

dress of such person, his driver's license or chauffeur's license number, the license of his vehicle, if any, the offense charged, and the time and place when and where such person shall appear in court.

(b) The place specified in said notice to appear must be before a magistrate within the town if there be a magistrate within said town, otherwise within the county in which the offense charged is alleged to have been committed and who has jurisdiction of such offense.

(c) The arrested person in order to secure release, as provided in this section, must give his written promise so to appear in court by signing in duplicate the written notice prepared by the arresting officer. The original of said notice shall be retained by said officers and the copy thereof delivered to the person arrested. Thereupon, said officer shall forthwith release the person arrested from custody."

Sec. 30. Law amended.—The 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 2720-291, is hereby amended so as to read as follows:

"2720-291. Construction of act.—(a) This act shall be interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) *In all civil actions, a violation of any of the provisions of this act by either or any of the parties to such action or actions shall not be negligence per se but shall be prima facie evidence of negligence only.*"

Approved April 22, 1939.

CHAPTER 431—H. F. No. 1270

An act relating to the organization and administration of the state government, appropriating money therefor, prescribing penalties for violations, and repealing Mason's Minnesota Statutes of 1927, Sections 2317 and 2318, and other acts and parts of acts inconsistent herewith.

Be it enacted by the Legislature of the State of Minnesota:

ARTICLE I

Section 1. Departments of State Government.—The following departments and agencies of the state government are

hereby created and established, to be designated and known respectively as follows: The Department of Administration, the Department of Public Examiner, the Department of Social Security, and the Department of Taxation. All of said departments and all officials and agencies of the state government shall be subject to the provisions and limitation of this act.

ARTICLE II

Section 1. Department of Administration. — (a) The Department of Administration shall be under the supervision and control of a Commissioner of Administration, in this article also referred to as the commissioner, who shall be ex-officio the state budget director and state purchasing agent.

(b) The commissioner of administration shall be appointed by the governor, by and with the advice and consent of the senate. The term of the first commissioner appointed hereunder shall expire February 1, 1941, and succeeding terms shall be two years thereafter. The governor may remove the commissioner at any time for cause, after notice and hearing. The commissioner shall receive a salary of \$6,000 a year, payable semi-monthly.

Sec. 2. What are included in act.—As used in this article, the term “agency of the state” or “state agency” shall mean and include every department, board, commission, officer, employe, and other agency of the state, including, without limiting the general effect of the foregoing, state teachers’ colleges, state hospitals, state penal institutions, and other state institutions, enterprises, and activities, wherever located, but excepting the regents of the state university and persons and institutions under their control, and excepting all cities, villages, boroughs, towns, counties, school districts, and other municipal corporations or political subdivisions of the state and excepting the professional and regulatory examining and licensing boards enumerated in Mason’s Minnesota Statutes of 1927, Chapter 35, and the 1938 Supplement to Mason’s Minnesota Statutes of 1927, Chapter 35.

Sec. 3. Powers and duties of the commissioner.—Subject to other applicable provisions of this chapter and to other laws not inconsistent herewith, the commissioner shall have the following powers and duties respecting all agencies of the state:

(1) To purchase, rent, or otherwise provide for the furnishing of all supplies, materials, equipment, printing, and

utility services, prescribe standard specifications therefor, to provide for inspecting and testing the same, and otherwise to enforce compliance with such specifications;

(2) To prescribe time, manner, authentication and form of making requisitions for supplies, materials, equipment, printing, and utility services, and the manner and form in which claims therefor shall be submitted, allowed, and paid;

(3) To supervise and control the making of all contracts for building, highways, and other improvements, and to prescribe the amount of certified checks, deposits, or bonds to be submitted in connection with bids and contracts, when not otherwise provided for by law;

(4) To cause to be prepared plans and specifications for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges; to approve such plans and specifications; to advertise for bids and award all contracts in connection with such improvements; to supervise and inspect all work relating thereto; after any contract for such an improvement is let, to approve all lawful changes in plans and specifications; to approve estimates for payment; and to accept such improvements when completed according to such plans and specifications.

(5) To maintain and operate the state capitol building, state office building, historical society building, and the grounds appertaining thereto, also, where deemed advisable and practicable by the commissioner, any other building or premises owned or rented by the state for the use of any state department or other administrative agency; provided, that this shall not apply to state hospitals or to educational, penal, correctional, or other institutions the control of which is vested by law in some other agency.

(6) To provide for the periodical inspection and appraisal of all state property, real and personal, and for keeping current and perpetual inventories thereof, and to require all departments and agencies to make reports of the real and personal property in their custody at such intervals and in such form as he may deem necessary;

(7) To inspect all state power, heating, and lighting plants, and to make such rules regulating the operation thereof and to recommend such improvements therein as will promote economical and efficient operation;

(8) To supervise and control the making of necessary repairs to all state buildings and structures, except structures, other than buildings, under the control of the state highway department;

(9) To rent land and other premises when necessary for state purposes; provided, that no such land or premises shall be rented for a term exceeding two years at a time; except that, with the approval of the legislative emergency committee, the commissioner may lease land or premises for a term not exceeding five years, subject to cancellation upon 30 days' written notice by the state for any reason except rental of other land or premises for the same use;

(10) To prepare a biennial budget, under the supervision of the governor-elect;

(11) To operate the allotment system;

(12) To provide for the printing and distribution of the session laws, the legislative manual, the capitol guide book, official reports, and other publications of all kinds, and to supervise and control the form of such reports and publications so as to co-ordinate the same, avoid duplications, and make the same useful and informative to the public;

(13) To rent out, with the approval of the governor, any state property, real or personal, not needed for public use, the rental of which is not otherwise provided for or prohibited by law; provided, that this shall not apply to state trust fund lands, or other state lands under the jurisdiction of the department of conservation, or to property under the jurisdiction of the department of rural credit, or to lands forfeited for delinquent taxes; provided further, that no such property shall be rented out for a term exceeding two years at a time;

(14) To have charge of all central store rooms and supply rooms serving more than one department now or hereafter established and operated by the state;

(15) To maintain and operate a central mimeograph, multigraph, and mailing service for state departments and agencies;

(16) To distribute all public printing to officers, organizations, agencies, and persons entitled thereto;

(17) To sell all public books and documents which are subject to sale;

(18) To transfer to or between state departments and

agencies or to sell supplies, materials, and equipment which are surplus, obsolete, or unused, making proper adjustments in the accounts and appropriations of the departments or agencies concerned;

(19) To purchase from the state penal institutions and other state institutions all articles manufactured by them which are usable by the state;

(20) To make rules and regulations relative to travel of state officers and employes on state business and the expenses incurred thereon.

Sec. 4. Definitions.—The terms “supplies,” “materials,” and “equipment” as used herein shall mean and include any and all articles and things used by or furnished to any department or agency of the state government, including printing, binding, and publication of books and records, repairs, and improvements. The term “utility services” shall mean and include any and all telephone, telegraph, postal, electric light, and power service, and any and all other services required for the maintenance, operation, and upkeep of buildings and offices. The enumeration of the things specified in this section shall not be deemed exclusive.

Sec. 5. Commissioner to make and amend rules.—The commissioner shall have power, with the approval of the governor, to make and amend rules and regulations, not inconsistent with law, respecting any matter within the scope of the powers and duties hereby conferred, which rules and regulations shall have the force and effect of law; provided, that every such rule or regulation affecting any person or agency other than a member of the department of administration shall be filed with the secretary of state, and shall not take effect until so filed.

Sec. 6. To purchase supplies and materials.—(a) Under rules and regulations prescribed by him, the commissioner may authorize any agency of the state government to purchase directly specified supplies, materials, equipment, and utility services; provided, that in making such purchases the authorized agency shall call for bids and proceed otherwise in like manner as herein required in case of purchases by the commissioner.

(b) Under rules and regulations prescribed by him, the commissioner may purchase or may authorize any agency to purchase directly any supplies, materials, equipment, or utility services for immediate use in emergencies, without calling for

bids; provided, that the conditions constituting an emergency shall be defined by regulation.

(c) All regulations made by the commissioner under this section shall prescribe the manner in which purchases shall be made, not inconsistent herewith, and the manner of accounting for and reporting the same to the commissioner and the auditor; provided, that every such purchase shall be so reported within three days.

Sec. 7. To receive competitive bids.—(a) Except as otherwise provided by this act, all contracts for construction or repairs and all purchases of and all contracts for supplies, materials, purchase or rental of equipment, and utility services shall be based on competitive bids, and all sales of property shall be to the highest responsible bidder after advertising for bids as herein provided; provided, that competitive bids shall not be required for utility services where no competition exists, or where rates are fixed by law or ordinance.

(b) If the amount of the expenditure or sale is estimated to exceed \$500, sealed bids shall be solicited by public notice inserted once each week for two successive weeks in a newspaper or trade journal of general circulation in the territory from which bids are likely to be received before the final date of submitting bids. The commissioner shall designate the newspaper or trade journal for such publication, and may designate different newspapers or journals according to the nature of the purchase or contract. The commissioner shall also solicit sealed bids by sending notices by mail to all prospective bidders known to him, and by posting notice on a public bulletin board in his office at least five days before the final date of submitting bids. All bids shall be sealed when received, shall be opened in public at the hour stated in the notice, and all original bids together with all documents pertaining to the award of a contract shall be retained and made a part of a permanent file or record, and shall be open to public inspection.

(c) All purchases or sales estimated to exceed in amount \$200 but not to exceed \$500 shall be made after receipt of sealed bids following at least three days notice posted on a public bulletin board in the office of the commissioner. The commissioner shall also solicit sealed bids by mail in such cases, in like manner as hereinbefore provided.

