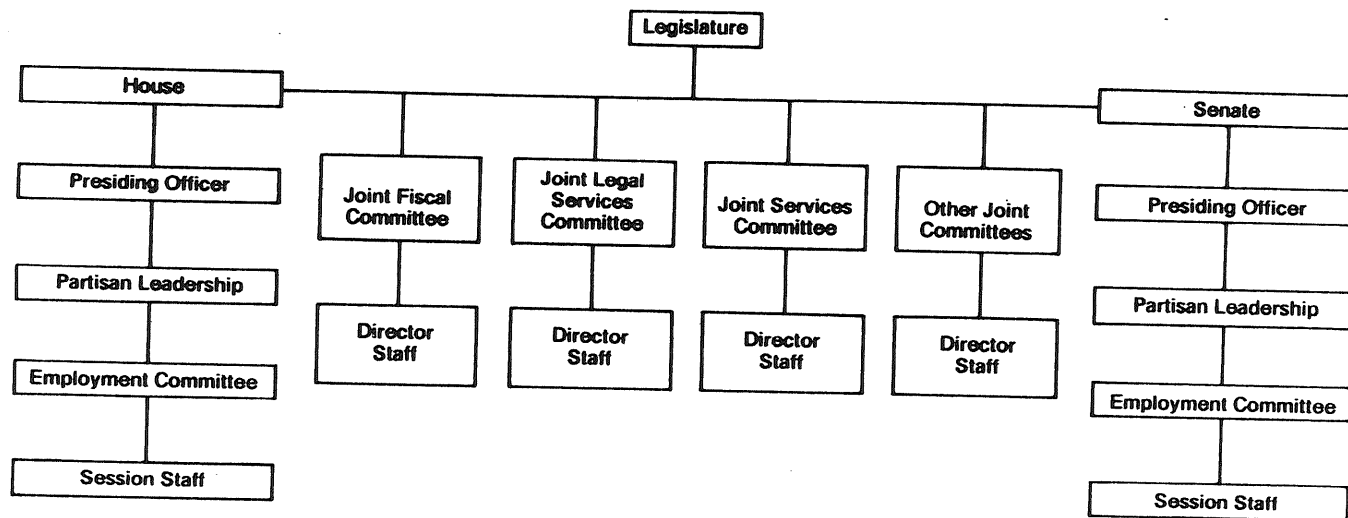


APPENDIX C (continued)

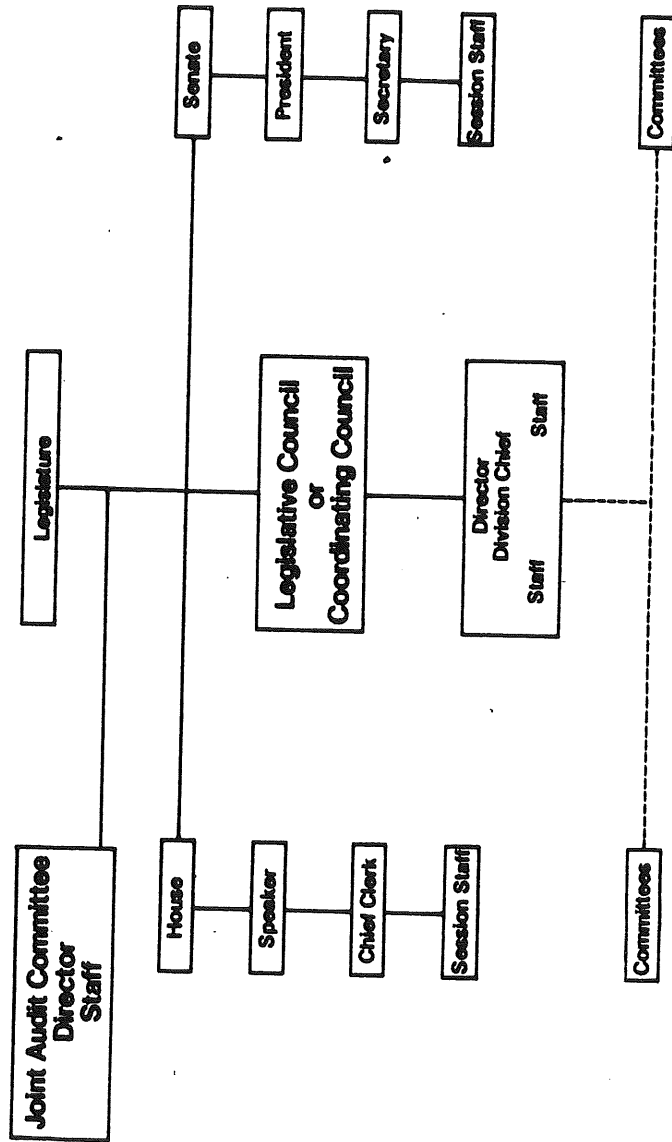
TYPE C—COORDINATING COUNCIL



TYPE D—MULTIPLE JOINT AGENCIES

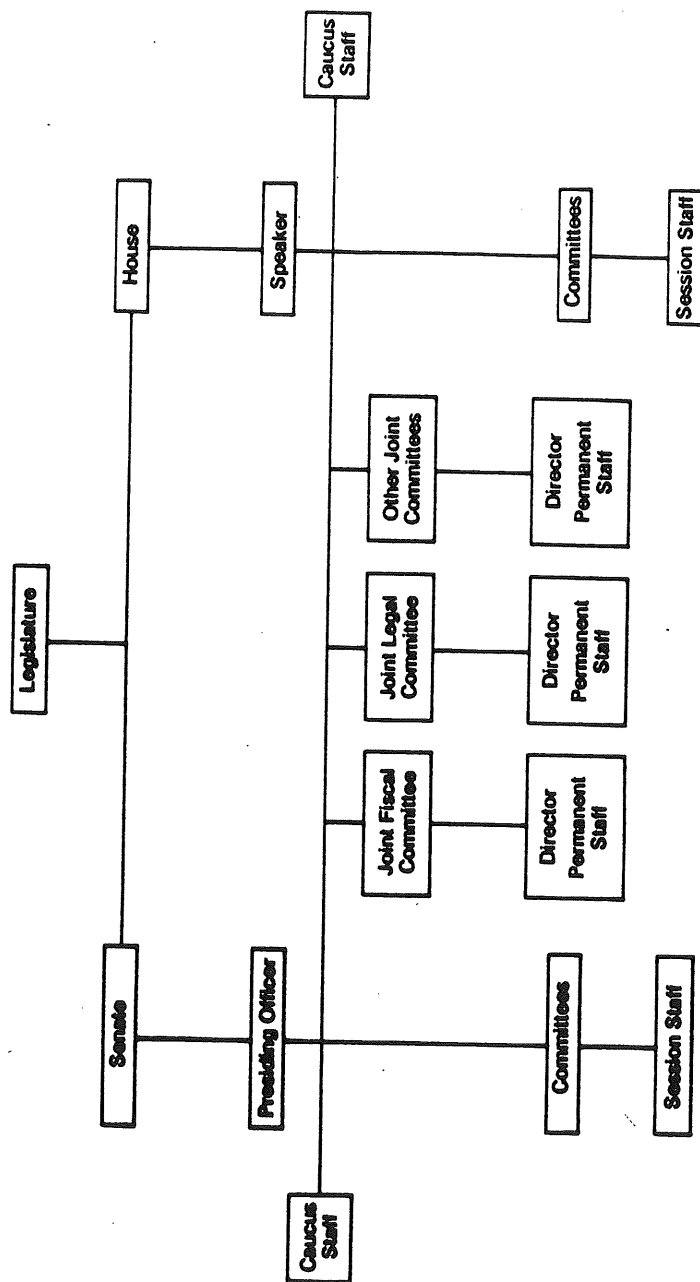


TYPE E—CENTRAL PLUS AUDIT



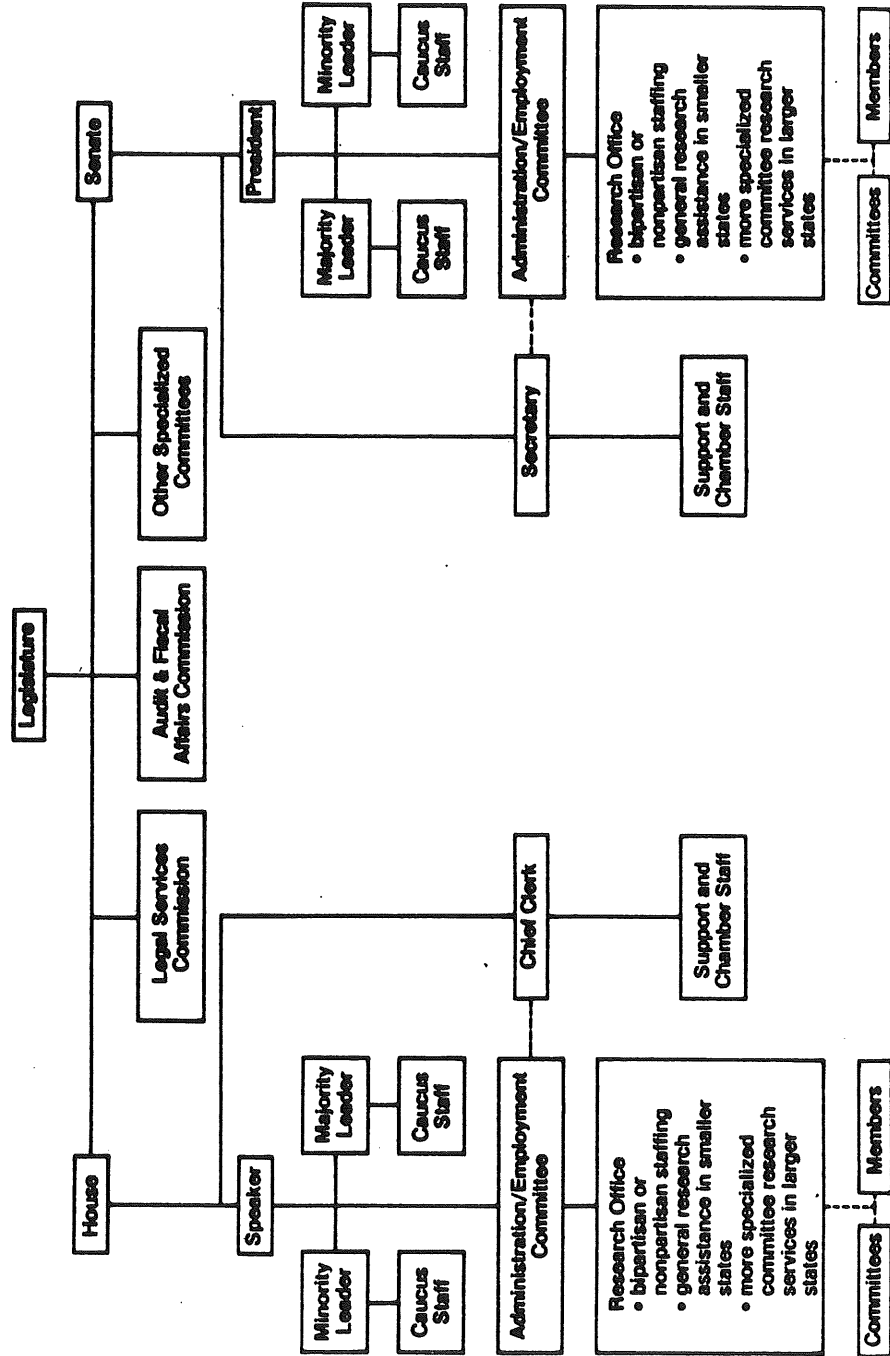
APPENDIX C (continued)

TYPE F—SESSION PROFESSIONALS

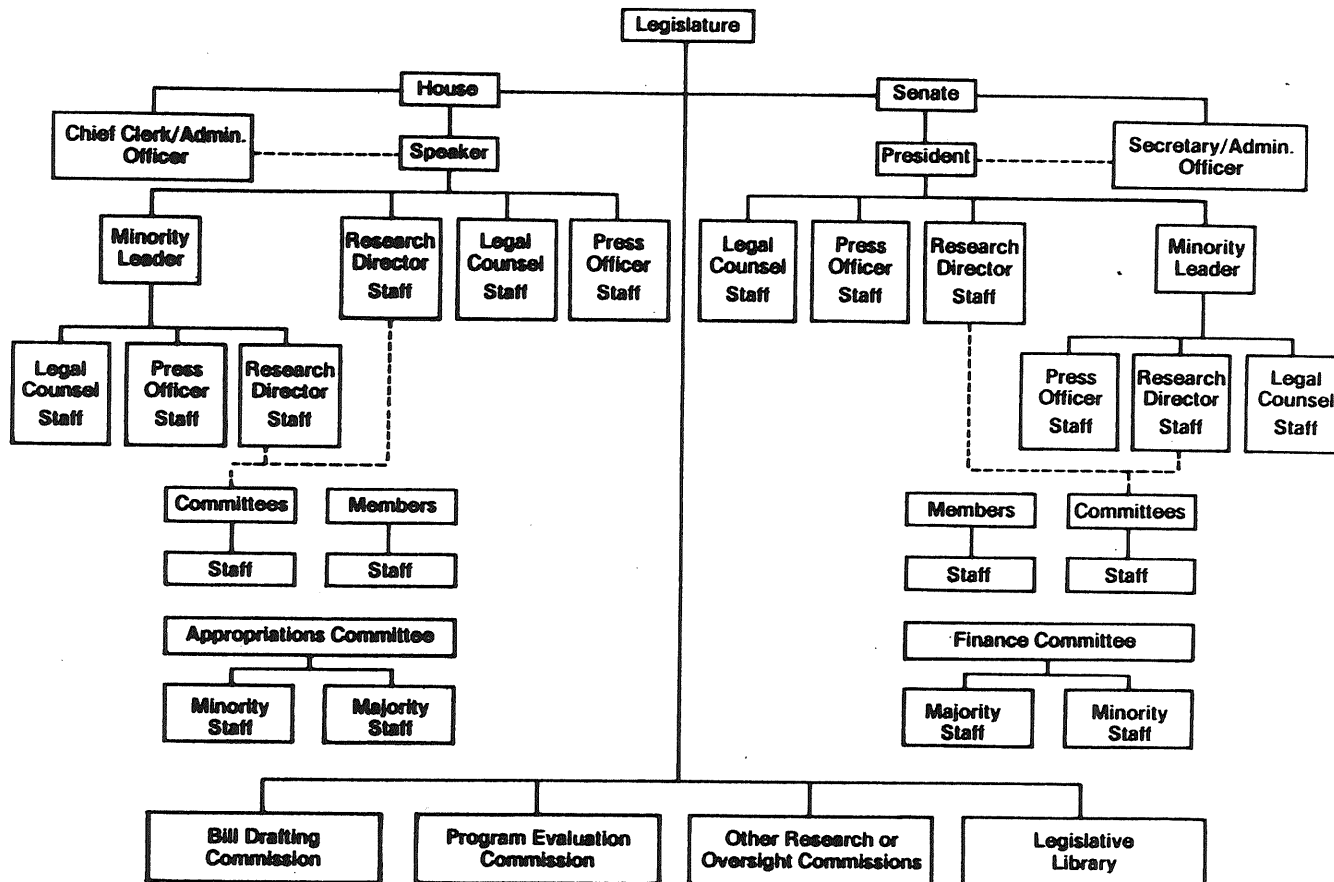


APPENDIX C (continued)

TYPE O—SEPARATE HOUSE-SENATE STAFF

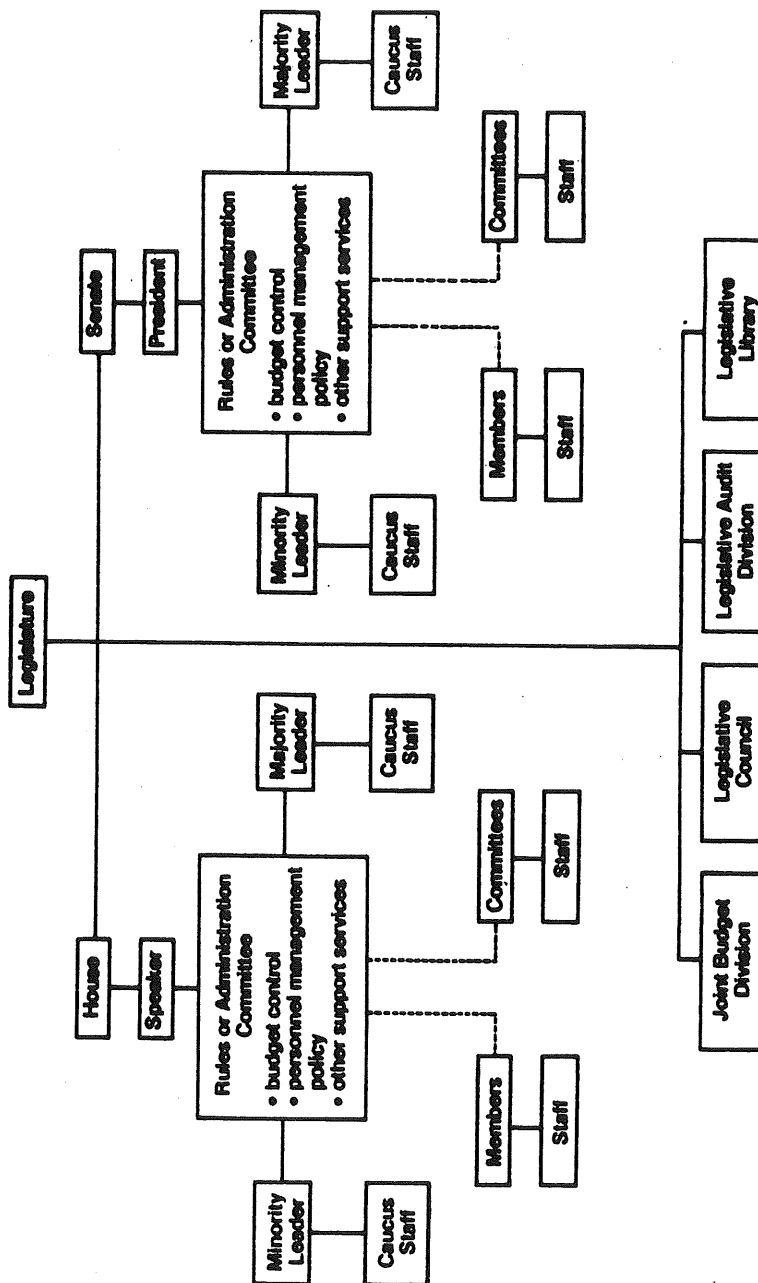


TYPE H—PARTISAN LEADERSHIP

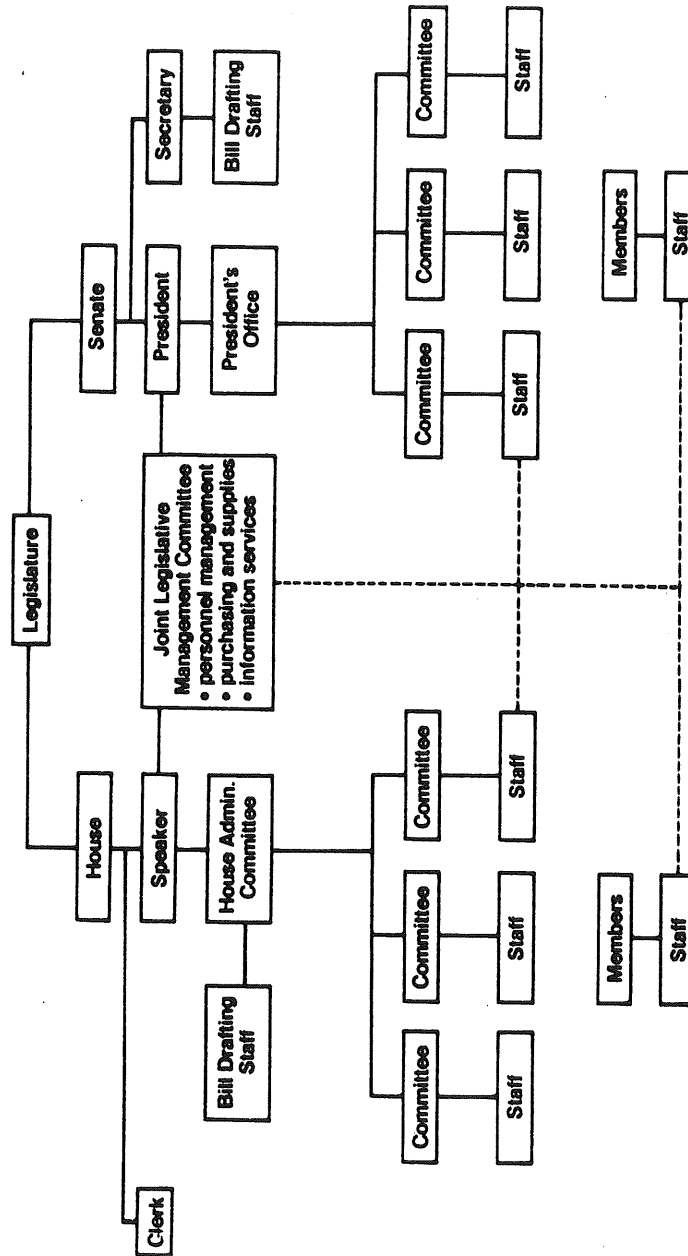


APPENDIX C (continued)

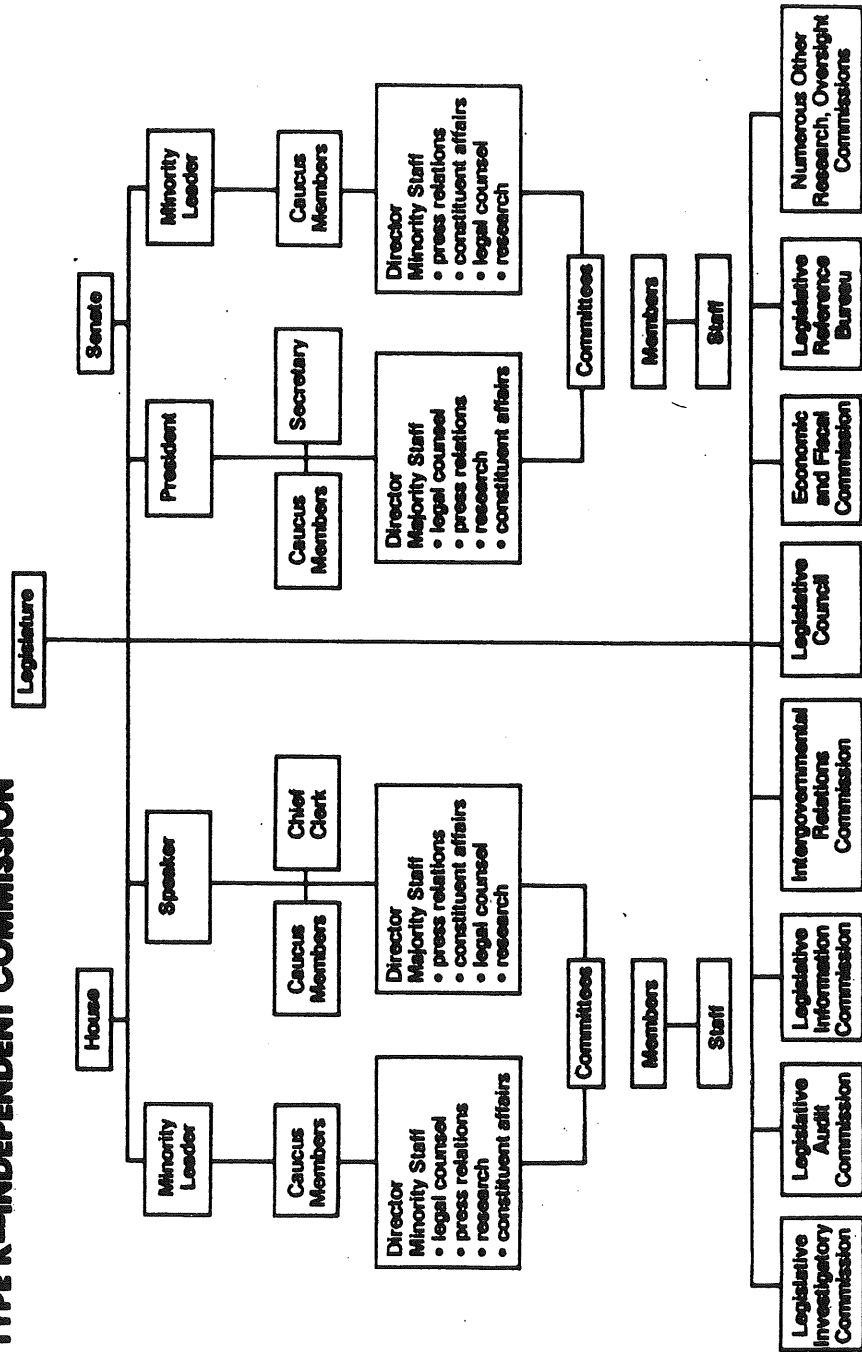
TYPE I—SEPARATE HOUSE MANAGEMENT WITH COMMITTEE STAFFING



TYPE J—JOINT MANAGEMENT WITH COMMITTEE STAFFING



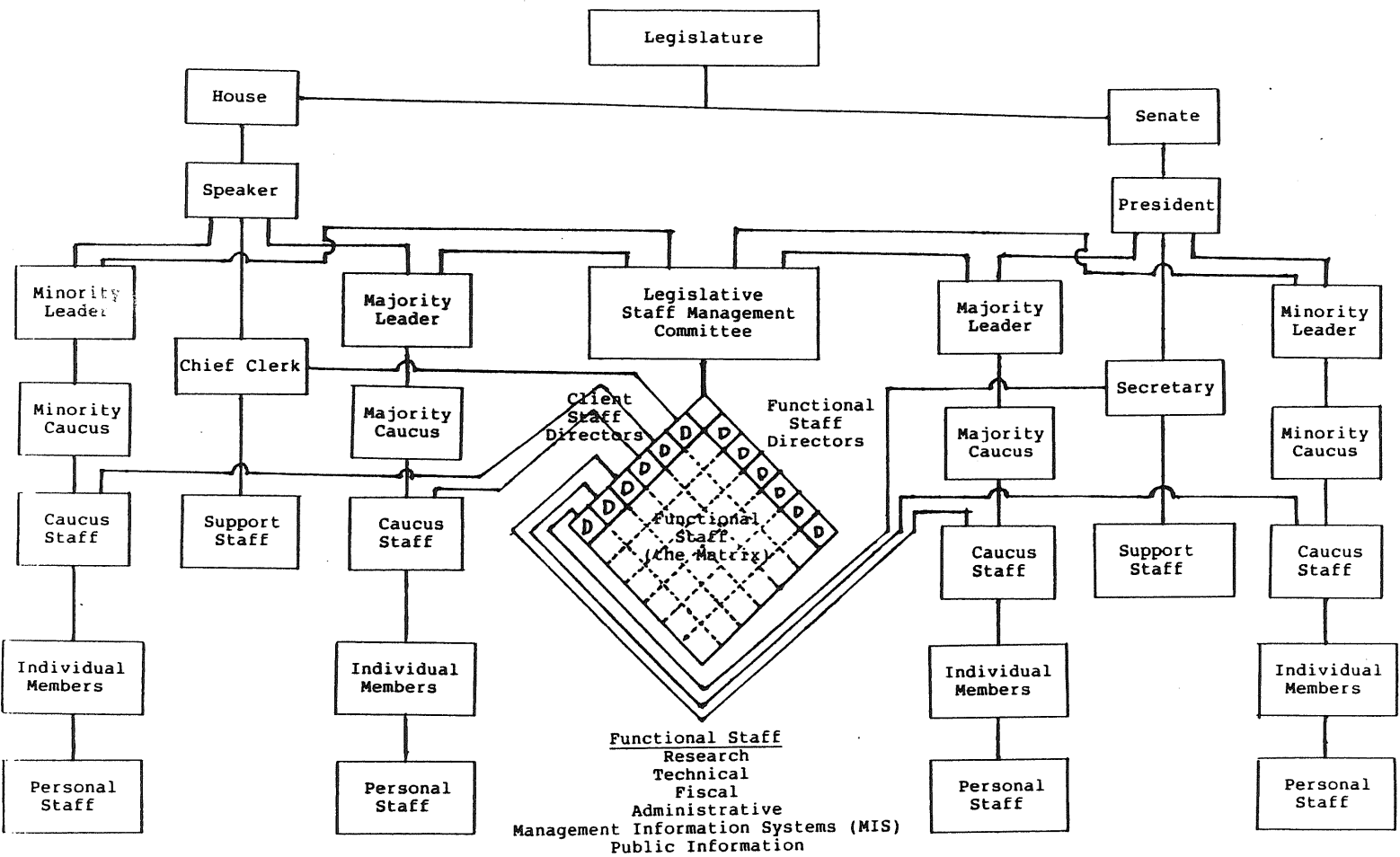
TYPE K--INDEPENDENT COMMISSION



APPENDIX D

Matrix Organizational Diagram

This organizational diagram uses the same format as that used in the organizational diagrams in appendix C.



APPENDIX E

Implementing Bill Draft

A bill for an act

relating to the legislature; comprehensively reorganizing the legislative staff; providing for a legislative staff service; providing for a matrix organizational system; establishing a staff management committee, staff directors, and a directors committee to run the service; providing for the executive and managerial authority of the staff management committee and staff directors; dividing the service into functional staff, client staff, and personal staff divisions; classifying staff as nonpartisan, partisan, or bipartisan; establishing functional and client area offices and prescribing duties; transferring certain functions to executive branch agencies; providing for the oversight of government; allowing union representation of legislative staff; providing for staff pay and benefits including an interim pay plan and benefits plan; amending senate and house rules to conform to statutory changes; providing for a study to create a judicial branch staff service; appropriating money; amending Minnesota Statutes 1986, sections 3.08; 3.16; 3.195; 3.198; 3.251; 3.30, subdivision 1; 3.303, subdivision 2; 3.85, subdivisions 1, 2, 5, 6, and 11; 3.922, subdivision 1; 3.9222; 3.9225, subdivision 1; 3.9226, subdivision 1; 3.98, subdivisions 1 and 4; 3.982; 5.08; 6.46; 6.74; 6.75; 10A.01, subdivision 18; 11A.10, subdivision 3; 14.06; 14.07; 14.12; 14.15, subdivision 4; 14.16, subdivision 1, and by adding a subdivision; 14.19; 14.32, subdivision 1; 14.33; 14.47; 15.15; 16A.127, subdivision 7; 16A.672, subdivision 11; 16B.42, subdivisions 1 and 3; 16B.45; 18.70; 37.02; 37.06; 37.07; 41B.18, subdivision 7; 43A.02, subdivisions 10 and 22; 43A.04, subdivision 1; 43A.17, subdivision 8, and by adding a subdivision; 43A.39, subdivision 2; 85A.02, subdivisions 5b and 5c; 86.06; 86.07, subdivision 1; 86.08, subdivision 1; 89.05; 116J.64, subdivision 6; 124.214, subdivision 1; 136.11, subdivisions 5 and 9; 138.17, subdivision 1; 161.08; 179A.03, subdivision 15; 192.551; 193.149; 240.02, subdivision 7; 244.09, subdivision 5; 250.05, subdivision 3; 256B.04, subdivision 11; 290.57; 290.58; 290.59; 298.22, subdivision 2; 326.19, subdivision 4; 352B.02, subdivision 1e; 352D.02, subdivision 1; 352D.04,

subdivision 2; 353.16; 360.015, subdivision 19; 462A.07, subdivision 14; 462A.22, subdivision 10; 473.595, subdivision 5; 473.604, subdivision 6; 473.703, subdivision 10; 480.244; 574.02; 574.20; and 611.216, subdivision 4; Minnesota Statutes 1987 Supplement, sections 3.06, subdivision 1; 3.85, subdivision 12; 14.08; 14.26; 16B.06, subdivision 4; 43A.08, subdivision 1; 268.12, subdivision 8; 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; and 473.1623, subdivision 4; proposing coding for new law as Minnesota Statutes, chapters 3D; 3E; 3F; 3G; and 3H; proposing coding for new law in Minnesota Statutes, chapters 3; 14; and 179A; repealing Minnesota Statutes 1986, sections 3.07; 3.09; 3.095; 3.096; 3.30, subdivisions 2, as amended, and 4; 3.302; 3.3025; 3.3026; 3.303, as amended; 3.304; 3.305; 3.351; 3.85, subdivisions 3, 4, 7, 8, 9, 10, and 11; 3.855; 3.865; 3.866; 3.875; 3.97; 3.971; 3.972; 3.973; 3.974; 3.9741; 3.975; 3.978; 3.98; 3.981; 3.982; 3.983; 5.09; 14.04, as amended; 14.115, subdivision 8; 14.39; 14.40; 14.41; 14.42; 14.43; 16A.18; 16A.281; and 16B.52, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

LEGISLATIVE STAFF SERVICE

NATURE AND SCOPE

Section 1. [3D.01] [LEGISLATIVE STAFF SERVICE.]

