

however, that no charge shall be made for those persons convicted of offenses for which the penalty provided by law exceeds five years, nor shall the amount charged a participating county for the costs of confinement shall not exceed the amount of subsidy to which the county is eligible, and provided further that the counties of commitment shall also pay the per diem herein provided for all persons convicted of a felony for which the penalty provided by law does not exceed five years and confined in a state correctional facility prior to January 1, 1981. The commissioner shall annually determine costs and deduct them from the subsidy due and payable to the respective participating counties, making necessary adjustments to reflect the actual costs of confinement. However, in no case shall the percentage increase in the amount charged to the counties exceed the percentage by which the appropriation for the purposes of sections 401.01 to 401.16 was increased over the preceding biennium. All charges shall be a charge upon the county of commitment.

Approved March 22, 1982

CHAPTER 560 — S.F.No. 1856

An act relating to state government; improving the state's personnel management functions; amending Minnesota Statutes 1980, Sections 6.582; 11A.07, Subdivision 4; 12.04, Subdivision 1; 15.0575, Subdivision 3; 15.059, Subdivision 3; 15.43, Subdivision 1; 60B.09, Subdivision 2; 84.028, Subdivision 3; 84.081, Subdivision 1; 85A.03, Subdivision 2; 124.645, Subdivision 3; 128A.02, Subdivision 3; 136A.55, Subdivision 4; 144A.52, Subdivision 2; 168.325, Subdivision 1; 171.015, Subdivision 1; 216A.04, Subdivision 3; 246.017, Subdivision 2; 299E.01, Subdivision 1; 299F.01, Subdivision 2; and 352D.02, by adding a subdivision; Minnesota Statutes 1981 Supplement, Sections 3.855, Subdivision 3; 43A.02, Subdivision 28; 43A.04, Subdivisions 3, 4, and by adding a subdivision; 43A.05, Subdivision 4; 43A.08, Subdivisions 1, 3, and by adding subdivisions; 43A.11, Subdivisions 3, 4, 7, and 8; 43A.13, Subdivisions 1, 4, and 5; 43A.15, Subdivisions 6 and 10; 43A.17, Subdivision 4; 43A.18, Subdivisions 3 and 4; 43A.19, Subdivision 1; 43A.27, Subdivision 3; 43A.33, Subdivisions 1, 3, and 4; 43A.37, Subdivision 1; 43A.38; 43A.39; 43A.41, Subdivision 4; 43A.42; 43A.44, Subdivision 2; 124.41, Subdivision 3; 254A.03, Subdivision 1; 352D.02, Subdivision 1; and 462A.04, Subdivision 8; Laws 1971, Extra Session, Chapter 3, Section 19, Subdivision 5; Laws 1980, Chapter 564, Article XII, Section 1, Subdivision 6; Laws 1981, Chapter 210, Section 55; repealing Minnesota Statutes 1980, Sections 12.05; 124.615, Subdivision 3; 190.081; and 190.095; and Minnesota Statutes 1981 Supplement, Section 43A.08, Subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1981 Supplement, Section 3.855, Subdivision 3, is amended to read:

Subd. 3. **OTHER DUTIES.** In addition to the duties specified in subdivision 2, the commission shall perform the following:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) Review and approve, reject, or modify a plan for compensation, terms and conditions of employment prepared and submitted by the commissioner of employee relations pursuant to section ~~43.113~~ 43A.18, subdivision 2 covering all state employees who are not represented by an exclusive bargaining representative and whose compensation is not provided for by ~~section 43.064~~ chapter 43A or other law;

(b) Review and approve, reject or modify a plan for total compensation and terms and conditions of employment for employees of those positions identified as being managerial pursuant to section 43A.18, subdivision 3, whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A.

(c) Continually monitor the state's civil service system as provided for in chapter ~~43~~ 43A, rules of the commissioner of employee relations and the collective bargaining process as provided for in sections 179.61 to 179.76, as applied to state employees;

(d) (d) Research and analyze the need for improvements in those statutory sections;

(e) (e) Adopt rules not inconsistent with this section relating to the scheduling and conduct of commission business and other organizational and procedural matters;

(f) (f) Research and analyze insurance programs currently available to teachers and other public school employees in Minnesota and report to the legislature by December 1, 1982. The report shall include a summary of insurance benefit levels and costs, including health, dental, life and disability insurance; differences in the cost of providing like benefits in different regions of the state and in school districts of different sizes; and recommendations on the feasibility of providing a uniform coverage insurance program to all school districts in Minnesota; and

(g) (g) Perform such other related functions as are delegated to it by the legislature.

Sec. 2. Minnesota Statutes 1980, Section 6.582, is amended to read:

6.582 PERSONNEL PLAN.

Notwithstanding any law to the contrary, the state auditor shall develop and implement for non-clerical positions in the office of the state auditor a personnel recruitment, and hiring, promotional, and salary plan. The plan shall be approved by the commissioner of personnel employee relations before becoming effective.

Sec. 3. Minnesota Statutes 1980, Section 11A.07, Subdivision 4, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **DUTIES AND POWERS.** The director, at the direction of the state board, shall:

(1) Plan, direct, coordinate and execute administrative and investment functions in conformity with the policies and directives of the state board.

(2) Employ such professional and clerical staff as is necessary within the complement limits established by the legislature. ~~These~~ Employees whose primary responsibility is to invest or manage moneys or employees who hold positions designated as unclassified pursuant to section 43A.08, subdivision 1a shall be in the unclassified service of the state. Other employees shall be in the classified service.

(3) Report to the state board on all operations under his control and supervision.

(4) Maintain accurate and complete records of securities transactions and official activities.

(5) Purchase and sell all securities on the basis of competitive offerings or bids received from at least two firms known to specialize in the securities being traded and likely to position these securities in relevant quantities. Competitive bidding shall not be required when the securities to be traded are: listed or traded on a major United States exchange, bound by underwriting restrictions or classified as private placements and offered only to a limited number of institutional investors.

(6) Cause all securities acquired to be kept in the custody of the state treasurer or such other depositories as the state board deems appropriate.

(7) Prepare and file with the director of the legislative reference library on or before November 15 of each year, a report summarizing the activities of the state board, the council and the director during the preceding fiscal year. The report shall be prepared so as to provide the legislature and the people of the state with a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return and the yield to the state treasury and to each of the funds whose assets are invested by the state board, and the recipients of business placed or commissions allocated among the various commercial banks, investment bankers and brokerage organizations. This report shall contain financial statements for funds managed by the board prepared in accordance with generally accepted accounting principles.

(8) Require state officials from any department or agency to produce and provide access to any financial documents the state board deems necessary in the conduct of their investment activities.

(9) Receive and expend legislative appropriations.

(10) Undertake any other activities necessary to implement the duties and powers set forth in this subdivision.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 1980, Section 12.04, Subdivision 1, is amended to read:

12.04 DIVISION OF EMERGENCY SERVICES.

Subdivision 1. A division in the department of public safety to be known as the division of emergency services is hereby created, under the supervision and control of a state director ~~who is appointed by~~. The commissioner ~~to~~ of public safety may place the director's position ~~serve at his pleasure~~ in the unclassified service of the state ~~civil service~~ if the position meets the criteria established in section 43A.08, subdivision 1a.

Sec. 5. Minnesota Statutes 1980, Section 15.0575, Subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** Members of the boards shall be compensated at the rate of \$35 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as ~~received by state employees authorized by the commissioner's plan adopted pursuant to section 43A.18, subdivision 2.~~ Members who are full time state employees or full time employees of the political subdivisions of the state shall not receive the \$35 per day, but they shall suffer no loss in compensation or benefits from the state or a political subdivision as a result of their service on the board. Members who are full time state employees or full time employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source.