(d) All purchases or sales the amount of which is estimated to be less than \$200 may be made either upon competi-

tive bids or in the open market, in the discretion of the commissioner, but so far as practicable shall be based on at least three competitive bids which shall be permanently recorded.

(e) Contracts and purchases shall in all cases be based on the standard specifications prescribed by the commissioner in accordance with this act, unless otherwise expressly provided, and shall be accompanied by a certified check in such amount as the commissioner shall prescribe.

(f) Notwithstanding anything herein to the contrary, all contracts for the repair, improvement, maintenance, or construction of highways or highway bridges shall be advertised and let as now or hereafter provided by law for highway construction contracts.

Sec. 8. Contracts and purchases.—All contracts and purchases made by or under the supervision of the commissioner or any state department or agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. The commissioner of administration shall have power to decide as to the lowest responsible bidder for all purchases. As to contracts other than for purchases, the head of the interested department or agency shall make the decision, subject to the approval of the commissioner of administration. Any or all bids may be rejected, and a bid shall be rejected if it contains any alteration or erasure. The commissioner may reject the bid of any bidder who has failed to perform a previous contract with the state. A record shall be kept of all bids, with names of bidders and amounts of bids, and with the successful bid indicated thereon. Such record shall be open to public inspection. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law.

Sec. 9. Contracts and leases shall be approved by Attorney General.—All contracts and leases shall be approved as to form and execution by the attorney general. A copy of every such contract or lease extending for a term longer than one year shall be filed with the state auditor. All purchase orders shall be made on a form prescribed by the attorney general.

Sec. 10. Shall be signed by head of department.—Except as otherwise herein provided, every contract shall be signed in behalf of the state by the head of the interested depart-

ment or agency, and no purchase order or contract shall be valid or effective without the approval and signature of the commissioner and the counter-signature of the auditor who shall certify thereon that the appropriation and allotment have been encumbered for the full amount of the contract liability.

Sec. 11. Not to be interested in any contracts.—Neither the commissioner, nor any member of his department, nor any member of a standardization committee, shall be financially interested, or have any personal beneficial interest, either directly or indirectly, in any contract or purchase order for any supplies, materials, equipment or utility services used by or furnished to any department or agency of the state government, nor shall such commissioner, member of his department, or member of a standardization committee accept or receive, directly or indirectly, from any person, firm, or corporation to whom any contract or purchase order may be awarded, by rebate, gift, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract for future reward or compensation. Any violation of this section shall be a felony and shall be punishable accordingly.

Sec. 12. Commissioner to establish and enforce standards.—The commissioner is authorized to establish from time to time and to enforce standards for all supplies, materials, and equipment in common use by officers and departments of the state; to make or cause to be made any test, examination, or analysis necessary therefor; to require the assistance of any and all officers and departments therefor; to prepare or cause to be prepared proper and uniform specifications therefor; and to classify the requirements of the various agencies of the state government for the purpose of the use and application of such standard specifications.

Sec. 13. May transfer employees from one department to another.—With the approval of the governor and the executive head of the department of civil service, if there be such a department, the commissioner may, in order to expedite the necessary work of any department or agency, or to eliminate duplication and promote economy and efficiency, transfer employes from one department or agency to another; provided, that no necessary work of the department or agency from which the transfer is made shall thereby be curtailed, and provided further, that the salaries of such employes shall be charged to the department or agency to which they are transferred.

Sec. 14. Commissioner to prepare budget.—(a) It shall be the duty of the commissioner or his designated deputy to prepare the budget for all state departments and agencies, subject to the approval of the governor. The commissioner shall furnish every department, official, and agency of the state authorized to expend state moneys with a sufficient number of budget estimate forms for its use by September 1 of each even numbered year. The budget forms shall be so drawn as to show actual expenditures for the two preceding fiscal years, estimated expenditures for the current fiscal year and estimates for each fiscal year of the succeeding biennium, the same data in respect to departmental receipts and an estimated appropriation balance at the end of the current fiscal year. The estimated expenditures shall be classified to set forth the data by funds, organization units, character, and objects of expenditures, and the organization units may be subclassified by functions and activities. The department revenue estimates shall show the basis upon which the estimates were made and the factors involved in the same, and shall be classified so as to show receipts by funds, organization units, and sources of income.

(b) Each such department, official, or agency shall, not later than the first day of October preceding the convening of the legislature, file with the commissioner its estimates in the form provided, including a full explanation of its requests for any increased appropriations and for the expansion of services and the addition of new activities, a statement of the work accomplished during the preceding biennium and the work proposed to be done for the next biennium, and a list of all employes, their titles, and their salaries. The commissioner shall prepare estimates for all departments, boards, and agencies that fail to file requests.

(c) The commissioner of administration shall report the budget estimates to the governor-elect immediately after his election, and shall make available to him all information, staff, and facilities in the department relating to the budget.

Sec. 15. Governor to submit budget to the legislature.—

(a) The governor shall, within three weeks after his inauguration, submit the budget to the legislature. The budget shall include two parts.

(b) Part 1 of the budget shall consist of a budget message prepared by the governor, including his recommendations with reference to the fiscal policy of the state government for the coming biennium, describing the important features of the

budget plan, embracing a general budget summary setting forth the aggregate figures of the budget so as to show the balanced relation between the total proposed expenditures and the total anticipated income, with the basis and factors on which the estimates are made, the amount to be borrowed, and other means of financing the budget for the ensuing biennium, compared with the corresponding figures for at least the last two completed fiscal years and the current year. The budget plan shall be supported by explanatory schedules or statements, classifying the expenditures contained therein by organization units, objects, and funds, and the income by organization units, sources, funds, and the proposed amount of new borrowing, as well as proposed new tax or revenue sources. The budget plan shall be submitted for all special and dedicated funds as well as the general revenue fund, and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(c) Part 2 of the budget shall embrace the detailed budget estimates both of expenditures and revenues. It shall also include statements of the bonded indebtedness of the state government, showing the actual amount of the debt service for at least the past two completed fiscal years, and the estimated amount for the current fiscal year and for the next two fiscal years, the debt authorized and unissued, the condition of the sinking funds, and the borrowing capacity. It shall also contain any statements relative to the financial plan which the governor may deem desirable or which may be required by the legislature.

(d) The commissioner shall, upon request, furnish the governor or the legislature with any further information required concerning the budget, and shall, upon request, attend hearings of committees of the legislature in regard thereto.

Sec. 16. Year to be divided into quarterly allotment periods.—(a) For the purposes of the quarterly allotment system, each fiscal year shall be divided into four quarterly allotment periods, beginning respectively on the first days of July, October, January, and April; provided, that in any case where the quarterly allotment period is impracticable, the commissioner may prescribe a different period suited to the circumstances not exceeding six months nor extending beyond the end of a fiscal year.

(b) Except as otherwise expressly provided herein, the provisions of this chapter relating to the allotment system and to the encumbering of funds shall apply to appropriations and

funds of all kinds, including standing or annual appropriations and dedicated funds from which expenditures are to be made from time to time by or under the authority of any agency, but shall not apply to appropriations for the courts or the legislature, nor to payment of unemployment compensation benefits. In the case of construction contracts and transactions for the acquisition of real estate for public purposes, where periodical allotments are impracticable, the commissioner may dispense therewith and prescribe such regulations as will insure proper application and encumbering of funds. Contingent funds appropriated for the governor or the attorney general shall not be subject to the provisions hereof relating to allotment, but shall be subject to the other provisions hereof relating to expenditure and encumbering of funds.

(c) No appropriation to any agency shall become available for expenditure thereby during any allotment period until such agency shall have submitted to the commissioner an estimate in advance, in such form as the commissioner shall prescribe, for such allotment period next ensuing, of the amount required for each activity to be carried on and each purpose for which money is to be expended during said period, and until such estimate shall have been approved, increased, or decreased by the commissioner and funds allotted therefor as hereinafter provided.

(d) If the estimate is within the terms of the appropriation as to amount and purposes, having due regard for the probable further needs of the agency for the remainder of the fiscal year or other term for which the appropriation was made, and if there is a need for such appropriation for the next ensuing allotment period, the commissioner shall approve the same and allot the estimated amount for expenditure. Otherwise the commissioner shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the agency, and shall reduce the amount allotted accordingly. The commissioner shall act promptly upon all estimates, and shall notify every agency of its allotments at least five days before the beginning of each allotment period, and shall notify the state auditor. The total amount allotted to any agency for the fiscal year or other terms for which the appropriation was made shall not exceed the amount appropriated for such year or term.

(e) The commissioner shall also have authority at any time to modify or amend any allotment previously made by him, upon application of or upon notice to the agency concerned, and upon a showing of emergency or other cause, pro-

vided no deficit or undue reduction of funds to meet future needs of such agency will result therefrom.

(f) In case the commissioner shall discover at any time that the probable receipts from taxes or other sources for any appropriation, fund, or item will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, he shall, with the approval of the governor, and after notice to the agency concerned, reduce the amount allotted or to be allotted so as to prevent a deficit. In like manner he shall reduce the amount allotted or to be allotted to any agency by the amount of any saving which can be effected upon previous estimates through a reduction in prices or other cause.

(g) There shall be kept in the office of the state auditor an accounting system showing at all times, by funds and items, the amounts appropriated for and the estimated revenues of such agency, the amounts allotted and available for expenditure, the amounts of expenditures or obligations authorized to be incurred, actual receipts and disbursements, actual balances on hand, and the unencumbered balances after deduction of all actual and authorized expenditures.