The legislative staff service includes persons employed by the legislature except members of the senate and house of representatives. Staff services for the legislative department of government are provided only by the legislative staff service.

Sec. 2. [3D.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in this chapter, the following terms have the meanings given.

Subd. 2. [BENEFIT.] "Benefit" includes pension and other capital accumulation, severance pay, insurance of all types, compensation for time not worked, and miscellaneous

other noncash compensation to members of the legislative staff service.

Subd. 3. [MEMBER.] "Member" means a member of the legislative staff service.

Subd. 4. [PARTISAN.] (a) "Partisan" means participating in any of these activities:

(1) organizing a political party or club;

(2) organizing or attending a fundraising activity for a partisan candidate or political party;

(3) becoming a candidate for, campaigning for, or holding either an elective partisan public office or any party office;

(4) actively working in or managing a campaign of a candidate for either an elective partisan public office or a party office;

(5) actively working in or managing a campaign in connection with seeking a partisan endorsement of a candidate for a nonpartisan elective public office;

(6) beginning or circulating a nominating petition or soliciting votes for a candidate for elective partisan public office;

(7) serving as a delegate, alternate, or proxy to a political party caucus or convention at the precinct, district, city, county, state, national, or other level;

(8) speaking at a public meeting in support of a candidate either for an elective partisan public office or a party office;

(9) soliciting or giving money or property for partisan political purposes (except that it is permitted to solicit or give money to a national political action committee that contributes to candidates of both major political parties based on a candidate's support for or opposition to a national public policy issue);

(10) endorsing a candidate for either an elective partisan public office or a party office in a political advertisement;

(11) speaking to a political convention, caucus, rally, or similar gathering of a political party;

(12) being employed in a governmental position that is designated or generally accepted as a partisan or patronage appointment; or

(13) being employed in a governmental or private sector position where the employee is responsible directly to a person holding an elective partisan public office.

(b) The following activities are not partisan (subject to the stated limitations):

(1) voting at elections;

(2) discussing legislative issues and matters of public interest among friends or acquaintances (as long as the discussions would still lead a reasonable person to believe that the staff member provides services on an impartial basis);

(3) participating in nonpartisan elections (as long as the staff member plays no role in obtaining political party endorsements);

(4) maintaining membership in a professional, service, civic, human rights, or social organization (as long as the staff member plays no role in activities of the organization relating to adopting or lobbying on a public policy issue that is likely to be subject to official action by the state government of Minnesota);

(5) speaking at or participating in a public meeting on a public policy issue (as long as the issue is not likely to be subject to official action by the state government of Minnesota);

(6) attending any event sponsored by a political party and that the public at large attends (as long as the attendance would still lead a reasonable person to believe that the staff member provides service on an impartial basis);

(7) attending any public meeting sponsored by a nonpolitical group or organization where political candidates or political figures of both major political parties attend or participate;

(8) writing to any public official to express an opinion on an issue (as long as the public official is not an official of the state government of Minnesota and that no mention is made of the legislative staff service); and

(9) activities that are not specifically prohibited.

Subd. 5. [PROTECTED CLASSES.] "Protected classes" means females, handicapped persons, and members of the following minorities: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan native.

Sec. 3. [3D.03] [NATURE OF EMPLOYMENT WITH LEGISLATIVE STAFF SERVICE.]

No person appointed to a position in the legislative staff service has any right of continued employment, a contract right in a position, or other rights beyond that of at-will employment.

Sec. 4. [3D.04] [RECRUITMENT.]

Legislative staff directors must recruit sufficient numbers of well-qualified persons to meet the needs of the legislative staff service. Recruitment must include affirmative action to remedy prior discrimination against protected classes of persons and may not discriminate against any person because of race, religion, handicap, sex, national origin, or sexual preference. Recruitment must emphasize the dedication and professionalism of persons appointed to the legislative staff service.

Sec. 5. [3D.05] [ADMISSION TO LEGISLATIVE STAFF SERVICE.]

Subdivision 1. [EXAMINATION REQUIRED.] Entrance to the legislative staff service shall be through successful competition in an examination and certification and appointment from an eligible list except as provided by this subdivision. Persons believed qualified by a director may be provisionally appointed to a position classified as bipartisan or partisan or in the personal division. Within one year of the appointment, the person must successfully complete the examination for the class of positions.

Subd. 2. [ELIGIBILITY FOR EXAMINATIONS.] Examinations shall be open to applicants who meet both the partisanship requirements of section 6 and reasonable job-related minimum requirements for the class as set in a job description approved by the directors committee.

Subd. 3. [EXAMINATION CONTENT.] Examinations for positions in the legislative staff service shall be job related and designed to fairly assess ability to perform the duties of the class for which the examination is given.

Examinations for a professional or managerial position classified as partisan may include testing for appropriate familiarity with the principles and policies of the party of

the client area in which the person serves. Examinations for professional or managerial positions classified as bipartisan or nonpartisan may include appropriate familiarity with the principles and policies of the two largest political parties in the legislature.

Subd. 4. [EXAMINATION TIME AND PLACE.] Examinations must be given after reasonable public notice and at reasonable times and places. Reasonable accommodation shall be made to permit handicapped persons to take examinations.

Subd. 5. [EXAMINATION PASSING SCORE; CERTIFICATION.] Persons who receive a minimum passing score shall be certified as eligible for appointment to a position in the class in the legislative staff service. The minimum passing score shall be set, before the examination, by the directors committee.

Subd. 6. [APPOINTMENT.] A director may appoint anyone to a position who is certified as eligible for appointment to that class of positions. The director and other staff may interview a certified eligible, consult references, and take other actions reasonably necessary to determine the person's qualifications. The scores of eligibles on the examination may be considered in evaluating qualifications but the score of any certified eligible does not alone control who is selected. Consideration on selection shall be given to selecting a veteran of the military service over an equally qualified person who is not a veteran.

Sec. 6. [3D.06] [PARTISANSHIP IN THE LEGISLATIVE STAFF SERVICE.]

Subdivision 1. [CLASSIFICATION SYSTEM.] Positions in the legislative staff service, except positions in the personal division created under subdivision 4, are classified as nonpartisan, bipartisan, or partisan. In the functional division created under section 15, the research, drafting and editing, management information systems, and fiscal services are nonpartisan; the administrative and public and media information services areas are bipartisan. In the client staff division created under section 16, senate and house chamber staff are bipartisan and caucus areas are partisan.

Subd. 2. [NONPARTISAN SERVICE.] To be eligible for appointment to a position classified as nonpartisan, a person must not, within the four years before appointment, have participated in any partisan activity. Upon appointment in the nonpartisan service, a person must not participate in any partisan activity. Upon appointment, the person appointed must provide equal service to members of

the legislature without regard to a member's political affiliation.

Subd. 3. [BIPARTISAN SERVICE.] To be eligible for appointment to a position classified as bipartisan, a person must, within the four years before appointment, have participated in partisan activity of the political party designated to control the position applied for. The person may maintain partisan activity while a member of the bipartisan service. However, upon appointment, the person appointed must provide equal service to members of the body without regard to a member's political affiliation.

Positions classified as bipartisan shall be apportioned to the control of the two principal party caucuses of each body. However, the position of secretary of the senate and chief clerk of the house of representatives shall be elected as provided in section 3.96. If the caucuses cannot agree on which positions each controls, the majority and minority caucus shall alternate in choosing positions controlled. Any newly created positions in the bipartisan service shall also be apportioned in that manner. The caucuses may agree on changing control of a position after the original apportionment is made.

Subd. 4. [PARTISAN SERVICE.] To be eligible for appointment to a position classified as partisan, a person must, within the four years before appointment, have participated in partisan activity of the political party of the client area. The person must maintain partisan activity while a member of the partisan service. Upon appointment, the person appointed may provide service only to members of the client area in which the person serves.

The number of positions classified as bipartisan in the control of a party caucus must be equal throughout the legislative staff service. However, the number in control of each caucus in a functional or client area need not be equal.

Subd. 5. [PERSONAL SERVICE.] A member of the senate and house of representatives may appoint a person in the personal service with or without regard to their prior and future participation in partisan activity. Upon appointment, the person appointed provides service only to the member or members who appointed the person.

Sec. 7. [3D.07] [TRANSFER BETWEEN DIVISIONS PROHIBITED.]

Until two years have elapsed from the date on which the person was last employed in the legislative staff service, a

person who is appointed to a position classified as nonpartisan may not be appointed to a position classified as bipartisan or partisan nor appointed to a position in the personal division. Until four years have elapsed from the date on which the person was last employed in the legislative staff service, a person who is appointed to a position classified as partisan or bipartisan, or in the personal division may be appointed to a position in the nonpartisan division.

Sec. 8. [3D.08] [PAY AND BENEFITS.]

Members of the legislative staff service receive pay and benefits under a pay plan and a benefits plan. The plans shall be adopted by the staff management committee. However, the plans adopted must provide for:

(1) an institution-wide method of evaluating and describing staff positions, classification of all positions into pay or responsibility levels, surveying and comparing positions to positions in the public and private sector, and auditing of positions when appropriate;

(2) a uniform system for setting of salary upon entry into the service;

(3) a uniform system of the regular evaluation of the performance of members of the service and for progress through a pay range and promotion;

(4) a continuing system for the determination of pay changes from year to year because of changes in the value of compensation;

(5) a common system for timekeeping and paycheck calculation; and

(6) a flexible plan for employer-paid and optional benefits that recognizes the nature of legislative service and the differences between legislative service and service in other public sector or private sector positions.

Sec. 9. [3D.09] [TRAINING.]

The staff management committee shall direct the development and administration of a comprehensive program of training for legislators and for staff. The program shall be developed recognizing that the need for initial training appropriate for legislators and staff and for more advanced training as responsibilities of legislators and staff increase over time. The program shall provide for about 400 contact hours over no longer than eight years of part-time

training to complete the legislator and staff training. After eight years from the effective date of this section, no legislator may be a member of the staff management committee and no person may be a director of a functional or client area unless completing the complete training program or equivalent education or training.

When on any business related to the training program, legislators shall be compensated per diem at the rate as when on other legislative business. The cost of tuition or other costs of enrollment shall be paid by the state.

The training shall include: an orientation on legislative process and procedure; staff management in the legislative environment; the organization and operation of a matrix organizational plan; effective communication of legislators, partisan staff, bipartisan staff, and personal staff with nonpartisan staff; performance standards and appraisal; state and local governmental organization and operation; technical skills in particular specialty; ethics; and other appropriate areas.

The staff management committee may contract with colleges or universities to supply the training. It may also certify courses or training otherwise offered by the college or university as suitable for the training program requirements.

MANAGEMENT

Sec. 10. [3D.10] [LEGISLATIVE STAFF MANAGEMENT COMMITTEE.]

Subdivision 1. [APPOINTMENT; QUALIFICATIONS.] The legislative staff management committee consists of four members. A member is appointed by the caucus leader of the two largest political party caucuses in each house. The members must be appointed by the day set for assembly of the legislature in section 3.011. Each serves a term of two years and until a successor is elected and begins service. A member of the staff management committee, by virtue of appointment to the committee, shall be an assistant majority or minority leader of the member's caucus and a member of the standing committee of the body that has jurisdiction over rules and administration. No person may be elected to the committee if:

(1) the person is otherwise a caucus leader, assistant leader, or a committee chair; or

(2) the person has not completed the legislative staff management training provided under section 9.

Subd. 2. [CHAIR; CHIEF-OF-STAFF] In January of an odd-numbered year, the staff management committee shall elect one of its members as chair and vice-chair. The chair and vice-chair shall serve a term of two years and until a successor is elected and begins service. The chair is the chief-of-staff of the legislative staff service and the vice-chair is the deputy chief-of-staff of the legislative staff service.

Subd. 3. [COMPENSATION.] Members of the staff management committee shall be compensated at the rate of 140 percent of the rate otherwise authorized for members of the legislature. Members shall be paid per diem for attending meetings of the committee and when otherwise attending to business relating to staff management when the legislature is not in session.

Subd. 4. [POWERS AND DUTIES.] The staff management committee shall:

(1) exercise general executive management over the legislative staff service;

(2) appoint the director of functional staff divisions, require reports on the functional and client staff directors' activities, regularly evaluate the performance of functional and client staff directors, and set the compensation of functional and client staff directors;

(3) adopt necessary policies, without compliance with chapter 14, to ensure the coordination and efficient operation of staff belonging to the legislative staff service;

(4) approve the budgets of divisions of the legislative staff service and present them to committees of the legislature having jurisdiction over appropriations;

(5) review the workload of functional areas of the nonpartisan division on a regular basis and appropriately adjust the number of positions of a class of positions in a functional area;

(6) develop and maintain a long-term plan for development of legislative staff; and

(7) generally provide executive direction to staff directors.

Sec. 11. [3D.11] [LEGISLATIVE STAFF DIRECTORS' COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] The legislative staff directors' committee is composed of:

(1) the director of an area in the functional staff division;

(2) the secretary of the senate and the chief clerk of the house of representatives in the client staff division; and

(3) the caucus staff director in the client staff division.

Subd. 2. [CHAIR.] The chair of the directors committee shall rotate each year among the members of the committee. The chair shall preside at meetings and facilitate action by the committee.

Subd. 3. [DUTIES.] The directors shall meet together on a regular basis to review the extent of coordination and cooperation between the various functional and client areas and to develop plans to improve operating coordination and cooperation of their staffs. The committee shall regularly report to the legislative staff management committee on the state of operational coordination and cooperation by their staffs. The committee shall recommend the staff management committee those changes in the long-term staff development plan that it finds necessary. The committee may take other action for the betterment of the legislative staff service.

Sec. 12. [3D.12] [DIRECTORS; POWERS AND DUTIES.]

Subject to any limitations of the staff management committee, for any function or client area of the legislative staff service of which a director is the designated manager, the director may:

(1) appoint, discharge, and, under the plan adopted under section 8, fix the salaries of professional, technical, clerical, and other staff;

(2) buy necessary furniture, equipment, and supplies;

(3) enter into contracts to obtain necessary services, equipment, office space, and supplies;

(4) authorize the expenditure of funds;

(5) prepare and administer a budget;

(6) prescribe the duties and responsibilities of office staff, including delegating any power or duty imposed on the

director;

- (7) review the performance of staff;
- (8) counsel, commend, and discipline staff;
- (9) prescribe office work rules; and
- (10) generally manage and superintend affairs.

Sec. 13. [3D.13] [PROHIBITIONS AND LIMITATIONS.]

The director and staff of any functional area classified as nonpartisan, and persons assisting the office as part-time employees or independent contractors are subject to the following prohibitions and limitations:

(a) They may not reveal to any person not employed by the that director the content or nature of a confidential request for services. The content of the confidential request and documents and communications relating to the request is not public and is not subject to subpoena, search warrant, deposition, writ of mandamus, interrogatory, or other disclosure. Drafting requests are confidential. Other requests may be determined to be confidential by the staff management committee under a confidentiality plan adopted by the staff management committee.

(b) They may not urge or oppose legislation on issues susceptible to action in the Minnesota legislature.

(c) They may not use office time to conduct business other than the business of the functional area.

(d) Attorneys may not engage in outside activities that violate the ethical considerations concerning independent professional judgment and interests of multiple clients contained in the code of professional responsibility for lawyers.

(e) They may not engage in activities of a partisan nature.

STAFF ORGANIZATION

Sec. 14. [3D.14] [DIVISIONS OF LEGISLATIVE STAFF SERVICE.]

The legislative staff service consists of three divisions:

- (1) the functional staff division;

(2) the client staff division; and

(3) the personal division.

Sec. 15. [3D.15] [FUNCTIONAL STAFF DIVISION.]

The functional staff division consists of six functional areas. A member of the legislative staff service appointed in one functional area may neither perform a function of another functional area nor provide services provided by another division of the service. The functional areas are:

(1) research, including general, scientific, technical, legal, and spot research; policy analysis; legislative library; performance auditing;

(2) technical services, including the writing, editing, and printing of legislative documents including bills, amendments, committee reports, engrossments, conference committee reports, and enrollments; counsel on the construction of bills and laws; the editing and publishing of slip laws, session laws, and compiled statutes; indexing, including the indexes for introduced bills, journals, session laws, and compiled statutes;

(3) management information systems including the furnishing or coordinating of computer-based information services to the legislative department of government;

(4) fiscal services, including post-audit of state government; fiscal analysis on appropriations, taxes, and substantive bills;

(5) administrative services including payroll, personnel, training, purchasing, supply distribution, mail, accounting, copying, printing, and building maintenance services for the legislature; and

(6) public and media information services including the provision of information to the public and media on the legislature and education and visitor assistance for the public.

Sec. 16. [3D.16] [CLIENT STAFF DIVISION.]

The client staff division consists of six client areas. A member of the legislative staff service appointed in one of the six bipartisan areas may neither perform services provided by the other client divisions nor provide service of a functional division. The client areas are:

(1) chamber staff of the senate and staff off the floor who support floor work, including desk staff, journal staff, service and security staff including sergeant-at-arms, doorkeepers, pages, and similar staff;

(2) chamber staff of the house of representatives and staff off the floor who support floor work, including desk staff, journal staff, service and security staff including sergeant-at-arms, doorkeepers, pages, and similar staff;

(3) staff of the majority caucus of the senate performing analysis, media services, and constituent services;

(4) staff of the minority caucus of the senate performing analysis, media services, and constituent services;

(5) staff of the majority caucus of the house of representatives performing analysis, media services, and constituent services;

(6) staff of the minority caucus of the house of representatives performing analysis, media services, and constituent services.

Sec. 17. [3D.17] [PERSONAL DIVISION.]

The personal division shall consist of staff providing clerical and administrative assistance for individual members.

Sec. 18. [3D.18] [MATRIX ORGANIZATION.]

The functional staff division is organized using a functional/client matrix organization. The functional axis of the matrix consists of the six functional areas of the functional staff division. The client axis of the matrix consists of the six client areas of the client staff division.

A functional area is managed by a director appointed by the staff management committee. A director shall be appointed by the unanimous vote of the staff management committee for a term of six years. A director may only be removed for just cause after reasonable notice and hearing.

A client area is managed by a designated director. The designated director of the senate chamber staff of the client staff division is the secretary of the senate. The designated director of the house of representatives chamber staff of the client staff division is the chief clerk of the

house of representatives. The secretary and chief clerk shall be elected or selected as provided by law and the rules of the senate and house of representatives. The designated director of a caucus staff in client staff division is the caucus staff director appointed by the elected leader of the caucus. A caucus staff director serves at the pleasure of the caucus leader.

Each client area director shall manage functional staff to the extent that the functional staff provide service to that client.

RESEARCH OFFICE DUTIES

Sec. 19. [3D.19] [LEGISLATIVE RESEARCH OFFICE ESTABLISHED.]

The legislative research office is established in the legislative department of state government to provide the legislature with nonpartisan professional research assistance. The office is managed by the director of legislative research.

Sec. 20. [3D.20] [GENERAL RESEARCH DUTIES OF OFFICE.]

The director of legislative research shall:

(1) analyze and summarize each bill, resolution, engrossment, conference committee report, and enrollment;

(2) provide information and spot research in response to questions;

(3) conduct in-depth research and policy analysis on current and projected state public policy issues;

(4) analyze publications on current and projected state public policy issues;

(5) analyze legal effects of current and projected laws and advise on consequent public policy issues;

(6) analyze scientific and technical information and publications and advise on consequent public policy issues;

(7) publish results of research and analysis; and

(8) organize regular conferences, workshops, or seminars for legislators and other legislative staff on research and analysis.

Sec. 21. [3D.21] [PERFORMANCE REVIEWS OF STATE

AGENCIES.]

The director of legislative research shall determine the degree to which the agencies, activities, and programs funded by the state have:

- (1) appropriate goals and objectives;
- (2) made appropriate progress on accomplishing the goals and objectives;
- (3) effective means to measure program results and effectiveness;
- (4) considered alternative means of achieving the results; and
- (5) efficiently allocated resources.

The director shall publish the results of a performance review. The director shall also prepare and periodically revise and publish general standards for the evaluation of the performance of agencies.

Sec. 22. [3D.22] [LEGISLATIVE LIBRARY.]

Subdivision 1. [LIBRARY MAINTAINED.] The director of legislative research shall maintain a legislative library for legislators, members of the legislative staff service, and, to the extent not interfering with legislative services, the public.

Subd. 2. [DUTIES.] The legislative library shall collect, index, and make available in suitable form information relative to governmental and legislative subjects that will aid members of the legislature and staff in the performance of their duties in an efficient and economical manner. It shall maintain an adequate collection of public documents of Minnesota and other states and may enter into loan agreements with other libraries. It shall maintain the archives of legislative records.

Subd. 3. [PUBLIC DOCUMENT DEPOSITORY.] The legislative library is a depository of documents published by the state and shall receive materials automatically without cost. "Document" includes any publication issued by the state, constitutional officers, departments, commissions, councils, bureaus, research centers, societies, task forces, including advisory task forces created under section 15.014 or 15.0593, or other agencies supported by state funds. It also includes any publication prepared for the state by private individuals or organizations. The document must be

printed, including forms of duplicating other than by the use of carbon paper, and considered to be of interest or value to the legislative library. Intraoffice or interoffice memos and forms and information concerning only the internal operation of an agency are not included.

Subd. 4. [IDENTIFICATION OF DOCUMENTS.] For documents deposited under subdivision 3, the legislative library shall require that the issuing agency supply proper bibliographic identification. The identification shall appear on the title page of a volume and shall include complete title, statement of authorship, name of publisher, and the date and place of publication. When possible the document shall be consecutively paged. When applicable the issuing agency shall include a statement showing the section number of statute or the chapter number and year of the law with which the report complies.

TECHNICAL SERVICES OFFICE DUTIES

Sec. 23. [3D.23] [LEGISLATIVE TECHNICAL SERVICES OFFICE ESTABLISHED.]

The legislative technical services office is established in the legislative department of state government to provide the legislature with nonpartisan professional assistance on the writing the laws and related services. The office shall be managed by the director of legislative technical services.

Sec. 24. [3D.24] [DRAFTING DUTIES OF OFFICE.]

Subdivision 1. [DRAFTING REQUESTS.] The director of legislative technical services shall draft bills, resolutions, and amendments requested by members of the legislature, the governor, departments or agencies of the state, or special committees or commissions created by the legislature or appointed by the governor to study or revise the laws. Documents must be drafted to conform to the instructions given in the request.

Subd. 2. [COUNSEL ON CONSTRUCTION.] The director shall provide legal counsel for the drafting and construction of bills, resolutions, and amendments separate from the drafting staff.

Subd. 3. [DRAFTING STYLE; MANUAL.] Drafts shall be prepared, to the extent possible, in plain English. The director shall prepare and issue a bill drafting manual containing styles and forms for drafting and construction of bills, resolutions, and amendments.

Sec. 25. [3D.25] [EXECUTIVE BRANCH; RESTRICTIONS ON OUTSIDE DRAFTING.]

A department or agency may not contract with an attorney, consultant, or other person either to provide drafting services to the department or agency or to advise on drafting unless the director of legislative technical services determines that special expertise is required for the drafting and the expertise is not available from the director or the director's staff. A department or agency may not request legislative staff, other than the director, to provide drafting services to the department or agency.

Sec. 26. [3D.26] [OTHER OFFICE DUTIES DURING LEGISLATIVE SESSION.]

Subdivision 1. [REPORT TO LEGISLATURE.] The director of legislative technical services shall report to the legislature any statutory changes recommended or discussed or statutory deficiencies noted in any opinion of any state or federal appellate court. The report must be made by November 15 of each year. It must treat opinions filed during the period immediately preceding September 30. It must include any comment necessary to outline clearly the legislative problem reported and recommend statutory changes to conform to court recommendations or cure the deficiencies.

Subd. 2. [TECHNICAL BILLS.] The director shall prepare and submit to the legislature bills clarifying and correcting the statutes.

Subd. 3. [COMMITTEE REPORTS, ENGROSSMENTS, AND ENROLLMENTS.] The director shall prepare committee reports, engrossments, conference committee reports, enrollments, and related documents for the senate and house of representatives.

In preparing a committee report, an engrossment, a conference committee report, or an enrollment, the director may correct misspelled words and other minor clerical errors. No correction of this kind constitutes an alteration or departure from the text as shown in the journals of the senate and house of representatives.

Subd. 4. [JOURNALS, CALENDARS, AGENDAS.] The director shall prepare the journals, calendars, and agendas of the senate and house of representatives under the editorial direction of the secretary of the senate and chief clerk of the house of representatives.

Sec. 27. [3D.27] [INDEXING DUTIES OF OFFICE.]

The director of legislative technical services shall:

(1) develop and periodically revise standards for the modern indexing of bills, journals, session laws, compiled statutes, and other legislative publications;

(2) create and maintain indexes for legislative publications that conform to the standards of clause (1); and

(3) provide other indexing services.

MANAGEMENT INFORMATION SYSTEMS OFFICE

Sec. 28. [3D.28] [LEGISLATIVE MANAGEMENT INFORMATION SYSTEMS OFFICE ESTABLISHED.]

The legislative management information systems office is established in the legislative department of state government to provide the legislature with nonpartisan professional management information systems services. The office shall be managed by the director of legislative management information systems.

Sec. 29. [3D.29] [DUTIES OF OFFICE.]

The director of legislative management information systems shall:

(1) develop and maintain a comprehensive plan for computer-based information services within the legislature;

(2) maintain information systems equipment and applications programs where providing services on a centralized basis is the most effective and cost-efficient method;

(3) coordinate the acquisition of information systems equipment and application programs by functional or client offices where distributed operation is the most effective and the most cost-efficient, and interconnectivity among systems is maintained;

(4) operate a comprehensive program to train legislators and staff on the effective use of computer-based information systems;

(5) facilitate activities by legislative offices charged with providing information to the public;

(6) maintain standards for development of information systems within the legislature that legislative offices must

comply with;

(7) advise the legislature on the evaluation of information systems elsewhere in state government;

(8) maintain and control telecommunication facilities for the legislature in coordination with the commissioner of administration; and

(9) coordinate legislative branch information systems activities with the commissioner of administration and the supreme court administrator.

Sec. 30. [3D.30] [COMPUTER COMPATIBILITY.]

The director of legislative management information systems must use a computer-based data system that can receive data from and send data to computers maintained by the executive and judicial departments of state government. Operational programs must be maintained to send and receive budgetary and revenue data.

FISCAL OFFICE

Sec. 31. [3D.31] [LEGISLATIVE FISCAL OFFICE ESTABLISHED.]

The legislative fiscal office is established in the legislative department of state government to provide the legislature with nonpartisan professional assistance on fiscal matters. The office shall be managed by the legislative fiscal director.

Sec. 32. [3D.32] [DUTIES OF OFFICE.]

The director of the legislative fiscal office shall:

(1) provide the legislature with estimates of current and projected state revenue, state expenditures, and state tax expenditures;

(2) within four weeks after the governor submits a budget to the legislature under section 16A.11, provide the legislature with a report presenting alternative levels of revenue and expenditures, including allocation of expenditures to individual agencies and programs, together with the suggested priorities to allocate expenditures;

(3) provide an annual economic report to the legislature on the state of state's economy and including trends, forecasts, and recommendations of state economic policy for consideration by the legislature;

(4) conduct research on matters of economic and fiscal policy and report to the legislature on the results of the research;

(5) analyze bills relating to appropriations, budget, and taxation and assist on the fiscal preparation of those bills;

(6) advise on matters of state revenue and expenditures;
and

(7) provide other fiscal assistance as necessary.

Sec. 33. [3D.33] [RELATIONSHIP TO EXECUTIVE AND JUDICIAL BRANCHES.]

All departments and agencies of the executive and judicial branches must comply with a request of the director of the legislative fiscal office for information, data, estimates, and statistics on the funding, revenue, operation, and affairs of the department or agency. The commissioner of finance and commissioner of revenue shall provide the director with full and free access to information, data, estimates, and statistics in the possession of the finance and revenue departments on the state budget, revenue, expenditures, and tax expenditures.

Sec. 34. [3D.34] [PUBLIC ACCESS TO DATA.]

The director shall provide the public with printed and electronic copies of reports and information for the legislature. Copies must be provided at the incremental cost of a copy.

ADMINISTRATIVE SERVICES OFFICE

Sec. 35. [3D.35] [LEGISLATIVE ADMINISTRATIVE SERVICES OFFICE ESTABLISHED.]

The legislative administrative services office is established in the legislative department of state government to provide the legislature with bipartisan professional administrative services. The office shall be supervised by the director of legislative administrative services.

Sec. 36. [3D.36] [DUTIES OF OFFICE.]

The director of legislative administrative services shall:

(1) assist other functional and client directors in

preparing budgets for their offices and coordinate the budgeting of legislative activities;

(2) provide accounting services for legislative offices including general ledger, accounts payable, accounts receivable, payroll, and fixed-asset inventory systems;

(3) provide personnel services, including a computerized personnel system, to advise functional and client director's in the selection, evaluation, discharge, and maintenance of personnel;

(4) assist in developing the training program established under section 9 and administer the program;

(5) assist functional and client directors in buying and distributing supplies, equipment, and services to operate the office;

(6) provide central interoffice mail and outside mail services including maintaining a full-service United States Mail substation for the legislature;

(7) provide central and distributed printing and copying services;

(8) maintain buildings and spaces within buildings devoted to legislative uses; and

(9) maintain a central motor pool for legislative use.

PUBLIC INFORMATION OFFICE

Sec. 37. [3D.37] [LEGISLATIVE PUBLIC INFORMATION OFFICE ESTABLISHED.]

The legislative information office is established in the legislative department of state government to provide the public with bipartisan professional public informational services on the legislature. The office shall be managed by the director of legislative public information.

Sec. 38. [3D.38] [DUTIES OF OFFICE.]

The director of legislative public information shall:

(1) provide information in paper and electronic form to the public on legislative activities including public legislative documents, schedules of future legislative activities, and summaries of legislative activities;

(2) provide services to newspaper, television, radio,

and other media that facilitates understanding of legislative activities and coverage of the legislature's activities;

(3) coordinate activities with high school, college, and graduate level institutions in providing on-site educational programs and inside experience on the legislature; and

(4) provide visitor services to assist distinguished visitors from other states and nations in receiving information on and understanding of the legislative institution.

SENATE AND HOUSE ADMINISTRATIVE OFFICES

Sec. 39. [3D.39] [OFFICE OF THE SECRETARY OF THE SENATE; OFFICE OF THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES.]

The office of the secretary of the senate and the office of the chief clerk of the house of representatives are established in the legislative department of state government to provide the senate and house of representatives, respectively, with bipartisan professional administrative management. The senate office shall be managed by the secretary of the senate. The house office shall be managed by the chief clerk of the house of representatives.

Sec. 40. [3D.40] [DUTIES OF OFFICE.]

The secretary of the senate and the chief clerk of the house of representatives shall:

(1) accurately maintain the records of the body, including committees and subcommittees, on bills and other proceedings;

(2) accurately edit and publish a journal of the proceedings of the body under the standards set by the body;

(3) maintain order in the chamber and all legislative spaces including controlling entry to and exit from the chamber;

(4) prepare an administrative budget for the senate and maintain control of expenditures;

(5) provide advice to the presiding officer and members of the body on matters of proper parliamentary procedure;

(6) perform other services as directed by the body or by custom of the body; and

(7) manage staff of the functional staff division under the matrix organization structure.

CAUCUS OFFICES

Sec. 41. [3D.41] [CAUCUS SERVICES OFFICES.]

Caucus services offices are established in the legislative department of state government to provide each of the two largest political party caucus in each house with partisan professional analysis, and media and constituent services assistance. Offices are managed by caucus staff directors.

Sec. 42. [3D.42] [DUTIES OF OFFICES.]

A caucus staff director shall:

(1) advise legislators of the caucus of the results, consequences, and effects of current laws and bills should they be enacted into law;

(2) assist legislators of the caucus in maintaining contact directly or through media with constituents including corresponding with constituents to solicit opinions, and responding to requests for case assistance or information; and

(3) manage staff of the functional staff division under the matrix organization structure.

TRANSITION

Sec. 43. [COORDINATION.]