Sec. 6. Minnesota Statutes 1980, Section 15.059, Subdivision 3, is amended to read:

Subd. 3. **COMPENSATION.** Members of the advisory councils and committees shall be compensated at the rate of \$35 per day spent on council or committee activities, when authorized by the council or committee, plus expenses in the same manner and amount as ~~state employees authorized by the commissioner's plan adopted pursuant to section 43A.18, subdivision 2.~~ Members who are state employees or employees of political subdivisions shall not receive the \$35 per day if the major part of their activities occur during normal working hours for which they are also compensated by the state or political subdivision. A member who is an employee of the state or a political subdivision shall not suffer a loss in compensation or benefits from the state or political subdivision as a result of his service on the council or committee. Members who are full time state employees or full time employees of the political subdivisions of the state may receive the expenses provided for in this section unless the expenses are reimbursed by another source. A state employee who serves on an advisory council or committee as a representative of a specific state department or agency shall not receive the \$35 per day.

Sec. 7. Minnesota Statutes 1980, Section 15.43, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **FINANCIAL INTEREST OF AGENTS.** No employee of the state or of the University of Minnesota in direct contact with suppliers or potential suppliers to the state or the university, or who may directly or indirectly influence a purchasing decision or contract by establishing specification, testing purchased products, evaluating contracted services, or otherwise has official involvement in the purchasing or contracting process may:

(1) Have any financial interest or have any personal beneficial interest directly or indirectly in contracts or purchase orders for goods or services used by, or purchased for resale or furnished to a department or agency of the state or the university; or

(2) Accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than ~~advertising novelties having wide distribution and are~~ items of nominal value. No such employee may further accept any promise, obligation or contract for future reward.

Sec. 8. Minnesota Statutes 1981 Supplement, Section 43A.02, Subdivision 28, is amended to read:

Subd. 28. **MANAGERIAL.** "Managerial" means those positions designated by ~~the commissioner or statute~~ pursuant to section 43A.18, subdivision 3 as being accountable for determining, securing, and allocating human, financial, and other resources needed to accomplish objectives. Positions in this category also are accountable for determining overall objectives, priorities, and policies within a program area. Higher level positions in this category handle significant and involved relationships with governmental leadership. Incumbents of these positions have the authority to exercise discretionary powers on a regular basis.

Sec. 9. Minnesota Statutes 1981 Supplement, Section 43A.04, Subdivision 3, is amended to read:

Subd. 3. **RULES.** The commissioner shall promulgate rules pursuant to the administrative procedure act to implement the provisions of ~~Laws 1981, Chapter 240~~ 43A which directly affect the rights of or processes available to the general public. The rules shall have the force and effect of law and shall include but are not limited to:

(a) The processes for determining the extent of competition for filling vacancies, for recruiting applicants, for conducting competitive open examinations, for ranking candidates and maintaining competitive open eligible lists, and for certification and appointment of eligibles from competitive open eligible lists;

(b) The process for effecting noncompetitive and qualifying appointments;

(c) The process for temporary designation of positions in the unclassified service and for effecting appointments to the unclassified service;

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(d) A statewide affirmative action program to include requirements for agency affirmative action plans, statewide policies and procedures, reporting requirements, accountability and responsibility of employees in the executive branch, and overall objectives of the program;

(e) Conditions under which moving and other expenses may be authorized and paid prior to appointment to persons who have accepted state employment; and

(f) Establishment of procedures and rates of reimbursement governing payment of travel expenses for members of boards and commissions and other persons providing services to the state; and

(g) Procedures for administration of the code of ethics for employees of the executive branch.

Sec. 10. Minnesota Statutes 1981 Supplement, Section 43A.04, Subdivision 4, is amended to read:

Subd. 4. **ADMINISTRATIVE PROCEDURES.** The commissioner shall develop administrative procedures, which are not subject to the rulemaking provisions of the administrative procedure act, to effect provisions of Laws 1981, chapter 240 43A which do not directly affect the rights of or processes available to the general public. The commissioner may also adopt administrative procedures, not subject to the administrative procedure act, which concern topics affecting the general public if those procedures concern only the internal management of the department or other agencies and if those elements of the topics which affect the general public are the subject of department rules.

The Administrative procedures shall not be subject to the rulemaking provisions of the administrative procedure act. They shall be reproduced and made available for comment to agencies, employees, and appropriate exclusive representatives certified pursuant to sections 179.61 to 179.76, for at least 15 days prior to implementation and shall include but are not limited to:

(a) Maintenance and administration of a plan of classification for all positions in the classified service and for comparisons of unclassified positions with positions in the classified service;

(b) Procedures for administration of collective bargaining agreements and plans established pursuant to section 43A.18 concerning total compensation and the terms and conditions of employment for employees;

(c) Procedures for effecting all personnel actions internal to the state service such as conduct of competitive promotional examinations, ranking and certification of employees for promotion, noncompetitive and qualifying appointments of employees and leaves of absence; and

(d) Maintenance and administration of employee performance appraisal, training and other programs.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 11. Minnesota Statutes 1981 Supplement, Section 43A.04, is amended by adding a subdivision to read:

Subd. 7. REPORTING. The commissioner shall issue a written report by January 1 and July 1 of each year to the chairperson of the legislative commission on employee relations. The report shall list the number of appointments made pursuant to each of the categories in section 43A.15, subdivisions 2 to 12 and the number made pursuant to section 43A.08, subdivision 2a during the six-month period covered by the report.

Sec. 12. Minnesota Statutes 1981 Supplement, Section 43A.05, Subdivision 4, is amended to read:

Subd. 4. TIME OFF IN EMERGENCIES. The commissioner shall authorize appointing authorities to pay for time off in emergencies. ~~An appointing authority~~ The commissioner, after consultation with the commissioner of public safety, may excuse employees from duty with full pay in the event of a natural or manmade emergency, if continued operation would involve a threat to the health or safety of individuals. Absence with pay shall not exceed 16 working hours at any one time unless the commissioner authorizes a longer duration.

Sec. 13. Minnesota Statutes 1981 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 section 43A.08, 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;

~~(d)~~ (e) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

~~(e)~~ (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;

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(f) (g) 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;

(g) (h) 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 state universities and community colleges. This paragraph shall not be construed to include the custodial, clerical or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions.

(h) (i) Officers and enlisted persons in the national guard;

(i) (j) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with his authorization;

(j) (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;

(k) (l) Members of the state highway patrol; provided that selection and appointment of highway patrol troopers shall be made in accordance with applicable laws governing the classified service;

(l) (m) Seasonal help employed by the department of revenue;

(m) (n) Employees of the department of administration permanently assigned to the ceremonial house;

(n) (o) Chaplains employed by the state;

(o) (p) Examination monitors and intermittent training instructors employed by the departments of employee relations and commerce;

(p) (q) Student workers; and

(q) (r) Employees unclassified pursuant to other statutory authority.

Sec. 14. Minnesota Statutes 1981 Supplement, Section 43A.08, is amended by adding a subdivision to read:

Subd. 1a. ADDITIONAL UNCLASSIFIED POSITIONS. Appointing authorities for the following agencies may designate additional unclassified positions pursuant to this subdivision: the departments of administration; agriculture; corrections; economic security; education; employee relations; energy, planning and development; finance; health; human rights; labor and industry; natural resources; public safety; public service; public welfare; revenue; transportation; and veterans affairs; the banking, securities and real estate, insurance

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and consumer services divisions of the department of commerce; the housing finance and pollution control agencies; the state board of investment; and the offices of the secretary of state, state auditor and state treasurer.

A position designated by an appointing authority pursuant to this subdivision must meet the following standards and criteria:

(a) The designation of the position would not be contrary to the provisions of other law relating specifically to that agency;

(b) The person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(c) The duties of the position would involve significant discretion and substantial involvement in the development, interpretation and implementation of agency policy;

(d) The duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(e) There would be a need for the person occupying the position to be accountable to, loyal to, and compatible with the governor and the agency head, or the employing constitutional officer;

(f) The position would be at the level of division or bureau director or assistant to the agency head; and

(g) The commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

Sec. 15. Minnesota Statutes 1981 Supplement, Section 43A.08, is amended by adding a subdivision to read:

Subd. 2a. TEMPORARY UNCLASSIFIED POSITIONS. The commissioner, upon request of an appointing authority, may authorize the temporary designation of a position in the unclassified service. The commissioner may make this authorization only for professional, managerial or supervisory positions which are fully anticipated to be of limited duration.