(h) No payment shall be made and no obligation shall be incurred against any fund, allotment, or appropriation unless the state auditor shall first certify that there is a sufficient unencumbered balance in such fund, allotment, or appropriation to meet the same. Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be void. Every payment made in violation of the provisions of this chapter shall be deemed illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employe of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter, or take part therein, it shall be ground for his removal by the officer appointing him, and if the appointing officer be other than the governor and shall fail to remove such officer or employe, the governor may exercise such power of removal, after giving notice of the charges and opportunity for hearing thereon to the accused officer or employe and to the officer appointing him.

Sec. 17. Appropriations to revert to State Treasury—

Exceptions.—(a) Except as specifically provided for in appropriation acts every appropriation or part thereof of any kind hereinafter made subject to the provisions of this section remaining unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the general revenue fund; provided, that an appropriation for construction or other permanent improvement shall not lapse until the purposes for which the appropriation was made shall have been accomplished or abandoned unless such appropriation has stood during an entire fiscal biennium without any expenditure therefrom or encumbrance thereon.

(b) Except as otherwise expressly provided by law, the provisions of this section shall apply to every appropriation of a stated sum for a specified purpose or purposes heretofore or hereafter made from the general revenue fund, but shall not, unless expressly so provided by law, apply to any fund or balance of a fund derived wholly or partly from special taxes, fees, earnings, fines, Federal grants, or other sources which are by law appropriated for special purposes by standing, continuing, or revolving appropriations.

Sec. 18. Receipts to be deposited with the State Treasurer.—All receipts from any source whatever shall be deposited with the state treasurer each day, except as otherwise provided by law, and at the same time a report of all receipts since the last previous report and of the disposition thereof shall be made to the auditor by the depositing agency. All moneys received by the treasurer during any month shall be credited by him and by the state auditor to the proper funds not later than the first day of the following month.

Sec. 19. Treasurer to establish suspense funds.—The state treasurer is hereby authorized, subject to approval of the commissioner of administration, to establish suspense funds for the purpose of making refunds therefrom when authorized by law, but such refunds shall be vouchered and audited as provided by this act for other state disbursements.

Sec. 20. Five per cent of receipts to be set aside for expenses.—It is hereby determined that a charge of five per cent of the amounts received from the taxes and fees specified in this section does not exceed the reasonable cost and value of the services rendered or to be rendered by the governor, the secretary of state, the state treasurer, the state auditor, the attorney general, the department of administration, the public examiner, the courts, and the legislature, in connection with the collection of such taxes and fees and the maintenance

of the agencies concerned therewith. There is hereby imposed upon the gross receipts beginning July 1, 1939, from (1) all fishing licenses, (2) all hunting licenses, (3) all motor vehicle registration taxes credited to the trunk highway fund, (4) all gasoline taxes credited to the trunk highway fund, a charge of five per cent, such charge to be determined at the end of each quarter on the gross receipts for such period. The proceeds of such charge shall be paid into the state treasury and credited to a special fund to be known as the general administration fund. All moneys in said fund shall be subject to appropriations by the legislature for salaries and other regular maintenance expenses for the offices of the governor, the secretary of state, the state treasurer, the state auditor, the attorney general, the department of administration, the public examiner, the courts, and the legislature. All appropriations made for any of said purposes, if no other special fund be specified therefor, shall first be charged against said general administration fund in the order in which the appropriations were made as long as any moneys are available in said fund, but this shall not preclude the use of other authorized and available funds for such appropriations after the moneys in said general administration fund have been exhausted. In case the charge imposed by this section against any of said kinds of funds or receipts shall be held invalid, it shall not affect any other charge hereunder. In case any such charge shall be held, by any final determination by competent Federal authority, to conflict with the requirements of any federal grant so as to reduce the amount to which the state would otherwise be entitled thereunder, so much of the proceeds of such charge as may be necessary to comply with the requirements of such grant is hereby re-appropriated to the agency concerned for the same purposes as the funds against which such charge was made.

Sec. 21. Contingent appropriations.—(a) There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. Transfers from such appropriation to the appropriations of the various departments and agencies may be made with the approval of the legislative emergency committee herein created, subject to the following provisions:

(1) Transfers may be authorized by the commissioner of administration not exceeding \$2000, but limited to one such transfer for the same purpose for each quarterly period;

(2) Transfers exceeding \$2000 but not exceeding \$5000

shall be approved by the commissioner of administration and the governor;

Transfers exceeding \$5000 shall be made only with a four-fifths vote of the legislative emergency committee hereinafter provided for.

(b) The chairman of the senate committee on taxes and tax laws, the chairman of the senate committee on finance, the chairman of the house committee on taxes and tax laws, the chairman of the house committee on appropriations, and the governor shall constitute a committee to be known as the legislative emergency committee, of which committee the governor shall be chairman. If any of the legislative members elect not to serve on the committee, the house of which they are members, if in session, shall select some other member for such vacancy. If the legislature is not in session, vacancies in the legislative membership of the committee shall be filled by the last speaker of the house or, if he be not available, by the last chairman of the house rules committee, in case of a house vacancy, and by the last senate committee on committees, in case of a senate vacancy. The commissioner of administration shall act as secretary of the committee and shall keep a permanent record and minutes of its proceedings, which shall be made available for examination upon request of any interested citizen. The commissioner of administration shall transmit a report to the next legislature of all actions of said committee. Travelling and subsistence expenses of all legislative members in attending meetings of the committee shall be chargeable against the appropriation of the department of administration. The committee shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

(c) The provisions of this act shall not be construed to prevent the appropriation of separate contingent funds to the governor and the attorney general, or to limit the use of said funds as otherwise authorized by law.

(d) The first salary and wage schedules of employes prepared as provided by law after the taking effect of this act shall be submitted to the legislative emergency committee, which may approve or modify such schedules, subject to the limitations of the appropriations therefor. On the approval of the legislative emergency committee, such salary and wage schedules shall be placed in effect at a date fixed by said committee, and shall remain in effect until changed as provided by law.

(e) With the approval of the governor and by agreement of the heads of the departments or agencies concerned, any appointive subordinate officer or employe of a department or agency may be employed by or assigned to perform duties under another department or agency.

Sec. 22. Rights and powers transferred to commissioner—Exceptions.—All the rights, powers, and duties now by law imposed upon and vested in the commission of administration and finance, the constituent members thereof, the state printing commission, and the state expert printer, except those transferred by this act to the state auditor and the public examiner, are hereby transferred to and imposed upon the commissioner of administration. The commissioner of administration shall appoint a qualified printer, who shall be known as the state printer, and may delegate to him the exercise of the existing rights, powers, and duties heretofore appertaining to the state printing commission and the state expert printer, subject to the control of the commissioner. The commission of administration and finance is hereby abolished. The state printing commission is hereby abolished. The officers of comptroller, commissioner of the budget, commissioner of purchases, and state expert printer are hereby abolished. All the rights, powers and duties of the governor relating to the control, care, operation and maintenance of the State Capitol and grounds and to the appointment of employes therefor are hereby transferred to, vested in, and imposed upon the commissioner of administration.

ARTICLE III

Section 1. Duties of State Auditor.—The state auditor shall continue to exercise the rights, powers, and duties now vested in and imposed upon his office. He shall have charge of the administration of the financial affairs of the state, and he shall keep the general books of account of the state. The general books of account shall be on a double entry control basis, with such revenue, expenditure, asset and liability accounts as will give complete control over all financial and expenditure operations of the state and over all officials, departments, and other agencies of the state government. Accounts shall be set both as to expenditures and revenue according to generally accepted practice in governmental accounting. The auditor, with the advice and assistance of the commissioner of administration and the public examiner, shall formulate and prescribe for all departments and other state agencies a system of uniform records, accounts, statements, estimates, revenue receipt forms, vouchers, bills, and demands with suitable in-

structions governing the installation and use thereof. The accounting system and form so prescribed shall be adopted and employed by all officials, departments and agencies of the state government, and the auditor, with the assistance of the public examiner, shall exercise constant supervision and control over the same. All accounting and financial records shall be kept on the fiscal year basis of twelve months ending at midnight between June 30 and July 1. The auditor and his designated agents shall at all times have free access to the books, records, accounts and papers of the several departments and agencies. The commissioner of administration and his designated employes shall have free access at all times to the books, records, accounts and papers of the state auditor, and the auditor shall allow the commissioner and his agents sufficient desk space for using and inspecting the same.

Sec. 2. Duties of State Auditor.—(a) The auditor or his designated agents shall examine every receipt, account, bill, claim, refund, and demand against the state, and if a legal, correct, and proper claim, he shall approve the same, designate the account to be charged therefor, and issue his warrant in payment thereof in the manner provided by law. He shall approve all documents and reports showing evidences of payments into receipts by the state treasurer and shall designate the fund to be credited therewith.

(b) All liquor, fermented malt beverage stamps, and other stamps, tokens, or forms evidencing the payment of taxes or fees of any kind due to the state shall be prenumbered serially, so far as practicable, in such manner as the state treasurer may direct. All officers and employes having custody of such stamps, tokens, or forms shall be accountable therefor at all times, and shall keep such records and make such reports thereof as the state auditor may direct. Upon purchasing or contracting for such stamps, tokens, or forms the commissioner of administration, with the advice and approval of the state treasurer, shall designate and design the form and denomination thereof, prescribe such requirements and provide for such supervision of the manufacture and delivery thereof as may be necessary to prevent forgery, misappropriation, and fraud. The printer or manufacturer of any such stamps, tokens, or forms shall deliver the same upon completion to the officer or employe of the state entitled to custody thereof, and shall at the same time execute in triplicate a sworn statement, stating the kind and number of the articles printed or manufactured and delivered, what precautions have been taken to prevent forgery, misappropriation, and fraud in connection

therewith, and such other information as may be required by the commissioner of administration and the state treasurer. One of such statements shall be delivered with the articles described therein to the officer or employe of the state receiving the same, one to the commissioner of administration, and one to the state auditor. No claim for payment for any such articles shall be allowed until such statements have been delivered.