Staff employed by the legislature on March 1, 1988, may be admitted to the legislative staff service without examination as required by section 5. Members of the staff management committee shall be appointed by April 1, 1988. Directors of functional and client areas shall be appointed by July 1, 1988. The committee and the directors shall prepare the necessary transitional plans for changing from the existing staff system to the legislative staff service. Any suggested statutory changes or additions to facilitate the change shall be delivered to the committee on rules and legislative administration of the house of representatives and the committee on rules and administration of the senate by February 1, 1989.

Sec. 44. [REPEALER.]

Minnesota Statutes 1986, sections 3.07; 3.09; 3.095; 3.096; 3.30, subdivisions 2, as amended by Laws 1987, chapter 404, section 60, and 4; 3.302; 3.3025; 3.3026; 3.303, as amended by Laws 1987, chapter 404, section 61; 3.304; 3.305; 3.351; 3.85, subdivisions 3, 4, 7, 8, 9, 10, and 11; 3.855; 3.865; 3.866; 3.875; 3.97; 3.971; 3.972; 3.973; 3.974; 3.9741; 3.975; 3.978; 3.98; 3.981; 3.982; 3.983; 5.09; 14.04, as amended by Laws 1987, chapter 365, section 4; 14.115, subdivision 8; 14.39; 14.40; 14.41; 14.42; 14.43; 16A.18; 16A.281; and 16B.52, subdivision 4, are repealed.

Sec. 45. [EFFECTIVE DATE.]

Sections 1 to 44 are effective July 1, 1989.

ARTICLE 2

COORDINATING AMENDMENTS

Section 1. Minnesota Statutes 1987 Supplement, section 3.06, subdivision 1, is amended to read:

3.06 [OFFICERS AND-EMPLOYEES.]

Subdivision 1. [ELECTION.] Thereupon, a quorum being present, the respective houses shall elect the-following officers, any of whom may be removed by resolution of the appointing body:-

The senate, shall elect a president, who shall be a member, a secretary, a-first-and-a-second-assistant secretary,-an-enrolling-clerk,-an-engrossing-clerk,-a sergeant-at-arms,-an-assistant-sergeant-at-arms, and a chaplain,-and.

The house, shall elect a speaker, who shall be a member thereof, a chief clerk, a-first-and-a-second-assistant clerk,-an-index-clerk,-a-chief-sergeant-at-arms,-a-first-and-a-second-assistant-sergeant-at-arms,-a-postmaster,-an assistant-postmaster, and a chaplain.

Sec. 2. Minnesota Statutes 1986, section 3.08, is amended to read:

3.08 [ELECTION; DUTIES.]

In addition to the duties prescribed by law, such officers and employees shall perform such services as may be required of them by rule or vote of the appointing-body-or

by-direction-of-any-committee-thereof senate or house.
Employees shall perform duties as designated under the
legislative service system.

Sec. 3. [3.0801] [LEGISLATIVE ACCOUNTING SYSTEM.]

The accounting system used by the director of
administrative services for the legislature shall be
maintained under the exclusive control of the legislative
department of state government. The system may be
compatible with the statewide accounting system used for the
executive branch.

Warrants on the state treasury to pay legislative
branch expenses shall be signed by the director of
administrative services and by the chair of the staff
management commission. Any authorizations, encumbrances,
and payment abstracts shall be signed by functional or
client directors.

Sec. 4. [3.0802] [LEGISLATIVE BUDGET.]

The functional areas, client areas, and the senate and
house of representatives of the legislature shall be
separately budgeted. Funds appropriated cancel at the end
of the fiscal year.

Sec. 5. [3.0803] [REGULAR AUDIT.]

The director of administrative services, with the
advice and assistance of the director of the legislative
fiscal office, shall negotiate a contract each year with a
public accountant for an audit of legislative books and
accounts. The standards for the audit shall be, as much as
possible, those observed for audits of executive branch
agencies. The audit report is public information.

Sec. 6. Minnesota Statutes 1986, section 3.16, is amended to read:

3.16 [MEMBERS, AND OFFICERS OF, OR ATTORNEYS EMPLOYED
BY, EXCUSED FROM COURT DUTY.]

No member or officer of, or any attorney employed by,
the legislature shall be compelled to attend as a witness in
any court of this state during the session of the
legislature, or while attending meetings of any legislative
committee or commission when the legislature is not in
session unless the court in which the action is pending,
upon sufficient showing, shall otherwise order with the
consent of the presiding officer of the body of which such
witness is an employee or the consent of the body of which

such witness is a member. No cause or proceeding, civil or criminal, in court or before any commission or officer or referee thereof or motion or hearing therein, in which a member or officer of ~~7-or-any-attorney-employed-by~~ the legislature is a party, attorney, or witness shall be tried or heard during the session of the legislature or while any member, officer of ~~7-or-attorney-employed-by~~ the legislature is attending meetings of any legislative committee or commission when the legislature is not in session but shall be continued until the legislature or the committee or commission meeting shall have adjourned. The member or officer of ~~7-or-any-attorney-employed-by~~ the legislature may, with the consent of the body of the legislature of which the person is a member or officer, or employed by, waive this privilege and in this case the cause or proceeding, motion, or hearing may be tried or heard at such time as will not conflict with legislative duties.

Sec. 7. Minnesota Statutes 1986, section 3.195, is amended to read:

3.195 [REPORTS TO THE LEGISLATURE.]

Subdivision 1. [DISTRIBUTION OF REPORTS.] Whenever a report to the legislature is required of a department or agency of government, it shall be made, unless otherwise specifically required by law, by the filing of ~~one-copy-with-the-secretary-of-the-senate, one-copy-with-the-chief-clerk-of-the-house-of-representatives,~~ and ten copies with the director of legislative reference-library research. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the legislative reference library.

Subd. 2. [IDENTIFICATION OF DOCUMENTS.] Whenever a report or publication as defined in section 3.302, subdivision 3, is submitted by a department or agency to the director of legislative reference-library research, the department or agency shall supply to the legislative reference library the information necessary to identify the document as required in section 3.302, subdivision 3a.

Subd. 3. [CHECKLIST OF STATE DOCUMENTS.] The director of legislative reference-library research shall monthly publish and distribute to legislators a checklist of state documents. Additional copies of the checklist sufficient for distribution to all state agencies, public, university and college libraries shall be provided by the documents section, department of administration.

Sec. 8. Minnesota Statutes 1986, section 3.198, is amended to read:

3.198 [COMPUTER TERMINALS; ACCESS TO INFORMATION SYSTEM PROVIDED BY MECC.]

~~The Minnesota-state-senate-and-the-Minnesota-state house-of-representatives-are-hereby~~ director of legislative management information systems is authorized to-obtain computer-terminals-for-the-purpose-of-gaining on-line access to the statewide management information system provided for school districts through the Minnesota Educational Computing Consortium. ~~Further,~~ The Minnesota Educational Computing Consortium is directed to provide the ~~staff-of-the-senate and-house-of-representatives~~ director, or staff designated by the director, with training for use of that system.

Sec. 9. Minnesota Statutes 1986, section 3.251, is amended to read:

3.251 [COMMISSION ON UNIFORM STATE LAWS.]

A commission on uniform state laws consisting of four commissioners is created. Before the first day of June, each odd-numbered year, the governor, the attorney general, and the chief justice of the supreme court shall appoint three persons learned in the law to serve as commissioners for a term of two years, and until their successors are appointed. The fourth commissioner is the revisor-of statutes director of legislative drafting and editing or the revisor's director's designated assistant. If a vacancy occurs in the commission the appointing officers shall fill the vacancy for the remainder of the term. The commissioners shall advise the law revision commissioner, under section .., of the recommendations of the national uniform laws commission.

Sec. 10. Minnesota Statutes 1986, section 3.30, subdivision 1, is amended to read:

Subdivision 1. [APPROPRIATION; TRANSFERS.] There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. There is further authorized such additional special contingent appropriations as the legislature may deem necessary. Transfers from such appropriations to the appropriations of the various departments and agencies may be made by the commissioner of finance subject to the following provisions:

(a) Transfers may be authorized by the commissioner of finance not exceeding \$5,000 for the same purpose for any quarterly period;

(b) Transfers exceeding \$5,000 but not exceeding

\$10,000 may be authorized by the commissioner of finance with the approval of the governor;

(c) Transfers exceeding \$10,000 may be authorized by the governor; ~~provided, that~~ however, no such transfer shall be made until the governor has consulted the ~~legislative advisory commission hereinafter provided for and such commission has made its recommendation thereon~~ standing committees of the senate and house of representatives having jurisdiction over appropriations. ~~Such~~ Any recommendation ~~shall be~~ is advisory only. Failure or refusal of the ~~commission~~ committees to make a recommendation promptly shall be deemed a negative recommendation.

The commissioner of finance shall return to the appropriate contingent account any funds transferred under this subdivision that the commissioner determines are not needed.

Sec. 11. Minnesota Statutes 1986, section 3.303, subdivision 2, is amended to read:

Subd. 2. The membership of the commission shall consist of the majority leader of the senate, the president of the senate, the chair of the senate committee on taxes and tax laws, the chair of the senate committee on finance, ~~two senators appointed by the majority leader, the minority leader of the senate, and one senator~~ two senators appointed by the minority leader; and the majority leader of the house of representatives, the speaker of the house of representatives, the chair of the house committee on taxes, the chair of the house committee on appropriations, two representatives appointed by the speaker, the minority leader of the house of representatives, and one representative ~~two representatives~~ appointed by the minority leader. Each member shall serve until a successor is named during a regular session following appointment. A vacancy shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 12. Minnesota Statutes 1986, section 3.85, subdivision 1, is amended to read:

Subdivision 1. [CREATION SUBCOMMITTEES REQUIRED.] A permanent commission to continually study and investigate public retirement systems is hereby created ~~The chair of the standing committees of each house having jurisdiction over government operations shall appoint a subcommittee to meet with the subcommittee of the other body to investigate and study the state's pension and retirement systems.~~

Sec. 13. Minnesota Statutes 1986, section 3.85,

subdivision 2, is amended to read:

Subd. 2. [POWERS.] ~~The name of the commission is the legislative commission on pensions and retirement.~~ The commission subcommittees shall together make a continuing study and investigation of retirement benefit plans applicable to nonfederal government employees in this state. The powers and duties of the commission subcommittees, acting by majority of each subcommittee, include, but are not limited to the following:

(a) The study of retirement benefit plans applicable to nonfederal government employees in the state of Minnesota, including federal plans available to such employees;

(b) the making of recommendations within the scope of the study, including attention to financing of the various pension funds and financing of accrued liabilities;

(c) the consideration of all aspects of pension planning and operation and the making of recommendations designed to establish and maintain sound pension policy as to all funds;

(d) the filing of a report at least biennially to each session of the legislature; and

(e) the analyzing of each item of proposed pension and retirement legislation, including amendments thereon, with particular reference to analysis as to cost, actuarial soundness, and adherence to sound pension policy, and the reporting of its findings to the legislature;

~~(f) the creation and maintenance of a library for reference concerning pension and retirement matters, including information as to laws and systems in other states; and~~

~~(g) to study, analyze, and have prepared reports in regard to subjects certified to the commission for such study.~~

Sec. 14. Minnesota Statutes 1986, section 3.85, subdivision 5, is amended to read:

Subd. 5. [STAFF.] The commission may employ such use the professional, clerical, and technical assistants of the nonpartisan, bipartisan, and personal staff services as it deems necessary in order to perform the duties herein prescribed.

Sec. 15. Minnesota Statutes 1986, section 3.85,

subdivision 6, is amended to read:

Subd. 6. [ASSISTANCE OF OTHER AGENCIES.] The commission subcommittees may request information from any state officer or agency or any public pension fund or plan as defined in section 356.61, including any volunteer firefighters' relief association to which sections 69.771 to 69.776 applies, in order to assist in carrying out the terms of this section and the officer, agency, or public pension fund or plan, is authorized and directed to promptly furnish any data requested.

Sec. 16. Minnesota Statutes 1986, section 3.85, subdivision 11, is amended to read:

Subd. 11. [STANDARDS FOR PENSION VALUATIONS AND COST ESTIMATES.] The ~~commission shall by June 30, 1985~~ subcommittees shall adopt standards prescribing specific detailed methods of calculating, evaluating, and displaying current and proposed law liabilities, costs, and actuarial equivalents of all public employee pension plans in Minnesota. These standards shall be consistent with chapter 356 and shall be updated annually thereafter.

Sec. 17. Minnesota Statutes 1987 Supplement, section 3.85, subdivision 12, is amended to read:

Subd. 12. [VALUATIONS AND REPORTS TO LEGISLATURE.] (a) The commission director of legislative fiscal services, under the direction of the subcommittees, shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and financial adequacy studies for the retirement plans named in clause (b). The contract shall also include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The contract for actuarial valuation and analysis shall include the following retirement plans:

- (1) the Statewide Teachers Retirement Association;
- (2) the General Plan, Minnesota State Retirement System;
- (3) the Correctional Plan, Minnesota State Retirement System;
- (4) the State Patrol Plan, Minnesota State Retirement System;
- (5) the Judges Plan, Minnesota State Retirement System;
- (6) the Minneapolis Employees Retirement Fund;

(7) the General Plan, Public Employees Retirement Association;

(8) the Police and Fire Plan, Public Employees Retirement Association;

(9) the Duluth Teachers Retirement Association;

(10) the Minneapolis Teachers Retirement Association;

(11) the St. Paul Teachers Retirement Association;

(12) the Legislator's Retirement Plan, Minnesota State Retirement System; and

(13) the Elective State Officers Retirement Plan, Minnesota State Retirement System.

(c) The contract shall include the following:

(1) Effective for every year beginning in fiscal year 1986, the contract shall specify completion of standard actuarial valuations for the fiscal year with contents as described in section 356.215, subdivisions 4 to 4k; and cash flow forecasts through the amortization target date.

(2) Effective for every plan year beginning in fiscal year 1987, the contract shall specify preparation of an exhibit on the experience of the fund for inclusion in the annual actuarial valuation and completion of a periodic experience study as provided for in the standards adopted by the commission. The experience study shall evaluate the appropriateness of continuing to use for future valuations the assumptions relating to: individual salary progression; rate of return on investments; payroll growth; mortality; withdrawal; disability; retirement; and any other experience-related factor that could impact the future financial condition of the retirement funds.

(d) The ~~commission~~ subcommittees shall annually prepare a report to the legislature summarizing the results of the valuations and cash flow projections and shall include with its report recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. It shall also, within two months of the completion of the periodic experience studies, prepare a report to the legislature on the appropriateness of the valuation assumptions required for evaluation in the periodic experience study.

(e) The ~~commission~~ subcommittees shall assess the retirement plans specified in paragraph (b) other than

clauses (12) and (13) the cost of their actuarial valuations and of their experience studies. The assessment shall be that part of the amount of contract compensation with the actuarial consulting firm retained by the commission subcommittees specified for these functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total action, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b). The assessment shall be made upon the completion of the actuarial valuations and the experience studies. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments shall be deposited in the state treasury and credited to the general fund.

Sec. 18. [3.9215] [STATUTORY SUBCOMMITTEES OF STANDING COMMITTEES.]

Subdivision 1. [GENERAL PROCEDURE.] The chair of a standing committee of the senate and house of representatives shall appoint standing subcommittees under the following subdivisions. Subcommittee activities are staffed by the legislative staff service. Subcommittees shall report on activities and necessary legislation to the standing committee.

Subd. 2. [HUMAN RIGHTS OVERSIGHT SUBCOMMITTEES.] The chairs of the standing committees of the senate and house of representatives having jurisdiction over judicial matters shall each appoint a subcommittee of five members for oversight on human rights matters. In particular, the subcommittees shall exercise oversight over: the Indian affairs council, created by section 363.20; the council on the economic status of women, created by section 363.21; the council on Spanish-speaking people, created under section 363.22; the council on Black Minnesotans, created by section 363.23; and the council on Asian-Pacific Minnesotans, created by section 363.24.

Subd. 3. [EMPLOYEE RELATIONS OVERSIGHT.] The chair of the standing committees of the senate and house of representatives having jurisdiction over state government operations shall each appoint a subcommittee of three members for oversight on employee relations. The subcommittee shall exercise general oversight over the progress of collective bargaining under the state public employment relations act. The commissioner of employee relations shall keep the subcommittees advised of progress on collective bargaining and submit negotiated agreements and arbitration awards to them. The subcommittees shall make recommendations to the standing committees regarding

approval and funding of the agreements or awards. The subcommittees shall also act on plans of the commissioner for unrepresented employees, managerial employees, and agency heads. The subcommittees shall make continuous studies of collective bargaining.

Subd. 4. [PUBLIC EDUCATION OVERSIGHT.] The chair of the standing committees of the senate and house of representatives having jurisdiction over elementary and secondary education shall each appoint a subcommittee of three members for oversight on public education. The subcommittees shall study issues relating to public education, including:

(a) education policy development and planning and recommendations for change to make education more effective;

(b) current and alternative financing formulas for education and recommendations for changes in the use of public money to fund education;

(c) current school district organization and administration and recommendations for more efficient use of available resources;

(d) current technology and alternative education delivery systems for Minnesota; and

(e) teacher preparation, certification, salaries, employment policies, and retention.

The subcommittee on public education is encouraged to conduct a study of school district foundation and retirement revenue. The study may address at least the following topics:

(1) alternative means of funding school district retirement costs, including means of funding retirement costs through the foundation revenue formulas;

(2) the financial constraints and costs faced by districts with highly educated and experienced staff, the adequacy of the current training and experience allowance and revenue in tiers two through five in recognizing these constraints and costs, and the impact of the training and experience allowance on program differences among districts and on incentives for district personnel decisions;

(3) the financial constraints and costs faced by small and isolated districts, and the adequacy of the current sparsity allowance in recognizing these constraints and costs;

(4) an analysis of the financial constraints and costs faced by districts with low salaries, and the need for additional revenue to enable districts to raise salaries;

(5) an analysis of the financial constraints and costs faced by districts with declining enrollments, and the need for additional revenue in the districts;

(6) an analysis of the financial constraints and costs faced by districts with large concentrations of low-income and disadvantaged pupils, the adequacy of the current AFDC pupil unit formula in providing revenue in these districts, and possible alternative formulas for education overburden revenue;

(7) differences in the average costs of educating elementary and secondary pupils, and the adequacy of the current pupil unit weightings in addressing these differences;

(8) trends in the degree of equalization of school district revenues and tax rates;

(9) the relationship of the basic formula allowance and foundation revenue to school district operating expenditures;

(10) the adequacy of unappropriated balances in school district operating funds, including the implications of fund balances regarding the revenue needs of school districts;

(11) the advantages, disadvantages, and cost implications of program-based funding; and

(12) means to simplify and improve understanding of school district funding formulas and laws.

The department of finance and the department of education shall provide assistance to the subcommittee upon request.

Subd. 5. [NATURAL RESOURCES APPROPRIATIONS OVERSIGHT.] The chair of the standing subcommittee or committee division having jurisdiction over natural resources appropriations shall each appoint a subcommittee of three members for oversight over natural resources grants-in-aid. The subcommittees shall study the appropriateness of projects and funding level funded by the commission on Minnesota resources under chapter 86 and the Iron Range resources on rehabilitation board under chapter 298. The subcommittees shall make recommendations to the appropriate appointing chair of appropriate changes in law or appropriations.

Sec. 19. Minnesota Statutes 1986, section 3.922, subdivision 1, is amended to read:

Subdivision 1. [CREATION, MEMBERSHIP.] There is created a state Indian affairs council to consist of the following ex officio members: The governor or a member of the governor's official staff designated by the governor, the commissioner of education, the commissioner of human services, the commissioner of natural resources, the commissioner of human rights, the commissioner of energy and economic development, the commissioner of corrections, the executive director of the Minnesota housing finance agency, the commissioner of iron range resources and rehabilitation, and the commissioner of health each of whom may designate a staff member to serve instead, ~~three members of the state house of representatives appointed by the speaker of the house of representatives, and three members of the state senate appointed by the committee on committees of the senate.~~ Voting members of the council shall be: the duly elected tribal chair of the Fond du Lac Reservation business committee; the Grand Portage Reservation business committee; the Mille Lacs Reservation business committee; the White Earth Reservation business committee; the Bois Forte (Nett Lake) Reservation business committee; the Leech Lake Reservation business committee; the Red Lake tribal council; the Upper Sioux board of trustees; the Lower Sioux tribal council; the Shakopee-Mdewankanton general council; the Prairie Island tribal council; and two members to be selected pursuant to subdivision 2. The chairs of the above Indian committees, trusts, or councils may designate in writing a member who shall have been elected at large to an office in the committee, trust, or council, to serve instead. Council members appointed to represent the state house of representatives, the state senate or tribal governments shall no longer serve on the council at such time as they are no longer members of the bodies which they represent, and upon such circumstances, their offices shall be vacant. A member who is a designee of a tribal chair shall cease to be a member at the end of the term of the designating tribal chair. Ex officio members or their designees on the council shall not be voting members of the council.

Sec. 20. Minnesota Statutes 1986, section 3.9222, is amended to read:

3.9222 [LEGISLATIVE COMMISSION ON THE ECONOMIC STATUS OF WOMEN.]

Subdivision 1. A legislative commission state council is created to study and report on the economic status of women in Minnesota.

Subd. 2. ~~The commission shall consist of five members of the house of representatives appointed by the speaker and five members of the senate appointed by the committee on committees. Members shall serve until the expiration of their legislative terms~~ council shall consist of 13 members appointed by the governor. Memberships, terms, compensation, removal of members, and filling of vacancies shall be as provided by section 15.0575. The council shall annually elect a chair and other necessary officers.

Subd. 3. The commission council shall study all matters relating to the economic status of women in Minnesota, including economic security of homemakers and women in the labor force, opportunities for education and vocational training, employment opportunities, the contributions of women to the economy, their access to benefits and services provided to citizens of this state, and laws and business practices constituting barriers to the full participation by women in the economy. In addition, the commission council shall study the adequacy of programs and services relating to families in Minnesota, including single-parent families and members beyond the nuclear or immediate family.

Subd. 4. The commission council shall report its findings and recommendations to the governor and the legislature not later than December 15 of each even-numbered year and shall supplement its findings and recommendations not later than December 15 of each odd-numbered year. The report shall recommend legislation and administrative action designed to enable women to achieve full participation in the economy. The report shall also recommend methods to encourage the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and public and private providers of services related to children, youth and families.

Subd. 5. The commission council may hold meetings and hearings at the times and places it designates to accomplish the purposes set forth in this section. It shall select a chair and other officers from its membership as it deems necessary.

Subd. 6. The legislative-coordinating-commission council shall supply the commission with employ and define the duties of necessary staff, office-space and administrative-services buy necessary equipment and supplies, and enter into necessary contracts.

Subd. 7. When any person, corporation, the United States government, or any other entity offers funds to

the commission council by way of gift, grant or loan, for the purpose of assisting the commission council to carry out its powers and duties, the commission council may accept the offer by majority vote and upon acceptance the chair shall receive the funds subject to the terms of the offer, but no money shall be accepted or received as a loan nor shall any indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

Sec. 21. Minnesota Statutes 1986, section 3.9225, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] There is created a state council on Black Minnesotans to consist of seven members appointed by the governor. The members of the council shall be broadly representative of the Black community of the state and shall include at least three males and at least three females. Membership terms, compensation, removal of members and filling of vacancies for nonlegislative members shall be as provided in section 15.059. ~~In addition, two members of the house of representatives appointed by the speaker and two members of the senate appointed by the subcommittee on committees of the committee on rules and administration shall serve as ex-officio, nonvoting members of the council.~~ The council shall annually elect from its membership a chair and other officers it deems necessary.

Sec. 22. Minnesota Statutes 1986, section 3.9226, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] The state council on Asian-Pacific Minnesotans consists of 13 members. Nine members are appointed by the governor and shall be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for these members are as provided in section 15.059. ~~In addition, two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council.~~ The council shall annually elect from its membership a chair and other officers it deems necessary.

Sec. 23. Minnesota Statutes 1986, section 3.98, subdivision 1, is amended to read:

Subdivision 1. ~~The head or chief administrative officer of each department or agency of the state government~~ director of the legislative fiscal office shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house appropriations committee, or the chair of the

senate committee on finance.

Sec. 24. Minnesota Statutes 1986, section 3.98, subdivision 4, is amended to read:

Subd. 4. The commissioner-of-finance director of the legislative fiscal office shall prescribe a uniform procedure to govern the departments and agencies of the state in complying with the requirements of this section requests by the director for information to assist in preparing fiscal notes.

Sec. 25. Minnesota Statutes 1986, section 3.982, is amended to read:

3.982 [FISCAL NOTES FOR STATE-MANDATED ACTIONS.]

When the state proposes to mandate that a local agency or school district take an action, and when reasonable compliance with that action would force the local agency or school district to incur costs mandated by the state, a fiscal note shall be prepared as provided in section 3.98, subdivision 2 and shall be made available to the public upon request. If the action is among the exceptions listed in section 3.983, a fiscal note need not be prepared.

When a bill proposing a mandate is introduced and referred to a standing committee, the chair of the standing committee to which the bill is referred shall request the appropriate-state-agency-or-department director of the legislative fiscal office to prepare a fiscal note before the bill is heard in the committee. Before a proposed mandate is issued in an executive order, the governor or appropriate agency head assigned by the governor shall prepare the fiscal note and make it available to the director of the legislative fiscal office and to the public. The office director shall prepare a supplementary fiscal note and deliver it to the governor, the appropriate standing committees of the legislature, and the public.

LAWS AND STATUTES PUBLICATIONS

Sec. 26. [3E.01] [LAWS OF MINNESOTA.]

Subdivision 1. [GENERAL REQUIREMENTS.] As soon as possible after a session of the legislature has adjourned each year, the director of the legislative technical services office shall publish the laws and resolutions passed at the session in a publication called "Laws of Minnesota." It must be identified by the year of the session and have suitable headnotes and indexes as required by subdivision 4.

Subd. 2. [APPROVAL DATES OF LOCAL LAWS.] For a special law for which the certificate of local approval required by section 645.021 has been filed with the secretary of state before the printer's copy for Laws of Minnesota is prepared, the published volume must give the date of filing. The published volume containing the special laws must include a table giving the approval date for special laws adopted during the biennium ending on the previous December 31.

Subd. 3. [TABLE OF SECTIONS AFFECTED.] An edition of Laws of Minnesota must contain a table showing the sections of the Minnesota Statutes and the session laws affected by the acts passed at that session of the legislature.

Subd. 4. [INDEX.] An edition of Laws of Minnesota must contain an alphabetical index of the laws contained in the edition.

Sec. 27. [3E.02] [MINNESOTA STATUTES, HISTORICAL STATUS.]

Subdivision 1. [MINNESOTA REVISED STATUTES.] The compilation and revision of the general and permanent statutes of Minnesota, prepared under the Laws of Minnesota 1943, chapter 545, and filed with the secretary of state on December 28, 1944, is adopted and enacted as "Minnesota Revised Statutes." Minnesota Revised Statutes must not be cited, enumerated, or otherwise treated as a session law. Acts passed at the 1945 biennial session of the legislature are not repealed or changed by the adoption of Minnesota Revised Statutes. The laws contained in Minnesota Revised Statutes are continuations of the acts from which compiled and are not new enactments.

Subd. 2. [MINNESOTA STATUTES 1945; TEXT, CODING, HISTORIES.] Immediately after the end of the biennial session of the legislature in 1945, a printer's copy for Minnesota Statutes 1945 shall be prepared. This copy must contain the text embodied in the Minnesota Revised Statutes except as provided in this chapter. The text shall incorporate, with the body of the text of the Minnesota Revised Statutes, the amendments made to any of its sections at the 1945 biennial session of the legislature and omit any statutes expressly repealed at that session. The laws contained in Minnesota Statutes 1945 are continuations of the acts from which compiled and are not new enactments.

Minnesota Statutes 1945 shall include, in an appropriate place and classification, general and permanent laws enacted at the 1945 biennial session. These laws shall be assigned appropriate chapter and section identification by the decimal system of numbering.

Sec. 28. [3E.03] [MINNESOTA STATUTES; CONTENTS.]

Subdivision 1. [PERMANENT REQUIRED CONTENTS.] The director of legislative drafting and editing shall publish editions of Minnesota Statutes. Minnesota Statutes must contain the constitution of the United States, the constitution of Minnesota, general and permanent statutes in force, an alphabetical index, a table of permanent local laws, rules of appellate and trial courts, and any other information the director considers desirable and practicable.

Subd. 2. [DECIMAL CODING SYSTEM.] The decimal system of numbering of sections contained in Minnesota Statutes 1945 must be continued in future editions of Minnesota Statutes, except that alphabetical letters may be used in addition to the decimal numbers. Chapters and sections of Minnesota Statutes keep the numbers and titles given them in Minnesota Revised Statutes until changed by the director of legislative drafting and editing.

Subd. 3. [HEADNOTES.] The headnotes of the sections of any edition of the Minnesota Statutes printed in bold-faced type are mere catchwords to show the contents of the section and are not any part of the statute.

Subd. 4. [NEW LAWS INCORPORATED.] As soon as possible after a session of the legislature has adjourned, the director of legislative drafting and editing shall incorporate into the text of Minnesota Statutes the permanent general laws enacted and the amendments made to the statutes at that session and at any extra session of the legislature. The director shall also omit any sections expressly repealed. The director shall assign appropriate chapter and section numbers to these laws and shall arrange them in proper order. After a section, the director shall place a source note showing the chapter and section of the session law from which the section was derived.

Subd. 5. [FORM AND STYLE CHANGES.] The form and style of Minnesota Statutes may be changed, as necessary, to improve its quality and to permit the use of electronic data processing equipment, computer compatible media, and other related equipment in connection with its publication.

Sec. 29. [3E.04] [MINNESOTA STATUTES;
SUPPLEMENTATION.]

Subdivision 1. [EDITORIAL POWERS FOR STATUTES.] The director of legislative drafting and editing, in preparing printer's copy for editions of statutes, may not alter the sense, meaning, or effect of any legislative act, but may:

- (1) renumber sections or subdivisions and parts of sections or subdivisions;
- (2) change the wording of headnotes;
- (3) rearrange sections or subdivisions;
- (4) combine sections or subdivisions into other sections or other subdivisions, or both;
- (5) divide sections or subdivisions into other sections or subdivisions to give to distinct subject matters a section or subdivision number;
- (6) substitute the proper section, chapter, or subdivision numbers for the terms "this act," "the preceding section," and the like;
- (7) substitute figures for written words and vice versa;
- (8) substitute the date on which the law becomes effective for the words "the effective date of this act," and the like;
- (9) change capitalization for the purpose of uniformity;
- (10) correct manifest clerical, typographical, grammatical, or punctuation errors;
- (11) correct words misspelled in enrollments;
- (12) change reference numbers to agree with renumbered chapters, sections, or subdivisions;
- (13) delete the phrases "Minnesota Statutes," "Minnesota Statutes 1980," and phrases identifying other editions of and supplements to Minnesota Statutes if the phrases are used in a reference to a statutory section;
- (14) replace gender specific words with gender neutral words and, if necessary, recast the sentences containing gender specific words; and
- (15) make similar editorial changes to ensure the accuracy and utility of the publication.

Subd. 2. [NEGOTIATED CONTRACTS.] The director of legislative drafting and editing may negotiate and contract for editing, indexing, compiling, and printing of Minnesota Statutes, supplements to Minnesota Statutes, and Laws of Minnesota. The provisions of chapter 16, as they relate to competitive bidding, do not apply to these contracts.

Sec. 30. [3E.05] [GENERAL PUBLICATION DUTIES.]

Subdivision 1. [CERTIFICATE OF CORRECTNESS.] In preparing an edition of Minnesota Statutes, a supplement to Minnesota Statutes, an edition of Laws of Minnesota, or a slip law published in the State Register, the director of legislative drafting and editing shall compare a section in the edition with the original section of the statutes or with the original section in the enrolled act from which the section was derived, together with amendments of the original section. In one copy of the edition, the director shall attach a certificate certifying that this comparison has been made and that the sections are printed correctly. The copy containing the director's certificate must be filed in the office of the secretary of state as a public record. Other copies of the edition must contain a printed copy of the certificate.

Subd. 2. [PAMPHLETS.] The director of legislative drafting and editing shall compose, print, and deliver pamphlets containing parts of Minnesota Statutes as may be necessary for the use of public officers and departments. The director shall use a standard form for the pamphlets. The cost of composition, printing, and delivery of the pamphlets is to be borne by the office or department requesting them. The printing must be limited to actual needs as shown by experience or other competent proof.

Subd. 3. [SLIP LAWS.] In the time before Laws of Minnesota is published each year, the director of legislative drafting and editing shall give, upon request and without charge, a copy of a law or resolution to a member of the legislature, a legislative staff member, a constitutional officer, a justice of the supreme court, or a judge of the court of appeals. The director shall also arrange to sell slip laws to the public for a reasonable fee.