Sec. 16. Minnesota Statutes 1981 Supplement, Section 43A.08, Subdivision 3, is amended to read:

Subd. 3. UNCLASSIFIED TITLES; SALARY RATES AND RANGES; INVESTIGATIONS. Except for those positions listed in section 43A.18, subdivisions 4 and 6, when a new position is to be established in the unclassified service, the commissioner shall compare the position to a class in the classified service if a comparable class exists or if not, establish a salary rate or range and official title for the position.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The commissioner shall independently or upon request of an appointing authority or employee investigate the duties of a position unclassified under provisions of subdivision 3 1a or rule. If the commissioner determines the position is incorrectly placed in the unclassified service, the commissioner shall place the position in the classified service. If the commissioner determines the position is improperly compared or assigned to an inappropriate salary range, the commissioner shall recompare the position, change the title or establish a new title or reassign the position to a different salary rate or range.

If a new title is established for the position or if the position is reassigned to a different salary rate or range and the position will be covered by a bargaining unit under the provisions of section 179.741, and if there is an applicable provision in a collective bargaining agreement, the commissioner shall establish the salary rate or range pursuant to the collective bargaining agreement.

Sec. 17. Minnesota Statutes 1981 Supplement, Section 43A.11, Subdivision 3, is amended to read:

Subd. 3. **NONDISABLED VETERAN'S CREDIT.** There shall be added to the competitive open examination ~~score~~ rating of a nondisabled veteran, if he so elects, a credit of five points provided that the veteran obtained a passing ~~score~~ rating on the examination without the addition of the credit points.

Sec. 18. Minnesota Statutes 1981 Supplement, Section 43A.11, Subdivision 4, is amended to read:

Subd. 4. **DISABLED VETERAN'S CREDIT.** There shall be added to the competitive open examination ~~score~~ rating of a disabled veteran, if he so elects, a credit of ten points provided that the veteran obtained a passing ~~score~~ rating on the examination without the addition of the credit points. There shall be added to the competitive promotional examination ~~score~~ rating of a disabled veteran, if he so elects, a credit of five points provided that (a) the veteran obtained a passing ~~score~~ rating on the examination without the addition of the credit points and (b) the veteran is applying for his first promotion after securing public employment.

Sec. 19. Minnesota Statutes 1981 Supplement, Section 43A.11, Subdivision 7, is amended to read:

Subd. 7. **RANKING OF VETERANS.** An eligible with a ~~score~~ rating augmented by veteran's preference shall be entered on an eligible list ahead of a nonveteran with the same ~~score~~ rating.

Sec. 20. Minnesota Statutes 1981 Supplement, Section 43A.11, Subdivision 8, is amended to read:

Subd. 8. **NOTIFICATION.** A governmental agency when notifying eligibles that they have passed examinations shall show the final examination ~~scores~~ ratings preference credits and shall notify eligibles that they may elect to use veteran's preference to augment passing ~~scores~~ ratings.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 21. Minnesota Statutes 1981 Supplement, Section 43A.13, Subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Upon request of an appointing authority the commissioner shall certify eligibles from an eligible list determined appropriate by the commissioner, or as provided in collective bargaining agreements, rules or section 43A.04, subdivision 4. The commissioner may limit certification to those eligibles who meet special qualifications documented by an appointing authority and approved by the commissioner as essential for satisfactory performance of a specific vacant position. The commissioner shall certify qualified available eligibles as provided in this section. Where the vacancy to be filled is in a position covered by a collective bargaining agreement, the list of certified eligibles shall be made available upon request to the exclusive representative as defined in sections 179.61 to 179.76.

Sec. 22. Minnesota Statutes 1981 Supplement, Section 43A.13, Subdivision 4, is amended to read:

Subd. 4. **COMPETITIVE OPEN.** For positions to be filled by competitive open examination, the commissioner shall certify the first ~~10~~ 20 eligibles on the list plus those eligibles having the same score as the ~~tenth~~ 20th eligible certified.

Sec. 23. Minnesota Statutes 1981 Supplement, Section 43A.13, Subdivision 5, is amended to read:

Subd. 5. **COMPETITIVE PROMOTIONAL.** For positions to be filled by competitive promotional examination, the commissioner shall certify the first ~~three~~ ten eligibles on the list plus those eligibles having an ~~examination rating within three points of the eligible with the highest examination rating and any additional eligible~~ having the same score as the last ~~tenth~~ tenth eligible certified.

Sec. 24. Minnesota Statutes 1981 Supplement, Section 43A.15, Subdivision 6, is amended to read:

Subd. 6. **APPOINTMENTS THROUGH TRANSFER OR DEMOTION.** The commissioner may authorize the transfer or demotion of an employee in the classified service within an agency or between agencies. Prior to authorizing a transfer, the commissioner shall determine that the employee to be transferred is qualified for the new position. An authorized transfer may result in the movement of an employee between different positions in the same class or between positions in different classes provided that the compensation for the classes is similar.

The commissioner may enter into arrangements with public personnel agencies in other jurisdictions for the purpose of effecting transfers or voluntary demotions of employees between jurisdictions.

Sec. 25. Minnesota Statutes 1981 Supplement, Section 43A.15, Subdivision 10, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 10. **ROUTINE SERVICE APPOINTMENTS.** The commissioner may authorize the administration of a qualifying selection process ~~where the position to be filled if a class~~ is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level. Appointing authorities may consider any candidate found so qualified for probationary appointment to such a position.

Sec. 26. Minnesota Statutes 1981 Supplement, Section 43A.17, Subdivision 4, is amended to read:

Subd. 4. **MEDICAL SPECIALISTS.** The commissioner may without regard to subdivision 1 establish special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

Sec. 27. Minnesota Statutes 1981 Supplement, Section 43A.18, Subdivision 3, is amended to read:

Subd. 3. **MANAGERIAL PLAN.** The commissioner shall identify individual positions or groups of positions in the classified and unclassified service, except those listed in subdivision 4, in the executive branch as being managerial. The commissioner shall annually submit the listing of positions to the chairperson of the legislative commission on employee relations for the commission's review and comment, and shall note on each listing the changes from the prior year.

(a) The commissioner shall ~~establish appropriate plans~~ periodically prepare a plan for training and development, mobility, total compensation and terms and conditions of employment for employees of those positions identified as being managerial and whose salaries and benefits are not otherwise provided for in law or other plans established under ~~Laws 1981, chapter 240 43A.~~ The plans plan shall include a career executive service to provide a system for identifying, developing and recognizing key individuals who occupy managerial positions in the classified service. Before becoming effective those portions of the plan establishing compensation and terms and conditions of employment shall be reviewed and approved or modified by the legislative commission on employee relations and the legislature in the same manner as provided for the commissioner's plan in subdivision 2.

(b) Incumbents of managerial positions as identified under this subdivision shall be excluded from any bargaining units under the provisions of chapter 179.

(c) The management compensation plan shall provide methods and levels of compensation for managers that will be generally comparable to those applicable to managers in other public and private employment. Provisions of

the plan shall ensure that compensation within assigned salary ranges is related to level of performance. The employee benefits established under the provisions of the managerial plan may be extended to agency heads whose salaries are established in section 15A.081, subdivision 1, and to constitutional officers, judges of the workers' compensation court of appeals, and tax court judges.

(d) ~~The commissioner management plan shall develop~~ a include total compensation ~~plan~~ for individuals appointed to the career executive service. Salaries established under this plan shall be limited to 120 percent of the maximum of the salary range for the employee's job classification in the classified service. ~~The total compensation established under the provisions of this clause may be extended to unclassified managers and the employee benefits established under the provisions of this clause may be extended to those heads of agencies whose salaries are established in section 15A.081, subdivision 1.~~

(d) (e) No rights or tenure shall attach to a career executive service assignment. An incumbent in the career executive service may be removed from the career executive service by the appointing authority, provided the action is made without regard to sex, race, religion, color, creed, marital status, age, national origin, disability, status with regard to public assistance or political affiliation. An employee removed from the career executive service shall receive compensation at the level formerly received plus any increases the employee would have received had the employee not been appointed to the career executive service.