(c) All liquor and fermented malt beverage stamps, and other tokens and forms which are salable for cash without further certification or authentication shall be delivered, when printed or manufactured, to the state treasurer, who shall exclusively sell the same. Other tokens or forms of any kind hereinbefore referred to shall be delivered to and issued by the state treasurer. The state treasurer shall issue daily duplicate reports to the state auditor and liquor commissioner showing the sales of stamps and denominations thereof and the person or persons purchasing the same. Refunds to any purchaser of money paid for any stamps returned unfit for use or otherwise unused may be made upon proof required by the state auditor pertaining to such refund who shall, if he finds the same to be correct, draw his voucher upon the state treasurer for the amount to be paid.

(d) The forging, with intent to defraud, of any liquor stamp, license form, or other stamp, token, or form evidencing or intended to evidence the payment of any tax or fee due to the state, or any plate, die, or other device for the printing or manufacture of any such stamp, token, or form, shall be forgery in the third degree, and shall be punished accordingly. Every such stamp, token, or form which is salable for cash, without further authentication or certification, for the purposes of payment of any such tax or fee shall be deemed to be of the value of the amount of money designated thereon and for which the same is salable, and larceny thereof in any manner shall be punished accordingly. The provisions of this subdivision shall not exclude the application of any other laws, not inconsistent herewith, relating to the same subject matter, but shall be supplementary thereto.

Sec. 3. No money to be expended except by appropriation—Exceptions.—Unless otherwise expressly provided by law, no money belonging to or for the uses of the state shall be expended or applied by any official, department, or agency of the state government or any institution under its control, except under authority of an appropriation by law and an al-

lotment relating thereto as herein provided, and upon warrant of the auditor.

Sec. 4. All documents to be under supervision of Auditor.—Except as otherwise provided by law, all original bills, claims, contracts, deeds, leases, demands, and vouchers on which money has been paid or may be paid by the state treasurer shall be kept in the office of the auditor and shall be under the supervision and control of the auditor.

Sec. 5. To prepare quarterly statements.—The auditor shall prepare and submit to the governor and make available to the public at the end of every quarterly period and at the end of each fiscal year a summary statement showing all revenues and expenses for the period covered by such statement, including a comparison with the previous corresponding period. Such statements shall be in sufficient detail as to appropriations and funds as to show the exact financial condition of the state and each department and agency thereof. The auditor shall prepare and submit to the legislature and governor a biennial report.

Sec. 6. Salary—Bond.—The salary of the state auditor shall be \$6,000 annually, and he shall give a corporate bond of \$50,000 to the state for the faithful discharge of his duties.

ARTICLE IV

Section 1. Public Examiner to be appointed—Salary—Bond.—The department of the public examiner shall be under the supervision and control of the public examiner, which office is hereby created. The public examiner shall be appointed by the governor, by and with the advice and consent of the senate, for a six year term, and until his successor is duly appointed and qualifies. The term of the first public examiner shall expire February 1, 1945. His salary shall be \$5,000 per year, payable semi-monthly. He shall furnish a bond to the state in the sum of \$25,000.

Sec. 2. Duties of Public Examiner.—The public examiner shall post-audit and make a complete examination and verification of all accounts, records, inventories, vouchers, receipts, funds, securities, and other assets of all state departments, boards, commissions, and other state agencies at least once a year and oftener if deemed necessary, or as directed by the governor or the legislature. Audits may include detailed checking of every transaction or test checking as the public examiner deems best. The books of the state treasurer and the state auditor may be examined monthly. The public

examiner shall see that all requirements of this act and other provisions of law respecting the installation and use of accounting systems, books, records, and forms are complied with by all departments and agencies of the state government.

Sec. 3. To file written reports.—(a) The public examiner shall file a written report covering his audits with the department concerned, the governor, and the legislature, and, if he deems necessary, present special reports to the legislative emergency committee for their consideration and action.

(b) Such audit reports shall set forth:

(1) Whether all funds have been expended for the purposes authorized in the appropriations therefor;

(2) Whether all receipts have been accounted for and paid into the state treasury as required by law;

(3) All illegal and unbusinesslike practices, if any;

(4) Recommendations for greater simplicity, accuracy, efficiency, and economy; and

(5) Such other data, information, and recommendations as the public examiner may deem advisable and necessary.

Sec. 4. Duties when violations are discovered.—If any such public examiner's examinations shall disclose malfeasance or misfeasance or nonfeasance in office on the part of any officer or employe, a copy of such report shall be signed and verified and it shall be the duty of the public examiner to file such report with the secretary of the legislative emergency committee and the attorney general. It shall be the duty of the attorney general to institute and prosecute such civil proceedings against such delinquent officer or employe, or upon his official bond, or both, as may be appropriate to secure to the state the recovery of any funds or other assets misappropriated, and he shall cause such criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

Sec. 5. Shall collect information and report to legislature.—It shall be the duty of the public examiner or his designated agent to collect annually from all town, city, village, 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 debt, and such other information as may be needful.

The data shall be supplied upon such blanks as the public examiner shall prescribe and it shall be the duty of all local public officials so called upon to fill out properly and return promptly all blanks so transmitted. If necessary the public examiner or his assistants are authorized to examine local records, in order to complete or verify the information.

Sec. 6. Shall make and file annual report.—The public examiner shall make and file annually in his office a summary report of the information collected, with such compilations and analyses and interpretations as may be deemed helpful.

Sec. 7. Shall investigate accounting and budgeting system.—The public examiner shall inquire into the accounting and budgeting systems of all local units of government and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same. At the request of any local unit of government the public examiner may install such systems.

Sec. 8. Shall be subject to prior enactment of laws.—Subject to the provisions of this chapter, the public examiner shall have and exercise all the rights, powers, and duties conferred upon the former public examiner by Mason's Minnesota Statutes of 1927, Sections 3274, 3275, 3276, 3277, 3279, 3280, 3281, 3282, 3283, 3284, and 3286, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 3278, 3286-1, 3286-2, 3286-3, 3286-4, 3286-5, 3286-6, and 3286-7, and acts amendatory thereof or supplementary thereto, and all the provisions of said statutes shall apply to and govern all matters therein specified respecting the office and department of the public examiner created by this act, except that any limitations therein contained as to the number of employes to be appointed by the public examiner shall not apply; provided, that the public examiner shall account separately for all of the charges, receipts, and disbursements of the department of public examiner pertaining to the examining and auditing of all school districts, towns, cities, villages, and boroughs for which charges are made, and after allocating to the expense thereof a proper pro-rata share of the administrative expense, such functions of the department of public examiner shall be sustained, so far as practicable, by the funds collected therefor from such political subdivisions as otherwise provided by law. Mason's Minnesota Statutes of 1927, Section 3285, is hereby repealed.

Sec. 9. Board of Audit.—The powers and duties of the board of audit and of the former public examiner, heretofore

transferred to, vested in, and imposed upon the comptroller, are hereby transferred to, vested in, and imposed upon the public examiner created by this act.

ARTICLE V

Section 1. Executive council continued.—The executive council as now constituted shall continue with all its present rights, powers, and duties, but subject to the limitations and provisions of this act; provided, that if prior to the passage of this act the executive council shall have been abolished, the provisions of this section shall apply to any agency which has succeeded to its rights, powers, and duties in existence at the time of the passage of this act.

ARTICLE VI

Section 1. Department of taxation created.—The Department of Taxation shall be under the supervision and control of a commissioner of taxation, except as to the functions herein or by other provisions of law committed to the board of tax appeals.

Sec. 2. Commissioner of taxation to be appointed by Governor—Salary—Bond.—(a) The commissioner of taxation shall be appointed by the governor, by and with the advice and consent of the senate. The term of the first commissioner appointed hereunder shall expire March 1, 1945, and succeeding terms shall be six years thereafter. The commissioner shall be selected on the basis of ability and experience in the field of taxation and tax administration, and without regard to political affiliations. The governor may remove the commissioner at any time for cause, after notice and hearing. The commissioner shall receive a salary of \$6,000 per year, and shall give bond to the state in the sum of \$200,000.

(b) Subject to the provisions of this chapter and other applicable laws, the commissioner shall have power to organize the department with such divisions and other agencies as he deems necessary, and to appoint a deputy commissioner, a department secretary, directors of divisions, and such other officers, employes, and agents as he may deem necessary to discharge the functions of the department, define the duties of such officers, employes, and agents, and to delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

(c) The department of taxation shall have a seal, engraved with the words, "State of Minnesota, Department of Taxation." Such seal may be used to authenticate the official acts of the commissioner or any other members of the department except the board of tax appeals, but failure to use the seal shall not invalidate any such acts. Duplicate seals may be provided for the use of directors of divisions or other members of the department.

Sec. 3. Powers and duties.—All the powers and duties now vested in or imposed upon the department of taxation and the Minnesota Tax Commission, except those herein or by other provisions of law transferred to the board of tax appeals, are hereby transferred to, vested in, and imposed upon the commissioner of taxation. The Minnesota Tax Commission as heretofore constituted is hereby abolished.