Subd. 4. [SLIP LAWS IN STATE REGISTER.] The director of legislative drafting and editing shall publish a slip law in the State Register as soon as possible after it is signed by the governor and filed with the secretary of state or filed with the secretary of state without the governor's signature.

Sec. 31. [3E.06] [SALE AND DISTRIBUTION OF STATUTES AND LAWS.]

Subdivision 1. [NUMBER OF COPIES PRINTED.] The director of legislative drafting and editing shall determine how many copies of Minnesota Statutes, supplements to Minnesota Statutes, and Laws of Minnesota are to be printed. Subject to the requirements of subdivision 2, the

director shall determine how the copies are to be distributed and disposed of.

Subd. 2. [FREE DISTRIBUTION.] The director of legislative drafting and editing shall distribute, without charge, copies of an edition of Minnesota Statutes, supplements to Minnesota Statutes, and Laws of Minnesota to the persons or bodies listed in this subdivision.

The director shall distribute:

- (1) 30 copies to the supreme court;
- (2) 30 copies to the court of appeals;
- (3) one copy to each judge of a district court;
- (4) one copy to the court administrator of each district court for use in each courtroom of the district court;
- (5) one copy to each judge, district attorney, clerk of court of the United States, and deputy clerk of each division of the United States district court in Minnesota;
- (6) 100 copies to the office of the attorney general;
- (7) ten copies each to the governor's office, the departments of agriculture, commerce, corrections, education, health, transportation, labor and industry, jobs and training, natural resources, public safety, public service, human services, revenue, and the pollution control agency;
- (8) two copies each to the lieutenant governor and the state treasurer;
- (9) 20 copies each to the department of administration, the state auditor, and the director of the legislative fiscal office;
- (10) one copy each to other state departments, agencies, boards, and commissions not specifically named in this subdivision;
- (11) one copy to each member of the legislature;
- (12) 150 copies for the use of the senate and 200 copies for the use of the house of representatives;
- (13) 50 copies to the director from which the director shall send the appropriate number to the Library of Congress

for copyright and depository purposes;

(14) four copies to the secretary of the senate

(15) four copies to the chief clerk of the house of representatives;

(16) 100 copies to the state law library;

(17) 100 copies to the law school of the University of Minnesota;

(18) five copies each to the Minnesota historical society and the secretary of state;

(19) one copy each to the public library of the largest municipality of each county if the library is not otherwise eligible to receive a free copy under this section or section 15.18;

(20) one copy to each county library maintained under chapter 134, except in counties containing cities of the first class but if a county has not established a county library under chapter 134, the copy shall be provided to any public library in the county;

(21) one copy each for the use of the judge of the county court or county municipal court, court administrator of the county court, or county municipal court, county attorney, sheriff, auditor, treasurer, county recorder, and superintendent of schools; and

(22) one copy for each clerk of each city or town.

Subd. 3. [SALE TO STATE DEPARTMENTS.] A department, agency, board, commission, or other instrumentality of the state listed in this section may buy from the director any additional copies that may be required.

Subd. 4. [SALE PRICE.] The director of legislative drafting and editing shall fix a reasonable sale price of an edition of Minnesota Statutes, supplement to Minnesota Statutes, or edition of Laws of Minnesota according to the limits of this subdivision. Revenue from the sale of Minnesota Statutes, supplements to Minnesota Statutes, and Laws of Minnesota must be deposited in the general fund.

Sec. 32. [3E.07] [LEGAL STATUS OF STATUTES.]

Any volume of Minnesota Statutes, supplement to Minnesota Statutes, Laws of Minnesota, or slip law published in the State Register that is certified by the director

according to section 3C.11, subdivision 1, is prima facie evidence of the statutes contained in it in the courts and proceedings.

Revised Laws of Minnesota 1905, General Statutes of Minnesota 1913, General Statutes of Minnesota 1923, Mason's Minnesota Statutes 1927, and supplements, appendix and addenda, or added volumes to these publications are prima facie evidence of the statutes contained in them in the courts and proceedings.

LAW REVISION COMMISSION

Sec. 33. [3F.01] [LAW REVISION COMMISSION.]

Subdivision 1. [ESTABLISHMENT.] There is established in the legislative branch an advisory council to be known as the Minnesota law revision commission.

Subd. 2. [MEMBERSHIP.] The commission is composed of six members. Two are appointed by the governor, two by the chief justice of the Minnesota supreme court, one by the speaker of the house of representatives, and one by the subcommittee on committees of the senate. A member must be an attorney who is admitted to the practice of law in Minnesota and in good standing. Members should be selected for their legal scholarship and recognized interest in improving and correcting the law. To identify persons with recognized ability interest, the appointing authorities may request recommendations from bar associations, judges associations, and other groups. Positions must be filled using the procedures of section 15.0597. The members shall elect one member to serve as chair of the commission.

Subd. 3. [TERM; VACANCIES.] A commission member is appointed for a term of six calendar years and until a successor is appointed and qualified to serve. However, the initial membership shall serve staggered terms from one to six years. Which of the members serve what term shall be determined by the initial membership by the drawing of lots. In the event of a vacancy, the appointing authority who initially appointed the member to the now vacant position shall appoint a successor to fill the unexpired term. Any member of the commission may be reappointed. The chair of the commission serves in that position during the remaining term as a commission member.

Subd. 4. [COMPENSATION.] The members of the commission shall be compensated under section 15.059, subdivision 3, and are reimbursed for actual expenses incurred in the discharge of official duties in the manner and amount as state employees.

Sec. 34. [3F.02] [EXECUTIVE SECRETARY; OTHER STAFF;
ADMINISTRATIVE COSTS.]

The director of legislative drafting and editing is the executive secretary of the commission. Additional staff, as necessary for the commission to discharge its duties, must be furnished from the staff of the director's office. The director shall provide other administrative support needed by the commission. Commission costs must be included in the budget of the director's office.

Sec. 35. [3F.03] [DUTIES OF LAW REVISION COMMISSION.]

Subdivision 1. [TECHNICAL DEFICIENCIES; INEQUITIES.] The Minnesota law revision commission shall examine the common law and statutes of the state in the light of administrative and judicial construction and recommend to the legislature any changes necessary to:

(1) eliminate defects and deficiencies that prevent full achievement of the objectives of a law or that may produce unintended consequences in the administration or enforcement of a law; or

(2) eliminate antiquated or inequitable laws to bring the law into harmony with modern practices, conditions, and circumstances.

Subd. 2. [RECEIVING SUGGESTED REFORMS.] The commission may receive, consider, and prepare comments and recommendations on proposed changes in the law that are recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned body, or by judges, lawyers, public officials, or other individuals.

Subd. 3. [REPORT TO LEGISLATURE.] By November 15 of each year the commission shall submit a report to the legislature containing the findings, recommendations, and comments of the council together with proposals for any necessary legislation drafted in proper bill form. The report must include a description of the research activities and other projects begun, pending, or completed since the last report. The commission may submit additional recommendations and legislative proposals when appropriate.

Subd. 4. [PROCUREMENT OF OUTSIDE SERVICES.] The commission may contract for services with colleges, universities, schools of law, research institutions, or other entities and may cooperate with any learned or professional association or institution to assist in the performance of the commission's duties.

Subd. 5. [PROCUREMENT OF INFORMATION; STATE AGENCIES.]
The commission may request information, advice, and assistance from any agency, department, legislative committee, or other instrumentality of the state. State agencies and other official state organizations and persons connected with them shall give the commission relevant information and reasonable assistance on any matter of research requiring recourse to them or to data within their knowledge or control.

AUDITS OF STATE AGENCIES

Sec. 36. [3G.01] [AUDITS OF STATE AND SEMISTATE AGENCIES.]

The director of the legislative fiscal office shall make a constant audit of financial affairs of executive departments and agencies of the state, and of the financial records and transactions of public boards, associations, and societies supported, wholly or in part, by state funds. Once a year, if funds and personnel permit, without previous notice, the director shall visit the state departments and agencies, associations, or societies and, so far as practicable, inspect the agencies, thoroughly examine the agencies' books and accounts, verifying the funds, securities, and other assets, check the items of receipts and disbursements with the voucher records, ascertain the character of the official bonds for the officers and the financial ability of the bonding institution, inspect the sources of revenue, the use and disposition of state appropriations and property, investigate the methods of buying and selling, the character of contracts on public account, ascertain proper custody and depository for the funds and securities, verify the inventory of public property and other assets held in trust, and ascertain that financial transactions and operations involving the public funds and property of the state comply with the spirit and purpose of the law, are sound by modern standards of financial management, and are for the best protection of the public interest.

A state executive department, board, commission, or other state agency shall not negotiate a contract with a public accountant for an audit, except a contract negotiated by the state auditor for an audit of a local government, unless the contract has been reviewed by the director of the legislative fiscal office. The director shall not participate in the selection of the public accountant, but shall review and submit written comments on the proposed contract within seven days of its receipt. Upon completion of the audit, the director shall be given a copy of the final report.

Sec. 37. [3G.02] [STATE TREASURER; COMMISSIONER OF FINANCE; AUDIT.]

At least once a year, and at other times as the director of the legislative fiscal office finds appropriate, without previous notice, the state auditor shall examine and audit the accounts, books, and vouchers of the state treasurer and commissioner of finance, ascertain the amounts of the several funds that should be in the treasury, count the sums actually on hand, and make a record of the facts found. The director shall report to the legislature, on or before the third day of a regular session, the results of the examinations and the director's activities during the audit. The director shall also witness and attest the transfer of books, accounts, vouchers, and funds from the outgoing treasurer to a successor in office, verify the official record of redeemed bonds, certificates of indebtedness, and interest coupons issued by the state; and, from time to time, shall have destroyed obligations that have been redeemed for at least one year. A notation shall be made by the treasurer in the treasurer's records of obligations destroyed and the director shall certify to the correctness. A copy of a director's certificate shall be filed with the commissioner of finance and the state treasurer.

Sec. 38. [3G.03] [WRITTEN REPORTS.]

The director of the legislative fiscal office shall file a written audit report with the department, agency, society, or association concerned for its consideration and action. Another copy shall be filed with the director of legislative research.

The audit reports shall set forth:

(1) whether funds have been spent for the purposes authorized in the appropriations;

(2) whether receipts have been accounted for and paid into the state treasury as required by law;

(3) any illegal and unbusinesslike practices;

(4) assessment of the financial control practices used in the agency, measurement of performance, and recommendations for improved effectiveness; and

(5) other data, information, and recommendations as the auditor finds advisable and necessary.

Sec. 39. [3G.04] [COST OF EXAMINATION, BILLING,

PAYMENT.]

Upon the audit of the financial accounts and affairs of any commission under section 473.413, 473.595, 473.604, or 473.703, the affected metropolitan commission is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The director of the legislative fiscal office may bill the metropolitan commission either monthly or at the completion of the audit. Collections received for the audits must be deposited in the general fund.

Sec. 40. [3G.05] [DUTIES WHEN VIOLATIONS ARE DISCOVERED.]

If any examinations by the director of the legislative fiscal office disclose malfeasance, misfeasance, or nonfeasance in office on the part of any officer or employee, a copy of the report shall be signed and verified, and the director shall file the report with the attorney general. It shall be the duty of the attorney general to start and prosecute civil proceedings against a delinquent officer or employee, or upon the officer's or employee's official bond, or both, as may be appropriate to secure to the state the recovery of any funds or other assets misappropriated, and the attorney general shall cause criminal proceedings to be started by the proper authorities as the evidence may warrant.

Sec. 41. [3G.06] [SUBPOENA POWERS; PENALTIES.]

In matters relating to official duties, the director of the legislative fiscal office shall have the powers of the courts of law to issue and have subpoenas served. Public officials and their respective deputies and employees, and corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall afford reasonable facilities for examinations by the director, make returns and reports required by the director, attend and answer under oath the director's lawful inquiries, produce and exhibit all books, accounts, documents, and property that the director may desire to inspect, and aid the director in the performance of duties. If a person refuses or neglects to obey any lawful direction of the director, a deputy or assistant, or withholds any information, book, record, paper, or other document called for by the director for the purpose of examination, after having been lawfully required by order or subpoena, upon application by the director, a judge of the district court in the county where the order or subpoena was made returnable shall compel obedience or punish disobedience as

for contempt, as in the case of a similar order or subpoena issued by the court. A person who swears falsely concerning any matter stated under oath is guilty of a gross misdemeanor.

INFORMATION SYSTEMS DIRECTORY

Sec. 42. [3H.01] [POLICY.]

The legislature must make maximum use of state information files. In addition to benefits to the legislature, a statewide directory of information systems will direct users to existing information systems maintained by state agencies, minimize duplication of information systems already developed, and encourage the sharing of information systems within the state. A directory will assist users in contacting agencies about information files and about experience with hardware and software configurations. It will reduce overall costs, promote communication among agencies, and permit more efficient use of personnel resources for information systems development.

Sec. 43. [3H.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purpose of sections 43 to 46, the terms used in this section have the meanings given them.

Subd. 2. [DIRECTORY.] "Directory" means an indexed listing of descriptive data about information systems. The descriptions will include agency name, information system name, contact person, software used, hardware used, and other information that in the discretion of the legislative library will assist users.

Subd. 3. [INFORMATION SYSTEM.] "Information system" or "information systems" means an organized collection of data, either manually organized or automated, used by an agency in performing its duties or assisting in the making of administrative and budgetary decisions. An information system includes the data organized and any hardware or software used to process it.

A state agency shall file a description of its existing information systems with the director of legislature research. These descriptions shall be in accordance with specifications and on forms provided by the library. An agency shall file an updated description, noting additions, deletions, and changes by November 30 and by May 31 each year.

Subd. 4. [STATE AGENCY.] "State agency" or "state

agencies" means any office, department, agency, commission, council, bureau, research center, or society of state government, and other agencies supported by state funds.

Sec. 44. [3H.03] [DEVELOPMENT OF PLAN.]

The director of legislative research shall prepare and maintain a plan for the directory. The plan shall include a definition of the types of systems that will be included in the directory, an enumeration of the types of information required for the system reported, and a description of the method selected for production and dissemination of the directory.

Sec. 45. [3H.04] [PUBLICATION.]

The director of legislative research shall prepare a directory in a format that the legislative library, in its discretion, believes is most efficient and beneficial to the user. The director shall continually update the directory and shall reissue it at intervals it finds, at its discretion, are reasonable and cost efficient.

Sec. 46. [3H.05] [AGENCY COOPERATION.]

A state agency shall appoint one person within the agency as a data processing liaison, responsible for working with the director of legislative research. The appointment shall be made and the name forwarded to the director. The department of administration shall provide access to its library listing of systems and programs produced under section 16.90 and shall produce this information in hard copy form or on magnetic tape media, as requested by the legislative library director.

Sec. 47. [4.50] [RULEMAKING CONTROL.]

An office of rulemaking includes staff supervising rulemaking by state agencies under chapter 14 and is part of the office of the governor. The office is supervised by a director of rulemaking appointed by and serving at the pleasure of the governor. Other staff of the office are members of the classified unit service.

The director of rulemaking shall receive rules submitted by agencies for the governor's approval or veto. The director shall advise the governor on the nature of the proposed rule and recommend its approval or veto. The governor shall approve or veto a rule within ten days of the date it was submitted to the director of rulemaking for the governor's approval or veto. The governor may veto a rule for any reason.

Sec. 48. Minnesota Statutes 1986, section 5.08, is amended to read:

5.08 [~~LEGISLATIVE~~ MINNESOTA MANUAL.]

Subdivision 1. [PREPARATION.] The secretary of state shall prepare, compile, edit, and distribute for use at each ~~regular-legislative-session~~ two years, a convenient manual, properly indexed, and containing: The federal and state constitutions; the acts of Congress relating to the organization of the territory and state; the rules of order and joint rules of the two houses, and lists of their members, committees and employees; the names of all state officials, whether elected or appointed, and of all persons holding office from this state under the national government, including postmasters appointed by the president; the places where the said several officials reside, and the annual compensation of each; a description of each state agency, its organization stating the process whereby the public may obtain information or make submissions and requests; and statistical and other information of the kind heretofore published in the legislative similar manuals.

Subd. 2. [DISTRIBUTION.] 15,000 copies of the legislative manual shall be printed and distributed as follows:

(1) up to ~~25~~ 50 copies shall be available to each member of the legislature on request;

(2) 50 copies to the state historical society;

(3) 25 copies to the state university;

(4) 60 copies to the state library;

(5) two copies each to the Library of Congress, the Minnesota veterans home, the state universities, the state high schools, the public academies, seminaries, and colleges of the state, and the free public libraries of the state;

(6) one copy each to other state institutions, the elective state officials, the appointed heads of departments, the officers and employees of the legislature, the justices of the supreme court, the judges of the court of appeals and the district court, the senators and representatives in Congress from this state, and the county auditors;

(7) one copy to each public school, to be distributed through the superintendent of each school district; and

(8) the remainder may be disposed of as the secretary of state deems best.

Sec. 49. Minnesota Statutes 1986, section 6.46, is amended to read:

6.46 [TRANSFER OF POWERS OF PUBLIC EXAMINER TO STATE AUDITOR.]

~~Except as otherwise provided for in Laws 1973, chapter 492 relating to the legislative auditor,~~ All the powers, duties and responsibilities of the public examiner relating to audits of cities of all classes, counties, towns, school districts, and other governmental subdivisions or bodies corporate and politic as contained in sections 6.47 to 6.71, or any other law are hereby transferred to, vested in, and imposed upon the state auditor.

Sec. 50. Minnesota Statutes 1986, section 6.74, is amended to read:

6.74 [INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.]

The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful. The data shall be supplied upon blanks prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all blanks so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information. Copies of all reports so received shall be forwarded by the state auditor to the director of the legislative auditor fiscal office.

Sec. 51. Minnesota Statutes 1986, section 6.75, is amended to read:

6.75 [ANNUAL REPORT.]

The state auditor shall make and file, annually, in the state auditor's office a summary report of the information collected, with such compilations and analyses and interpretations as may be deemed helpful. Copies of such report may be made and distributed to interested persons and governmental units. A copy of the report shall be forwarded to the director of the legislative auditor fiscal office.

Sec. 52. Minnesota Statutes 1986, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) director of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or hearing examiner in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, ~~legislative-auditor~~, chief clerk of the house, ~~revisor-of-statutes-or-researcher-or-attorney-in-the-office-of-senate-research-senate-counsel-or-house-research~~ or the director and staff of any agency created under article 1; or

(o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission.

Sec. 53. Minnesota Statutes 1986, section 11A.10, subdivision 3, is amended to read:

Subd. 3. [AUDITS.] State audits of the activities of the state board and its delegates shall be conducted by the director of the legislative auditor fiscal office.

Sec. 54. Minnesota Statutes 1986, section 14.06, is amended to read:

14.06 [REQUIRED RULES.]

Each agency shall adopt rules, in the form prescribed by the ~~revisor-of-statutes~~ director of rulemaking, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

Sec. 55. Minnesota Statutes 1986, section 14.07, is amended to read:

14.07 [FORM OF RULE.]

Subdivision 1. [RULE DRAFTING ASSISTANCE PROVIDED.] (a) The ~~revisor-of-statutes~~ director of rulemaking shall:

(1) maintain an agency rules drafting department staff to draft or aid in the drafting of rules or amendments to rules for any agency in accordance with subdivision 3 and the objective or other instructions which the agency shall give the ~~revisor~~ director; and,

(2) maintain computer equipment, computer software, and procedures for the drafting of administrative rules that are accessible for drafting purposes by agencies needing to draft rules and that are compatible with equipment, software, and procedures used in drafting bills; and

(3) prepare and publish an agency rules drafting guide which shall set out the form and method for drafting rules and amendments to rules, and to which all rules shall comply.

(b) ~~The-revisor-shall-assess-an-agency-for-the-actual cost-of-providing-aid-in-drafting-rules-or-amendments-to~~

~~rules.---The-agency-shall-pay-the-assessment-using-the
procedures-of-section-3E.056.---Each-agency-shall-include-in
its-budget-money-to-pay-the-revisor's-assessment.---Receipts
from-the-assessment-must-be-deposited-in-the-state-treasury
and-credited-to-the-revisor's-account.~~

(c) An agency may not contract with an attorney, consultant, or other person either to provide rule drafting services to the agency or to advise on drafting unless the revisor director determines that special expertise is required for the drafting and the expertise is not available from the revisor director or the revisor's director's staff.

Subd. 2. [APPROVAL OF FORM.] No agency decision to adopt a rule or emergency rule, including a decision to amend or modify a proposed rule or proposed emergency rule, shall be effective unless the agency has presented the rule to the revisor-of-statutes director and the revisor director has certified that its form is approved. ~~The-revisor-shall assess-an-agency-for-the-actual-cost-of-processing-rules-for consideration-for-approval-of-form.---The-assessments-must include-necessary-costs-to-create-or-modify-the-computer data-base-of-the-text-of-a-rule-and-the-cost-of-putting-the rule-into-the-form-established-by-the-drafting-guide provided-for-in-subdivision-1.---The-agency-shall-pay-the assessments-using-the-procedures-of-section-3E.056.---Each agency-shall-include-in-its-budget-money-to-pay-revisor's assessments.---Receipts-from-the-assessments-must-be deposited-in-the-state-treasury-and-credited-to-the revisor's-account.~~

Subd. 3. [STANDARDS FOR FORM.] In determining the drafting form of rules the revisor director shall:

- (1) minimize duplication of statutory language;
- (2) not permit incorporations into the rules by reference of publications or other documents which are not conveniently available to the public;
- (3) to the extent practicable, use plain language in rules and avoid technical language; and
- (4) amend rules by showing the portion of the rule being amended as necessary to provide adequate notice of the nature of the proposed amendment, as it is shown in the latest compilation or supplement, or, if not yet published in a compilation or supplement, then as the text is shown in the files of the secretary of state, with changes shown by striking and underlining words.

Subd. 4. [INCORPORATIONS BY REFERENCE.] (a) An agency

may incorporate by reference into its rules the text from Minnesota Statutes, Minnesota Rules, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications and documents which are determined by the revisor of statutes, to be conveniently available to the public. If the rule incorporates by reference other publications and documents, the rule must contain a statement of incorporation. The statement of incorporation by reference must include the words "incorporated by reference"; must identify by title, author, publisher, and date of publication the standard or material to be incorporated; must state whether the material is subject to frequent change; and must contain a statement of availability. When presented with a rule for certification pursuant to subdivision 2 and this subdivision, the revisor of statutes director should indicate in the certification that the rule incorporates by reference text from other publications or documents. If the revisor director certifies that the form of a rule is approved, that approval constitutes the revisor's director's finding that the publication or other document other than one listed by name in this subdivision, and which is incorporated by reference into the rules, is conveniently available to the public.

(b) For the purposes of paragraph (a), "conveniently available to the public" means available for loan or inspection and copying to a person living anywhere in Minnesota through a statewide interlibrary loan system or in a public library without charge except for reasonable copying fees and mailing costs.

Subd. 6. [STYLE AND FORM REVISIONS.] The revisor of statutes director may periodically prepare style and form revisions of rules to clarify, modernize, or simplify the text without material change to the rules' substance or effect. Before beginning any revision, the revisor director shall consult the agency whose rules will be subject to the revision. After the revision is prepared, the revisor director shall present it to the agency and receive its consent to proceed to seek adoption of the revision. Upon receiving consent, the revisor director shall seek adoption of the rules in accordance with sections 14.05 to 14.36. However, the need and reasonableness statement and any hearing shall be restricted to the issue of whether any material change in the substance and effect of the rule is proposed by the revisor. --The revisor shall mail notice of any hearing to the persons registered with the agency whose rules are the subject of the revision. --The revisor shall pay all costs to publish notices in the State Register and to replenish the agency's stock of rules which exist at the time the revisor adopts the revised rules publish the

proposed revision in the State Register and receive comments from the public on it. The director may revise it based upon public comments received. The director shall then file the revision with the secretary of state and give copies of the revision to the administrative rules subcommittees of the legislature. The members of the subcommittees may then introduce legislation to approve, change and approve, or disapprove the revision. The revision is effective upon approval of a law approving the changes.

Subd. 7. [TECHNICAL CHANGES.] The revisor director may approve the form of a rule amendment which does not meet the requirements of subdivision 3, clause (4), if, in the revisor's director's judgment, the amendment does not change the substance of the rule and the amendment is:

- (a) a relettering or renumbering instruction;
- (b) the substitution of one name for another when an organization or position is renamed;
- (c) the substitution of a reference to Minnesota Statutes for a corresponding reference to Laws of Minnesota;
- (d) the correction of a citation to rules or laws which has become inaccurate since the rule was adopted because of repealing or renumbering of the rule or law cited; or
- (e) the correction of a similar formal defect.

This subdivision does not limit the revisor's director's authority to make the changes described in clauses (a) to (e) during the publication process under section 14.47.

Sec. 56. Minnesota Statutes 1987 Supplement, section 14.08, is amended to read:

14.08 [REVISOR-OF-STATUTES DIRECTOR OF RULEMAKING'S
APPROVAL OF RULE FORM.]

(a) Two copies of a rule adopted pursuant to the provisions of section 14.26 or 14.32 shall be submitted by the agency to the attorney general. The attorney general shall send one copy of the rule to the revisor director of rulemaking on the same day as it is submitted by the agency under section 14.26 or 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor director shall either return the rule with a certificate of approval of the form of the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved.

If the attorney general disapproves a rule, the agency may modify it and the agency shall submit two copies of the modified rule to the attorney general who shall send a copy to the revisor director for approval as to form as described in this paragraph.

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor director for approval of the form of the rule. Within five working days after receipt of the rule, the revisor director shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor director refuses to approve the form of the rule, the revisor's director's notice shall revise the rule so it is in the correct form.

(d) The attorney general ~~and the revisor of statutes~~ shall assess an agency for the actual cost of processing rules under this section. ~~The agency shall pay the revisor's assessments using the procedures of section 3E.056.~~ The agency shall pay the attorney general's assessments using the procedures of section 8.15. Each agency shall include in its budget money to pay the revisor's and the attorney general's assessments. Receipts from the assessment must be deposited in the state treasury and credited to the ~~revisor's account or~~ the general fund as appropriate.

Sec. 57. Minnesota Statutes 1986, section 14.12, is amended to read:

14.12 [DEADLINE TO PUBLISH NOTICE.]

The agency shall, within 180 days after the effective date of a law requiring rules to be promulgated, unless otherwise specified by law, publish an appropriate notice of intent to adopt a rule in accordance with sections 14.05 to 14.36. If an agency has not given this notice, it shall report to ~~the legislative commission to review administrative rules,~~ other appropriate committees of the legislature, and the governor its failure to do so, and the reasons for that failure.

Sec. 58. Minnesota Statutes 1986, section 14.15, subdivision 4, is amended to read:

Subd. 4. [NEED OR REASONABLENESS NOT ESTABLISHED.] If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency

does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall ~~submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment.~~ The agency shall not adopt the rule until it has received and considered the advice of the commission. ~~However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission.~~ Advice of the commission shall not be binding on the agency notify the appropriate standing committees of the legislature.

Sec. 59. Minnesota Statutes 1986, section 14.16, subdivision 1, is amended to read:

Subdivision 1. [REVIEW OF MODIFICATIONS.] If the report of the administrative law judge finds no defects, the agency shall submit the rule to the governor for the governor's approval or veto. Upon approval, the agency may proceed to adopt the rule. After receipt of the administrative law judge's report, if the agency makes any modifications to the rule other than those recommended by the administrative law judge, it must return the rule to the chief administrative law judge for a review on the issue of substantial change. If the chief administrative law judge determines that the modified rule is substantially different from that which was originally proposed, the chief administrative law judge shall advise the agency of actions which will correct the defects. The agency shall not adopt the modified rule until the chief administrative law judge determines that the defects have been corrected.

The agency shall give notice to all persons who requested to be informed that the rule has been adopted and filed with the secretary of state. This notice shall be given on the same day that the rule is filed.

Sec. 60. Minnesota Statutes 1986, section 14.16, is amended by adding a subdivision to read:

Subd. 4. [VETO BY GOVERNOR.] Upon the veto of a rule by the governor, the rule is withdrawn. An agency may begin rulemaking again.

Sec. 61. Minnesota Statutes 1986, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

The agency shall, within 180 days after issuance of the administrative law judge's report, submit its notice of adoption, amendment, suspension, or repeal to the State

Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency shall not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.36. It shall report to ~~the legislative commission to review administrative rules, other~~ appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include any days used for review by the chief administrative law judge, or the attorney general, ~~or the legislative commission to review administrative rules~~ if the review is required by law.

Sec. 62. Minnesota Statutes 1987 Supplement, section 14.26, is amended to read:

14.26 [ADOPTION OF PROPOSED RULE; SUBMISSION TO ATTORNEY GENERAL.]

If no hearing is required, the agency shall submit to the attorney general the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the attorney general. This notice shall be given on the same day that the record is submitted. If the proposed rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials shall be submitted to the attorney general within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency shall report its failure to adopt the rules and the reasons for that failure to ~~the legislative commission to review administrative rules, other~~ appropriate legislative committees, and the governor.

Even if the 180-day period expires while the attorney general reviews the rule, if the attorney general rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections 14.14 to 14.28, or 14.29 to 14.36.

The attorney general shall approve or disapprove the

rule as to its legality and its form to the extent the form relates to legality, including the issue of substantial change, and determine whether the agency has the authority to adopt the rule and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule within 14 days. If the rule is approved, the attorney general shall promptly file two copies of it ~~in the office of the secretary of state~~ with the governor for the governor's approval or veto. Upon approval, the governor shall file the two copies with the secretary of state. The secretary of state shall forward one copy of each rule to the ~~revisor of statutes~~ director of rulemaking. If the rule is disapproved, the attorney general shall state in writing the reasons and make recommendations to overcome the deficiencies, and the rule shall not be filed in the office of the secretary of state, nor published until the deficiencies have been overcome. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief administrative law judge, the ~~legislative commission to review administrative rules~~, and to the ~~revisor of statutes~~ director of rulemaking.

Upon the veto of a rule by the governor, the rule is withdrawn. An agency may begin rulemaking again.

The attorney general shall assess an agency for the actual cost of processing rules under this section. The agency shall pay the attorney general's assessments using the procedures of section 8.15. Each agency shall include in its budget money to pay the attorney general's assessment. Receipts from the assessment must be deposited in the state treasury and credited to the general fund.

Sec. 63. Minnesota Statutes 1986, section 14.32, subdivision 1, is amended to read:

Subdivision 1. [SUBMISSION.] The agency shall submit to the attorney general the proposed emergency rule as published, with any modifications. On the same day that it is submitted, the agency shall mail notice of the submission to all persons who requested to be informed that the proposed emergency rule has been submitted to the attorney general. If the proposed emergency rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed emergency rule, as modified, is available upon request from the agency. The attorney general shall review the proposed emergency rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed emergency rule and any modifications on the tenth working day following the date of receipt of the proposed emergency rule from the agency. The attorney general shall send a

statement of reasons for disapproval of the rule to the agency, the chief administrative law judge, ~~the legislative commission to review administrative rules~~, and to the revisor of statutes director of rulemaking.

Sec. 64. Minnesota Statutes 1986, section 14.33, is amended to read:

14.33. [EFFECTIVE DATE OF EMERGENCY RULE.]

The emergency rule shall take effect five working days after approval by the attorney general and the governor. The attorney general shall file two copies of the approved emergency rule with the secretary of state governor for the governor's approval or veto. Upon approval, the governor shall file the two copies with the secretary of state. The secretary of state shall forward one copy of each approved and filed emergency rule to the revisor of statutes. Failure of the attorney general to approve or disapprove a proposed emergency rule within ten working days is approval.

Upon the veto of a rule by the governor, the rule is withdrawn. An agency may begin rulemaking again.

Sec. 65. [14.395] [ADMINISTRATIVE RULES SUBCOMMITTEES.]

The chairs of the standing committees of the senate and house of representatives having jurisdiction over administrative rulemaking shall appoint a subcommittee to consider matters relating to administrative rulemaking. The subcommittees must be bipartisan and composed of three senators and three representatives. The subcommittees may act by a majority vote of both subcommittees. Subcommittee members must be appointed within 30 days after the convening of a regular legislative session. The term of office is two years while a member of the legislature and begins on the date of appointment to the committee. While a member of the legislature, a member of the committee whose term has expired shall serve until a successor is appointed. A vacancy on the committee may be filled at any time by the committee chair for the rest of the term. The subcommittee shall choose a chair from its own membership for a two-year term.

Sec. 66. [14.396] [REVIEW BY THE LEGISLATIVE SUBCOMMITTEES.]