An employee who is in the career executive service on July 1, 1981 and whose position, as a result of Laws 1981, Chapter 210, is no longer eligible for inclusion in the career executive service is nonetheless eligible to remain a member of the career executive service in accordance with the provisions of this section so long as the employee remains in that position.

Sec. 28. Minnesota Statutes 1981 Supplement, Section 43A.18, Subdivision 4, is amended to read:

Subd. 4. **PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.** Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision shall be set by appointing authorities subject to the following limitations:

(a) Total compensation paid pursuant to this subdivision ~~and that paid pursuant to section 6.582,~~ shall be within the limits of compensation plans which shall have been approved by the commissioner before becoming effective;

(b) Total compensation for unclassified employees in the office of the governor shall be determined by the governor;

(c) Total compensation for unclassified employees in the office of the attorney general shall be determined by the attorney general Total compensation

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for employees who are not covered by a collective bargaining agreement in the offices of the governor, attorney general, secretary of state, state auditor and state treasurer shall be determined by the governor, attorney general, secretary of state, state auditor and state treasurer, respectively;

(d) (c) Total compensation for unclassified employees of the state board of investment shall be determined by the state board of investment;

(e) (d) Total compensation for unclassified positions pursuant to section 43A.08, subdivision 1, clause (g) (h) and in the higher education coordinating board shall be determined by the state university board, the state board for community colleges, and the higher education coordinating board, respectively; and

(f) (e) Total compensation for classified hearing examiners in the office of administrative hearings shall be determined by the chief hearing examiner.

Sec. 29. Minnesota Statutes 1981 Supplement, Section 43A.19, Subdivision 1, is amended to read:

Subdivision 1. **STATEWIDE AFFIRMATIVE ACTION PROGRAM.** To assure that positions in the executive branch of the civil service are equally accessible to all qualified persons, and to eliminate the underutilization of qualified members of protected groups, the commissioner shall adopt and periodically revise, if necessary, a statewide affirmative action program. The statewide affirmative action program shall consist of at least the following:

- (a) Objectives, goals and policies;
- (b) Procedures, standards and assumptions to be used by agencies in the preparation of agency affirmative action plans, including methods by which goals and timetables shall be established; and
- (c) Requirements for the periodic submission of affirmative action progress reports from heads of agencies.

The commissioner shall designate a state director of equal employment opportunity to ~~serve in the unclassified service~~ who may be delegated the preparation, revision, implementation and administration of the program. The commissioner of employee relations may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

Sec. 30. Minnesota Statutes 1981 Supplement, Section 43A.27, Subdivision 3, is amended to read:

Subd. 3. **RETIRED EMPLOYEES.** ~~A retired employee may elect to purchase coverage for himself or his dependents at his own expense. A retired employee of the state who receives an annuity under a state retirement program may elect to retain purchase at his own expense individual and dependent~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

hospital, medical and dental coverages to which he was entitled at the time of his retirement and any additional coverages made available through collective bargaining agreements or plans established pursuant to section 43A.18 to employees in positions equivalent to that from which he retired. A spouse of a deceased retired employee who received an annuity under a state retirement program may purchase the coverage listed in this subdivision if the spouse was a dependent under the retired employee's coverage at the time of his death. Coverages shall be coordinated with relevant health insurance benefits provided through the federally sponsored medicare program. Appointing authorities shall provide notice to employees no later than the effective date of their retirement of the right to exercise the option provided in this subdivision. The retired employee must notify the commissioner or his designee within 30 days after the effective date of his retirement of his intention to exercise this option.

Sec. 31. Minnesota Statutes 1981 Supplement, Section 43A.33, Subdivision 1, is amended to read:

Subdivision 1. **DISCHARGE, SUSPENSION, DEMOTION FOR CAUSE, SALARY DECREASE.** Managers and employees shall attempt to resolve disputes through informal means prior to the initiation of disciplinary action. No permanent employee in the classified service shall be reprimanded, discharged, suspended without pay, or reduced in pay or position, except for just cause.

Sec. 32. Minnesota Statutes 1981 Supplement, Section 43A.33, Subdivision 3, is amended to read:

Subd. 3. **PROCEDURES.** Procedures for discipline and discharge of employees covered by collective bargaining agreements shall be governed by the agreements. Procedures for employees not covered by a collective bargaining agreement shall be governed by this subdivision and by the commissioner's and managerial plans.

(a) For discharge, suspension ~~for more than 30 days, without pay~~ or reduction in pay or position, no later than the effective date of such action, a permanent classified employee not covered by a collective bargaining agreement shall be given written notice by the appointing authority. The written notice shall include a statement of the nature of the disciplinary action, the specific reasons for the action, the effective date of the action and a statement informing the employee ~~that he may~~ of the employee's right to reply within five working days of the receipt of the notice in writing or, upon request, in person, to the appointing authority or ~~his~~ the authority's designee. The notice shall also include a statement that the employee may appeal the action to the office of administrative hearings within 30 days of the effective date of the disciplinary action; provided, that an employee who elects to reply to the appointing authority may appeal to the office within ten working days of the receipt of the authority's response to the reply. If the appointing authority has not responded

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within 30 days of the authority's receipt of the employee's reply, the appointing authority shall be deemed to have replied unfavorably to the employee. A copy of the notice and the employee's reply, if any, shall be filed with the commissioner no later than ten calendar days following the effective date of the disciplinary action. The commissioner shall have final authority to decide whether the appointing authority shall settle the dispute prior to the hearing provided under subdivision 4.

(b) For suspensions of permanent employees for 30 days or less grievance procedures shall be provided in plans established pursuant to section 43A.18.

(e) For discharge, suspension or reduction in pay or position of employees an employee serving an initial probationary period, and for noncertification in any subsequent probationary period, grievance procedures shall be as provided in the plan established pursuant to section 43A.18.

(c) Any permanent employee who is covered by a collective bargaining agreement may elect to appeal to the chief hearing examiner within 30 days after the effective date of the discharge, suspension or reduction in pay or position if the collective bargaining agreement provides that option. In no event may an employee use both the procedure under this section and the grievance procedure available pursuant to sections 179.61 to 179.76.

Sec. 33. Minnesota Statutes 1981 Supplement, Section 43A.33, Subdivision 4, is amended to read:

Subd. 4. **APPEALS; PUBLIC HEARINGS, FINDINGS.** Any permanent employee who is discharged, suspended without pay or reduced in pay or position may appeal to the chief hearing examiner of the office of administrative hearings within 30 days after the effective date of the discharge, suspension or reduction in pay or position. Any permanent employee who is covered by a collective bargaining agreement may elect to appeal to the chief hearing examiner within 30 days after the effective date of the discharge, suspension or reduction in pay or position if the collective bargaining agreement provides that option. In no event may an employee use both the procedure under this section and the grievance procedure available pursuant to sections 179.61 to 179.76. Within ten days of receipt of the employee's written notice of appeal, the chief hearing examiner shall assign a hearing examiner to hear the appeal.

The hearing shall be conducted pursuant to the contested case provisions of chapter 15 and the procedural rules adopted by the chief hearing examiner. Prior to the hearing, both parties may stipulate on mutually agreed matters relevant to the disciplinary action. The issues and facts on which agreement has not been reached will be decided during the hearing at which technical rules of evidence shall not apply. If the hearing examiner finds, based on the hearing record, that the action appealed was not taken by the appointing authority for just cause, the employee shall be reinstated to his position, or an equal position in

another division within the same agency, without loss of pay. If the hearing examiner finds that there exists sufficient grounds for institution of the appointing authority's action but the hearing record establishes extenuating circumstances, ~~he the examiner may in his discretion~~ reinstate the employee, with full, partial, or no pay, or may modify the appointing authority's action. The hearing examiner's order shall be the final decision, but it may be appealed according to the provisions of section 15.0424. Settlement of the entire dispute by mutual agreement is encouraged at any stage of the proceedings. Any settlement agreement shall be final and binding when signed by all parties and submitted to the chief hearing examiner of the office of administrative hearings. Except as provided in collective bargaining agreements the appointing authority shall bear the costs of the hearing examiner for hearings provided for in this section.