Sec. 4. Powers and duties.—All the powers and duties now vested in or imposed upon the commissioner of agriculture and dairy and food under the provisions of Mason's Minnesota Statutes of 1927, Chapter 20, the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 20, and other laws relating to the inspection of oil and gasoline and the imposition and collection of taxes thereon are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have supervision and control of the administration of said laws. The office of chief oil inspector is hereby abolished and all the powers and duties vested in or imposed upon said office at the time of the passage of this act are hereby transferred to, vested in, and imposed upon the commissioner of taxation.

Sec. 5. To license cigarette dealers, etc.—All the powers and duties now vested in or imposed upon the commissioner of agriculture and dairy and food under the provisions of Mason's Minnesota Statutes of 1927, Chapter 16A, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 16A, and other laws relating to the licensing of the sale of cigarettes and other matters governed by said provisions are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have charge of the administration of said laws, and shall have power to appoint such inspectors, assistants, and other employes as may be necessary therefor.

Sec. 6. To supervise inheritance tax, etc.—All the powers and duties now vested in or imposed upon the attorney general under the provisions of any laws relating to inheritance

taxes or gift taxes, except those prescribed by Mason's Minnesota Statutes of 1927, Sections 2317 and 2318, are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have charge of the administration of said laws.

Sec. 7. Law repealed.—Mason's Minnesota Statutes of 1927, Sections 2317 and 2318, are hereby repealed.

Sec. 8. May request opinion of Attorney General.—The commissioner of taxation may in writing request the opinion of the attorney general upon any matter within the scope of the functions of the department of taxation as now or hereafter prescribed by law. Any written opinion of the attorney general upon any such matter rendered in response to such request shall have the force and effect of law unless and until overruled by a decision of the board of tax appeals or a court of competent jurisdiction.

Sec. 9. Shall make and file orders in writing.—(a) All orders and decisions of the commissioner of taxation or any of his subordinates respecting any tax, assessment, or other obligation shall be in writing, filed in the offices of the department. No order or decision increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$100 shall be made without the written approval of the commissioner or his deputy in each case. Written notice of every order granting a reduction, abatement, or refundment exceeding \$100 shall be given within five days to the attorney general. The attorney general shall forthwith examine such order, and if he deems the same proper and legal he shall approve the same in writing, and may waive the right of appeal therefrom in behalf of the state; otherwise he shall take an appeal from the order in behalf of the state as herein provided.

(b) No action requiring the recommendation or approval of any county board or other public agency shall be taken by the commissioner of taxation or any other member of the department unless such recommendation or approval shall have been made upon official action by such county board or other agency, entered upon the minutes or record of its proceedings as a public record, showing the names of the taxpayers and other persons concerned and the amounts involved, and so certified by the recording officer of such board or agency.

(c) The commissioner shall include in the printed biennial report of the department a statement of all abate-

ments, reductions, and refundments of assessments, taxes, or other obligations granted by the department during the biennium exceeding \$100 in amount, or, in case of real estate taxes, exceeding twenty per cent of the assessed value of the property. Provided, however, that all reductions of assessed valuation of more than \$50,000.00 and all reductions, refundments, or abatements of real estate tax of more than \$1,000.00 shall be separately shown in such report. Such statement shall show the names of all taxpayers or other persons concerned, the original amount of each assessment, tax, or other obligation, the amount of abatement, reduction, or refundment allowed in each case, and the totals of the respective items, notwithstanding any provisions of law requiring secrecy to the contrary. The commissioner shall also include in such reports a statement of all increases of taxes or assessments made by the department, classified in such manner as he may deem proper, but not showing the names of taxpayers or other persons concerned or the amounts in individual cases.

Sec. 10. Board of tax appeals created—Membership—Qualifications.—(a) There is hereby created a board of tax appeals, herein called the board, as an independent agency of the executive branch of the government, in the Department of Taxation, but not in any way subject to the supervision or control of the Commissioner of Taxation. The board shall consist of three members, each of whom shall be a citizen of the state appointed by the governor by and with the advice and consent of the senate. They shall be selected on the basis of their experience with and knowledge of taxation and tax laws. So far as practicable they shall be non-partisan in their political affiliations, and not more than two of them shall be members of or affiliated with the same political party or organization. No member of the board shall hold any other office under this state or any of its political subdivisions, nor any other office or position the salary for which is paid in whole or in part from appropriations from the tax revenues of the State of Minnesota, nor any office under the government of the United States or any other state, nor be a candidate for an elective office under the laws of this state or of the United States or of any other state. No member of the board shall hold any position of trust or profit or engage in any occupation or business which would conflict with or be inconsistent with his duties as a member of the board, nor serve on or under any political committee or other organization interested in any election, nor take part either directly or indirectly in any election campaign in the interest

of any political party or other organization or any candidate or measure to be voted upon by the people. No member of the board shall act as attorney, counselor, or accountant in the matter of any tax, fee, or assessment imposed or levied under authority of this state or any political subdivision thereof.

(b) Upon the taking effect of this act, one member of the board shall be appointed to serve until March 1, 1941, one member to serve until March 1, 1943, and one member to serve until March 1, 1945, who shall act as chairman until another shall qualify as hereinafter provided. Succeeding members shall be appointed for terms of six years, respectively, commencing at the expiration of the preceding terms. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The first board shall meet, organize, and adopt rules of procedure.

(c) A member of the board may be removed by the governor only for cause, after written notice of the charges against him and an opportunity to be heard publicly thereon.

(d) Each member of the board shall receive \$25 per day for time spent in the performance of his duties, but not exceeding \$2500 for any calendar year, or a proportionate amount for a fraction of a year. He shall also receive his actual and necessary expenses paid or incurred in the performance of his duties.

Sec. 11. Officers of board.—The member of the board having for the time being the longest record of then continuous service as such shall be chairman of the board, and the member having the next longest record shall be vice-chairman. In case the periods of service of two members be equal, the board shall choose between them. The board shall appoint a clerk, who shall be custodian of its files and records, and may also appoint a deputy clerk and other necessary employees.

Sec. 12. Seal.—The board shall have a seal, engraved with the words, "State of Minnesota, Board of Tax Appeals." Such seal may be used to authenticate the official acts of the board or any member thereof, but failure to use the seal shall not invalidate any such act.

Sec. 13. Hearings.—The board shall hold hearings and meetings at the call of the chairman or any two members, and otherwise as may be prescribed by rules of the board. The principal office of the board shall be at the State Capitol, but it may sit or hold hearings at any other place within the

state. A majority of the board shall constitute a quorum for making orders or decisions or transacting other official business, and may act though one membership be vacant. One or more members may hold hearings and take testimony, to be reported for action by the board, when authorized by rule or order of the board.

Sec. 14. Review of orders of Commissioner of Taxation.—The board of tax appeals shall have power to review and redetermine orders or decisions of the Commissioner of Taxation upon appeal therefrom in the cases authorized by law.

Sec. 15. Appeals from orders.—(a) Except as otherwise provided by law, an appeal to the board may be taken in the manner herein provided from any official order of the Commissioner of Taxation respecting any tax, fee, or assessment, or any matter pertaining thereto, by any person directly, interested therein or affected thereby, or by any political subdivision of the state directly or indirectly interested therein or affected thereby, or by the attorney general in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the attorney general, upon request, shall refuse to appeal.

(b) Except as otherwise provided by law, within twenty days after notice of the making and filing of such order of the commissioner, and in any case within sixty days after the making and filing of such order, the appellant or his attorney shall serve a notice of appeal upon the commissioner, and shall file the original, with proof of such service, with the board; provided, that any member of the board, for cause shown, may, by written order, extend the time for appealing for an additional period, not exceeding 30 days. The notice of appeal shall refer to the order appealed from, shall state specifically the points of both law and fact which are questioned by the appellant, and shall state an address within the state at which service of notice and other papers in the matter may be made upon the appellant; provided, that the board may, upon a showing of proper cause, permit an amendment of the notice of appeal. Every appellant shall be deemed to have waived all defenses and objections not specified in the notice of appeal. Within five days after receipt, the commissioner shall transmit a copy of the notice of appeal to the attorney general in all cases where the amount at issue exceeds \$100. The attorney general shall represent the commissioner, if requested, upon all such appeals except in cases where the attorney general has appealed in behalf of the state, or in other cases where he deems it against the inter-

ests of the state to represent the commissioner, in which event the attorney general may intervene or be substituted as an appellant in behalf of the state at any stage of the proceedings.

(c) Within twenty days after the service and filing of the notice of appeal, unless the appeal be theretofore dismissed, the commissioner shall make, certify, and file with the board a return comprising a copy of any application or petition by which the proceeding was instituted and of any other material paper preceding the order of the commissioner, a copy of the order appealed from, a statement of each finding of fact and ruling of law made by the commissioner in the matter, and a denial, admission, or explanation with respect to each allegation of fact in the notice so far as not covered by the order or findings; provided, that in all cases wherein the commissioner is required to transmit a copy of the notice of appeal to the attorney general, he shall, within 10 days after service of the notice of appeal upon the commissioner, transmit to the attorney general a complete copy of all papers required for the return. Allegations of new matter in the return shall be deemed to be denied by the appellant.

(d) At the time of filing the notice of appeal the appellant shall pay to the clerk of the board an appeal fee equal to ten cents for each one hundred dollars or fraction thereof of the amount at issue in the proceedings; provided, that the minimum fee shall be \$5 and the maximum fee \$15; provided further, that no appeal fee shall be required of the state or any of its political subdivisions. In any case where the foregoing provisions for determination of the appeal fee are inapplicable the amount of the fee shall be \$10.