(a) The administrative rules subcommittees shall meet together to selectively review possible, proposed, or adopted rules and prescribe appropriate subcommittee procedures for that purpose. The subcommittees may receive

and investigate complaints from members of the public with respect to possible, proposed, or adopted rules and hold public proceedings on those complaints.

(b) Subcommittee meetings must be open to the public. Subject to procedures established by the subcommittees, persons may present oral argument, data, or views at those meetings. The subcommittees may require a representative of an agency whose possible, proposed, or adopted rule is under examination to attend a commission meeting and answer relevant questions. The subcommittees may also communicate to the agency its comments on any possible, proposed, or adopted rule and require the agency to respond to them in writing. Unless impracticable, in advance of a subcommittee meeting, notice of the time and place of the meeting and the specific subject matter to be considered must be published in the state register.

(c) The subcommittees may recommend to their respective committees enactment of a statute to improve the operation of an agency. The subcommittees may also recommend that a particular rule be superseded in whole or in part by statute. This subsection does not preclude any other committee of the legislature from reviewing a rule on its own motion or recommending that it be superseded in whole or in part by statute.

(d)(1) If the subcommittees object to the whole or part of a rule because the subcommittees consider it to be beyond the procedural or substantive authority delegated to the adopting agency, the subcommittees may file that objection in the office of the secretary of state. The filed objection must contain a concise statement of the subcommittees' reasons for their action.

(2) the secretary of state shall affix to an objection a certification of the date and time of its filing and as soon afterward as practicable shall send a certified copy to the agency issuing the rule in question and the commissioner of administration and the director of rulemaking. The secretary of state shall also maintain a permanent register open to public inspection of objections by the subcommittees.

(3) The commissioner of administration shall publish an objection filed under this subsection in the next issue of the state register, and the director of rulemaking shall show its existence adjacent to the rule in question when that rule is published in Minnesota Rules.

(4) Within 14 days after the filing of an objection by the subcommittees to a rule, the issuing agency shall respond in writing to the subcommittees. After receipt of

the response, the subcommittees may withdraw or change their objection.

(5) After the filing of an objection by the subcommittees that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or part of the rule objected to is within the procedural and substantive authority delegated to the agency.

(6) The failure of the subcommittees to object to a rule is not an implied legislative authorization of its procedural or substantive validity.

(e) The subcommittees may recommend to an agency that it adopt a rule. The subcommittees may also require an agency to publish notice of the subcommittees' recommendation as a proposed rule of the agency and to allow public participation thereon. An agency is not required to adopt the proposed rule.

(f) The subcommittees shall file an annual report of their activities with a standing committee of the legislature, the director of legislative research, and the governor.

Sec. 67. Minnesota Statutes 1986, section 14.47, is amended to read:

14.47 [PUBLICATION IN COMPILED FORM.]

Subdivision 1. [PLAN OF PUBLICATION AND SUPPLEMENTATION.] The reviser-of-statutes director of rulemaking shall:

(1) formulate, and update as necessary, a plan for the compilation of all permanent agency rules and, to the extent practicable, emergency agency rules, adopted pursuant to the administrative procedure act or filed pursuant to the provisions of section 14.38, subdivisions 5 to 9 which were in effect at the time the rules were filed or subdivision 11, including their order, classification, arrangement, form, and indexing, and any appropriate tables, annotations, cross references, citations to applicable statutes, explanatory notes, and other appropriate material to facilitate use of the rules by the public, and for the compilation's composition, printing, binding and distribution;

(2) publish the compilation of permanent agency rules and, if practicable, emergency rules, adopted pursuant to the administrative procedure act or filed pursuant to the

provisions of section 14.38, subdivisions 5 to 9 which were in effect at the time the rules were filed or subdivision 11, which shall be called "Minnesota Rules";

(3) periodically either publish a supplement or a new compilation, which includes all rules adopted since the last supplement or compilation was published and removes rules incorporated in prior compilations or supplements which are no longer effective;

(4) include in Minnesota Rules a consolidated list of publications and other documents incorporated by reference into the rules after June 30, 1981, and found conveniently available by the revisor under section 14.07, subdivision 4, indicating where the publications or documents are conveniently available to the public; and

(5) copyright any compilations and or supplements in the name of the state of Minnesota.

Subd. 2. [RESTRICTIONS ON COMPILATION.] The ~~revisor-of~~ statutes director of rulemaking shall not:

(1) alter the sense, meaning, or effect of any rule in the course of compiling or publishing it;

(2) aid an agency in the preparation of any statement concerning the need for or reasonableness of a rule except as provided by section 14.07, subdivision 6;

(3) act as legal counsel for an agency before an administrative law judge except as provided by section 14.07, subdivision 6.

Subd. 3. [SOURCE OF TEXT.] In order to ensure that the complete text of rules is included in the first compilation published pursuant to subdivision 1, clause (2), and containing the ~~revisor's~~ director's certificate, the ~~revisor~~ director may use the Minnesota Code of Agency Rules, the State Register, the rule files of the secretary of state, the files of individual agencies, the records of the administrative law judge's office, and the records of the attorney general, and prior publications of Minnesota Rules. The ~~revisor~~ director is not required to compare the text of a rule as shown by the other possible source documents with the text of the rule in the secretary of state's file.

If any comparison of documents shows there is a material discrepancy in the text of the rule, the ~~revisor~~ director shall include in Minnesota Rules the text in the secretary of state's files unless the discrepancy between

the secretary of state's files and any of the other documents is the result of an obvious unintentional omission or clerical error. The text published by the revisor director shall correct those omissions and errors. The revisor director shall add an appropriate footnote describing the apparent discrepancy in text. Before publication of Minnesota Rules, the revisor director shall also notify the agency whose rules are affected, the attorney general, and the chief administrative law judge, ~~and the legislative commission to review administrative rules~~ about the omission or error.

If any comparison of documents shows that a rule has been filed with the secretary of state but apparently has not been published in the State Register as required by law the revisor director may, unless the attorney general objects, include the rule in Minnesota Rules or omit the rule if the rule was a repeal but shall add an appropriate footnote describing the apparent fault. Before publication of Minnesota Rules, the revisor director shall notify the agency whose rules are affected, the attorney general, and the chief administrative law judge, ~~and the legislative commission to review administrative rules~~ about the apparent lack of publication.

If a comparison of documents shows that a rule as adopted in the State Register has apparently not been filed with the secretary of state, the revisor director may not publish the rule in Minnesota Rules unless the attorney general approves the publication. Before publication of Minnesota Rules the revisor director shall notify the agency affected, the attorney general, and the chief administrative law judge ~~and the legislative commission to review administrative rules~~ of the apparent lack of filing of the rule. If the revisor director publishes the rule, the revisor shall add an appropriate footnote describing the apparent lack of filing.

Subd. 4. [CERTIFICATION AND FILING OF COMPILATION.] The ~~revisor of statutes~~ director shall file with the secretary of state one copy of each compilation or supplement which is published. ~~The first compilation shall contain the revisor's certificate that the rules contained in it have been incorporated into the compilation in the manner required by law and that the incorporation is correct.~~ Each copy thereafter compilation shall contain the revisor's director's certificate that the rules added to the compilation or supplement have been compared to the original rules filed with the secretary of state and are correctly incorporated into the compilation.

Subd. 5. [POWERS OF REVISOR DIRECTOR.] (a) In

preparing a compilation or supplement, the reviser director may renumber rules, paragraphs, clauses or other parts of a rule; combine or divide rules, paragraphs, clauses or other parts of a rule; rearrange the order of rules, paragraphs, clauses, or other parts of a rule; move paragraphs, clauses, or other parts of a rule to another rule; remove redundant language; make minor punctuation and grammatical changes to facilitate the renumbering, combining, dividing, and rearranging of rules or parts of rules; change reference numbers to agree with renumbered rules, paragraphs, clauses or other parts of a rule; change reference numbers to agree with renumbered statutes or parts of statutes; substitute the proper rule, paragraph, clause, or other part of a rule for the term "this rule," "the preceding rule" and the like; substitute numbers for written words and written words for numbers; substitute the term "rule" for the term "regulation" when "regulation" refers to a Minnesota rule; substitute the date on which the rule becomes effective for the words "the effective date of this rule," and the like; change capitalization, punctuation, and forms of citation for the purpose of uniformity; convert citations of Laws of Minnesota to citations of Minnesota Statutes; correct manifest clerical or typographical errors; correct all misspelled words; correct manifest grammatical and punctuation errors; and make other editorial changes to ensure the accuracy and utility of the compilation or supplement.

(b) The reviser director shall provide headnotes as catch words to rules and, if appropriate, to paragraphs, clauses, or other parts of a rule. The headnotes are not part of the rule even if included with the rule when adopted. The reviser director shall change headnotes to clearly indicate the subject matter of the rules. "Headnote" means any text functioning as catch words to the substance of text and not itself communicating the substantive content of the rule.

Subd. 6. [OMISSION OF TEXT.] (a) For purposes of any compilation or publication of the rules, the reviser director, unless the attorney general objects, may omit any extraneous descriptive or informative text which is not an operative portion of the rule. The reviser director may also omit effective date provisions, statements that a rule is repealed, prefaces, appendices, guidelines, organizational descriptions, explanations of federal or state law, and similar material. The reviser director shall consult with the agency, the attorney general, the legislative commission to review administrative rules, and with the chief administrative law judge before omitting any text from publication.

(b) For the purposes of any compilation or publication of the rules, the revisor director, unless the attorney general objects, may omit any rules that, by their own terms, are no longer effective or have been repealed directly by the agency, repealed by the legislature, or declared unconstitutional or otherwise void by a court of last resort. The revisor director shall not remove a rule which is suspended and not fully repealed, but shall, if practicable, note the fact of suspension in Minnesota Rules. The revisor director shall consult the agency involved, the attorney general, and the chief administrative law judge, ~~and the legislative commission to review administrative rules~~ before omitting a rule from publication.

Subd. 7. [EQUIPMENT USED BY REVISOR DIRECTOR.] Insofar as economically feasible, the revisor director shall utilize ~~the same computer equipment, computer assistance software, and procedures for drafting agency rules and publishing compilations and supplements as for that are compatible with equipment, software, and procedures used in preparing bill drafts and~~ statutory publications.

Subd. 8. [SALES AND DISTRIBUTION OF COMPILATION.] Any compilation, reissue, or supplement published by the revisor director shall be sold by the revisor director for a reasonable fee and its proceeds deposited in the revisor's account general fund. An agency shall purchase from the revisor director the number of copies of the compilation or supplement needed by the agency. The revisor director shall provide without charge copies of each edition of any compilation, reissue, or supplement to the persons or bodies listed in this subdivision. ~~Those copies must be marked with the words "State Copy" and kept for the use of the office.~~ The revisor director shall distribute:

(a) 25 copies to the office of the attorney general;

~~(b) 12 copies for the legislative commission for review of administrative rules;~~

~~(c) 3~~ three copies to the revisor of statutes director for transmission to the Library of Congress for copyright and depository purposes;

~~(d)~~ (c) 150 copies to the state law library;

~~(e)~~ (d) ten copies to the law school of the University of Minnesota; and

~~(f)~~ (e) one copy of any compilation or supplement to each county library maintained pursuant to section 134.12 upon its request, except in counties containing cities of

the first class. If a county has not established a county library pursuant to section 134.12, the copy will be provided to any public library in the county upon its request.

Subd. 9. [CONTRACTING FOR PUBLICATION OF MINNESOTA RULES.] Notwithstanding any provision of law to the contrary, the ~~revisor-of-statutes~~ director may obtain competitive bids from and enter into contracts with the lowest responsible bidder for compiling, editing, indexing, composition, printing, binding, distribution, or other services, if the work either cannot be performed by the revisor director or it is uneconomical for the revisor director to do so.

Sec. 68. Minnesota Statutes 1986, section 15.15, is amended to read:

15.15 [EXEMPTIONS FROM APPLICATION.]

The provisions and limitations of Laws 1939, chapter 431, shall not be applicable to the regents of the university, nor to any persons, institutions, or employees under their jurisdiction, nor to the professional and regulatory examining and licensing boards enumerated in Mason's Minnesota Statutes of 1927, chapter 35, the 1938 Supplement to Mason's Minnesota Statutes of 1927, chapter 35, Laws 1943, chapter 474, and Laws 1951, chapter 672; provided, their books and accounts shall be subject to examination by the director of the legislative auditor fiscal office at any time, as in the case of other state agencies.

Sec. 69. Minnesota Statutes 1986, section 16A.127, subdivision 7, is amended to read:

Subd. 7. [AUDIT FEES.] The director of the legislative auditor-may-recommend-waiver,--and-the-legislative-audit commission fiscal office may waive all or part of a fee for an audit. A state audited executive agency whose funds are not administered by the treasurer must transfer to the general fund the amount of the cost of the audit attributable to the executive agency's nongeneral fund receipts.

Sec. 70. Minnesota Statutes 1986, section 16A.672, subdivision 11, is amended to read:

Subd. 11. [REGISTRATION NOT PUBLIC INFORMATION.] Information in any register of ownership of bonds or certificates is nonpublic data under section 13.02, subdivision 9, or private data on individuals under section

13.02, subdivision 12. The information is open only to the subject of it, except as disclosure:

(1) is necessary for the registrar, the commissioner, the treasurer, or the director of the legislative auditor fiscal office to perform a duty; or

(2) is requested by an authorized representative of the state commissioner of revenue, the state attorney general, or the United States commissioner of internal revenue to determine the application of a tax; or

(3) is required under section 13.03, subdivision 4.

Sec. 71. Minnesota Statutes 1987 Supplement, section 16B.06, subdivision 4, is amended to read:

Subd. 4. [SUBJECT TO AUDIT.] A contract or any disbursement of public funds to a provider of services or a grantee, made by or under the supervision of the commissioner, an agency, or any county or unit of local government shall include, expressly or impliedly, an audit clause that provides that the books, records, documents, and accounting procedures and practices of the contractor or other party, relevant to the contract or transaction are subject to examination by the contracting agency, and either the director of the legislative auditor fiscal office or the state auditor as appropriate.

Sec. 72. Minnesota Statutes 1986, section 16B.42, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] The commissioner of administration shall appoint an intergovernmental information systems advisory council, to serve at the pleasure of the commissioner of administration, consisting of ~~25~~ 24 members. Fourteen members shall be appointed or elected officials of local governments, seven shall be representatives of state agencies, and four shall be selected from the community at large. Further, the council shall be composed of (1) two members from each of the following groups: counties outside of the seven county metropolitan area, cities of the second and third class outside the metropolitan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, and school districts outside the metropolitan area; (3) one member each from the state departments of administration, education, human services, revenue, and planning ~~and the legislative~~

~~auditor~~; (4) one member from the office of the state auditor; and (5) four members from the state community at large. To the extent permitted by available resources the commissioner shall furnish staff and other assistance as requested by the council. The council shall expire and the terms, compensation, and removal of members of the advisory council shall be as provided in section 15.059.

Sec. 73. Minnesota Statutes 1986, section 16B.42, subdivision 3, is amended to read:

Subd. 3. [OTHER DUTIES.] The intergovernmental informations systems advisory council shall (1) recommend to the commissioners of state departments, ~~the legislative auditor~~, and the state auditor a method for the expeditious gathering and reporting of information and data between agencies and units of local government in accordance with cooperatively developed standards; (2) elect an executive committee, not to exceed seven members from its membership; (3) develop an annual plan, to include administration and evaluation of grants, in compliance with applicable rules; (4) provide technical information systems assistance or guidance to local governments for development, implementation, and modification of automated systems, including formation of consortiums for those systems. The council shall advise the director of the legislative fiscal office of its activities.

Sec. 74. Minnesota Statutes 1986, section 16B.45, is amended to read:

16B.45 [FUNCTION OF LEGISLATIVE RESEARCH OFFICE, AND STATE AUDITOR.]

The director of legislative auditor research may conduct performance evaluations of all systems analysis, information services, and computerization efforts of agencies, the University of Minnesota, and metropolitan boards, agencies, and commissions. Upon request of the governing body or the state information systems advisory council, the ~~legislative state~~ auditor shall conduct the same services for political subdivisions of the state and report the findings to the governor and the legislature. The cost of these evaluations must be paid by the agencies being evaluated.

Sec. 75. Minnesota Statutes 1986, section 18.70, is amended to read:

18.70 [LEGISLATIVE STATE AUDITOR.]

Pursuant to article IX, clause (f) of the compact, the

director of the legislative auditor fiscal office is hereby empowered and authorized to inspect the accounts of the insurance fund as a part of the auditor's audit of the department of agriculture.

Sec. 76. Minnesota Statutes 1986, section 37.02, is amended to read:

37.02 [BUDGET; BUILDING RESTRICTIONS; EXEMPTIONS.]

The state agricultural society is subject to and has all powers, rights, and privileges granted by law, with the following exceptions:

(a) The society need not comply with the provisions of Laws 1939, chapter 431, relating to budgets, allotments, and encumbering of funds.

(b) The society is not subject to the supervision of the commissioner of administration in the erection and construction of any new building.

(c) The books and accounts of the society are subject to examination by the director of the legislative auditor fiscal office.

Sec. 77. Minnesota Statutes 1986, section 37.06, is amended to read:

37.06 [SECRETARY; LEGISLATIVE AUDITOR FISCAL OFFICE; DUTIES; REPORT.]

The secretary shall keep a complete record of the proceedings of the annual meetings of the state agricultural society and all meetings of the board of managers and any committee of the board, keep all accounts of the society other than those kept by the treasurer of the society, and perform other duties as directed by the board of managers. On or before December 31 each year, the secretary shall report to the governor for the fiscal year ending October 31 all the proceedings of the society during the current year and its financial condition as appears from its books. This report must contain a full, detailed statement of all receipts and expenditures during the year.

The books and accounts of the society for the fiscal year must be examined and audited annually by the director of the legislative auditor fiscal office. The cost of the examination must be paid by the society to the state and credited to the legislative auditor's fiscal office's revolving fund.

A summary of this examination, certified by the director of the legislative auditor fiscal office, must be appended to the secretary's report, along with the legislative auditor's recommendations and the proceedings of the first annual meeting of the society held following the secretary's report, including addresses made at the meeting as directed by the board of managers. The summary, recommendations, and proceedings must be printed in the same manner as the reports of state officers. Copies of the report must be printed annually and distributed as follows: to each society or association entitled to membership in the society, to each newspaper in the state, and the remaining copies as directed by the board of managers.

Sec. 78. Minnesota Statutes 1986, section 37.07, is amended to read:

37.07 [MONTHLY STATEMENTS BY SECRETARY; PURCHASES, EXPENDITURES.]

The secretary of the state agricultural society shall prepare a signed statement each month summarizing receipts and expenditures for the preceding month, which must be approved by the president or a vice-president of the board of managers. The secretary's affidavit must be attached to this statement. The affidavit must state:

(1) that all articles were purchased by or under the secretary's direction, and that to the secretary's best information and belief, all articles purchased by the board of managers were purchased at a fair cash market value and received by the society, and that all services charged for were actually provided;

(2) that neither the secretary nor any person in the secretary's behalf, or the board of managers, to the secretary's best information and belief, had any pecuniary or other interest in any purchase made or services rendered, or received any pecuniary or other benefit from the purchases or services, directly or indirectly, by commission, percentage, deduction, or otherwise; and

(3) that the articles specified conformed in every respect to the goods ordered, in both quality and quantity.

The report must also show the amount of money in the hands of the treasurer of the society.

Copies of the secretary's monthly report must be furnished to the commissioner of finance and the office director of the legislative auditor fiscal office and to each member of the board of managers no later than the tenth

of the month following the month's activities reported.

The board of managers shall designate one or more national or state banks, or trust companies authorized to do a banking business, as official depositories for the society's money, and shall then require the treasurer to deposit all or part of that money in the designated bank or banks. The designation must be in writing and must set forth all the terms and conditions upon which the deposits are made, and it must be signed by the president and secretary and made a part of the minutes of the board. Any bank or trust company designated must qualify as a depository by furnishing a corporate surety bond or collateral as required by section 118.01, and must, as long as any of the society's money is on deposit with it, maintain the bond or collateral in the amounts required by that section. No bond or collateral is required to secure any deposit if it is insured under federal law, as provided in section 118.10.

Sec. 79. Minnesota Statutes 1986, section 41B.18, subdivision 7, is amended to read:

Subd. 7. [AUDIT.] The books and records of the administration are subject to audit by the director of the legislative auditor fiscal office in the manner prescribed for other state agencies. The administration may also employ and contract in its resolutions and indentures for the employment of public accountants for the audit of books and records pertaining to any fund.

Sec. 80. Minnesota Statutes 1986, section 43A.02, subdivision 10, is amended to read:

Subd. 10. [CIVIL SERVICE.] "Civil service" means all employees in the ~~legislative~~ judicial and executive branches of state government and all positions in the classified and unclassified services as provided in sections 43A.07 and 43A.08.

Sec. 81. Minnesota Statutes 1986, section 43A.02, subdivision 22, is amended to read:

Subd. 22. [EXECUTIVE BRANCH.] "Executive branch" means heads of all agencies of state government, elective or appointive, established by statute or constitution and all employees of those agency heads who have within their particular field of responsibility statewide jurisdiction and who are not within the legislative or judicial branches of government. The executive branch also includes members and employees of the iron range resources and rehabilitation board. The executive branch does not include agencies with

jurisdiction in specifically defined geographical areas, such as regions, counties, cities, towns, municipalities, or school districts, the University of Minnesota, the public employees retirement association, the Minnesota state retirement system, the teachers retirement association, the Minnesota historical society, and all of their employees, and any other entity which is incorporated, even though it receives state funds.

Sec. 82. Minnesota Statutes 1986, section 43A.04, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE LEADERSHIP.] The commissioner shall be the chief personnel and labor relations manager of the civil service in the executive branch. The chief of staff of the legislative staff service is the chief personnel and labor relations manager of staff in the legislative branch.

(a) Whenever any power or responsibility is given to the commissioner by any provision of Laws 1981, chapter 210, unless otherwise expressly provided, the power or authority shall apply to all employees of agencies in the executive branch and to ~~employees-in-classified-positions-in-the office-of-the-legislative-auditor,~~ the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. Unless otherwise provided by law, the power or authority shall not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner shall have access to all public and private personnel data kept by appointing authorities which will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of Laws 1981, chapter 210 and may order any remedial actions consistent with law.

Sec. 83. Minnesota Statutes 1987 Supplement, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(a) chosen by election or appointed to fill an elective

office;

(b) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

(c) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;

(d) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;

(e) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(f) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;

(g) employees of the Washington, D.C., office of the state of Minnesota;

~~(h) employees of the legislature and of legislative committees or commissions, provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;~~

~~(i) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;~~

~~(j) (i) officers and enlisted persons in the national guard;~~

~~(k) (j) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;~~

~~(k)~~ (k) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

~~(l)~~ (l) members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

~~(m)~~ (m) chaplains employed by the state;

~~(n)~~ (n) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

~~(o)~~ (o) student workers; and

~~(p)~~ (p) employees unclassified pursuant to other statutory authority.

Sec. 84. Minnesota Statutes 1986, section 43A.17, subdivision 8, is amended to read:

Subd. 8. [ACCUMULATED VACATION LEAVE.] The commissioner of employee relations shall not agree to a collective bargaining agreement or recommend a compensation plan pursuant to section 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections 179A.01 to 179A.25, if the compensation plan, agreement, or award permits an employee to convert accumulated vacation leave into cash or deferred compensation before separation from state service.

This section does not prohibit the commissioner of employee relations from agreeing to a collective bargaining agreement that allows an employee to convert accumulated vacation to cash as part of a coordinated plan of flexible benefits. A plan of flexible benefits is a plan that increases some benefits while decreasing other benefits while the cost to the employer of benefits is kept the same.

This section does not prohibit the commissioner from negotiating a collective bargaining agreement or recommending approval of a compensation plan which permits an employee to receive payment for accumulated vacation leave upon beginning an unpaid leave of absence approved for more than one year in duration if the leave of absence is not for the purpose of accepting an unclassified position in state civil service.

Sec. 85. Minnesota Statutes 1986, section 43A.17, is

amended by adding a subdivision to read:

Subd. 10. [TRANSFER OF VACATION AND SICK LEAVE.] Any person transferring from the civil service to the legislative staff service, from the legislative staff service to the civil service, or within the civil service or legislative staff service shall be allowed to transfer accumulated vacation leave and sick leave. The rate of accumulation shall be determined by reference to all service for the state of Minnesota.

Sec. 86. Minnesota Statutes 1986, section 43A.39, subdivision 2, is amended to read:

Subd. 2. [NONCOMPLIANCE.] Any employee who intentionally fails to comply with the provisions of chapter 43A shall be subject to disciplinary action and action pursuant to chapter 609. An appointing authority shall report in writing to the director of the legislative auditor fiscal office when there is probable cause to believe that a substantial violation has occurred. Any person convicted of a crime based on violations of this chapter shall be ineligible for appointment in the civil service for three years following conviction.

Sec. 87. Minnesota Statutes 1986, section 85A.02, subdivision 5b, is amended to read:

Subd. 5b. [EXEMPTIONS.] Except as it determines, and except as provided in subdivisions 16 and 17, the board is not subject to chapters 15, 15A, 16A, and 16B concerning budgeting, payroll, and the purchase of goods or services. The board is not subject to chapter 14 concerning administrative procedures except section 14.38, subdivision 7, and 14.39 to 14.43 relating to the legal status of rules ~~and the legislative review of rules.~~

Sec. 88. Minnesota Statutes 1986, section 85A.02, subdivision 5c, is amended to read:

Subd. 5c. [FINANCIAL REPORT.] The board shall employ a certified public accountant to audit and examine its financial records each year. The board shall submit to the director of the legislative auditor fiscal office a report of the accountant's examination or audit. ~~The legislative auditor director~~ shall review the report and accept it or make additional examinations if these would be in the public interest. The working papers of the certified public accountant relating to the board must be made available to the ~~legislative auditor~~ director on request.

Sec. 89. Minnesota Statutes 1986, section 86.06, is

amended to read:

86.06 [DEFINITIONS.]

For the purposes of Laws 1963, chapter 790, as amended, the following definitions obtain:

(1) "Commission" shall mean the legislative commission on Minnesota resources;

(2) "Resources" shall mean the land and water areas in the state of Minnesota.

Sec. 90. Minnesota Statutes 1986, section 86.07, subdivision 1, is amended to read:

Subdivision 1. [CREATION, MEMBERSHIP, VACANCIES.] The commission hereby created shall consist of 14 members appointed-as-follows:

~~{1}-Seven-members-of-the-senate-to-be-appointed-by-the committee-on-committees-to-be-chosen-before-the-close-of each-regular-session-of-the-legislature-and-to-serve-until their-successors-are-appointed;~~

~~{2}-Seven-members-of-the-house-to-be-appointed-by-the speaker-to-be-chosen-before-the-close-of-each-regular session-of-the-legislature-and-to-serve-until-their successors-are-appointed;~~ nominated by the governor and confirmed by a majority vote of the senate. Members shall serve a term of seven years. The term of two members expires each July 1.

~~{3} Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out the functions thereof, and the remaining term of such vacancies shall be filled in the same manner as the original positions.~~

Sec. 91. Minnesota Statutes 1986, section 86.08, subdivision 1, is amended to read:

Subdivision 1. [STAFF.] The commission is authorized, ~~without-regard-to~~ under the civil service laws and rules, to appoint and fix the compensation of ~~such-additional~~ legal and other personnel and consultants as may be necessary to enable it to carry out its functions, or to contract for services to supply necessary data, including the full or part-time services of a recreation and planning coordinator, ~~except-that-any-state-employees-subject-to-the-civil-service laws-and-rules-who-may-be-assigned-to-the-commission-shall retain-civil-service-status-without-interruption-or-loss-of~~

status-or-privilege.

Sec. 92. Minnesota Statutes 1986, section 89.05, is amended to read:

89.05 [ACCOUNTING SYSTEM.]

The department of natural resources shall consolidate and simplify the accounting system within the department for receipts from department managed lands, disbursements made on a regular basis, and the program for federal aids and grant reimbursements. The new accounting system shall be implemented with the cooperation and under the supervision of the department of finance, utilizing the assistance and recommendations of the office director of the legislative auditor fiscal office.

Sec. 93. Minnesota Statutes 1986, section 116J.64, subdivision 6, is amended to read:

Subd. 6. The remaining 20 percent of the tax revenue received by the county auditor under section 273.165, subdivision 1 shall be remitted by the county auditor to the state treasurer and shall be deposited in a special account called the "Indian business loan account," which shall be a revolving fund created and established under the jurisdiction and control of the agency, which may engage in a business loan program for American Indians as that term is defined in subdivision 2. The tribal councils may administer the fund, provided that, before making any eligible loans, each tribal council must submit to the agency, for its review and approval, a plan for that council's loan program which specifically describes, as to that program, its content, utilization of funds, administration, operation, implementation, and other matters required by the agency. All such programs must provide for a reasonable balance in the distribution of funds appropriated pursuant to this section for the purpose of making business loans between Indians residing on and off the reservations within the state. As a condition to the making of such eligible loans, the tribal councils shall enter into a loan agreement and other contractual arrangements with the agency for the purpose of carrying out the provisions of this chapter, and shall agree that all official books and records relating to the business loan program shall be subject to audit by the director of the legislative auditor fiscal office in the same manner prescribed for agencies of state government.

Whenever any moneys are appropriated by the state treasurer to the agency solely for the above-specified purpose or purposes, the agency shall establish a separate

bookkeeping account or accounts in the Indian business loan fund to record the receipt and disbursement of such money and of the income, gain and loss from the investment and reinvestment thereof.

Sec. 94. Minnesota Statutes 1986, section 124.214, subdivision 1, is amended to read:

Subdivision 1. [OMISSIONS.] No adjustments to any aid payments made pursuant to this chapter or chapter 124A, resulting from omissions in school district reports, except those adjustments determined by the director of the legislative auditor fiscal office, shall be made for any school year after December 30 of the next school year, unless otherwise specifically provided by law.

Sec. 95. Minnesota Statutes 1986, section 136.11, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATION OF ACTIVITY FUND MONEYS.] The state university board independent of other authority and notwithstanding chapters 16A and 16B, shall administer the money collected for the university activities fund. All university activity fund money collected shall be retained by the president of each state university to be administered under the rules of the state university board by the presidents of the respective universities subject to audit of the director of the legislative auditor fiscal office.

Sec. 96. Minnesota Statutes 1986, section 136.11, subdivision 9, is amended to read:

Subd. 9. [REFUNDS.] The state university board may make refunds to students for tuition, activity fees, union fees, and any other fees from imprest cash funds. The imprest cash fund shall be reimbursed periodically by checks or warrants drawn on the funds and accounts to which the refund should ultimately be charged. The amounts necessary to pay the refunds are appropriated from the funds to which they are charged. The state university board shall obtain the approval of the director of the legislative auditor fiscal office for the procedures used in carrying out the provisions of this subdivision.

Sec. 97. Minnesota Statutes 1986, section 138.17, subdivision 1, is amended to read:

Subdivision 1. [DESTRUCTION, PRESERVATION, REPRODUCTION OF RECORDS; PRIMA FACIE EVIDENCE.] The attorney general, director of the legislative auditor fiscal office in the case of state records, state auditor in the case of local records, and director of the Minnesota historical

society, hereinafter director, shall constitute the records disposition panel. The members of the panel shall have power by unanimous consent to direct the destruction or sale for salvage of government records determined to be no longer of any value, or to direct the disposition by gift to the Minnesota historical society or otherwise of government records determined to be valuable for preservation. The records disposition panel may by unanimous consent order any of those records to be reproduced by photographic or other means, and order that photographic or other reproductions be substituted for the originals of them. It may direct the destruction or sale for salvage or other disposition of the originals from which they were made. Photographic or other reproductions shall for all purposes be deemed the originals of the records reproduced when so ordered by the records disposition panel, and shall be admissible as evidence in all courts and in proceedings of every kind. A facsimile, exemplified or certified copy of a photographic or other reproduction, or an enlargement or reduction of it, shall have the same effect and weight as evidence as would a certified or exemplified copy of the original. The records disposition panel, by unanimous consent, may direct the storage of government records, except as herein provided, and direct the storage of photographic or other reproductions. Photographic or other reproductions substituted for original records shall be disposed of in accordance with the procedures provided for the original records. For the purposes of this chapter: (1) The term "government records" means state and local records, including all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, reports, tapes, writings and other data, information or documentary material, regardless of physical form or characteristics, storage media or conditions of use, made or received by an officer or agency of the state and an officer or agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity within the state pursuant to state law or in connection with the transaction of public business by an officer or agency; (2) The term "state record" means a record of a department, office, officer, commission, commissioner, board or any other agency, however styled or designated, of the executive branch of state government; a record of the state legislature; a record of any court, whether of statewide or local jurisdiction; and any other record designated or treated as a state record under state law; (3) The term "local record" means a record of an agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity; (4) The term "records" excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for

reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws; (5) The term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government or because of the value of the information contained in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for inclusion in the collections of the Minnesota historical society.