Sec. 34. Minnesota Statutes 1981 Supplement, Section 43A.37, Subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATION.** Neither the commissioner of finance nor any other fiscal officer of this state shall draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the civil service, unless a payroll register for the salary or compensation containing the name of every person to be paid shall bear the certificate of the commissioner that the persons named in the payroll register have been appointed, as required by law, rules, or administrative procedures and that the salary or compensation is within the compensation plan fixed pursuant to law. The appointing authority shall certify that all employees named in the payroll register are performing service as required by law. This provision shall not apply to positions defined in section 43A.08, subdivision 1, clauses ~~(f)~~, (g), (h), (i) and ~~(j)~~ (k). Employees to whom this subdivision does not apply may be paid on the state's payroll system and the appointing authority or fiscal officer submitting their payroll register shall be responsible for the accuracy and legality of the payments.

Salary or compensation claims presented against existing appropriations, which have been deemed in violation of the provisions of this subdivision, may be certified for payment if, upon investigation, the commissioner determines the personal services for which payment is claimed actually have been rendered in good faith without collusion and without intent to defraud.

Sec. 35. Minnesota Statutes 1981 Supplement, Section 43A.38, is amended to read:

43A.38 CODE OF ETHICS FOR EMPLOYEES IN THE EXECUTIVE BRANCH.

Subdivision 1. **PURPOSE.** ~~Employees in the executive branch shall have equal opportunity with all citizens to develop private, economic, and social~~

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interests; however, it is necessary to distinguish between those minor and inconsequential conflicts which are unavoidable in a free society and those conflicts which are substantial and material and conflict with the employee's responsibility to the public. This section shall not be interpreted to apply to any activity which is protected by sections 179.61 to 179.76, collective bargaining agreements and practices thereunder nor to prevent a current or former employee from accepting employment with a labor or employee organization representing employees.

Subd. 2. DEFINITIONS. For the purpose of this section the following definitions shall apply:

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in non-profit or profit making activities.

(b) "Confidential information" means any information obtained under government authority which has not become part of the body of public information and which, if released prematurely or in non-summary form, may provide unfair economic advantage or adversely affect the competitive position of an individual or a business.

(c) "Private interest" means any interest, including but not limited to a financial interest, which pertains to a person or business whereby the person or business would gain a benefit, privilege, exemption or advantage from the action of a state agency or employee that is not available to the general public.

Subd. 3 2. ACCEPTANCE OF GIFTS; FAVORS. Employees in the executive branch in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for any activity related to the duties of the employee unless otherwise provided by law. However, the acceptance of any of the following shall not be a violation of this subdivision:

(a) Advertising Gifts of nominal value having wide distribution or gifts or textbooks which may be accepted pursuant to section 15.43.

(b) Plaques or similar mementos recognizing individual services in a field of specialty or to a charitable cause.

(c) Payment of reimbursement expenses for travel or meals, not to exceed actual expenses incurred, which are not reimbursed by the state and which have been approved in advance by the appointing authority as part of the work assignment.

(d) Honoraria or expenses paid for papers, talks, demonstrations or appearances made by employees on their own time for which they are not compensated by the state.

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Subd. 4 3. USE OF CONFIDENTIAL INFORMATION. An employee in the executive branch shall not use confidential information to further the employee's private interest, and shall not accept outside employment or involvement in a business or activity that will require the employee to disclose or use confidential information.

Subd. 5 4. USE OF STATE PROPERTY. An employee shall not use or allow the use of state time, supplies or state owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law.

Subd. 6 5. CONFLICTS OF INTEREST. The following actions by an employee in the executive branch shall be deemed a conflict of interest and subject to procedures regarding resolution of the conflicts, section 43A.39 or disciplinary action as appropriate:

(a) Use or attempted use of the employee's official position to secure benefits, privileges, exemptions or advantages for the employee or the employee's immediate family or an organization with which the employee is associated which are different from those available to the general public;

(b) acceptance of other employment or contractual relationship that will affect the employee's independence of judgment in the exercise of official duties; or

(c) actions as an agent or attorney in any action or matter pending before the employing agency except in the proper discharge of official duties or on the employee's behalf.

Subd. 7 6. DETERMINATION OF CONFLICTS OF INTEREST. When an employee believes the potential for a conflict of interest exists, it is the employee's duty to avoid the situation. A conflict of interest shall be deemed to exist when a review of the situation by the employee, the appointing authority or the commissioner determines any one of the following conditions to be present:

(a) the use for private gain or advantage of state time, facilities, equipment or supplies or badge, uniform, prestige or influence of state office or employment;

(b) receipt or acceptance by the employee of any money or other thing of value from anyone other than the state for the performance of an act which the employee would be required or expected to perform in the regular course or hours of state employment or as part of the duties as an employee;

(c) employment by a business which is subject to the direct or indirect control, inspection, review, audit or enforcement by the employee;

(d) the performance of an act in other than the employee's official capacity which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by the employee.

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Subd. 7. RESOLUTION OF CONFLICT OF INTEREST. If the employee, appointing authority or commissioner determine that a conflict of interest exists, the employee shall, if possible, assign the matter shall be assigned to another employee who does not have a conflict of interest. If it is not possible to assign the matter to an employee who does not have a conflict of interest, interested persons shall be notified of the conflict and the employee may proceed with the assignment.

Subd. 8. PRECEDENCE OF CHAPTER 10A. Where specific provisions of chapter 10A apply to employees and would conflict with this section, the provisions of chapter 10A shall apply.

Subd. 9. LIMITS. This section shall not be interpreted to apply to any activity which is protected by sections 179.61 to 179.76 and collective bargaining agreements and practices thereunder nor to prevent a current or former employee from accepting employment with a labor or employee organization representing employees.

Sec. 36. Minnesota Statutes 1981 Supplement, Section 43A.39, is amended to read:

43A.39 COMPLIANCE WITH LAW.

Subdivision 1. **PROHIBITED ACTS; PENALTIES.** All employees shall comply with and aid in all proper ways the enforcement of the provisions of ~~Laws 1981, chapter 240~~ 43A. No employee or any other person shall intentionally:

(a) Make any false oral or written statement, mark, rating or report concerning any application, examination, certification or appointment made under provisions of ~~Laws 1981, chapter 240~~ 43A or in any manner commit or attempt to commit any fraud preventing the impartial execution of ~~Laws 1981, chapter 240~~ 43A;

(b) Directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in obtaining, a position in the civil service;

(c) Defeat, deceive or obstruct any person in rights to examination, eligibility, certification or appointment under ~~Laws 1981, chapter 240~~ 43A, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to appointment, advancement or retention in the classified service;

(d) Violate the provisions of sections 43A.37 or 43A.38; or

(e) If in the classified service, engage in activities prohibited by section 43A.32.

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Subd. 2. **NONCOMPLIANCE.** Any employee who intentionally fails to comply with the provisions of ~~Laws 1981, chapter 240~~ 43A shall be subject to disciplinary action and action pursuant to chapter 609. An appointing authority shall report in writing to the legislative auditor when there is probable cause to believe that a substantial violation has occurred. Any person convicted of a ~~misdemeanor~~ crime based on violations of ~~Laws 1981, chapter 240~~ 43A shall be ineligible for appointment in the civil service for three years following conviction.

Subd. 3. **VIOLATIONS; POSITION VACATED.** Intentional violation of section 43A.37 may be cause for disciplinary action and conviction of an employee in the classified service under section 43A.32 shall render the position vacant.

Sec. 37. Minnesota Statutes 1981 Supplement, Section 43A.41, Subdivision 4, is amended to read:

Subd. 4. **SHARED POSITION.** "Shared position" means a classified position which has been converted from a full-time position into part-time positions of equivalent class for purposes of sections 43A.40 to 43A.46.

Sec. 38. Minnesota Statutes 1981 Supplement, Section 43A.42, is amended to read:

43A.42 POSITIONS AFFECTED.