(e) At any time before final determination of an appeal by the board, the commissioner may, upon notice to the appellant and with the approval of the attorney general, offer to modify or rescind the order appealed from, and if such action be satisfactory to the appellant and to all other parties appearing in the proceeding, if any, and they shall stipulate thereto in writing, the proposed modification or rescission shall be made by the commissioner, and the appeal shall thereupon be dismissed, with such adjustment of costs as may be agreed upon between the commissioner and the appellant and specified in the stipulation.

(f) The board shall hear, consider, and determine every appeal de novo upon the issues made by the notice and the

return. The board shall hold a public hearing in every case, of which 10 days notice shall be given by mail to all parties to the proceeding. All such parties shall have an opportunity to offer evidence and argument at the hearing; provided, that the order of the commissioner of taxation in every case shall be prima facie valid. In case no appellant shall appear, the appeal shall be dismissed, and the order appealed from shall stand as if no appeal had been taken.

Sec. 16. Shall make record of hearings.—The board shall provide for a verbatim stenographic report of all proceedings had before it upon appeals in like manner as required by the laws relating to proceedings in district court, so far as applicable. In case of a review by the supreme court of an order of the board, transcripts of the proceedings before the board shall be furnished to the board, the commissioner, and the attorney general upon request, and the cost thereof shall be paid out of funds appropriated therefor upon such terms as the board may prescribe. Transcripts shall be furnished to other parties by the reporter at the same legal rates applicable at the time to the district court reporters of Ramsey County, but no transcript shall be made for or delivered to such other party unless he shall deposit the estimated cost thereof in advance with the clerk, subject to payment of the actual cost therefrom as soon as determined.

Sec. 17. Shall make written order on appeal.—The board shall determine every appeal by written order containing findings of facts and the decision of the board. A memorandum of the grounds of the decision shall be appended. A certified copy of the order shall be transmitted to the commissioner of taxation and filed in his office. Notice of the entry of the order and of the substance of the decision shall be given by mail to all other parties who have appeared, and also, in all cases where the amount at issue exceeds \$100, to the attorney general.

Sec. 18. Shall not apply to inheritance taxes.—(a) The right of appeal to the board herein provided shall not apply in the determination of inheritance taxes in cases wherein such taxes are now determinable by the probate courts, in which cases proceedings shall be had as otherwise provided by law, subject to the substitution of the commissioner of taxation for the attorney general as herein provided. In all other cases, except as otherwise provided herein, the right of appeal herein provided shall be the exclusive remedy for reviewing the action of the commissioner of taxation respecting any tax, assessment, or other obligation. Upon any

appeal taken by a taxpayer, and upon any other appeal when the taxpayer shall so agree in writing, filed with the clerk of the board, the decision of the board of tax appeals, or the decision of the supreme court upon review thereof, as the case may be, shall be final and conclusive upon all parties to the proceedings as to all matters at issue determined by such decision. In all cases the decision of the board upon appeal or of the supreme court upon review, as the case may be, shall stand in lieu of the order of the commissioner from which the appeal was taken, and shall have like force and effect, subject to the provisions hereof.

(b) Except as otherwise hereinafter provided, in all cases other than those wherein the taxpayer has appealed to the board or has agreed in writing, as herein provided, that the decision upon appeal or review shall be conclusive, all rights of action or defenses in the courts of the state respecting any tax, fee, or assessment now afforded the taxpayer by law shall be preserved; provided, that no action by a taxpayer for a refund shall be instituted, proceeded with, or determined pending the determination of any appeal or review by the supreme court hereunder, except as hereinafter expressly authorized. Except as otherwise hereinafter provided, in any case wherein an appeal has been taken by a person other than the taxpayer and the taxpayer has not agreed that the decision upon appeal or review shall be conclusive, the running of the time limited by law for the bringing of an action by the taxpayer shall be suspended from the filing of the notice of appeal to the board until the final determination of the matter by the board or the supreme court, as the case may be, and for sixty days thereafter.

(c) In any case where, at the time of the taking of an appeal to the board by any person or agency other than the taxpayer, the taxpayer has an existing right of action in the district court for the determination of any issue or issues determinable upon the appeal, such right or action shall be barred, and the determination of such issue or issues upon the appeal, or upon review by the supreme court, shall be conclusive upon the taxpayer, unless within ten days after the service of the notice of appeal upon him the taxpayer shall commence an action for the determination of such issue or issues in the proper district court, upon a verified complaint, shall pay at least the amount of the tax or other obligation conceded by the complaint to be due, if any, shall file with the clerk of such court of bond, approved by the court, in at least such additional amount as might be adjudged against him, including interest, penalty, and costs, conditioned to

prosecute the action with diligence and effect and to pay any amount required by or pursuant to any judgment that may be awarded against him therein, and shall serve upon the appellant and file with the clerk of the board a notice of the commencement of such action, with a copy of the summons and complaint therein and of the bond required as hereinbefore provided; provided, that this shall not relieve the taxpayer from complying with any other requirements of law. Thereupon further proceedings upon the appeal shall be stayed with respect to the issue or issues involved in the action until final determination of the action; provided, that this shall not stay the appeal as to any other issues. Upon final determination of the action the appeal shall be dismissed as to any issue or issues thereby determined. If the action be dismissed or finally disposed of in any way without final determination of any issue or issues involved in the appeal, the appeal shall be reinstated and may be proceeded with as to such issue or issues with like effect as if the action had not been commenced, and the determination upon the appeal or upon review by the supreme court shall be final and conclusive upon the taxpayer. The running of any period of time limited by law for enforcement of any obligation against the taxpayer shall be suspended for such time as the appeal is stayed under the provisions of this subdivision and for sixty days thereafter.

Sec. 19. Appeal to Supreme Court.—(a) A review of any final order of the board of tax appeals may be had upon certiorari by the supreme court upon petition of any party to the proceedings before the board. Such review may be had on the ground that the board was without jurisdiction, that the order of the board was not justified by the evidence or was not in conformity with law, or that the board committed any other error or law.

(b) ¹⁰⁵ Within twenty days after notice of the making and filing of the order of the board, and in any case within sixty days after the making and filing of such order, the petitioner for review shall obtain from the supreme court a writ of certiorari, and shall serve the same upon the commissioner of taxation and upon all other parties appearing in the proceeding before the board, also upon the attorney general, unless he is the petitioner, and shall file the original, with proof of such service, with the clerk of the board. Every petitioner except the attorney general shall also pay to the clerk a fee of \$15 and file a bond or make a deposit in like manner and amount as in case of an appeal from the district court.

The fee shall be disposed of as in such case. Return upon the writ shall be made to the supreme court and the matter shall be heard and determined by the court as in other certiorari cases, subject to the provisions hereof and to such rules as the court may prescribe for cases arising hereunder.

Sec. 20. Orders to be prima facie evidence of facts.—

(a) In all cases determinable by order of the commissioner of taxation, the order of the commissioner, or in case of appeal therefrom, the order of the board of tax appeals or the decision of the supreme court, as the case may be, shall be prima facie evidence of all facts therein stated and shall be prima facie evidence that all precedent requirements of the law were complied with, and shall be prima facie valid, and such order or decision shall be conclusive as to all matters therein determined upon every appellant or petitioner for review and upon all parties to the proceedings who shall have so agreed in writing as herein provided.

Sec. 21. Not to be effective until time for appeal has expired.—No order for refundment by the commissioner of taxation or the board of tax appeals shall take effect until the time for appeal therefrom or review thereof by all parties entitled thereto has expired. Otherwise every order of the commissioner or the board shall take effect immediately upon the filing thereof, and no appeal therefrom or review thereof shall stay the execution thereof or extend the time for payment of any tax or other obligation unless otherwise expressly provided by law; provided, that in case an order which has been acted upon in whole or in part shall thereafter be set aside or modified upon appeal, the determination upon appeal or review shall supersede the order appealed from and be binding upon all parties affected thereby, and such adjustments as may be necessary to give effect thereto shall be made accordingly, subject to any rights or action or defense of the taxpayer, as herein provided. If it be finally determined upon such appeal or review that any person is entitled to refundment of any amount which has been paid for a tax or other obligation, such amount, unless otherwise provided by law, shall be paid to him by the state treasurer or other proper officer out of funds derived from taxes of the same kind, if available for the purpose, or out of other available funds, if any, with interest at six per cent, upon certification by the commissioner of taxation. If any tax, assessment, or other obligation be increased upon such appeal or review, the increase shall be added to the original amount, and may be enforced and collected therewith or in separate proceedings, in like manner as the original amount.

Sec. 22. May compel attendance of witnesses.—The commissioner of taxation, the board or tax appeals, and the several members of the board shall respectively have power to subpoena and compel the attendance of witnesses and the production of books, records, papers, and documents at any hearing or investigation at any place within the state in any matter within the scope of their authority, and shall also have power to administer oaths to witnesses and to take testimony under oath. Disobedience of any such subpoena or refusal by any witness to be sworn or to testify upon any material matter at any such hearing or investigation shall be punishable in like manner as a contempt of the district court, in proceedings instituted upon complaint of the authority issuing the subpoena in the district court of the county where the subpoena was made returnable. Subpoenas for witnesses or the production of documentary evidence shall be issued at the request of any party to the proceeding. Subpoenas may be signed by the commissioner or by any member of the board or by the secretary of the department in behalf of the commissioner or by the clerk of the board in behalf of the board, as the case may be.

Sec. 23. Depositions.—Depositions may be taken for use before the commissioner or the board upon notice, commission, or stipulation, as in civil actions, and the commissioner and the board shall respectively have power to issue commissions to take depositions.