Sec. 98. Minnesota Statutes 1986, section 161.08, is amended to read:

161.08 [BOOKS OF ACCOUNT.]

The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the director of the legislative auditor fiscal office, the same to show in detail itemized receipts and disbursements of the trunk highway fund. The books of account shall show the following facts, among others:

(1) The expenses of maintaining the transportation department, including the salaries and expenses of the individual members thereof;

(2) The amounts of money expended in each county of the state for the construction of trunk highways, and when, where, and upon what job or portion of road expended so that the cost per mile of such construction can be easily ascertained;

(3) Any other money expended by the state in connection with any roads other than trunk highways and when, where, and upon what portion of road so expended; and

(4) The amount of road equipment and materials purchased, and when, where, and from whom purchased, and the price paid for each item. The original invoices shall form a part of the permanent files and records in the department of transportation and be open to public inspection.

Sec. 99. Minnesota Statutes 1986, section 179A.03, subdivision 15, is amended to read:

Subd. 15. [PUBLIC EMPLOYER.] "Public employer" or "employer" means:

(a) the state of Minnesota for employees of the state not otherwise provided for in this subdivision or section 179A.10 for executive branch employees;

(b) the board of regents of the University of Minnesota for its employees; and

(c) the staff management committee for legislative staff service; and

(d) notwithstanding any other law to the contrary, the governing body of a political subdivision or its agency or instrumentality which has final budgetary approval authority for its employees. However, the views of elected appointing authorities who have standing to initiate interest arbitration, and who are responsible for the selection, direction, discipline, and discharge of individual employees shall be considered by the employer in the course of the discharge of rights and duties under sections 179A.01 to 179A.25.

When two or more units of government subject to sections 179A.01 to 179A.25 undertake a project or form a new agency under law authorizing common or joint action, the employer is the governing person or board of the created agency. The governing official or body of the cooperating governmental units shall be bound by an agreement entered into by the created agency according to sections 179A.01 to 179A.25.

"Public employer" or "employer" does not include a "charitable hospital" as defined in section 179.35, subdivision 2.

Nothing in this subdivision diminishes the authority granted pursuant to law to an appointing authority with respect to the selection, direction, discipline, or discharge of an individual employee if this action is consistent with general procedures and standards relating to selection, direction, discipline, or discharge which are the subject of an agreement entered into under sections 179A.01 to 179A.25.

Sec. 100. [179A.115] [LEGISLATIVE UNITS.]

The appropriate unit of the legislative department of government consists of members of the legislative staff service excluding directors of any functional or client area and staff of the personal division. However, the other divisions named in article 1, section 6, or the classifications named in article 1, section 14, has a right to separate from the general unit. This right must be

exercised by petition during either:

(1) the 180-day period following the effective date of this section; or

(2) a 60-day period beginning 276 days before the termination of a contract covering the units. If one of these groups of employees exercises the right to separate from the units, they have no right to meet and negotiate but have the right to meet and confer with the staff management committee and with the appropriate director of the legislative staff service on any matter of concern to them. The manner of exercise of the right to separate shall be as follows: an employee organization or group of employees claiming that a majority of any one of these groups of employees wish to separate from their units may petition the director for an election during the petitioning period. If the petition is supported by a showing of at least 30 percent support for the petitioner from the employees, the director shall hold an election to ascertain the wishes of the majority with respect to the issue of remaining within or severing from the general unit. This election shall be conducted within 30 days of the close of the petition period. If a majority of votes cast endorse severance from the general unit in favor of separate meet and confer status for any one of these groups of employees, the director shall certify that result. This election shall, where consistent with other provisions of this section, be governed by section 179A.16. If a group of employees elects to sever, they may rejoin that unit by following the procedures named for severance but may only do so during the periods provided for severance.

Sec. 101. Minnesota Statutes 1986, section 192.551, is amended to read:

192.551 [ARMY REGULATIONS TO APPLY.]

All money and property received from any source for the military forces shall be kept, disbursed, and accounted for as prescribed by army regulations, where applicable, otherwise as prescribed by state rules. All such accounts shall be examined and audited at least once annually by officers of the military forces detailed by the adjutant general as military auditors. The adjutant general shall file a copy of the report of every such examination with the director of the legislative auditor fiscal office. This shall not preclude other examinations of such accounts by the legislative-auditor director as authorized by law. The legislative-auditor director may appoint any military auditor as an assistant examiner, with all the powers incident thereto, in connection with the examination of such

accounts. The provisions of the state civil service act shall not be applicable to such appointments.

Sec. 102. Minnesota Statutes 1986, section 193.149, is amended to read:

193.149 [EXAMINATION OF BOOKS BY DIRECTOR OF THE LEGISLATIVE AUDITOR FISCAL OFFICE.]

The books and affairs of such corporation shall be subject to examination by the director of the legislative auditor fiscal office.

Sec. 103. Minnesota Statutes 1986, section 240.02, subdivision 7, is amended to read:

Subd. 7. [AUDIT.] The director of the legislative auditor fiscal office shall audit or the commission may contract for an audit of the books and accounts of the commission annually or as often as the ~~legislative-auditor's~~ director's funds and personnel permit. The commission shall pay the total cost of the audit. All collections received for the audits must be deposited in the general fund.

Sec. 104. Minnesota Statutes 1986, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in

local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing the sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 14.01 to 14.70 do not apply to the promulgation of the sentencing guidelines, ~~and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules.~~ However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.70 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, ~~and these rules shall be subject to review by the legislative commission to review administrative rules.~~

Sec. 105. Minnesota Statutes 1986, section 250.05, subdivision 3, is amended to read:

Subd. 3. The board shall organize by electing a chair and other officers as may be required. The Gillette children's hospital board shall employ an administrator and other professional, technical, and clerical personnel as may be required. The administrator shall serve at the pleasure of the board. The Gillette children's hospital board shall employ a certified public accountant to annually audit and examine its financial records. The report of an examination or audit by a certified public accountant shall be submitted on request to the director of the legislative auditor fiscal office who shall review the audit report and accept it or make additional examinations as the ~~legislative-auditor~~ director deems to be in the public interest. The working papers of the certified public accountant relating to the Gillette children's hospital board shall be made available to the ~~legislative-auditor~~ director upon request.

The Gillette children's hospital board may contract for the services of individuals who perform medical, technical, or other services of a professional nature, and may contract for the purchase of necessary supplies, services, and equipment. Except as it determines, the Gillette children's hospital board shall not be subject to the provisions of chapter 16, concerning budgeting, payroll, and the purchase of goods or services. Any department of state government is

authorized, within the limits of its functions and appropriations, to assist the Gillette children's hospital board upon request.

Sec. 106. Minnesota Statutes 1986, section 256B.04, subdivision 11, is amended to read:

Subd. 11. Report at least quarterly to the director of the legislative auditor fiscal office on its activities under subdivision 10 and include in each report copies of any notices sent during that quarter to the attorney general to the effect that a vendor of medical care may have acted in a manner warranting civil or criminal proceedings.

Sec. 107. Minnesota Statutes 1987 Supplement, section 268.12, subdivision 8, is amended to read:

Subd. 8. [RECORDS; REPORTS.] (1) Each employing unit shall keep true and accurate records for such periods of time and containing such information as the commissioner may prescribe. For the purpose of determining compliance with this chapter, or for the purpose of collection of any amounts due under this chapter, the commissioner or any authorized representative of the commissioner has the power to examine, or cause to be examined or copied, any books, correspondence, papers, records, or memoranda which are relevant to making these determinations, whether the books, correspondence, papers, records, or memoranda are the property of or in the possession of the employing unit or any other person or corporation at any reasonable time and as often as may be necessary.

(2) The commissioner or any other duly authorized representative of the commissioner may cause to be made such summaries, compilations, photographs, duplications, or reproductions of any records, reports, or transcripts thereof as the commissioner may deem advisable for the effective and economical preservation of the information contained therein, and such summaries, compilations, photographs, duplications or reproductions, duly authenticated, shall be admissible in any proceeding under this chapter, if the original record or records would have been admissible therein. Notwithstanding any restrictions contained in section 16B.50, except restrictions as to quantity, the commissioner is hereby authorized to duplicate, on equipment furnished by the federal government or purchased with funds furnished for that purpose by the federal government, records, reports, summaries, compilations, instructions, determinations, or any other written matter pertaining to the administration of the Minnesota economic security law.

(3) Notwithstanding any inconsistent provisions elsewhere, the commissioner may provide for the destruction or disposition of any records, reports, transcripts, or reproductions thereof, or other papers in the commissioner's custody, which are more than two years old, the preservation of which is no longer necessary for the establishment of contribution liability or benefit rights or for any purpose necessary to the proper administration of this chapter, including any required audit thereof, provided, that the commissioner may provide for the destruction or disposition of any record, report, or transcript, or other paper in the commissioner's custody which has been photographed, duplicated, or reproduced.

(4) Notwithstanding the provisions of the Minnesota State Archives Act the commissioner shall with the approval of the director of the legislative auditor fiscal office destroy all benefit checks and benefit check authorization cards that are more than two years old and no person shall make any demand, bring any suit or other proceeding to recover from the state of Minnesota any sum alleged to be due on any claim for benefits after the expiration of two years from the date of filing such claim.

Sec. 108. Minnesota Statutes 1986, section 290.57, is amended to read:

290.57 [EXAMINERS, APPOINTMENT OF.]

For the purpose of making such examinations and determinations, the commissioner may appoint such officers, to be known as income tax examiners, as the commissioner may deem necessary. On deeming it advisable, the commissioner may request the director of the legislative auditor fiscal office, for such period of time as the commissioner may direct, to audit such returns and conduct such examinations, and report thereon to the commissioner. Upon such request being made, the ~~legislative-auditor~~ director shall appoint such income tax examiners as the auditor may deem necessary.

Sec. 109. Minnesota Statutes 1986, section 290.58, is amended to read:

290.58 [EXAMINERS, POWERS OF.]

The income tax examiners, whether appointed by the commissioner or by the director of the legislative auditor fiscal office, shall have all the rights and powers with reference to the examining of books, records, papers, or memoranda, subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony conferred upon the commissioner by this chapter. The clerk or court

administrator of any court, upon demand of any examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda before the examiner. The commissioner may also issue such subpoenas. The commissioner may appoint referees to review, singly or as a board of review, the reports of the income tax examiners and petitions or complaints of taxpayers, and report on them to the commissioner. Disobedience of subpoenas issued under this chapter shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court.

Sec. 110. Minnesota Statutes 1986, section 290.59, is amended to read:

290.59 [ADDITIONAL HELP.]

The commissioner, and the director of the legislative auditor fiscal office if requested to conduct examinations as hereinbefore provided, may appoint and employ such additional help, or purchase such supplies or materials or incur such other expenditures in the enforcement of this chapter as they may deem necessary. The salaries of all officers and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration.

Sec. 111. Minnesota Statutes 1986, section 298.22, subdivision 2, is amended to read:

Subd. 2. There is hereby created the iron range resources and rehabilitation board, consisting of eleven members, ~~five of whom shall be state senators appointed by the subcommittee on committees of the rules committee of the senate, and five of whom shall be representatives appointed by the speaker of the house of representatives, their terms of office to commence on May 1, 1943, and continue until January 3rd, 1945, or until their successors are appointed and qualified.~~ Ten members shall be nominated by the governor and confirmed by a majority vote of the senate. Members shall serve a term of five years. The term of two members expires each July 1. Their successors shall be appointed each two five years in the same manner as the original members were appointed, in January of every second year, commencing in January, 1945. The 11th member of said board shall be the commissioner of natural resources of the state of Minnesota. Vacancies on the board shall be filled in the same manner as the original members were chosen. At least a majority of the legislative members of the board

shall be elected from state senatorial or legislative districts in which over 50 percent of the residents reside within a tax relief area as defined in section 273.134. All expenditures and projects made by the commissioner of iron range resources and rehabilitation shall first be submitted to said iron range resources and rehabilitation board which shall recommend approval or disapproval or modification of expenditures and projects for rehabilitation purposes as provided by this section, and the method, manner, and time of payment of all said funds proposed to be disbursed shall be first approved or disapproved by said board. The board shall biennially make its report to the governor and the legislature on or before November 15 of each even numbered year. The expenses of said board shall be paid by the state of Minnesota from the funds raised pursuant to this section.

Sec. 112. Minnesota Statutes 1986, section 326.19, subdivision 4, is amended to read:

Subd. 4. [QUALIFYING EXPERIENCE FOR EXAMINATION AND GRANTING OF LICENSE.] Qualifying experience for subdivisions 1, 2 and 3 include public accounting experience (1) as a staff employee of a certified public accountant or public accountant, a firm of certified public accountants or public accountants, or a corporation formed for the practice of public accounting; or (2) as an auditor in the legislative fiscal office of the legislative auditor or the office of the state auditor, or as an auditor or examiner with any other agency of government, which experience, in the opinion of the board is equally comprehensive and diversified; or (3) as a self-employed public accountant or as a partner in a firm of public accountants; or (4) in any combination of the foregoing capacities.

Sec. 113. Minnesota Statutes 1987 Supplement, section 352.03, subdivision 6, is amended to read:

Subd. 6. [DUTIES AND POWERS OF EXECUTIVE DIRECTOR.] The management of the system is vested in the director, who is the executive and administrative head of the system. The director shall be advisor to the board on matters pertaining to the system and shall also act as the secretary of the board. The director shall:

- (1) attend meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;

(4) designate an assistant director with the approval of the board;

(5) appoint any employees, both permanent and temporary, that are necessary to carry out the provisions of this chapter;

(6) organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under conditions the director may prescribe. Appointments to exercise delegated power must be by written order and shall be filed with the secretary of state;

(7) with the advice and consent of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary and fix the compensation for those services. The contracts are not subject to competitive bidding under chapter 16B. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director, and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Professional management services may not be contracted for more often than once in six years. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the director of the legislative auditor fiscal office at the time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the director;

(8) with the advice and consent of the board provide in-service training for the employees of the system;

(9) make refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, as provided in this chapter;

(10) determine the amount of the annuities and disability benefits of employees covered by the system and

authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(11) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the system;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for the system;

(14) prepare and submit to the board and the legislature an annual financial report covering the operation of the system, as required by section 356.20;

(15) prepare and submit biennial and quarterly budgets to the board and with the approval of the board submit the budgets to the department of finance; and

(16) with the approval of the board, perform other duties required to administer the retirement and other provisions of this chapter and to do its business.

Sec. 114. Minnesota Statutes 1987 Supplement, section 352B.02, subdivision 1e, is amended to read:

Subd. 1e. [AUDIT; ACTUARIAL VALUATION.] The director of the legislative auditor fiscal office shall audit the fund. Any actuarial valuation of the fund required under section 356.215 shall be prepared by the actuary retained by the ~~legislative-commission-on-pensions-and retirement director~~. Any approved actuary retained by the ~~executive~~ director under section 352.03, subdivision 6, may perform actuarial valuations and experience studies to supplement those performed by the commission-retained actuary. Any supplemental actuarial valuation or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement.

Sec. 115. Minnesota Statutes 1986, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. [COVERAGE.] The following employees, if they are in the unclassified service of the state or the legislative staff service of the legislature and are eligible for coverage under the state employees retirement fund, shall participate in the unclassified program unless an employee gives notice to the executive director of the state retirement system within one year following the

commencement of employment in the unclassified service that the employee desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file notice with the executive director shall be deemed to have exercised the option to participate in the unclassified plan.

(1) any employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general or the state board of investment,

(2) the head of any department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or any employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4,

(3) any permanent, full-time unclassified employee of the ~~legislature or any commission or agency of the legislature~~ legislative staff service or a temporary legislative employee member of the legislative staff service having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system,

(4) any person employed in a position established pursuant to section 43A.08, subdivision 1, clause (c), or subdivision 1a or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level,

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; and the chair, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(6) the executive director, associate executive director, and not to exceed nine positions of the higher

education coordinating board in the unclassified service, as designated by the higher education coordinating board; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations shall be made without approval of the board of directors of the Minnesota state retirement system,

(7) the clerk of the appellate courts appointed pursuant to article VI, section 2, of the Constitution of the state of Minnesota,

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services,

(9) any employee whose principal employment is at the state ceremonial house,

(10) employees of the Minnesota educational computing corporation, and

(11) any employee of the world trade center board.

Sec. 116. Minnesota Statutes 1986, section 352D.04, subdivision 2, is amended to read:

Subd. 2. The moneys used to purchase shares under this section shall be the employee and employer contributions provided in this subdivision.

(a) The employee contribution shall be an amount equal to four percent of salary.

(b) The employer contribution shall be an amount equal to six percent of salary.

These contributions shall be made by deduction from salary in the manner provided in section 352.04, subdivisions 4, 5, and 6.

However, when the employer has adopted a coordinated plan of flexible benefits, that increases some benefits while decreasing other benefits while the cost to the employer of all benefits is kept the same, then contributions shall be those provided in the plan. A plan may not permit anyone to be employed more than ten years or after age 45 without contributions.

Sec. 117. Minnesota Statutes 1987 Supplement, section 353.03, subdivision 3a, is amended to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] (a) [APPOINTMENT.] The board shall appoint, with the advice and consent of the senate, an executive director on the basis of education, experience in the retirement field, and leadership ability. The executive director shall have had at least five years' experience in an executive level management position, which has included responsibility for pensions, deferred compensation, or employee benefits. The executive director serves at the pleasure of the board. The salary of the executive director is as provided by section 15A.081, subdivision 1.

(b) [DUTIES.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as adviser to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant director, with the approval of the board, who shall serve in the unclassified service and whose salary is set in accordance with section 43A.18, subdivision 3, appoint a confidential secretary in the unclassified service, and appoint employees to carry out this chapter, who are subject to chapters 43A and 179A in the same manner as are executive branch employees;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the control of, and under such conditions as, the executive director may prescribe;
- (6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as necessary to fulfill the purposes of this chapter. All contracts are subject to chapter 16B. The commissioner of administration shall not approve, and the association shall not enter into, any contract to provide lobbying services or legislative advocacy of any kind. Any approved actuary retained by the executive director shall function as the actuarial advisor

of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the director of the legislative auditor fiscal office at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

(7) with the approval of the board provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) prepare and submit biennial and annual budgets to the board for its approval and submit the approved budgets to the department of finance for approval by the commissioner; and

(13) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 118. Minnesota Statutes 1986, section 353.16, is

amended to read:

353.16 [AUDIT OF BOOKS AND ACCOUNTS; INSURANCE LAWS NOT APPLICABLE.]

None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. The books and accounts of the association and the retirement fund shall be examined and audited annually, if funds and personnel permit, by the director of the legislative auditor fiscal office of the state and a full and detailed report thereof made to the board of trustees. The cost of any examination shall be paid by the retirement association in accordance with the provisions of section 16A.127, subdivision 7, and for the purposes of this section the public employees retirement association shall be considered a state agency as referred to in section 16A.127, subdivision 7.

Sec. 119. Minnesota Statutes 1987 Supplement, section 354.06, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES OF EXECUTIVE DIRECTOR.] The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of said chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;

(6) with the approval of the board, contract for the services of an approved actuary, professional management services, and any other consulting services as may be necessary and fix the compensation therefor. Such contracts shall not be subject to the competitive bidding procedure prescribed by chapter 16B. Professional management services may not be contracted for more often than once in every six years. Any approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement. Copies of professional management survey reports shall be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library as provided by section 3.195, to the executive director of the commission and to the director of the legislative auditor fiscal office at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems shall be qualified to contract with the director hereunder;

(7) with the approval of the board, provide in-service training for the employees of the association;

(8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, as provided in this chapter;

(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, in accordance with the provisions of this chapter;

(10) pay annuities, refunds, survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the state board of investment;

(13) with the advice and approval of the board, request the state board of investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the department of finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business.

Sec. 120. Minnesota Statutes 1986, section 360.015, subdivision 19, is amended to read:

Subd. 19. [KEEP BOOKS AND RECORDS.] The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the director of the legislative auditor fiscal office, the same to show in detail itemized receipts and disbursements of the airports fund. The books shall show, and it shall be the duty of the director of the legislative auditor fiscal office to so prescribe, the following facts, among others:

(a) The expenses of maintaining the department, including the salaries and expenses of the individual members thereof;

(b) The amounts of money expended in each county of the state for the construction or maintenance of airports or restricted landing areas, when, where, and upon what airport or restricted landing area expended, so that the cost for each such airport or restricted landing area can be easily ascertained;

(c) The amount of equipment and materials purchased and when, where, and from whom purchased; these books shall show the price paid for each item; the original invoice shall form a part of the permanent files and records in the department and shall be open to public inspection.

Sec. 121. Minnesota Statutes 1986, section 462A.07, subdivision 14, is amended to read:

Subd. 14. It may engage in housing programs for low and moderate income American Indians, as that term is defined in section 254A.02, subdivision 11, developed and administered separately or in combination by the Minnesota Chippewa tribe, the Red Lake band of Chippewa Indians, and the Sioux communities as determined by such tribe, band, or

communities. In developing such housing programs the tribe, band, or communities shall take into account the housing needs of all American Indians residing both on and off reservations within the state. A plan for each such program, which specifically describes the program (a) content, (b) utilization of funds, (c) administration, (d) operation, (e) implementation and other matter, as determined by the agency, must be submitted to the agency for its review and approval prior to the making of eligible loans pursuant to section 462A.21. All such programs must conform to rules promulgated by the agency concerning program administration, including but not limited to rules concerning costs of administration; the quality of housing; interest rates, fees and charges in connection with making eligible loans; and other matters determined by the agency to be necessary in order to effectuate the purposes of this subdivision and section 462A.21, subdivisions 4b and 4c. All such programs must provide for a reasonable balance in the distribution of funds appropriated for the purpose of this section between American Indians residing on and off reservations within the state. Nothing in this section shall preclude such tribe, band, or communities from requesting and receiving cooperation, advice, and assistance from the agency as regards program development, operation, delivery, financing, or administration. As a condition to the making of such eligible loans, the Minnesota Chippewa tribe, the Red Lake band of Chippewa Indians and the Sioux communities shall:

(a) enter into a loan agreement and other contractual arrangements with the agency for the purpose of transferring the allocated portion of loan funds as set forth in section 462A.26 and to insure compliance with the provisions of this section and this chapter, and

(b) shall agree that all of their official books and records related to such housing programs shall be subjected to audit by the director of the legislative auditor fiscal office in the manner prescribed for agencies of state government.

The agency shall submit a biennial report concerning the various housing programs for American Indians, and related receipts and expenditures as provided in section 462A.22, subdivision 9, and such tribe, band, or communities to the extent that they administer such programs, shall be responsible for any costs and expenses related to such administration provided, however, they shall be eligible for payment for costs, expenses and services pursuant to subdivision 12, and section 462A.21. The agency may provide or cause to be provided essential general technical services as set forth in subdivision 2, and general consultative

project assistance services, including, but not limited to, management training, and home ownership counseling as set forth in subdivision 3. Members of boards, committees, or other governing bodies of the tribe, band, and communities administering the programs authorized by this subdivision must be compensated for those services as provided in section 15.0575. Rules promulgated under this subdivision may be promulgated as emergency rules under chapter 14.

Sec. 122. Minnesota Statutes 1986, section 462A.22, subdivision 10, is amended to read:

Subd. 10. All of the books and records of the agency shall be subject to audit by the director of the legislative auditor fiscal office in the manner prescribed for other agencies of state government. The agency is authorized also to employ and to contract in its resolutions and indentures for the employment of public accountants for the audit of books and records pertaining to any fund or funds. The ~~legislative-auditor~~ director shall review contracts with public accountants as provided in section 3.972.

Sec. 123. Minnesota Statutes 1987 Supplement, section 473.1623, subdivision 4, is amended to read:

Subd. 4. [FINANCIAL REPORTING; BUDGETING.] (a) The advisory committee, with the assistance of the state auditor and the director of the legislative auditor fiscal office, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of the council and all metropolitan agencies. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

(b) The council and each metropolitan agency shall prepare a summary budget for agency fiscal year 1988 and each year thereafter. The advisory committee, with the assistance of the state auditor and the director of the legislative auditor fiscal officer, shall develop guidelines and models for the summary budgets. The purpose of the summary budget is to increase public knowledge and agency accountability by providing citizens outside of the agency with a condensed, accessible, and graphic description of the financial affairs of the agency. The document should contain a coherent, effectively communicated, understandable statement of: financial trends and forecasts; budget policies and policy changes; agency financial assumptions, objectives and plans; revenue sources and expenditures by program category; personnel policies, decisions, and allocation; budgetary performance measures; and similar

matters serving the purpose of the document.

Sec. 124. Minnesota Statutes 1986, section 473.595, subdivision 5, is amended to read:

Subd. 5. [AUDIT.] The director of the legislative auditor fiscal office shall make an independent audit of the commission's books and accounts once each year or as often as the ~~legislative-auditor's~~ director's funds and personnel permit. The costs of the audits shall be paid by the commission ~~pursuant to section 3-9741~~. The council may examine the commission's books and accounts at any time.

Sec. 125. Minnesota Statutes 1986, section 473.604, subdivision 6, is amended to read:

Subd. 6. [AUDIT.] The director of the legislative auditor fiscal office shall audit the books and accounts of the commission once each year or as often as the ~~legislative auditor's~~ director's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3-9741 6.455.

Sec. 126. Minnesota Statutes 1986, section 473.703, subdivision 10, is amended to read:

Subd. 10. [AUDIT.] The director of the legislative auditor fiscal office shall audit the books and accounts of the commission once each year or as often as the ~~legislative auditor's~~ director's funds and personnel permit. The commission shall pay the total cost of the audit pursuant to section 3-9741 6.455.

Sec. 127. Minnesota Statutes 1986, section 480.244, is amended to read:

480.244 [REVENUE AND EXPENDITURE RECORDS; POSTAWARD AUDITS.]

A recipient of funds distributed pursuant to section 480.242 shall maintain revenue and expenditure records regarding those funds in accordance with acceptable general accounting principles for a period of five years following their receipt. The director of the legislative auditor fiscal office may conduct postaward audits of the funds distributed pursuant to section 480.242 upon the request of the supreme court ~~and the approval of the legislative audit commission~~.

Sec. 128. Minnesota Statutes 1986, section 574.02, is amended to read:

574.02 [STATE MAY TAKE FIDELITY INSURANCE.]

The director of the legislative auditor fiscal office, from time to time, shall make surveys of each department or agency of the state government to determine the employees in the department or agency whose fidelity should be assured by individual bond or fidelity insurance policy, and the amount of such bond or insurance necessary for each such employee, and shall submit a list thereof to the commissioner of administration for action thereon. The commissioner may approve in whole or in part and shall certify the action taken thereon to the directing head of each such department or agency, who shall require each of the employees so listed to give bond to the state in the amount indicated in such certificate. The commissioner in such certificate may direct that, in lieu of individual bonds so required, the directing head of any such department or agency shall procure and keep in effect a schedule or position insurance policy, in such aggregate amount as the commissioner shall direct, insuring the fidelity of such department employees in the respective amounts so required, upon a form to be prescribed by the director of the legislative auditor fiscal office. Such policy may cover also the subordinate officers of such department required by law to give bond to the state, and in the amount which the commissioner shall require. The surety upon the bonds of all state officers and state employees required under any law of the state shall be a corporation authorized to act as sole surety upon such official bonds, and all such bonds shall be approved by the attorney general as to form and generally by the director of the legislative auditor fiscal office, who shall keep an appropriate record of such approval and cause such bond or policy to be filed in the office of the secretary of state.

Sec. 129. Minnesota Statutes 1986, section 574.20, is amended to read:

574.20 [BONDS, BY WHOM APPROVED.]

Except as otherwise provided by law in particular cases, bonds shall be approved as follows:

(1) The official bonds of all state officers, including those of the treasurers, superintendents, and other officials, and employees of the several public educational, charitable, penal, and reformatory institutions belonging to the state, shall be approved, as to form, by the attorney general, and in all other respects by the governor and the director of the legislative auditor fiscal office, or one of them;

(2) The official bonds of county, town, city, and school district officers and employees by the governing body of the political subdivision for whose security they are, respectively, given; and

(3) Those required or permitted by law to be given in any court, by the judge or justice of the court in which the proceeding is begun or pending.

No officer, official, or employee required to give bond shall enter upon duties until the bond is duly approved and filed.

Sec. 130. Minnesota Statutes 1986, section 611.216, subdivision 4, is amended to read:

Subd. 4. [AUDITS.] The director of the legislative auditor fiscal office may conduct periodic postaward audits of these grants as may be requested by the board of public defense and-approved-by-the-legislative-audit-commission.

Sec. 131. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber the sections of Minnesota Statutes specified in column A with the number in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>3.922</u>	<u>363.20</u>
<u>3.9222</u>	<u>363.21</u>
<u>3.9223</u>	<u>363.22</u>
<u>3.9225</u>	<u>363.23</u>
<u>3.9226</u>	<u>363.24</u>

Sec. 132. [EFFECTIVE DATE.]

Sections 1 to 131 are effective July 1, 1989.

ARTICLE 3 PAY PLAN

Section 1. [INTERIM PAY PLAN.]

The pay plan adopted by section 2 is adopted here for administrative convenience only. It is effective until a permanent plan is adopted by the legislative staff management committee. Adoption of this pay plan does not change the right of the legislative staff management committee to adopt, amend, or abolish this plan under article 1 without amending the plan, set out here, in a bill.

Sec. 2. [ADOPTION OF PAY PLAN.]

Subdivision 1. [APPLICABILITY.] This pay plan covers members of the legislative staff service. It is adopted under article 1, section 8. It is effective until another pay plan is adopted by the staff management committee or a collective bargaining agreement is adopted under Minnesota Statutes, chapter 179A.

Subd. 2. [FACTORS CONSIDERED IN SETTING PAY.] Salaries of the members are set with the following facts in mind:

(1) that regular time of about 2,340 clock hours a year is spent at work, including 2,080 clock hours of actual working time;

(2) that mandatory overtime of 200 or more clock hours a year for a member of the professional staff and 40 or more clock hours a year for a member of the other staff is required at work, and that overtime must be worked on short notice and without advance specification of the overtime to be worked;

(3) that professional staff work requires education, experience, and demonstrated high capability in writing English correctly, concisely, and reflecting express and implied instructions;

(4) that professional staff members must know the complex subjects, the statutory law on the subject, the common law on the subject, and be familiar with governmental operations relating to the subject area;

(5) that professional and supervisory staff must have a detailed knowledge of the legislative process and that those duties must be performed under strict deadline pressure despite extensive other duties at a session's end;

(6) that the work of nonprofessional staff requires education, experience, demonstrated high capability, and extensive postemployment training in the use of complicated equipment;

(7) that staff must learn the procedures for and substantive requirements of many different office functions and be prepared for frequent shifts between functions;

(8) that staff are expected to make continual adjustment to a widely erratic quantity of work; and

(9) that staff must work for weeks for long hours often under intense pressure to perform work very quickly but

without error.

Subd. 3. [EMPLOYMENT STATUS.] Members of the legislative staff service are employed in either temporary or permanent status. Temporary staff are hired with the expectation that they will be laid off and will not subsequently return to the service. Permanent members are expected to remain employed by the service indefinitely. Employment is ended only if the member quits, is laid off, or is involuntarily ended. A permanent member is further classified as either regular or seasonal. A permanent regular member normally works the whole year except when on vacation or leave. A permanent seasonal member usually works less than nine months a year. The seasonal periods of work and layoff usually occur at the same time each year.

Regardless of the classification as temporary or permanent, a member may work on a full-time or part-time basis. If full-time, the member usually works at least 40 hours a week except when on vacation or leave; if part-time, the member usually works fewer than 40 hours each week.

A member of the legislative staff service may job share with another person with the same employment status if both persons have been hired through the usual process and the appropriate director approves the arrangement. When job sharing, two people work on the same job with each working less than full-time but alternating working hours so that they function as would a full-time member. Any overtime for the position must be divided equally between the people who are sharing the position. For purposes of pay and benefits, the two people are treated by the service as if they were one person.

Subd. 4. [RESPONSIBILITY LEVELS.] Positions have a responsibility level set with the factors in mind listed in subdivision 1. If a job is changed in the future, the responsibility level would be reviewed and, if warranted, changed. The level is based on the job itself and not on the person who fills a position. Changes in level are recommended, when appropriate, by the appropriate director. Changes do not become effective until the recommendation is approved by the staff management committee.