A total of 50 full-time positions within agencies of state government shall be selected for inclusion within the program. These positions shall be selected within as few separate agencies as possible, ~~and in no case shall positions be selected in more than ten agencies.~~ No fewer than 15 of these positions shall be either professional, supervisory or managerial positions. In no instance shall a person in a shared time position work less than 40 percent time. No position shall be selected if it is contained in a unit which is represented by an exclusive representative which has a collective bargaining agreement covering the unit unless the exclusive representative agrees to the selection. All shared time positions shall be equivalent in classification to the full-time position from which they are converted.

Sec. 39. Minnesota Statutes 1981 Supplement, Section 43A.44, Subdivision 2, is amended to read:

Subd. 2. **BENEFITS.** Employees in shared positions shall be eligible for the following benefits and subject to the following obligations:

(a) Membership in the Minnesota state retirement system, the teachers retirement association or the highway patrol retirement fund, whichever is appropriate, except that, notwithstanding any provision of section 352.01, subdivisions 11 and 16; 352B.01, subdivision 3; 354.05, subdivisions 13 and 25; or 354.091, employees shall have allowable service for the purpose of meeting the minimum service requirements for eligibility to a retirement annuity or other

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retirement benefit credited in full, but shall have benefit accrual service for the purpose of computing a retirement annuity or other retirement benefit credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year. This provision shall be retroactive to July 1, 1980;

(b) Vacation and sick leave accrual at the rate of the appropriate shared time percent of the entitlement of comparable full-time employees;

(c) Employee dental, medical and hospital benefits coverage shall be available of the same type and coverage afforded to comparable full-time employees. Employees in shared positions who elect such coverage shall pay, by payroll deduction, the difference between the actual cost to the employer and the appropriate shared time percent of the actual cost. The remaining percent shall be paid by the employer. Employee life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees;

(d) Dependent life insurance coverage shall be available to employees in shared positions on the same terms as for comparable full-time employees. Dependent medical, hospital and dental benefits coverage shall be available to employees in shared positions of the same type and coverage afforded to comparable full-time employees, except that the employer shall contribute the appropriate shared time percent of the dollar amount contributed for comparable full-time employees electing the same program, the remainder to be paid by payroll deduction by the employee electing such coverage;

(e) Employees in shared positions shall be entitled to the appropriate shared time percent of the holiday pay to which comparable full-time employees are entitled for holidays observed by the full-time employees whenever the employee in a shared position would otherwise be scheduled to work on that day. The employee may be allowed to reschedule working hours to avoid any loss in pay due to the prorating of holiday pay. When an employee in a shared position is not scheduled to work on an observed holiday, the next scheduled working day shall be treated as the holiday;

(f) Employees in shared positions shall accrue seniority time in every relevant category at the same rate accorded to comparable full-time employees. No full-time employee accepting a shared position shall suffer any loss of or gap in seniority time in the relevant categories applicable to the full-time employment; and

(g) Any other benefits of employment for employees in shared positions shall be prorated at a rate of the appropriate shared time percent of those available to comparable full-time employees, whenever the benefits are divisible.

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Contributions by the employer toward the benefits, if any, shall be equal to the appropriate shared time percent of the full-time benefits. When not divisible, the cost of the full-time benefits normally allocable to the employer shall be allocated, the appropriate shared time percent to the employee in a shared position, by payroll deduction, and the remaining percent to the employer.

Sec. 40. Minnesota Statutes 1980, Section 60B.09, Subdivision 2, is amended to read:

Subd. 2. **SPECIAL REPORTS.** (a) The commissioner shall include in his biennial report, not later than the second biennial report following the initiation of any formal proceedings under sections 60B.01 to 60B.61, a detailed analysis of the basic causes and the contributing factors making the initiation of formal proceedings necessary, and shall make recommendations for remedial legislation if any. For this purpose the commissioner may appoint a special assistant who shall be in the unclassified service, qualified to conduct the study and prepare the analysis, and may determine his compensation.

(b) The commissioner shall include in his biennial report, not later than the biennial report following discharge of the receiver, a detailed study of the delinquency proceeding for each insurer subjected to a formal proceeding, with an analysis of the problems faced and their solutions. He shall also suggest alternative solutions, as well as other material of interest, for the purpose of assisting and guiding liquidators or rehabilitators in the future. ~~For this purpose the commissioner may appoint a special assistant who shall be in the unclassified service, qualified to conduct the study and prepare the analysis, and may determine his compensation.~~

Sec. 41. Minnesota Statutes 1980, Section 84.028, Subdivision 3, is amended to read:

Subd. 3. The operation of the game warden service in the division of game and fish as constituted before July 1, 1967 is under the direct control and supervision of the commissioner. The name of the personnel in such game warden service is changed to conservation officers. Conservation officers shall continue to have the powers and duties of game wardens as they existed before July 1, 1967 and may be assigned to public relations, conservation instructional activities, and the enforcement of laws relating to resources management which the commissioner shall direct. The commissioner shall create a separate division entitled the division of enforcement and field service, to be composed of conservation officers and shall appoint a director of the division ~~to serve at his pleasure.~~ The commissioner may place the director's position in the unclassified service of the state if the position meets the criteria established in section 43A.08, subdivision 1a.

Sec. 42. Minnesota Statutes 1980, Section 84.081, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **DIRECTORS.** Subject to the commissioner's authority to revise or abolish existing divisions and to establish new divisions, all as prescribed in section 84.083, subdivision 1, the department of natural resources shall be organized with the following divisions: a division of lands and forestry, a division of waters, soils and minerals, a division of game and fish, a division of parks and recreation, and a division of enforcement and field service. Each division shall be under the immediate charge of a director, subject to the supervision and control of the commissioner. ~~The directors shall be appointed by the commissioner, to serve at his pleasure, and shall be~~ may place a director's position in the unclassified service of the state if the position meets the criteria established in section 43A.08, subdivision 1a. They shall be chosen with regard to knowledge, training, experience, and ability in administering the work of their respective divisions.

Sec. 43. Minnesota Statutes 1980, Section 85A.03, Subdivision 2, is amended to read:

Subd. 2. Subject to the approval of the board the director shall organize the Minnesota zoological garden and provide for such officers, agents and employees necessary for the operation thereof. ~~Four such Positions which meet the criteria established in section 43A.08, subdivision 1a, clauses (a) to (g) may be provided placed~~ in the unclassified service of the state and be chosen solely on the basis of training, experience and other qualifications in the field of zoo management. All other such persons employed shall be in the classified service of the state civil service with the same rights and privileges as other state officers and employees.

Sec. 44. Minnesota Statutes 1981 Supplement, Section 124.41, Subdivision 3, is amended to read:

Subd. 3. **CLERK.** The commissioner may employ a clerk to administer the maximum effort school aid law. ~~The clerk shall serve at the commissioner's pleasure and shall be in the unclassified service of the state.~~ The commissioner may fix the clerk's compensation, which shall be paid out of the loan repayment account of the fund.

Sec. 45. Minnesota Statutes 1980, Section 124.645, Subdivision 3, is amended to read:

Subd. 3. **STAFF.** Available federal funds for the state administration of this section shall be used for the employment of necessary personnel in the department of education ~~through classified or unclassified state service or by contract~~ subject to approval by the commissioner of employee relations for that period of time for which federal funds continue to be available.

Sec. 46. Minnesota Statutes 1980, Section 128A.02, Subdivision 3, is amended to read:

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Subd. 3. The state board may employ central administrative staffs and other personnel as necessary to provide and support programs and services in each school. The board may place the position of the residential school administrator shall serve in the unclassified service at the pleasure of the commissioner of education if the position meets the criteria established in section 43A.08, subdivision 1a. These schools shall be deemed to be public schools for the purposes of sections 125.03 and 125.04, and all teachers as defined in those sections who are employed at these schools shall be subject to the standards of the board of teaching and the state board of education; provided that any teacher who does not meet these standards as of July 1, 1977 shall be required to meet these standards by September 15, 1980 in order to continue in employment.

Sec. 47. Minnesota Statutes 1980, Section 136A.55, Subdivision 4, is amended to read:

Subd. 4. The board is authorized to hire staff and incur other expenses as necessary for the purposes of this section. Staff members are ~~in the unclassified service and~~ subject to the provisions of chapters 43 43A and 352. All expenditures are subject to the requirements of chapter 16A.