Sec. 24. May administer oaths.—The commissioner of taxation, the members of the board of tax appeals, the secretary of the department, the clerk of the board, and all other officers and employes of the department shall respectively have power to administer oaths and to take and certify acknowledgments so far as they may deem necessary to the proper discharge of their respective duties, and may authenticate the same with the seal of the department or the board, as the case may be.

Sec. 25. May make rules and regulations.—The commissioner of taxation and the board of tax appeals shall respectively have power to make and amend rules and regulations, not inconsistent with law, governing the procedure in cases arising before them and other matters within the scope of their respective functions, and such rules and regulations shall have the force and effect of law; provided, that all rules and regulations affecting persons other than members of the department of taxation shall be filed with the secretary of state, and shall not be binding upon any other persons until

so filed; provided, further, that the provisions of this section shall not prejudice or abridge any power to make rules or regulations otherwise conferred upon the commissioner or the board by law, or the effect of any rules or regulations made thereunder.

Sec. 26. Secretary of department and clerk of board shall be filing officers.—The secretary of the department of taxation and the clerk of the board of tax appeals shall be the filing officers and custodians of the books, files, and records of their respective agencies. The secretary and clerk and their deputies shall respectively have power to certify and authenticate copies of the books, files, and records in their custody for all purposes in like manner and with like effect as other custodians of public records. The commissioner of taxation, his deputy, and any other officer or employe of the department thereto authorized by the commissioner by written order filed with the secretary of state shall have like power to certify and authenticate copies of any books, files, and records of the department specified in the order other than those of the board. The chairman and vice-chairman of the board and any other officer or employe of the board thereto authorized by the board by written order filed with the secretary of state shall also have like power to certify and authenticate copies of any books, files, and records of the board specified in the order.

Sec. 27. Employees not to represent clients within one year after discontinuing employment.—Except those holding office or employment prior to the passage of this act, no officer, member, or employe of the department of taxation, including the board of tax appeals, shall, within one year after his office or employment has terminated, act as counsel, attorney, or agent for a taxpayer or be associated with any other person so acting in connection with any claim or proceeding pending in the department, and no officer or employe, whether appointed or employed before or after the passage of this act, shall at any time after the termination of his office or employment act as counsel, attorney, or agent, or be associated with any person so acting, in connection with any claim or proceeding of which he has knowledge which was acquired in the course of his term of office or employment in the department. Any violation of the provisions of this section shall be a gross misdemeanor.

Sec. 28. Costs and disbursements.—Upon the determination of any appeal under this article before the board of tax appeals or of any review hereunder by the supreme court

costs and disbursements may be taxed and allowed in favor of the prevailing party and against the losing party as in civil actions. In any case where a person liable for a tax or other obligation has lost an appeal or review instituted by him, and the board or court shall determine that he instituted the same merely for purposes of delay, additional costs, commensurate with the expense incurred and services performed by the agencies of the state in connection with the appeal, but not exceeding \$500 in any case, may be allowed against him, in the discretion of the board or court. Costs and disbursements allowed against any such person shall be added to the tax or other obligation determined to be due, and shall be payable therewith. Costs and disbursements allowed against the state or other public agencies shall be paid out of funds received from taxes or other obligations of the kind involved in the proceeding, or other funds of the agency concerned appropriated and available therefor. Witnesses in proceedings under this article shall receive like fees as in the district court, to be paid in the first instance by the parties by whom the witnesses were called, and to be taxed and allowed as herein provided.

Sec. 29. Not to apply to pending actions.—The provisions of this article shall not apply to any proceeding pending in any court at the time of the passage of this act, but such proceedings shall be governed by the laws then in force until finally determined; provided, that proceedings pending in any probate court in an inheritance tax case shall be governed by the provisions of this act, so far as applicable.

Sec. 30. Questions must be disposed of within three months.—All questions of fact and law, and all matters submitted to the members of the board of tax appeals, shall be disposed of and their decision filed with the clerk of said board within three months after such submission, unless sickness or casualty shall prevent, or the time be extended by written consent of the parties. And no part of the salary of any member of the board of tax appeals shall be paid unless the voucher therefor be accompanied by certificate of the member that he has fully complied with the requirements of this section.

Sec. 31. Effective July 1, 1939.—Notwithstanding any other provisions of this act to the contrary, the provisions of Article VI hereof shall take effect July 1, 1939; provided, that appointments and employments under said article may be made at any time after the passage hereof, to take effect July 1, 1939.

ARTICLE VII

Section 1. Department of Social Security established.—
Directors—Terms.—The Department of Social Security shall be organized with a Division of Public Institutions, a Division of Social Welfare, and a Division of Employment and Security. Each division shall be under the supervision and control of a director, who shall be appointed by the governor by and with the advice and consent of the senate. The term of office of each of said directors first appointed shall expire on February 1, 1943, after which the term of office of each of said directors shall be for a term of four years. The several directors shall be removable by the governor for cause after notice and hearing. The directors shall be selected on the basis of ability and experience in their respective fields of service and without regard to political affiliations. They shall not engage in any manner in partisan politics during their term in office. Subject to the provisions of this act and other applicable laws, now or hereafter enacted, each director shall have power to organize his division in such manner and to appoint such subordinate officers, employes, and agents as he may deem necessary to discharge the functions of the division; and define the duties of such officers, employes, and agents, and to delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe. Appointments to exercise delegated power shall be written orders filed with the secretary of state. Each director shall receive an annual salary of \$5,000, payable semi-monthly.

Sec. 2. Powers and duties.—(a) All the powers and duties now vested in or imposed upon the state board of control by the laws of this state or by any law of the United States are hereby transferred to, vested in, and imposed upon the director of social welfare, except the powers and duties herein otherwise specifically transferred to other agencies. The director of social welfare is hereby constituted the "state agency" as defined by the social security act of the United States and the laws of this state.

The Director of Social Welfare shall:

(1) Administer and supervise all forms of public assistance in the state including general relief, relief to transients and state homeless, relief to veterans, old age assistance, aid to dependent children, aid to the blind and otherwise handicapped persons and such other welfare activities or services as may from time to time be vested in the director. Provided, that nothing herein shall transfer from the Soldiers'

Home Board any of its present rights, powers, or duties, all of which shall continue to be exercised by said board.

(2) Administer and supervise all child welfare activities; promote the enforcement of laws protecting defective, illegitimate, dependent, neglected and delinquent children; license and supervise private child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(3) Administer and supervise all mental hygiene work involving persons not in a state institution, including non-institutional care of mentally ill and feebleminded persons. The authority and power conferred by this subsection does not extend to administration or supervision of state institutions of mental hygiene nor to patients therein during the period of actual confinement.

(4) Administer and supervise all non-institutional services to the handicapped persons, including the blind, the deaf, the tubercular, the crippled, and otherwise handicapped persons. The authority and power conferred by this subsection shall include such non-institutional services to the handicapped as are now authorized to be performed by the state board of control and by the division of the deaf of the state industrial commission.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state and Federal, by performing services in conformity with the purposes of this act, including the establishment of an efficient working relationship with the director of institutions relating to the care and supervision of individuals both prior to and after departure from institutions under the supervision of said director of institutions.

(6) Act as the agent of and cooperate with the Federal government in matters of mutual concern relative to and in conformity with the provisions of this act, including the administration of any Federal funds granted to the state to aid in the performance of any functions of the director as specified in this act.

(7) Establish and maintain such administrative units as may reasonably be necessary for the performance of administrative functions common to all divisions of the department.

(8) Administer and supervise such additional welfare activities and services as may, from time to time, hereafter be vested by law in the state department.

(9) Establish within his division a Bureau of Old Age Assistance, of Aid to Dependent Children, and a Bureau of Child Welfare.

(10) The director is hereby specifically constituted as guardian of both the estate and the person of all of the wards of the state of Minnesota and other persons the guardianship of whom has been heretofore vested in the state board of control, whether by operation of law or by an order of court, without any further act or proceeding whatever. All of said guardianships, and the funds and property of the same, are hereby transferred to and vested in said director, and said director is hereby constituted a legal entity and is hereby empowered to act as guardian under any laws of this state heretofore conferring such powers upon the state board of control.

(11) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(b) All the powers and duties now vested in or imposed upon the state board of control under the provisions of Mason's Minnesota Statutes of 1927, Sections 4599 to 4605-2, inclusive, the Sections 4393 to 4397, inclusive, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 4601 to 4604, inclusive, Sections 4394, 4397-1, 4397-2, 4397-21, 4397-22, and 4397-23, and acts amendatory thereof and supplementary thereto, are hereby transferred to, vested in, and imposed upon the adjutant general.

(c) All the powers and duties now vested in or imposed upon the Executive Council, or any other agency which may have succeeded to its authority, relating to the administration and distribution of direct relief to the indigent or destitute, including war veterans and their families and dependents, are hereby transferred to, vested in, and imposed upon the director of social welfare.

(d) All the powers and duties now vested in or imposed upon the Industrial Commission under the Minnesota Unemployment Compensation Law, Extra Session Laws 1936, Chapter 2, and acts amendatory thereof and supplementary thereto, and all the powers and duties now vested in or imposed upon the Industrial Commission under Mason's Minnesota

Statutes of 1927, Section 4046, subsection 3, and Mason's Minnesota Statutes of 1927, Section 4254, are hereby transferred to, vested in, and imposed upon the director of Employment and Security.