The pay ranges for each responsibility level are:

<u>Responsibility Level 13</u>	<u>\$45,102 - \$68,641</u>
<u>Responsibility Level 12</u>	<u>\$40,982 - \$60,745</u>
<u>Responsibility Level 11</u>	<u>\$36,095 - \$54,237</u>
<u>Responsibility Level 10</u>	<u>\$31,788 - \$48,426</u>
<u>Responsibility Level 9</u>	<u>\$28,470 - \$43,238</u>
<u>Responsibility Level 8</u>	<u>\$26,554 - \$38,029</u>

<u>Responsibility Level 7</u>	<u>\$23,523 - \$33,445</u>
<u>Responsibility Level 6</u>	<u>\$20,988 - \$30,405</u>
<u>Responsibility Level 5</u>	<u>\$19,767 - \$27,641</u>
<u>Responsibility Level 4</u>	<u>\$17,393 - \$25,360</u>
<u>Responsibility Level 3</u>	<u>\$15,480 - \$23,053</u>
<u>Responsibility Level 2</u>	<u>\$13,823 - \$20,958</u>
<u>Responsibility Level 1</u>	<u>\$12,325 - \$16,768</u>

The amounts in each responsibility level are for full-time permanent members. For temporary and seasonal members, the amounts are used to establish pay for that part of the year the members are on the payroll. For example, a new member hired on a temporary basis for eight months will be paid 8/12 of the shown amount. The members working on a less than full-time basis are paid on an hourly basis if the amount of time worked a pay period is irregular; other members are paid a flat salary. For the method of calculating pay for full-time, part-time, hourly, and job-sharing staff, see the sections of this policy that deal with those topics.

Normally, a new member without either significant prior legislative experience in a similar job or education beyond minimum requirements is hired by the appropriate director at the lowest pay level for the position. New members with significant prior experience or advanced education may be hired at a pay rate up to the maximum of the pay range. The determination of starting salary is made by the director. The director must notify the directors committee of any setting of initial salary 20 percent or more from the minimum to the maximum. The director must notify the directors committee and the staff management committee of any setting of initial salary 50 percent or more from the minimum to the maximum.

Subd. 5. [ASSIGNMENT OF POSITIONS TO RESPONSIBILITY LEVELS.] Until subsequently changed by resolution of the staff management committee, the positions assigned to a responsibility level are as follows:

Responsibility Level 13
Director
Responsibility Level 12
Assistant Director
Computer Systems Project Manager III
Responsibility Level 11
Research Analyst IV
Legal Analyst IV
Policy Analyst IV
Fiscal Analyst IV
Responsibility Level 10
Research Analyst III

Legal Analyst III
Policy Analyst III
Fiscal Analyst III
Computer Systems Project Manager II
Responsibility Level 9
Research Analyst II
Legal Analyst II
Policy Analyst II
Fiscal Analyst II
Department Supervisor
Public Information Specialist II
Desk Clerk
Indexing Specialist II
Journal Clerk
Personnel Specialist II
Responsibility Level 8
Research Analyst I
Legal Analyst I
Policy Analyst I
Fiscal Analyst I
Division Supervisor
Personnel Specialist I
Public Information Specialist I
Sergeant-at-Arms
Committee Administrator II
Responsibility Level 7
Computer Systems Project Manager I
Media Coordinator
Desk Supervisor
Committee Administrator I
Legislative Assistant
Educational Programs Coordinator
Administrative Assistant III
Quality Control Supervisor
Responsibility Level 6
Media Writer
Photographer
Media Coordinator
Responsibility Level 5
Drafting and Editing Assistant II
Administrative Assistant II
Secretary II
Sergeant II
Responsibility Level 4
Drafting and Editing Assistant I
Administrative Assistant I
Secretary I
Sergeant I
Word Processing Operator
Administrative Aide II
Responsibility Level 3
Receptionist

Administrative Aide I
Duplicating Supervisor
Stock Assistant
Responsibility Level 2
Duplicating Operator
Legislative Aide
Responsibility Level 1
Messenger
Page

Subd. 6. [ADJUSTMENTS IN PAY DUE TO INCREASED SKILL.] A member's movement through a pay range for the responsibility level depends on the function or client area's continued fulfillment of the assigned duties and the member's contribution to the fulfillment of the duties. A member is not entitled to a pay increase merely because a specific amount of time has passed. Performance is reviewed and increases are considered at different intervals: at six months then yearly from the first through the fifth year of employment; then every other year after that until the maximum pay for the position is reached. A member hired above the minimum salary must also be set at the appropriate place on the review schedule based on the considerations that resulted in the setting of initial salary above the minimum. A review will still occur in years when a pay increase is not possible. Movement through the member's pay range is as rapid or as slow as the member's increase in skill and contribution to office duties requires. Both cost-of-living pay increases and bonuses that do not affect base pay could still be expected after reaching the top of the range.

Under the system, three steps are required to set pay.

First, a pool of funds is established by the staff management committee for a functional or client area from which performance adjustments will be paid. The policy of the staff management committee is that this pool will be calculated considering the extent of similar adjustments allowed to other state employees and the performance level of a functional or client area.

The director of a functional and client area prepares a written report on the performance of the area as a whole during the fiscal year. In particular, the director reviews the extent to which the office's duties were fulfilled. Preparation of the report may disclose successes or problems that may, in turn, be reflected subsequently in individual performance reviews or in directions to individual staff members for changes in performance in the next year.

Second, performance reviews for members are scheduled.

Reviews are scheduled throughout the year with about 1/12 of the staff being reviewed during any given month. The review process begins with a member reviewing their own performance during the year. This is usually done using the performance review form established for each type of staff. Supervisors then meet with each member to review the member's performance. Usually, two supervisors do separate reviews. The supervisors evaluate each person and give the evaluations to the appropriate director. The director reviews the evaluations and recommendations and may conduct additional interviews. The director then prepares recommendations on an individual member's pay adjustment. The amount of a member's increase is determined based on the results of the individual evaluations and the amount of money available in the pool. The size of adjustments varies between 0 percent (for inadequate performance) and 10 percent (for exceptionally superior performance). Normal adjustments, for those being considered for adjustment, would be in the area of 3 to 5 percent. (The amount for normal adjustment may vary each year depending on the size of the pool and the number of people eligible for adjustments.)

Third, members are notified, in writing, of the proposed adjustment in pay. Those that ask for an additional review can again meet with the director to discuss the adjustment if it is believed to be unfair.

Fourth, adjustments go into effect on the first pay period beginning in the month following the performance review.

Subd. 7. [ADJUSTMENTS IN PAY DUE TO INCREASED COST-OF-LIVING.] The responsibility levels and a member's salary are set on the basis of the current value of the member's skill to the Legislature. As long as the value of the skill does not decrease over time, neither would the value of the member's compensation. If a member's skill and value do decrease, then that issue will be addressed directly by the appropriate director and the member corrected or, if necessary, employment ended.

The staff management committee will determine the cost-of-living adjustment each year. The amount will be set considering the amount of similar adjustments allowed for other state employees. Cost-of-living increases are usually a percentage adjustment. Once the formula is determined, however, cost-of-living increases apply uniformly to members. The formula for adjusting an individual's salary would also be applied to the responsibility levels for a position. The fixing of cost-of-living increases usually occurs on July 1 of each year. The amount of any

cost-of-living increases is stated separately from adjustments based on increased skill.

Subd. 8. [ADJUSTMENTS IN PAY DUE TO EQUITY.] If it appears that a member's salary or the responsibility level for any position is not consistent with the compensation of similar positions outside the service, and particularly when found not to be consistent when compared to other state government positions, then the appropriate director will propose appropriate adjustments in the rate of pay or pay range. Any adjustment in a member's pay must be reviewed by the directors committee and approved by the staff management committee before becoming effective.

Subd. 9. [PAYCHECK CALCULATIONS FOR FULL-TIME SALARIED STAFF.] Members, except members who work less than full-time, are paid a salary. Paychecks are calculated by dividing the yearly salary into the 26 yearly pay periods. For example, a \$12,000 yearly salary is divided by 26 resulting in gross pay for a period of \$461.50. Any fractional cents in the calculation are rounded in the member's favor. The pay period is biweekly. Members receive checks every other Friday on the schedule of most state employees. If those dates fall on a holiday, then checks are issued on the prior work day.

Subd. 10. [PAYCHECK CALCULATIONS FOR PART-TIME SALARIED STAFF.] If a salaried member works part time or takes leave without pay, the pay calculations work the same as for full-time staff. First, the salary per pay period is determined by dividing the yearly salary by the 26 pay periods. Second, the number of days worked and the number of days it was possible to work are determined. If full days were not worked, then the number of hours worked and the number of hours it was possible to work are determined. Third, the amount of time worked is converted to a percentage of the time it was possible to work. Fourth, the percentage is then applied to the usual pay period salary. Example: A yearly salary of \$12,000 is a biweekly salary of \$461.50 (\$12,000 divided by 26 equals \$461.50). If eight of ten possible days are worked (for the purpose of this example) the percentage of the pay period is 80 percent (8 divided by 10 equals .80). Applying that percentage to the regular salary results in gross pay of \$400 (\$500 times .80 equals \$400).

Subd. 11. [PAYCHECK CALCULATIONS FOR HOURLY MEMBERS.] Members working less than full time whose hours worked in a pay period are irregular are paid an hourly wage. Paychecks are issued at the same time as for other staff. Paychecks are calculated by multiplying the wage rate by the net hours worked. Net hours worked are calculated by adding

up the gross clock hours from starting to completing work and then subtracting the time taken for lunch or dinner breaks.

Subd. 12. [PAYCHECK CALCULATIONS FOR JOB-SHARING STAFF.] Those members who participate in an approved job-sharing arrangement are treated by the office as if they were one person holding a full-time job. The paycheck is split based on the proportion of full time that the person works. Example: two members split a job with one working mornings, the other working evenings, and alternating on overtime work. Each would get half of the full-time salary. If the two persons sharing a job have different experience levels, each receives half the pay that each would receive for the period if each were not job sharing. Benefits are split as provided in the sections under benefits.

Subd. 13. [WORK HOURS AND BREAKS.] The normal work day is 8:00 a.m. to 5:00 p.m. The office hours may vary extended by a director when either house of the legislature is in session.

A nonprofessional staff member is entitled to a one-hour lunch and two half-hour breaks. If, by about 5:00 p.m., it appears that staff will be kept after 8:30 p.m., then they will also be released at about 5:00 p.m. for a dinner hour. Lunch and dinner are deducted from clock time to calculate pay but break time is not deducted. However, the length of lunch and dinner may be cut by a director from an hour to a half hour and breaks from a half hour to a quarter hour when the workload demands it.

The result is time at work of about 2,134 hours and 1,614 hours of working time exclusive of overtime. Hours at work and working time are approximate because there could be a 261st working day if the calendar year results in the 365th calendar day being a work day (52 weeks times 7 days equals 364 days). There could also be a 262nd work day in a leap year if the extra day is a work day and not a weekend day. Shortened lunches and breaks and variations in the calendar year are ignored in calculating pay since members are paid a yearly salary, not an hourly wage. Normal time at work a week is 40 or 42-1/2 hours, and normal working time is 30 or 32-1/2 hours exclusive of overtime.

Professional members do not have a lunch or breaks of a set duration, but they should take no more time for lunch and breaks than is allowed for nonprofessional staff. Also, while professional members must be in the office during regular office hours, since extensive overtime is required they cannot restrict work to those hours. They are expected

to complete work by deadline and to devote the time required to do so. This will often require shortening or omitting lunch or breaks as well as frequent late or weekend work.

Members must take lunch and breaks according to a set schedule by a supervisor to ensure that the area is always staffed. If lunch or breaks cannot be taken at the set time, then the member could arrange a swap of time with an equivalent staff member. If this cannot be done, then the member must consult the appropriate supervisor about taking lunch or break at another time. Although undesirable, the workload may occasionally require that lunch time or a break be omitted.

Subd. 14. [OVERTIME WORK REQUIRED.] Significant mandatory overtime will be required during legislative sessions to complete the usual work of the service.

The legislative staff service will attempt to hold mandatory overtime for nonprofessional staff members, calculated on a daily basis, to no more than 40 hours a fiscal year. This is done by directors closely monitoring members working hours to determine whether late work is really necessary and, when possible, by assigning nonprofessional staff to shifts and teams.

Professional staff members will have to work up to 200 hours of mandatory overtime a fiscal year, calculated on a daily basis, to complete work. For the most part, a professional staff member works overtime only when the member's judgment indicates that overtime is required.

Subd. 15. [OVERTIME PAY; COMPENSATORY TIME OFF; PREMIUM PAY; FLEXIBLE WORKING HOURS.] Members in positions in responsibility level 6 and below, after accumulating 40 hours of overtime, will be paid for later overtime at the rate of time and a half for time worked in excess of eight hours a day or 40 hours a week. Members in positions in responsibility level 7 and above will be allowed compensatory time off at the rate of time and a half for time worked in excess of 16 hours a day, 60 hours in a week, or 200 hours in a fiscal year. Compensatory time off may only be taken after the regular session is adjourned. Half of any compensatory time off must be taken within 30 days after the session adjourns or the compensatory time off is lost. Any members assigned to a shift beginning after 6:00 p.m. on any day are paid a premium rate of ten percent above the regular rate for the time. Flexible working hours and four and 40 plans are allowed when the legislature is not in session if the appropriate area director determines that use of the plan will not materially interfere with operation of the area.

Subd. 16. [TIME RECORDS.] Members of the legislative staff service must turn in timesheets each week. If a timesheet is not turned in, the member failing to do so will not be issued a paycheck. Timesheets are verified against supervisors' timesheets. The timesheets must show arrival and departure times from the office and any time charged to vacation or sick leave. Except for members working part-time, the totals of work, vacation, and sick leave must total the normal 40 hour work week.

In preparing the timesheets, the following rules must be observed:

First, members may not reduce the number of hours they are charged for vacation by subtracting break time and lunch hours from vacation hours taken. This means that a member who takes a half day off will have the "lunch hour" charged as an hour of vacation unless the member returns to the office after lunch hour. No one may have an uncharged hour of "vacation" by leaving the office at the beginning of the lunch hour. A member may not take a full day off work and then deduct the lunch and break time from the time of a full work day to have only six hours charged to vacation leave.

Second, visits to a doctor or dentist are charged to sick leave. The amount of time charged is the time of departure from the office until the time of return (with regular starting time and ending time being the outside limits).

If a doctor appointment is scheduled on the lunch hour, then sick leave is not charged for the lunch hour. This does not mean that doctor appointments must be scheduled during lunch hours but if they are, the part of time that is lunch hour is not charged to sick leave. If a doctor appointment is scheduled over a break, sick leave is charged for the entire time (i.e. the break is lost). Sick leave cannot be charged for a lunch hour when vacation time is taken immediately after lunch hour.

Third, no member of the legislative staff service may take a lunch hour, return to work, and then eat lunch at the member's desk.

Fourth, breaks and lunch hours must be taken when scheduled. They cannot be accumulated for the purpose of a long lunch hour or to leave work early.

ARTICLE 4 BENEFITS PLAN

Section 1. [INTERIM BENEFITS PLAN.]

The benefits plan adopted by section 2 is adopted here for administrative convenience only. It is effective until a permanent plan is adopted by the legislative staff management subcommittee. Adoption of this benefit plan does not change the right of the legislative staff management committee to adopt, amend, or abolish this plan under article 1 without amending the plan, set out here, in a bill.

Sec. 2. The benefits plan adopted by the legislative coordinating commission is amended to read:

APPLICABILITY

The Legislative Benefits Plan for Employee-Benefits members of the legislative staff service (Plan) governs unclassified-employees-in-the-following offices: members of the legislative staff service.

Advisory-Committee-on-Low-Level-Radioactive-Waste

Great-Lakes-Commission

Interstate-Cooperative-Commission

Legislative-Audit-Commission

Legislative-Commission-on-Economic-Development-Strategy

Legislative-Commission-on-Economic-Status-of-Women

Legislative-Commission-on-Employee-Relations

Legislative-Commission-on-Energy

Legislative-Commission-on-Long-Term-Health-Care

Legislative-Commission-on-Minnesota-Resources

Legislative-Commission-on-Pensions-and-Retirement

Legislative-Commission-on-Public-Education

Legislative-Commission-to-Review-Administrative-Rules

Legislative-Commission-on-Waste-Management

Legislative-Coordinating-Commission

Legislative-Reference-Library

Mississippi-River-Parkway-Commission

Office-of-Revisor-of-Statutes

The-Plan-governs-the-employees-of-any-legislative committee-or-commission-created-after-its-adoption.

Provisions-of-the-Plan-relating-to-sick-leave, annual leave, severance pay and insurance benefits also apply to unclassified employees of the Senate and House of Representatives. The remainder of the Plan also applies to employees of the Senate and House of Representatives upon approval of their respective Rules Committees.

Provisions of the Plan relating to insurance benefits apply to members of the legislature.

APPOINTING AUTHORITY - DEFINITION

For purposes of this Plan, appointing authority means the House-of-Representatives-Rules-and-Legislative Administration-Committee-for-employees-of-the-House-of Representatives, the Senate-Rules-and-Administration Committee-for-employees-of-the-Senate-and-the-Legislative Coordinating-Commission-for-the-unclassified-employees-of joint-commissions-and-offices director of a functional or client area and the legislator appointing a member of the personal division of the legislative staff service. The appointing authority may delegate certain authorities and responsibilities of this Plan to appropriate staff.

EFFECTIVE DATE; DURATION

Except as otherwise specifically provided, upon adoption this Plan is effective retroactively to July 1, 1985 1989. It remains in effect until amended or repealed by the Legislative-Coordinating-Commission staff management committee or until superseded by law.

WORKING-HOURS-AND-COMPENSATION

All-Employees-covered-under-APPLICABILITY-serve-at-the pleasure-of-their-employer-in-the-state-unclassified-service. The term-"Permanent-Employee"-refers-to-eligibility-for benefits-and-does-not-constitute-a-promise-of-permanent employment.

The-working-hours-of-employees-shall-be-set-by-the appointing-authority-as-necessary-to-accomplish-all-assigned work. Appointing-authorities-schedule-employee's-work-days, established-shifts, and-use-other-devices-to-complete-work. All-employees-are-paid-a-salary-to-accomplish-all-available work-and-not-for-a-set-number-of-working-hours-each-day, week, month, or year. Working-hours-in-excess-of-a-40-hour

week-are-to-be-expected.--No-additional-compensation-or compensatory-time-off-is-allowed-regardless-of-the-extent-of time-worked-except-as-required-by-the-Federal-Labor Standards-Act-Amendments-of-1985-for-employees-of-the Legislative-Reference-Bibrary.

Employees-who-hold-appointed-or-elected-public positions-outside-the-legislature-are-nevertheless-expected to-accomplish-all-assigned-work-and-may-not-receive compensation-from-any-political-subdivision-of-the-state-or any-administrative-board, commission, council, committee, or task-force-if-their-activities-occur-during-normal-working hours-for-which-they-are-also-compensated-by-the legislature.--Such-employees-may-receive-expense reimbursement-the-same-as-other-state-employees.

Permanent-employees-may-be-hired-to-work-for-nine months-and-have-their-compensation-prorated-and-paid-over-12 months.

FLEXIBLE BENEFITS

This Plan promotes, in many areas, four different plans of benefits. Where alternatives are offered, the alternatives are labeled "Plan A," "Plan B," "Plan C," and "Plan D." A member of the legislative staff service may elect to participate in any of the four plans. However, it is presumed that a member elects Plan A until electing another plan. A member may not elect Plan B if the member is:

- (1) over 35 years of age;
- (2) a member of the legislative staff service for ten or more years; or
- (3) has dependents who are not covered by another plan of medical insurance.

An election of a plan elects the plan in all areas where alternatives are provided. No member may split an election between different plans in different areas where alternatives are provided.

HOLIDAYS

Observed Holidays. The following days are observed as paid holidays for all eligible-employees-assigned-to-a Monday-through-Friday-five-day-operation members:

Fiscal-Year-1986
Thursday, July 4, 1985

Fiscal-Year-1987
Friday, July 4, 1986

Monday, September-2, -1985
Monday, November-11, -1985
Thursday, November-28, -1985
Friday, November-29, -1985
Wednesday, December-25, -1985
Wednesday, January-1, -1986
Monday, January-20, -1986
Monday, May-26, -1986

Monday, September-1, -1986
Tuesday, November-11, -1986
Thursday, November-27, -1986
Friday, November-28, -1986
Thursday, December-25, -1986
Thursday, January-1, -1987
Monday, January-19, -1987
Monday, May-25, -1987

Friday, July-3, -1987, and Monday, September-7, -1987,
are paid holidays.

Independence Day
Labor Day
Thanksgiving Day and the day after
Veterans' Day (Armistice Day)
Christmas Day
New Year's Day
Memorial Day

If a holiday occurs on a Saturday, then Friday will be observed as the holiday. If a holiday occurs on a Sunday, then Monday will be observed as a holiday.

Floating-Holidays---Permanent-employees-shall-also receive-two-floating-holidays-each-calendar-year---The accrual-shall-be-prorated-to-one-each-six-month-period beginning-January-1-and-July-1---Floating-holidays-may-be accumulated-provided-that-on-December-31-of-each-year-both floating-holidays-are-used---The-appointing-authority-may limit-the-number-of-employees-who-may-be-absent-on-any-given day-because-of-operational-needs-

Holiday Pay Entitlement. Intermittent, session, or temporary-employees Members shall receive a paid holiday if they work the normally scheduled work days before and after the holiday or if they work on a holiday. An-employee-who normally-works-less-than-full-time A member classified as part-time is paid for a holiday in the proportion that the time normally worked bears to full time. If an-employee a member is required to work on an observed holiday, the employee member receives an additional floating holiday.

Religious Holidays. When a religious holiday, not observed as a holiday as provided above, falls falls on an employee's a member's regularly scheduled work day, the employee member may take that day off to observe the religious holiday. An-employee A member who chooses to observe a religious holiday must notify the employee's member's supervisor prior to the religious holiday.

Time off to observe religious holidays is without pay

except where the employee member has sufficient accumulated vacation leave, floating holiday, or by mutual consent, is able to make up the time.

VACATION LEAVE

Eligibility and Allowances. All permanent-employees members shall accrue vacation time according to the following rates:

Plan A			
<u>Length of Service</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
0 through 5 years	4 hours	4-1/3 hours	8-2/3 hours
After 5 through 8	5 hours	5.4 hours	10.8 hours
After 8 through 12	7 hours	7.6 hours	15.2 hours
After 12 through 20	7-1/2 hours	8.1 hours	16.2 hours
After 20 through 25	8 hours	8-2/3 hours	17-1/3 hours
After 25 through 30	8-1/2 hours	9.2 hours	18.4 hours
After 30 years	9 hours	8-3/4 hours	19.5 hours

Plan B			
<u>Length of Service</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
0 through 12 years	7-1/2 hours	8.1 hours	16.2 hours
After 12 years	9 hours	8.75 hours	19.5 hours

Plans C and D			
<u>Length of Service</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
0 through 5 years	2 hours	2-1/6 hours	4-1/3 hours
After 5 through 8	2-1/2 hours	2.7 hours	5.4 hours
After 8 through 12	3-1/2 hours	3.7 hours	7.6 hours
After 12 through 2	3-3/4 hours	4.05 hours	8.1 hours
After 20 years	4 hours	4-1/3 hours	8.66 hours

Eligible employees members working on a percentage basis shall have the same percentage of their vacation accrual rates or have their vacation accruals prorated. ~~(See-Appendix-A-or-B)~~ For purposes of determining changes in an employee's member's accrual rate, length of service does not include periods of suspension or unpaid nonmedical leaves of absence that are more than one full payroll period in duration.

Periods of continuous employment by members classified as temporary, session, or intermittent service prior to changing to permanent status is counted in determining accrual rate.

Changes in accrual rates are effective at the beginning of the next payroll period following completion of the specified length of service requirement.

An-eligible-employee A person who is reinstated or reappointed to the legislative staff service within four years of the date of resignation in good standing or

retirement accrues vacation leave at the same rate with the same credit for length of service that existed at the time of separation.

Employees Persons who were formerly in the classified or unclassified service of the state who are subsequently appointed to a position in the classified legislative staff service, or vice-versa, without an interruption in service have their accumulated but unused vacation leave balance posted to their credit in the records of the employing department appointing authority, provided such vacation leave was accrued in accordance with the personnel rules or the provisions of this or any preceding agreement.

Vacation leave may be accumulated to any amount provided that on December 31 of each year any accumulation in excess of 240 hours will be canceled. No employee member may be paid for or transfer to another state agency more than 240 hours.

Employees Members on a paid military leave accrue vacation leave as though actually employed without maximum accumulation. Vacation earned in excess of the maximum accumulation must be taken within two years of the date the employee member returns from military leave.

Upon request, employees members on sick leave may use vacation leave instead of sick leave provided they meet the criteria of sick leave use and would exceed the vacation leave maximum. (See also p. 127-paragraph-3)

Each agency appointing authority must keep a current record of each employee's member's vacation accruals which must be made available to the employee member upon request.

Vacation Period. Every reasonable effort consistent with scheduling of the work unit, must be made by the supervisor to schedule employee vacations at a time agreeable to the employee member.

Employees Members must submit requests for vacation to their supervisor in advance of the requested date of the start of the vacation. Conflicts involving vacation scheduling shall be resolved by the supervisor.

Vacation Charges. Employees Members who use vacation are charged only for the number of hours they would have been scheduled to work, not in excess of eight hours, during the period of absence. However, vacation leave may not be granted in increments of less than one-half hour except to permit use of lesser fractions that have been accrued. Holidays occurring during vacation periods are paid as a

holiday and not charged as a vacation day. Employee Member vacation accruals earned while on paid leave may be used by the employee member with the approval of the supervisor without returning to work prior to the use of accrued leave.

Should an-employee a member be entitled to use sick leave while on vacation, vacation leave is changed to sick leave, effective the date of the illness or disability, upon notice to the employee's member's supervisor. Upon the notice, employees members may be requested by the supervisor to furnish a medical statement from a medical practitioner.

Vacation Rights. Any-employee A member transferring to the service of another appointing authority within the legislative branch staff service without an interruption in service shall have accumulated vacation leave transferred, and the leave may not be liquidated by cash payment. The terms and conditions of employment for an-employee a member transferring to another appointing authority outside of the legislative branch are subject to applicable law, collective bargaining agreements, plans, or rules of the receiving appointing authority. Any-employee A member separated from state service is compensated in cash, at the employee's member's then current rate of pay, for all vacation leave accrued to the time of separation but not in excess of 240 hours. Employees Members are allowed to leave accumulated vacation to their credit during the period of a seasonal or temporary layoff.

Eligible employees members paid for less than a normal pay period shall have their vacation accruals prorated.

SICK LEAVE

Sick Leave Accrual. All permanent-employees members shall accrue sick leave ~~at-the-rate-of-8-2/3-hours-per-month (4-hours-per-26-pay-periods, 4-1/3-hours-per-24-pay-periods) during continuous employment beginning with their date of hire until 900 hours is accrued and maintained. --Employees shall then accrue sick leave at the rate of 4-1/3-hours-per month (2-hours-per-26-pay-periods, 2-1/7-hours-per-24-pay periods);~~ according to the following rates:

Plan A			
<u>Accumulated Leave</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
0 to 900 hours	4 hours	4-1/3 hours	8-2/3 hours
901 or more	2 hours	2.17 hours	4.33 hours
Plan B			
<u>Accumulated Leave</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
0 to 900 hours	2 hours	2-1/6 hours	4-1/3 hours
901 or more	1 hours	1-1/12 hours	2-1/6 hours
Plan C			

<u>Accumulated Leave</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
<u>0 to 900 hours</u>	<u>6 hours</u>	<u>6.5 hours</u>	<u>13 hours</u>
<u>901 or more</u>	<u>3 hours</u>	<u>3.25 hours</u>	<u>6.5 hours</u>

Plan D

<u>Accumulated Leave</u>	<u>26 Pay Periods</u>	<u>24 Pay Periods</u>	<u>Monthly</u>
<u>0 to 900 hours</u>	<u>6 hours</u>	<u>6.5 hours</u>	<u>13 hours</u>
<u>901 or more</u>	<u>3 hours</u>	<u>3.25 hours</u>	<u>6.5 hours</u>

~~Upon initial employment, a permanent employee is credited with 80 hours (10 days) of sick leave. The credit shall be reduced proportionately as sick leave is accumulated.~~ In the first calendar year of employment, a member may accumulate a negative sick leave balance to the extent of pay accrued for time worked but not yet paid. A check for the time worked and any sick leave may not be issued until the member returns to work. Upon termination of employment with a negative sick leave balance, the value of the negative balance shall be deducted from any pay due.

Eligible employees members working on a percentage basis shall have the same percentage of their sick leave accrual rates or have sick leave accruals prorated. (See Appendix C or D)

~~An eligible employee~~ A person reinstated or reappointed to the legislative staff service within four years of the date of resignation in good standing or retirement has accumulated but unused sick leave positive balance restored to the employee's member's credit provided the sick leave was accrued under executive branch personnel rules or the provisions of this Plan as appropriate. An employee A member who has received severance pay shall have his or her remaining sick leave balance restored.

~~Employees~~ Persons who were formerly in the classified or unclassified service of the state who are subsequently appointed to a position in the classified legislative staff service, or vice versa, without an interruption in service have their accumulated but unused sick leave balance posted to their credit in the records of the appointing authority provided that sick leave was accrued under the executive branch personnel rules or the provisions of this Plan.

Each agency appointing authority shall keep a current record of each employee's member's sick leave accruals which must be made available to the employee member upon request.

Sick Leave Use. An employee A member must be granted sick leave with pay to the extent of the employee's member's accumulation for absences: 1) by necessity for illness, or disability; 2) by necessity for medical, chiropractic, or dental care for the employee; 3) by exposure to contagious

disease which endangers the health of other employees members, clients, or the public; 4) by illness of a spouse, minor or dependent children, regular member of the immediate household, or parent for a reasonable period as the employee's member's attendance is necessary; 5) A pregnant employee member must also be granted sick leave during the period of time that her medical practitioner advises that she is unable to work because of pregnancy. An employee A member who has given birth may use sick leave for a period of convalescence as advised by her medical practitioner; 6) Sick leave to arrange for necessary nursing care for members of the family, or the birth or adoption of a child must be limited to not more than three days; or 7) A reasonable period of sick leave must be granted because of death of the spouse or parents or grandparents of the spouse, or the parents, grandparents, guardian, children, grandchildren, brothers, sisters, wards, or stepchildren of the employee, or a regular member of the immediate household.

Sick leave is first deducted from the 900 hours accumulation. Employees Members having used sick leave and who fall below the 900 hours accumulation again accrue sick leave at 8-2/3-hours-per-month-(4-hours-per-26-pay-periods, 4-1/3-hours-per-24-pay-periods) the rate of accrual for under 900 hours accumulation until their accumulation again reaches 900 hours. Use of the more than 900 hour bank is subject to the provisions of this Plan.

Sick leave hours may not be used during the payroll period in which they are accrued.

Upon the request of the supervisor, employees members using sick leave may be required to furnish a statement from a medical practitioner when the supervisor has reasonable cause to believe that an-employee a member has abused or is abusing sick leave.

The supervisor may also request a statement from a medical practitioner if the supervisor has reason to believe the employee member is not physically fit to return to work or has been exposed to a contagious disease which endangers the health of other employees members, clients or the public.

Upon approval of the supervisor, employee member sick leave accruals earned while on paid leave may be used by the employee member without returning to work prior to the use of that accrued sick leave.

An-employee A member on sick leave who uses all of his or her sick leave accumulation and who still meets the criteria for sick leave use, shall have the right to use

vacation leave to the extent of the employee's member's vacation accumulation. (See-also-p-87-paragraph-4)

Requests. Employees Members should submit requests for sick leave in advance of the period of absence. When advance notice is not possible, employees members must notify their supervisor by telephone or other means at the earliest opportunity.

Sick Leave Charges. An-employee A member using sick leave is charged only for the number of hours the employee member was scheduled to work, not in excess of eight hours, during the period of sick leave. However, sick leave may not be granted for periods of less than one-half hour except to permit use of lesser fractions that have been accrued. Holidays occurring during sick leave periods are paid as a holiday and not charged as a sick leave day.

Any-employee A member incurring an on-the-job injury is paid the employee's member's regular rate of pay for the remainder of the day. Any necessary sick leave charges for employees members so injured commence on the first scheduled work day following the injury.