Sec. 48. Minnesota Statutes 1980, Section 144A.52, Subdivision 2, is amended to read:

Subd. 2. The director may appoint a deputy director and one personal secretary to discharge the responsibilities of his office. Any deputy director or personal secretary ~~shall serve at the director's pleasure and shall be in the unclassified service.~~ and all other employees of the office shall be classified employees of the state commissioner of health.

Sec. 49. Minnesota Statutes 1980, Section 168.325, Subdivision 1, is amended to read:

Subdivision 1. A division in the department of public safety to be known as the division of motor vehicles is hereby created, under the supervision and control of the director ~~who is appointed by.~~ The commissioner ~~to serve at his pleasure may place the director's position in the unclassified service of the state civil service if the position meets the criteria established in section 43A.08, subdivision 1a.~~

Sec. 50. Minnesota Statutes 1980, Section 171.015, Subdivision 1, is amended to read:

Subdivision 1. A division in the department of public safety to be known as the driver's license division is hereby created, under the supervision and control of a director ~~who is appointed by.~~ The commissioner ~~to serve at his pleasure may place the director's position in the unclassified service of the state civil service if the position meets the criteria established in section 43A.08, subdivision 1a,~~ and he shall be assigned the duties and responsibilities prescribed in this section.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 51. Minnesota Statutes 1980, Section 216A.04, Subdivision 3, is amended to read:

Subd. 3. **OFFICERS AND EMPLOYEES.** The commission may ~~employ one~~ establish other positions in the unclassified employee in addition to the executive secretary to serve at the pleasure of the commission service if the positions meet the criteria of section 43A.08, subdivision 1a, clauses (a) to (g). The commission may employ such other persons as may be necessary to carry out its functions, ~~within the funds provided therefor from time to time.~~

Hearing reporters may provide transcripts of proceedings before the commission to persons requesting transcripts who pay a reasonable charge therefor to the reporter. The amount of the charge shall be fixed by the commission and retained by the reporter, any other law to the contrary notwithstanding.

Sec. 52. Minnesota Statutes 1980, Section 246.017, Subdivision 2, is amended to read:

Subd. 2. **MEMBERSHIP, DUTIES, MEETINGS.** The commissioner of public welfare shall create and establish a medical policy directional committee on mental health composed of seven members five of whom are experts in their fields of medicine, mental health, mental retardation, or related sciences. Two members shall be selected from social service, rehabilitation, volunteer services, nursing, hospital administration or related fields. Not more than one member shall be selected from any one field of medicine or related sciences which shall include the field of psychiatry, neurology, physiology, biochemistry, internal medicine, pediatrics, pharmacology, and psychology.

One member shall be appointed whose term shall expire July 1, 1954, and his successors thereafter shall be appointed for a period of three years; two members shall be appointed whose terms expire on July 1, 1955, and their successors shall be appointed for a term of three years; two members shall be appointed whose terms shall expire on July 1, 1956, and their successors thereafter shall be appointed for a term of three years. Two members shall be appointed whose terms shall be determined by the commissioner.

The committee will meet at least six times each year at such times and in such places as the commissioner of public welfare may determine. He may call such additional meetings from time to time as he may deem necessary not exceeding a maximum of 50 meetings in any one year. Each member will receive the sum of \$50 per day for time actually spent in transacting the business of the board and shall be reimbursed for expenses actually incurred in the performance of their official duties.

The committee shall advise the commissioner of public welfare as to all phases of professional standards including patient care, training of personnel, management practices, *establishment of treatment programs, obtaining adequate*

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staff, establishment of medical and statistical records and operation of practices in order that they be compatible with professional requirements. The committee shall advise the commissioner of public welfare in approval and guidance of research projects and distribution of research funds. They shall assist him in establishing and maintaining the best possible practices in all mental institutions.

The commissioner of public welfare shall appoint, and unless otherwise established by law, set the salary of a licensed physician ~~in the unclassified service~~ to serve as medical director to assist him in establishing and maintaining the medical policies of the department of public welfare. The commissioner may ~~remove the physician only for cause, after written notice of the charges against him and an opportunity to be heard publicly thereon~~ place the medical director's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Sec. 53. Minnesota Statutes 1981 Supplement, Section 254A.03, Subdivision 1, is amended to read:

Subdivision 1. There is hereby created an alcohol and other drug abuse section in the department of public welfare. This section shall be headed by a director ~~who shall be.~~ The commissioner may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a. The section shall:

(a) conduct and foster basic research relating to the cause, prevention and methods of diagnosis, treatment and rehabilitation of alcoholic and other drug dependent persons;

(b) coordinate all activities and programs of all the various state departments as they relate to alcohol and other drug dependency and abuse problems;

(c) develop and demonstrate new methods and techniques for the prevention, treatment and rehabilitation of alcohol and other drug abuse and dependency problems;

(d) gather and disseminate facts and information about alcoholism and other drug dependency and abuse to public and private agencies and the courts so requesting such information for guidance to and assistance in prevention, treatment and rehabilitation;

(e) inform and educate the general public on alcohol and other drug dependency and abuse problems;

(f) serve as the state authority concerning alcohol and other drug dependency and abuse;

(g) establish a state plan which shall set forth goals and priorities within a comprehensive alcohol and other drug dependency and abuse program for Minnesota. All governmental units operating alcohol and other drug abuse or

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dependency programs or administering state or federal funds for such programs shall annually set their program goals and priorities;

(h) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using federal funds, and state funds as authorized to pay for costs of state administration, including evaluation, statewide programs and services, research and demonstration projects, and American Indian programs;

(i) solicit and accept any gift of money or property for purposes of Laws 1973, Chapter 572, and any grant of money, services, or property from the federal government, the state, any political subdivision thereof, or any private source;

(j) with respect to alcohol and other drug abuse programs serving the American Indian community, establish guidelines for the employment of personnel with considerable practical experience in alcohol and other drug abuse problems, and understanding of social and cultural problems related to alcohol and other drug abuse, in the American Indian community.

Sec. 54. Minnesota Statutes 1980, Section 299E.01, Subdivision 1, is amended to read:

Subdivision 1. A division in the department of public safety to be known as the capitol complex security division is hereby created, under the supervision and control of the director of capitol complex security, ~~who shall be appointed by the commissioner and serve at his pleasure in the unclassified service of the state civil service, to whom shall be assigned the duties and responsibilities described in this section.~~ The commissioner may place the director's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Sec. 55. Minnesota Statutes 1980, Section 299F.01, Subdivision 2, is amended to read:

Subd. 2. A division in the department of public safety to be known as the division of fire marshal is hereby created, under the supervision and control of the state fire marshal, ~~who shall be appointed by the commissioner and serve at his pleasure in the unclassified service of the state civil service, to whom shall be assigned the duties and responsibilities described in this section.~~ The commissioner may place the fire marshal's position in the unclassified service if the position meets the criteria of section 43A.08, subdivision 1a.

Sec. 56. Minnesota Statutes 1981 Supplement, Section 352D.02, Subdivision 1, is amended to read:

Subdivision 1. The following employees, if they are in the unclassified service of the state ~~who and~~ are eligible for coverage under the Minnesota state retirement system, shall participate in the unclassified program unless ~~such an~~ employee gives notice to the executive director of the state retirement system within one year following the commencement of his employment in the unclassi-

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

fixed service that ~~he~~ the employee desires coverage under the regular employee plan. For the purposes of this chapter, an employee who does not file such notice with the executive director shall be deemed to have exercised his 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 sections 15A.081, subdivision 1 or 15A.083, subdivision 4,

(3) Any permanent, fulltime unclassified employee of the legislature or any commission or agency of the legislature or a temporary legislative employee 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; or

(4) Any person employed in a position established pursuant to section ~~43.09~~ 43A.08, subdivision ~~2a~~ 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 chairman, 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, and the chairman, 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, and

(7) The clerk of the Minnesota supreme court appointed pursuant to Article VI, Section 2, of the Constitution of the state of Minnesota, and

(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 welfare.

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Sec. 57. Minnesota Statutes 1980, Section 352D.02, is amended by adding a subdivision to read:

Subd. 1a. Any person who on the day before the effective date of this section is a participant in the state unclassified employees retirement program, whose position is placed in the classified service pursuant to this act, may elect to maintain membership in the unclassified program as long as the person holds the position or a position in a higher class in the same agency. When an unclassified position which entitles a person to participate in the unclassified retirement program is placed in the classified service, the commissioner of employee relations shall send written notice to the incumbent of the position, and to the director of the Minnesota state retirement system. This notice shall state the incumbent's option under this subdivision. A person eligible to maintain membership in the unclassified plan shall notify the executive director of the state retirement system of the person's election to maintain membership in the unclassified plan within 60 days of the date on which the commissioner sends the notice stating that the position has been placed in the classified service. A person who does not file this notice shall be deemed to have waived the right to remain in the unclassified plan.

Sec. 58. Minnesota Statutes 1981 Supplement, Section 462A.04, Subdivision 8, is amended to read:

Subd. 8. The agency shall be under the administrative control of an executive director which office is established. He shall be appointed by the governor under the provisions of section 15.06.

The executive director may appoint a deputy director. The executive director may further appoint such permanent and temporary employees as he deems necessary subject to the approval of the commissioner of employee relations. All permanent employees of the agency, except the executive director, deputy director, and five additional positions reporting directly to the director established pursuant to section 43A.08, subdivision 1a are in the classified civil service. Notwithstanding section 16A.752 or any other provision of law to the contrary, any approved complement established by law for the agency shall not be reduced as a result of vacancies in approved positions. The five additional unclassified positions permitted by this subdivision shall only be filled in the manner and pursuant to the procedures and conditions specified in section 43.09, subdivision 2a; provided, that No additional deputy commissioner positions may be created.

Sec. 59. Laws 1971, Extra Session, Chapter 3, Section 19, Subdivision 5, is amended to read:

Subd. 5. Minnesota state employees
merit award board 43,170 54,780
The full time position may shall be in
the classified or unclassified service.

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Sec. 60. Laws 1980, Chapter 564, Article XII, Section 1, Subdivision 6, is amended to read:

Subd. 6. ADMINISTRATION.

80,000

Approved Complement - 3. Two of these positions are in the unclassified service and their continuation is dependent upon the availability of money from this appropriation. When the appropriation has been expended the two positions shall be cancelled and the approved complement reduced accordingly. This appropriation is for transfer to the general services revolving fund, resource recovery account, to be used by the commissioner of administration for the implementation and operation of the state government resources recovery program under article II, section 12.

Sec. 61. Laws 1981, Chapter 210, Section 55, is amended to read:

Sec. 55. REPEALER.

Minnesota Statutes 1980, Chapter 43 is repealed. Section 2, subdivision 22; section 4, subdivisions 1 and 4; section 8; section 13; section 15; section 17, subdivisions 2 and 3; section 18, subdivisions 3 and 4; section 33; and section 38 are repealed effective June 30, 1982; Sections 40 to 46 are repealed effective June 30, 1982 December 31, 1983.

Sec. 62. TEMPORARY.

No later than November 15, 1982, the commissioner of employee relations shall submit to the legislative commission on employee relations a report recommending necessary statutory, programmatic and procedural changes, together with an implementation timetable, for revision of the career executive service so that if these changes are adopted by the legislature, the major characteristics of the career executive service would include all of the following:

(a) Job classifications in the classified service, rather than individuals, would be designated for inclusion in the service;

(b) Positions to be designated would be those managerial positions equal in rank to, or immediately beneath the rank of, the lowest level unclassified position in an agency;

(c) Positions to be designated would be those managerial positions which involve a substantial amount of individual discretion and policy implementation;

(d) Persons holding designated positions would be eligible for benefits generally comparable to benefits available to current members of the service;

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(e) Persons holding designated positions would be able to be removed for unsatisfactory performance in addition to being able to be removed for the statutory grounds of just cause;

(f) Removal for unsatisfactory performance would not be appealable pursuant to the grievance process;

(g) Persons removed from designated positions for unsatisfactory performance may revert to their former classified position or if a person did not hold a prior position to a comparable position as identified by the commissioner;

(h) Persons holding designated positions would receive advanced management training, would receive periodic mobility assignments to undertake special projects within state service, and would be expected to perform at a level of performance characteristic of senior, career executives in the public and private sectors.

Sec. 63. [43A.081] TRANSITION.

Subdivision 1. The commissioner of employee relations shall authorize the probationary appointment of an incumbent who has passed a qualifying exam in an unclassified position which has been placed in the classified service by this act. For purposes of this section, the commissioner may deem satisfactory job performance as passing of the qualifying exam.

Subd. 2. The limitations in section 15 shall apply only to positions which are initially authorized after the effective date of section 15. Persons appointed to positions which have been temporarily designated in the unclassified service prior to the effective date of this act shall continue to serve in the unclassified service according to the terms under which they were appointed.

Subd. 3. Any person who on March 10, 1982 is the incumbent of a position in the classified service which pursuant to section 13 or 14 is placed or is subject to being placed in the unclassified service may elect to continue to serve in the classified service so long as the person remains in that position, but not to exceed five years after the effective date of this section. After the five-year period has expired, the employee shall have all rights granted pursuant to section 43A.07, subdivision 6, to an employee of a newly declassified position.

Subd. 4. The commissioner of employee relations shall, within 30 days of the date on which the position is placed in the unclassified service pursuant to section 13 or 14, notify the incumbent of the position of his or her rights under subdivision 3. Any person who elects to remain in the classified service shall notify the commissioner in writing of this election within 60 days after the commissioner's notice is sent. A person who fails to file this notice shall waive any rights under subdivision 3 to remain in the classified service.

Subd. 5. An employee who, on March 10, 1982, is on authorized leave of absence from a classified assistant agency head position, shall have the right to

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return to the position, and to continue to serve in the classified service so long as the employee remains in the position, but not to exceed five years after the employee's return to the position. After the five-year period has expired, the employee shall have all rights granted pursuant to section 43A.07, subdivision 6, to an employee of a newly declassified position. An employee who elects to continue in the classified service shall notify the commissioner of employee relations of this choice within 60 days of the employee's return to the position from the leave of absence.

Sec. 64. [179.7411] LIMITATION ON THE CONTRACTING-OUT OF SERVICES PROVIDED BY MEMBERS OF A STATE OF MINNESOTA OR UNIVERSITY OF MINNESOTA BARGAINING UNIT.

Any contract entered into after the effective date of this section by the state of Minnesota or the University of Minnesota involving services, any part of which, in the absence of the contract, would be performed by members of a unit provided in section 179.741, subdivision 1 or 3, shall be subject to section 16.07 and shall provide for the preferential employment by such a party of members of that unit whose employment with the state of Minnesota or the University of Minnesota is terminated as a result of that contract.

Sec. 65. REPEALER.

Minnesota Statutes 1980, Sections 12.05; 124.615, Subdivision 3; 190.081; and 190.095; and Minnesota Statutes 1981 Supplement, Section 43A.08, Subdivision 2, are repealed. Section 63, subdivisions 3 and 4, are repealed six years and 30 days after the effective date of section 63.

Sec. 66. EFFECTIVE DATE.

Section 10 is effective the day following final enactment. Section 64 is effective the day following final enactment. The remaining sections are effective June 30, 1982.

Approved March 22, 1982

CHAPTER 561 — S.F.No. 1886

An act relating to the public utilities commission; specifying the role of the department of energy, planning and development before the public utilities commission; clarifying and assigning certain public utilities commission responsibilities; defining "district heating systems" for purposes of the program of loans to municipalities for establishing and improving district heating systems; amending Minnesota Statutes 1980, Sections 116H.02, Subdivision 5; 218.021, Subdivision 1; 218.041, Subdivision 4; and 218.071, Subdivision 1; Minnesota Statutes 1981 Supplement, Sections 116H.11, by adding a subdivision; 116H.13, Subdivision 8; 116H.31, Subdivisions 1 and 2; 216B.241, Subdivision 2; 218.031, Subdivision 1; 218.041, Subdivision 2; and 465.74, by adding a subdivision.

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