When an-employee a member receiving workers' compensation benefits decides to use sick leave or vacation to supplement his or her workers' compensation benefits, the following procedure applies: The employee member must notify the appointing authority that he or she wishes to supplement his or her workers' compensation benefits through use of sick leave or vacation leave. Sick leave must be exhausted before the vacation leave can be used. The appointing authority must obtain from the Workers' Compensation Division a statement of the amount of the benefit check and then authorize a payroll check in the amount of the difference between the benefit check and the employee's regular gross pay for the employee's member's normal pay period. The employee's member's sick leave or vacation leave balance must be reduced by the amount of the payroll check divided by the employee's member's hourly rate of pay at the time the payroll check is issued.

An-employee A member who uses sick leave or vacation leave while awaiting the workers' compensation determination, must return to the appointing authority that part of the workers' compensation check that covers that waiting period. The appointing authority must credit back to the employee's member's sick leave or vacation leave the number of hours equal to the amount of the workers' compensation check divided by the employee's member's hourly rate.

Transfer to Another Appointing Authority. An-employee A member who transfers or is transferred to another appointing authority within the legislative branch staff service without an interruption in service shall carry forward the accrued and unused positive sick leave balance. The terms and conditions of employment for an-employee a member transferring to another appointing authority outside of the legislative branch are subject to applicable laws, collective bargaining agreements, plans, or rules of the receiving appointing authority.

Work Related Disability and Employment. The appointing authority will attempt to place employees members who have incurred a work related disability in areas of work which would fit the employee's member's physical capabilities but will not create a job just to provide employment.

SEVERANCE PAY

All employees members, regardless of length of service, may receive severance pay equal-to-40-percent-of-the employee's-accumulated-but-unused-sick-leave-balance-(which balance-shall-not-exceed-900-hours) upon retirement at or after age 65, retirement before age 65 but who are immediately entitled at the time of retirement to receive an annuity under a state retirement program (notwithstanding an election to defer payment of the annuity), death, or involuntary termination. The amount of severance pay shall be calculated as follows:

Plan A

Forty percent of the member's accumulated but unused sick leave balance of up to 900 hours plus 25 percent of the member's sick leave bank in excess of 900 hours.

Plan B

No severance pay is permitted.

Plan C

Forty percent of the member's accumulated but unused sick leave balance of up to 900 hours plus 25 percent of the member's sick leave bank in excess of 900 hours.

Plan D

Fifty percent of the member's accumulated but unused sick leave balance of up to 900 hours plus 50 percent of the member's sick leave bank in excess of 900 hours.

~~Employees who have accrued ten years or more of state service shall;~~ Upon voluntary termination, members receive prorated severance pay, beginning with 20 percent of accumulated but unused sick leave balance (which balance shall not exceed 900 hours) and increasing at a prorated basis of two percent for each year of service in addition to ten years, to a maximum of 40 percent. as follows:

Plan A

Members shall receive two percent of the accumulated but unused sick leave balance of up to 900 hours to a maximum of 40 percent. In addition, the member receives 25 percent of the sick leave bank in excess of 900 hours.

Plan B

No severance pay is permitted.

Plan C

No severance pay is permitted.

Plan D

Fifty percent of the member's accumulated but unused sick leave balance of up to 900 hours plus 50 percent of the member's sick leave bank in excess of 900 hours.

Regardless of the plan selected, if necessary, accumulated but unused sick leave bank hours shall be added to the sick leave balance to attain the 900 hours maximum. In addition, the employee receives 25 percent of the employee's accumulated but unused sick leave bank. In addition, severance pay is figured at the employee's member's regular rate of pay at the time of separation.

Should any employee member who has received severance pay be subsequently reappointed to state the legislative staff service, eligibility for future severance pay is computed upon the difference between the amount of accumulated but unused sick leave restored to the employee's member's credit at the time the employee member was reappointed and the amount of accumulated but unused sick leave at the time of the employee's member's subsequent eligibility for severance pay.

Severance pay is excluded from retirement deductions and from any calculations in retirement benefits.

LEAVES OF ABSENCE

Application for Leave. All requests for a leave of absence will be approved or denied by the appointing authority. Requests for leave shall be submitted to the employee's member's immediate supervisor as soon as the need for the leave is known. The request must state the reason for requesting leave and the anticipated duration of the leave of absence.

Authorization for Leave. All requests for a leave of absence must be answered promptly. A leave of absence request may not be unreasonably denied. An employee A member may not be required to exhaust vacation leave accruals prior to a leave of absence. Authorization or denial of a leave of absence by the appointing authority must be furnished to the employee member by the supervisor.

When an unpaid leave of absence has been approved for an employee a member, the appointing authority shall advise the employee member in writing of the steps the employee member must take to continue insurance coverages.

Paid leaves of absence granted under this Plan may not exceed the employee's member's work schedule.

Paid Leaves of Absence. An appointing authority must grant an advance request for a paid leave of absence for the following reasons:

A. *Court Appearance Leave:* Leave, including travel time, for

appearance before a court or other judicial or quasi-judicial body for job-related purposes.

B. *Education Leave:* Leave for educational

purposes if the education is required by the appointing authority.

C. *Jury Duty Leave:* Leave for service upon a

jury. When not impaneled for actual service, and only on call, the employee member shall report to work.

D. *Military Leave:* Up to 15 working days leave each

calendar year to an employee a member who is a member of a reserve force of the United States or of the State of Minnesota who is ordered by the appropriate authorities to attend a training program or perform any other duties under the supervision of the United States or of the State of Minnesota.

E. *Voting Time Leave*: Leave for the time actually necessary to

vote prior to noon of election day.

F. *Emergency Leave*: An appointing authority may excuse

employees members from duty with full pay in the event of a natural or man made emergency, if continued presence would involve a threat to the employee's member's health or safety. A "natural emergency" includes severe weather conditions that, in the appointing authority's opinion, make traveling hazardous. Employees Members who must work despite the emergency must be allowed to take leave on another day agreed to by the employee member and the appointing authority.

G. Paid leaves of absence granted under this Plan shall not exceed the employee's member's normal work schedule.

Unpaid Leaves of Absence. The appointing authority may grant an advance request for an unpaid leave of absence for the following reasons:

A. *Unclassified Service Leave*: Leave to any legislative employee member to accept another a position in the unclassified service of the state and service.

B. *Educational Leave*: Leave for educational purposes not covered by provisions of this Plan governing paid leaves of absence.

C. *Personal Leave*: Leave for personal reasons.

D. *Leave for Related Work*: Leave not to exceed one year to accept a position of fixed duration outside of the legislative staff service that is related to the employee's member's current work.

E. *Political Convention Leave*: Leave for the purpose of attending a political convention.

F. *Precinct Caucus Leave*: Leave for the purpose of attending a precinct caucus.

The appointing authority must grant unpaid leaves of absence for the following reasons:

A. *Disability Leave:* Leaves up to one year to any

permanent-employee member who, as a result of an extended illness or injury, has exhausted the employee's member's accumulation of sick leave balance and bank. (Upon the request of the employee member, the leave may be extended.)

B. *Maternity/Paternity or Adoption Leave:* Leave up

to six months to a natural parent or an adoptive parent who requests leave in conjunction with the birth or adoption of a child. Leave may be extended up to one year by mutual consent between the employee member and the appointing authority. (Maternity leave may be requested by an-employee a member rather than sick leave or vacation leave. Maternity leave may be requested after using some or all of an-employee's a member's accumulated sick or vacation leave.)

C. *Military Leave:* Leave to an-employee a member who enters

into active military service in the armed forces of the United States for the period of military service, not to exceed four years.

D. *VISTA or Peace Corps Leave:* Leave for VISTA or Peace

Corps service for a period not to exceed four years.

~~E. --Precinct-Caucus-Leave:--leave-for-the-purpose-of attending-a-precinct-caucus.~~

Reinstatement after Leave. Subject to a contrary term under which a leave was granted, and subject to a reorganization by the appointing authority an-employee a member returning from an approved leave of absence shall be entitled to return to employment in the employee's member's former position or a position of comparable duties and pay. Employees Members returning from leaves of absence in excess of one month must notify their appointing authority at least two weeks prior to their return from leave. Employees Members returning from an unpaid leave of absence return at the same rate of pay the employee member had been receiving at the time the leave of absence commenced plus any automatic adjustments that would have been made had the employee member been continuously employed during the

period of absence.

INSURANCE

Group Insurance. The employer-agrees-to-offer legislative staff service offers during the life of this Plan: Group Life, Health, Surgical, Medical, and Hospital benefits; and Dental benefits equivalent to those in the existing contracts of insurance and the certificates issued thereunder subject to the modifications contained in this Plan. However, benefits under any particular Health Maintenance Organization are subject to change during the life of this Plan upon action of that Health Maintenance Organization's Board of Directors and approval of the employer.

Eligible Employees Members. All permanent employees members covered by this Plan who: (1) are scheduled to work at least 40 hours weekly for a period of nine months or more in any 12 consecutive months; or (2) are scheduled to work at least 30 hours weekly for a 12 consecutive-month period, or (3) other similar arrangements shall be eligible to receive the benefits provided under this Plan. During the period of employment, for employees members scheduled to work at least 50 percent but less than 75 percent of the calendar year the employer service will pay, at the employee's member's option, one-half the state contribution otherwise toward the premium for the hospital, medical, and dental coverages provided by this Plan. Employees Members on an approved leave of absence may enroll in such coverages at their own expense for a period of one year. Nonpermanent employees members may enroll in the hospital and medical coverages provided by this Plan at their own expense.

Enrollment must be at the time of initial employment or during a period of open enrollment. Life insurance for employees members and dependents shall be available on the same terms as for comparable full-time employees members.

Benefits shall become effective on the first day of the first payroll period beginning on or after the 28th calendar day following the first day of employment, reemployment, rehire, or reinstatement with the legislature legislative staff service.

An-employee A member must be actively at work on the effective date of coverage except that an-employee a member who is on paid leave on the date State paid life insurance benefits increase shall also be entitled to the increased life insurance coverage.

Dependents who are hospitalized on the effective date of coverage will not be insured until such dependents are released from the hospital. This also applies to any optional coverages. In no event shall the dependents' coverage become effective before the employee's member's coverage.

Benefits provided under this plan shall continue as long as an-employee a member meets these eligibility requirements.

Employer Contribution for Health Insurance. For the period July 1, ~~1985~~ 1989, until the new rates go into effect, the employer service shall contribute toward the cost of the employee member and dependent health and dental coverage an amount equal to the employer's contribution in effect on June 30, ~~1985~~ 1989.

A. Employee Member Coverage. Effective October 1, ~~1985~~

1989, the employer service shall contribute toward the cost of employee member health coverage ~~an-amount-equal~~ to-the-total-monthly for employee-only premium of the carrier with the lowest cost family premium operating in the county of the employee's member's permanent work location and under contract to serve the state employee member group plan as follows:

Plan A:	<u>100%</u>
Plan B:	<u>90%</u>
Plan C:	<u>100%</u>
Plan D:	<u>100%</u>

B. Dependent Coverage. Effective October 1, ~~1985~~ 1989,

the employer service shall contribute toward the cost of dependent health coverage ~~an-amount-equal-to-90~~ percent-of for the total monthly dependent-only premium of the carrier with the lowest cost family premium operating in the county of the employee's member's permanent work location and under contract to serve the state employee member group plan as follows:

Plan A:	<u>90%</u>
Plan B:	<u>0%</u>
Plan C:	<u>0% toward coverage of spouse;</u> <u>100% for coverage of other</u>
Plan D:	<u>90% toward coverage of spouse;</u> <u>0% toward coverage of other dependents</u>

Rates-are-shown-in-Appendix-E.

Coverage Options. Eligible employees members may select coverage under any one of the Health Maintenance Organizations, fee-for-service health plan, Preferred Provider Organization, or any other plan, offered by the Employer service. Effective October 1, ~~1985~~ 1989, the fee-for-service plan shall pay as follows:

In-Patient Hospital Services:

After an annual deductible of \$100 per employee member or \$200 per family, 80 percent of the first \$3,000 of allowable charges, or \$600 out-of-pocket cost per individual, with a maximum of \$1,200 out-of-pocket cost per family, and 100 percent of the remainder occurring in the calendar year. Diagnostic lab and X-ray services are reimbursed at 100 percent with no deductible when provided as an in-patient hospital case.

Out-Patient Hospital, Surgery Center and Home Health Agency Services:

Hospital Out-Patient:

100 percent of all allowable charges except for:

- (1) Nonemergency visits. 80 percent of costs will be reimbursed.
- (2) Lab tests and X-rays for reasons other than medical emergency, injury, or preadmission tests. 80 percent of costs will be reimbursed.
- (3) Chemical dependency. Chemical dependency care will be reimbursed 100 percent up to 130 hours of treatment per calendar year.
- (4) Mental illness care. 80 percent of \$750 per calendar year of mental illness care will be reimbursed.

Ambulatory Surgery Centers:

100 percent of all allowable charges.

Home Health Agencies:

With prior authorization, 100 percent of home health care to a maximum of \$5,000 per calendar year will be reimbursed.

Health Services of Health Care Professionals:

- (1) AWARE Gold physician, chiropractor, podiatrist, or optometrist:
100 percent of all allowable charges. "Allowable

charges" include but are not limited to:
physical examinations

well-child care

doctor visits

professional surgery fees

eye examinations

pregnancy-related care

Diagnostic lab and X-ray services are reimbursed 100 percent with no deductible when provided by an AWARE Gold professional.

- (2) AWARE professionals: 80 percent of the first \$3,000 and 100 percent thereafter of usual and customary charges after a deductible of \$100. Diagnostic lab and X-ray services are reimbursed 80 percent after a \$100 deductible when provided by an AWARE professional.
- (3) Non-AWARE professionals: Same as for AWARE providers, except employee member is responsible for any charges in excess of usual and customary. Diagnostic lab and X-ray services are reimbursed 80 percent after a \$100 deductible when provided by a non-AWARE professional.

Other Covered Health Services:

Drugs - Covered 100 percent after a copayment of \$4.50 per prescription.

Supplies - Reimbursed 80 percent with no deductible.

Ambulance - Reimbursed 80 percent with no deductible.

Maximum lifetime benefits to \$1,000,000.

Workers' Compensation. When an-employee a member has incurred an on-the-job injury or disability and has filed a claim for Workers' Compensation, medical costs connected with the injury or disability shall be paid by the Health Maintenance Organization or the Health Insurance Carrier pursuant to the provisions of Minnesota Statutes 1982, section 176.191, subdivision 3.

Employer Contribution for Dental Insurance.

A. Employee Member Coverage. Effective October 1, 1985

1989, the employer service shall contribute an amount toward the lesser of the total employee member Delta Dental monthly premium or the premium of the dental carrier covering the employee member toward the cost for employee member dental coverage. The amount

contributed shall be:

Plan A: 100%
Plan B: 90%
Plan C: 100%
Plan D: 100%

B. *Dependent Coverage.* Effective October 1, 1985 1989, the

employer service shall contribute an amount toward the lesser of one-half the total dependent Delta Dental monthly premium or the premium of the carrier covering the dependent toward the cost of dependent dental coverage. The amount contributed shall be:

Plan A: 50%
Plan B: 0%
Plan C: 0% toward coverage of spouse;
100% for coverage of others
Plan D: 50% toward coverage of spouse;
0% toward coverage of others

Eligible employees members may select coverage under the fee-for-service dental plan offered by the employer or any other dental plan offered by the employer.

~~Rates-are-shown-in-Appendix-E.~~

Life Insurance. ~~The Employer-agrees-to service~~ will provide and may pay for the following term life insurance and accidental death and dismemberment coverage for all eligible employees members (double indemnity applies in the case of accidental death:

<u>Employee's Member's</u> <u>Annual Base Salary</u>	<u>Group Life</u> <u>Insurance Dismemberment-Principal Sum</u>	<u>Accidental Death and</u> <u>Insurance Dismemberment-Principal Sum</u>
0 - \$10,000	\$10,000	\$10,000
\$10,001 - \$15,000	\$15,000	\$15,000
\$15,001 - \$20,000	\$20,000	\$20,000
\$20,001 - \$25,000	\$25,000	\$25,000
\$25,001 - \$30,000	\$30,000	\$30,000
\$30,001 - \$35,000	\$35,000	\$35,000
\$35,001 - \$40,000	\$40,000	\$40,000
\$40,001 - \$45,000	\$45,000	\$45,000
\$45,001 - \$50,000	\$50,000	\$50,000

Plan A

The service will pay 100 percent of the cost of the amount of life insurance under the table.

Plan B

The service will pay 50 percent of the cost of the amount of life insurance under the table. Alternatively, the member may elect to receive one-half the amount of life insurance coverage and the service will pay 100 percent of the cost.

Plan C

The service will pay 50 percent of the cost of the amount of life insurance under the table. Alternatively, the member may elect to receive one-half the amount of life insurance coverage and the service will pay 100 percent of the cost.

Plan D

The service will pay 50 percent of the cost of the amount of life insurance under the table.

An-employee Regardless of the plan selected, a member who becomes totally disabled before age 70 shall be eligible for the extended benefit provisions of the life insurance policy until age 70. Current recipients of extended life insurance shall continue to receive such benefits under the terms of the policy in effect prior to July 1, 1983 1989.

Optional Insurance. The following optional insurance protection shall be available for purchase by eligible employees members:

- A. *Additional Life Insurance.* Up to \$200,000 additional insurance may be purchased by employees members, subject to satisfactory evidence of insurability, in increments established by the employer service. Dependent coverage of \$3,000 for each dependent and up to the principal sum carried by the employee member for the spouse shall also be available for purchase by the employee member.
- B. *Short Term Salary Continuance.* Provides benefits of \$140-\$1,100 per month, up to two-thirds of an employee's a member's salary, for up to 180 days during total disability due to a nonoccupational accident or illness. Benefits are paid from the first day of disabling accident and eighth day of a disabling sickness.
- C. *Long Term Salary Continuance.* Provides benefits of

\$200-\$1,000 per month, based on the employee's member's salary, commencing on the 181st day of total disability.

D. *Accidental Death and Dismemberment.* Provides principal sum benefits in amounts ranging from \$5,000 to \$100,000. Payment is made only for accidental bodily injury or death and may vary, depending upon the extent of dismemberment. \$5,000 to \$25,000 coverage may also be purchased for the spouse of the employee member, but not in excess of the amount carried by the employee member.

Group Premium for Early Retirement. Employees Members who retire from state service prior to age 65 and who are entitled at the time of retirement to receive an annuity under a state retirement program shall be eligible to continue to participate, at the employee's member's expense, in the group hospital, medical, and dental benefits as set forth in Minnesota Statutes, section 43A.27, subdivision 3 at the state group premium rates.

Insurance Coverage for Terminated Employees Members. All eligible employees members who have been terminated shall have the option to continue to participate in the group insurance program at their own expense at the group premium rate for a period of ~~12~~ 24 months from the date of termination or until reemployed and eligible for health care coverage, whichever is shorter.

Open Enrollment. There shall be an open enrollment period for the health and dental coverages available under this Plan ~~from August 26, 1985, through September 24, 1985, and, for health coverages only, for~~ a period lasting a minimum of 30 calendar days commencing on or before September 17, 1986, of each year for all employees members and legislators. Newly elected legislators shall have an initial enrollment period of 60 days starting with the date they take office. Newly appointed employees members shall have an initial enrollment period of 60 days starting with the effective date of their employment. Changes in coverage shall become effective at the beginning of the first payroll period following the close of the appropriate open enrollment period in each year.

For employees members retiring and entitled to receive an annuity under a state retirement program, there shall be an open enrollment period for a 30-calendar day period immediately preceding the date of retirement. Changes in coverages shall become effective at the beginning of the payroll period nearest to October 1 in each year or the first day of the first full payroll period following

the employee's member's retirement.

Death-Benefit--Employees who retire on or after July 17, 1985, shall be entitled to a \$500 cash death benefit payable to a beneficiary designated by the employee, if at the time of death the employee is entitled to an annuity under a state retirement program. A \$500 cash death benefit shall also be payable to the designated beneficiary of an employee who becomes totally and permanently disabled on or after July 17, 1985, and who at the time of death is receiving a state disability benefit and is eligible for a deferred annuity under a state retirement program.

RETIREMENT

As a coordinated plan of flexible benefits, the service will contribute toward the member's pension plan as follows:

	<u>Member Contribution</u>	<u>Service Contribution</u>
<u>Plan A:</u>	<u>6%</u>	<u>6%</u>
<u>Plan B:</u>	<u>0%</u>	<u>0%</u>
<u>Plan C:</u>	<u>6%</u>	<u>3%</u>
<u>Plan D:</u>	<u>8%</u>	<u>8%</u>

EXPENSE ALLOWANCES

General. The appointing authority may authorize travel at legislative expense for the effective conduct of the state's legislature's business. Authorization must be granted prior to the incurrence of the actual expenses. Employees Members affected under this Plan are reimbursed for expenses authorized by the appointing authority in accord with the terms of this Plan.

Automobile Expense. When an employee a member is required to use the employee's member's personal automobile to conduct authorized state business, the appointing authority must reimburse the employee member at the rate of 26 cents per mile on the most direct route according to Transportation Department records. Deviations from the most direct route, such as vicinity driving or departure from the employee's member's residence, must be shown separately on the employee's member's daily expense record and reimbursed under the foregoing rate. Toll charges and parking fees actually paid shall be reimbursed. An employee A member may not be required by the appointing authority to carry automobile insurance coverage beyond that required by law.

Employees Members who use a specially equipped personal van or van-type vehicle on official state legislative business are reimbursed for mileage at a rate of 40 cents

per mile on the most direct route. In order to qualify for this reimbursement rate, the vehicle must be equipped with a ramp, lift, or other level exchanging device designed to provide access for a wheelchair.

Reimbursement for use of a motorcycle on official state business shall be at a rate of 13 cents per mile on the most direct route.

The appointing authority may authorize travel in personal aircraft when it is deemed in the best interest of the state legislature. Mileage reimbursement is at the rate of 43 cents and is based on the shortest route based on direct air mileage between the point of departure and the destination.

Commercial Transportation. When an-employee a member is required to use commercial transportation (air, taxi, rental car, etc.) in connection with authorized business of an appointing authority, the employee member is reimbursed for the actual expenses of the mode and class of transportation so authorized. Reasonable gratuities may be included in commercial travel costs.

If an-employee a member uses his or her personal automobile instead of commercial transportation, the employee member is reimbursed either mileage, at the rates stated previously, or round trip coach air fare, whichever is less.

Overnight Travel. Employees Members in travel status who incur expenses for lodging are allowed actual reasonable costs of lodging and meals while away from their home station, up to the maximums stated below. Employees Members in travel status in excess of one week without returning home are allowed actual cost not to exceed \$16 per week for laundry and dry cleaning for each week after the first week. Employees Members in travel status may be reimbursed for one personal phone call home during any five-day period.

Meal Allowances. Employees Members are reimbursed for meals, including a reasonable gratuity, only if the employee member is on assignment away from the employee's member's home station in a travel status. Employees Members are also reimbursed for meals in connection with conferences and meetings, if approved in advance by the appointing authority.

Reimbursement Amount. Maximum reimbursements for meals including tax and gratuity, are:

Breakfast: \$6; Lunch \$7; Dinner \$12

Employees Members who are in travel status for two or more meals are reimbursed for the actual costs of the meals up to the combined maximum amount for the reimbursable meals.

Special Expenses. When prior approval has been granted by an appointing authority, special expenses, including registration or conference fees ~~are also paid or reimbursed,~~ individual annual professional membership dues and, professional costs and professional fees, and tuition for educational classes may be paid when ~~the Speaker of the House for House employees, the Majority Leader of the Senate for Senate employees, or the Chairman of the BCC for legislative commission employees,~~ determines that the payment is in the best interest of the agency appointing authority.

Registration or conference fees may only be paid or reimbursed if the conference or meeting is relevant to the employee's member's current job and attendance is state business.

Professional membership dues and, professional costs, and professional fees may only be paid if the purpose of the organization to which dues, costs, or fees are paid is directly related to the employee's current job relate to a profession that is specifically required by a job description the total cost of dues, costs, and fees paid for one member in any fiscal year may not exceed \$400.

Educational expenses, including fees and tuition, may be paid or reimbursed only if:

(1) it is generally accepted that the employee's member's skill requires continuing education in order to maintain or improve proficiency in the skill and the education maintains or improves skills required in the employee's member's current job; or

(2) the education is required by the appointing authority, or applicable professional or licensing group, as a condition for retention of employment.

Educational expenses may not be paid or reimbursed if the education is necessary for the employee member:

(1) to meet the minimum educational requirement for the employee's member's current position; or

(2) to qualify for a new job.

No charge may be made to a member for education required under Minnesota Statutes, section 3D.09.

Payment of Expenses. No Expenses (transportation, lodging, meals or registration fees) may be paid in advance if in the best interest of the service.

JOB CANDIDATE INTERVIEW AND RELOCATION ALLOWANCES

Authorization. The appointing authority may authorize reimbursement to a job candidate for actual expenses incurred in traveling to appear for a job interview. Reimbursement is the same as for employees members traveling on legislative business out of the state.

When it has been determined by the appointing authority that a position is to be filled by a job candidate from out of the state, the cost of moving the job candidate may be paid by the appointing authority.

Covered Expenses. The appointing authority may pay the cost of moving and packing the employee's member's household goods. The employee member must obtain no less than two bids for packing and/or moving household goods and approval must be obtained from the appointing authority prior to any commitment to a mover to either pack or ship the employee's member's household goods. The appointing authority may pay for the moving of house trailers if the trailer is the employee's member's domicile. Reimbursement includes the cost of transporting support blocks, skirts, or other attached fixtures. The appointing authority may also pay for up to six months of storage of a member's goods, either at origin or destination, if required by the member's inability to coordinate the acquisition of a new residence with the departure from the old residence or for other good cause not amounting to a voluntary election to store the goods.

Neither the State of Minnesota nor any of its agencies are responsible for any loss or damage to any of the employee's member's household goods or personal effects as a result of transfer.

ARTICLE 5 LEGISLATIVE RULES AMENDMENTS

Section 1. [RULE AMENDMENTS; ADMINISTRATIVE CONVENIENCE.]

The permanent rules of the Senate and House of Representatives amended in sections 1 to 8 are amended here for administrative convenience only. Adoption of these amendments does not change the right of the Senate and House of Representatives to further amend these rules or to adopt other rules without amending the rules, set out here, in a

bill.

Sec. 2. Rule 35 of the permanent rules of the Senate as adopted on February 12, 1987, is amended to read:

35. All bills shall be referred by the President without motion to the proper standing committee unless otherwise referred by the Senate. A bill introduced by a committee need not be referred to a standing committee unless a question arises but rather shall lie over one day before being given its second reading. When a question arises concerning the proper reference of a bill during the order of business of first reading on the day of introduction or at the time of report on it by a standing committee to which the bill was previously referred, the bill shall be referred without debate to the Committee on Rules and Administration to report the proper reference, and upon adoption of the report of the Committee on Rules and Administration, it shall be referred accordingly.

All bills appropriating money, or obligating the state to pay or expend money, or establishing a policy which to be effective will require expenditure of money, when referred to and reported by any other than the Committee on Finance, shall, before passage, be referred to the Committee on Finance.

Bills dealing with or affecting the legislative staff service, when referred to and reported by any other than the Committee on Rules and Administration, shall, before passage, be referred to the Committee on Rules and Administration.

Sec. 3. Rule 64 of the permanent rules of the Senate as adopted on February 12, 1987, is amended to read:

AUTHORITY OVER EMPLOYEES

64. Except as otherwise provided in these rules, the Legislative Staff Management Committee on Rules and Administration established under Minnesota Statutes, section 3D.10 has full and exclusive authority over, and charge of all employees, officers and clerks of the Senate both elective and appointive. The committee has the sole and exclusive power and authority to assign them to duties other than for which they were elected or appointed as the committee may from time to time provide. The Committee on Rules and Administration has power to appoint determine the number of Senate employees, officers or clerks as it deems proper to exercise the power granted to it by this rule of a class in the client areas providing service to the Senate necessary to operate the Senate and the kind of services

necessary to its operation. The staff management committee may make rules and regulations for the government of the employees, ~~officers-and-clerks~~ as they see fit. In case of violation of an order of the committee by an employee, ~~officer-or-clerk~~, or in case of a violation of a rule or regulation made by the committee, or in case of misconduct or omission by an employee, ~~officer-or-clerk~~, the committee on Rules and Administration may hear complaints and discharge the employee, officer, or clerk or impose other punishment by way of fine or otherwise upon the employee, officer, or clerk as the committee deems just and proper.

No member of the Senate may in public debate on the floor or in committee question the dedication, competence, or integrity of any employee of the legislature.

No member of the legislative staff service may work more than 16 hours without eight hours off of work for rest. Staff directors must ensure that this rule is observed and it may not be waived by anyone.

Sec. 4. Rule 5.10 is added to the permanent rules of the House of Representatives as adopted on February 11, 1987, and remaining rules renumbered:

5.10 BILLS AFFECTING THE LEGISLATIVE STAFF SERVICE. Bills dealing with or affecting the legislative staff service, when referred to and reported by any other than the Committee on Rules and Legislative Administration, shall be referred, or re-referred, as the case may be to the Committee on Rules and Legislative Administration. Any standing committee, other than the Committee on Rules and Legislative Administration to which the bill is referred shall, in its report, recommend re-referral to the Committee on Rules and Legislative Administration.

Sec. 5. Rule 7.1, of the permanent rules of the House of Representatives, as adopted on February 11, 1987, is amended to read:

7.1 DUTIES AND PRIVILEGES OF THE SPEAKER. The Speaker shall preside over the House and shall have all the powers and be charged with all the duties of the presiding officer.

He shall preserve order and decorum and he or the chairman of the Committee of the Whole may order the lobby or galleries cleared in the case of disorderly conduct or other disturbance.

Except as provided by rule or law, he shall have general control of the Chamber of the House and of the

corridors, passages and rooms assigned to the use of the House.

He shall sign all acts, addresses, joint resolutions, writs, warrants and subpoenas of the House or issued by order of the House. He shall sign all abstracts for the payment of money out of the legislative expense fund of the House; but no money shall be paid out of said fund unless the abstract is also signed by the Chief Clerk of the House.

~~He shall appoint the Chief Sergeant-at-Arms or shall designate him from among the Sergeants-at-Arms elected by the House or appointed by the Committee on Rules and Legislative Administration.~~

Sec. 6. Rule 8.1 of the permanent rules of the House of Representatives, as adopted on February 11, 1987, is amended to read:

8.1 APPOINTMENT OF EMPLOYEES. The Committee on Rules and Legislative Administration shall designate the position ~~of and appoint each employee of the House and set the compensation of each officer and employee.~~ A record of all such appointments, including positions and compensation, shall be kept in the office of the Chief Clerk and shall be open for inspection by the public number of House employees in a class in the bipartisan, partisan, and personal divisions necessary to operate the House and the kind of services necessary to its operation.

~~The Committee on Rules and Legislative Administration, by resolution, shall establish the procedure for filling vacancies when the Legislature is not in session.~~

~~Any employee of the House may be assigned to other duties, suspended or discharged at any time by the Committee on Rules and Legislative Administration.~~

~~No employee of the House shall receive any pay, compensation, gratuity or reward over and above the salary named for the position except upon approval of a three-fourths vote of the whole House.~~

Employees of the House shall otherwise be appointed, compensated, and managed as provided by Minnesota Statutes, chapter 3D.

Sec. 7. Rule 8.3 is added to the permanent rules of the House of Representatives as adopted on February 11, 1987:

8.3 [IMPUGNING EMPLOYEES.] No member of the House of Representatives may in public debate on the floor or in

committee question the dedication, competence, or integrity of any employee of the legislature.

Sec. 8. Rule 8.4 is added to the permanent rules of the House of Representatives as adopted on February 11, 1987:

8.4 [EMPLOYEE WORK AND REST PERIODS.] No member of the legislative staff service may work more than 16 hours without eight hours off of work for rest. Staff directors must ensure that this rule is observed and it may not be waived by anyone.

ARTICLE 6

STUDY OF JUDICIAL BRANCH EMPLOYEES

Section 1. [STUDY AUTHORIZED.]

The chief justice of the Minnesota supreme court shall appoint a judicial branch employees study commission. The commission consists of nine people who must be knowledgeable in judicial administration. The commission shall study the creation of a modern comprehensive judicial branch employment system separate from the state civil service. The commission shall report to the chief justice within two years of appointment. The chief justice shall recommend appropriate changes in laws to permit a modern employment system for the judicial branch.

Sec. 2. [APPROPRIATION.]

\$100,000 is appropriated from the general fund to the supreme court for the purpose of the study of section 1. The funds are available until delivery of the final report to the chief justice under section 1.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day after final enactment.

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