Sec. 3. Powers and duties vested in Board of Control transferred to director of public institutions.—All the powers and duties vested in or imposed upon the State Board of Control with reference to the institutions of the State of Minnesota are hereby transferred to, vested in, and imposed upon the Director of Public Institutions, and in relation thereto said director is hereby charged with and shall have the exclusive power of administration and management of all of the following State institutions: The State Prison, the State Reformatory for Men, the State Training School for Boys, the School for the Feebleminded, State hospitals and asylums for the insane, the State School for the Blind, the State School for the Deaf, the State Public School for Dependent Children, the State Epileptic Colony, the State Hospital for Indigent, Crippled and Deformed Children, the State Hospital for Inebriates, the State Sanatorium for Consumptives, the Home School for Girls, and the State Reformatory for Women. The Director shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in the Director. It is the intent of this Act that there be vested in the Director all of the powers, functions, and authority now vested in the State Board of Control relative to State institutions.

It shall be the duty of the several directors to actively cooperate, each with the other, in establishing an efficient working relationship relative to the care and supervision of individuals both prior to and after departure from institutions herein above mentioned.

Sec. 4. State Board abolished.—The State Board of Control is hereby abolished. The powers and duties of the State Board of Control as provided by Section 4405, Mason's Minnesota Statutes of 1927, are hereby continued and imposed upon the director of public institutions.

Sec. 5. Social Security Board.—The directors of the divisions of the Department of Social Security shall constitute the Social Security Board, which shall be an agency of the department. The director of social welfare shall act as chairman of the board, and the director of public institutions or his

designated agent shall act as secretary of the board. The board shall have the power and duty to co-ordinate the functions, activities, budgets, and expenditures of the several divisions of the department and to provide for the prompt exchange of information between divisions so as to avoid duplication and promote efficiency and economy. In all cases where the different divisions have similar or related functions, it shall be the duty of the board to provide, by rules and regulations, for the joint use by such divisions of information, services and facilities relating to the performance of such functions, so far as practicable. Otherwise the board shall not have power to direct or control the acts of any member of the department except as expressly authorized by law.

Sec. 6. State Board of Parole continued—Limitations.—The State Board of Parole as now constituted is hereby continued subject to the provisions and limitations of this Act, and there is hereby transferred to and vested in said State Board of Parole all the powers and duties in respect to supervising persons on parole from any and all State institutions; provided, however, that said board shall hereafter be under the supervision, direction and control of the Director of Social Welfare. The members of the State Board of Parole shall continue in office with salary and terms of office as now provided by law, but at the expiration of the terms of the present members of said board, their successors shall be appointed by the Governor who shall also have authority to fill any vacancies existing on said board after the effective date of this Act.

Sec. 7. Duties of Society for Prevention of Cruelty transferred to said society.—All the rights, powers, and duties of the Minnesota society for the prevention of cruelty conferred by Mason's Minnesota Statutes of 1927, Section 53-59, upon the state board of control are hereby transferred to, vested in, and imposed upon said society, which shall be constituted in the same manner and for the same purposes and with the same rights, privileges, powers, and duties as prior to the enactment of said Section 53-59. All unexpended funds appropriated to the state board of control for the prevention of cruelty are hereby transferred and appropriated to said society. The state board of control is hereby authorized and directed to transfer and deliver to said society any and all personal property of the state in charge of said board and now being used for the purposes specified in this section.

ARTICLE VIII

Section 1. Salaries of commissioners, directors and em-

ployees—Bonds.—The salaries of the commissioners, directors and all employes shall be chargeable against the appropriations of their respective departments. Each commissioner shall devote his entire time to the duties of his office, and shall not participate in any political campaign or be a candidate for any public office. Except as otherwise provided, each commissioner shall give a corporate surety bond of \$10,000 to the state for the faithful discharge of his official duties. The cost of all bonds of officers and employes hereunder shall be charged to the appropriations for their respective departments or agencies.

Sec. 2. Departments to furnish information.—Whenever in this act power is vested in a department or an official to inspect, examine, secure data or information, or to procure assistance from another department, a duty is hereby imposed upon the department upon which the demand is made to make such power effective, and to furnish such data or information or the opportunity for inspection and examination.

Sec. 3. State Auditor and Commissioner of Administration to have access to books and records.—The state auditor and the commissioner of administration and their designated agents shall have free access to the records of all state departments and agencies, and may issue subpoenas for and compel the attendance of witnesses and the giving of testimony and the production of books, records, accounts, documents, and papers; and may administer oaths to witnesses or take their affirmation. If any person shall fail or refuse to appear or testify regarding that upon which he may be lawfully interrogated, or to produce any books, records, accounts, documents or papers material in the matter under consideration, after having been lawfully required by order or subpoena, any judge of the district court in any county of the state where the order or subpoena was made returnable, on application of the state auditor or commissioner of administration, as the case may be, shall compel obedience or punish disobedience as for contempt, as in the case of disobedience of a similar order or subpoena issued by such court.

Sec. 4. Transfer of powers.—Except as otherwise herein provided, all the powers and duties and functions conferred by law upon and required to be performed by the several state departments, bureaus, divisions, and other administrative agencies mentioned in this act at the time of the passage of this act shall hereafter be exercised, performed, and administered by

the commissioners of the several departments and the boards, commissions, and agencies herein specified.

Sec. 5. Existing powers continued. — All now existing powers, duties, and functions heretofore exercised by any department, division, bureau, or other agency abolished by this act, or by the chief of any such division, bureau, or agency, shall be exercised by the head of the department or by the agency to which the same are herein assigned.

Sec. 6. Powers of heads of departments. — Except as otherwise expressly provided by law, the commissioner or head of any state department or agency shall have the following powers:

(1) To designate a division director or other subordinate as his deputy, to serve as such at his pleasure, with full authority to act for him, but subject to his control; and in case of a vacancy in the office of such commissioner or head, such deputy shall discharge the necessary duties of the office until the vacancy be filled.

(2) To delegate to any of his subordinate officers or employes the exercise of such of his powers or duties as he may deem advisable, subject to his control; provided, that every such delegation shall be made by written order, filed with the secretary of state.

(3) To appoint all subordinate officers and employes in his department or agency and to prescribe their duties and fix their compensation; provided, that all departments and agencies hereunder shall be subject to the provisions of any civil service law now or hereafter enacted, so far as applicable.

(4) With the approval of the commissioner of administration, to establish within his department or agency such bureaus or subdivisions as he may deem advisable in the interests of economy and efficiency.

(5) To prescribe rules and regulations, not inconsistent with law, for the conduct of his department or agency and other matters within the scope of the functions thereof, including the custody and preservation of books, records, papers, documents, and other property, and the certification of copies of papers, and documents; provided, that every rule or regulation affecting any person or agency other than a member of the department or agency concerned shall be filed with the secretary of state.

Sec. 7. Meaning of words.—Whenever in any other general law, or resolution of the legislature heretofore or hereafter adopted, or in any document, record, or proceeding authorized by the same, any word or phrase is used in reference to or descriptive of any department, agency, or officer, or employe thereof, or their respective activities, whose powers, duties, or activities are by this act assigned or transferred, such word, phrase, or reference shall hereafter, unless the context or provisions of this act otherwise require, be deemed to refer to, include, and describe such department, agency, officer, or employe as by this act is charged with carrying out said powers, duties, and activities, as the context and provisions of this act may require.

Sec. 8. Shall be deemed to constitute continuance of powers.—Any department or other administrative agency to which the functions, powers, and duties of a previously existing department or other agency are by this act assigned and transferred shall be deemed and held to constitute a continuation of the former department or agency as to matters within the jurisdiction of the former department or agency, and not a new authority, for the purpose of succession to all rights, powers, duties, and obligations of the former department or agency as constituted at the time of such assignment or transfer, except as otherwise provided by this act, with the same force and effect as if such functions, powers and duties had not been assigned or transferred.

Sec. 9. All proceedings, etc., shall be continued.—Any proceeding, court action, prosecution, or other business or matter undertaken or commenced prior to the passage of this act by a department or other agency, the functions, powers, and duties whereof are by this act assigned and transferred to another department or agency, and still pending at the time of the passage of this act, may be conducted and completed by the new department or agency in the same manner and under the same terms and conditions and with the same effect as though it were undertaken or commenced and were conducted or completed by the former department or agency prior to said transfer.

Sec. 10. Books and records to be delivered to heads of departments.—The head of a department or other agency whose functions, powers, and duties are by this act assigned and transferred to another department or agency shall transfer and deliver to such other department or agency all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control, and shall

also transfer thereto any or all employes engaged in the exercise of such functions, powers, or duties. The head of such other department or agency to which such assignment or transfer is made is hereby authorized to take possession of said property, and shall take charge of said employes and shall employ them in the exercise of their respective functions, powers, and duties transferred as aforesaid, without reduction of compensation, subject, however, to change or termination of employment or compensation as may be otherwise provided by law.

Sec. 11. Commissioner to assign office space.—The commissioner of administration shall assign and reassign the office space in the capitol and other state buildings so far as necessary to carry out the purposes of this act and to make an equitable division of available space among the several departments and agencies.

Sec. 12. Not to apply to State Agricultural Society.—The provisions of this act shall not apply to the state agricultural society, except as hereinafter provided, and such society shall continue to be subject to and shall continue to have and possess all powers, rights, and privileges granted by any and all laws applicable thereto in force at the time of the passage hereof, subject, however, to the following: (1) that the society shall comply with the provisions of this act relating to budgets, allotments, and encumbering of funds; (2) the society shall be subject to the supervision of the commissioner of administration in the erection and construction of any new building, the estimated cost of which shall be \$5,000 or more; (3) the books and accounts of said society shall be subject to examination by the public examiner at any time, as in case of other state agencies.

Sec. 13. Not to apply to Board of Regents.—The provisions and limitations of this act shall not be applicable to the Regents of the University of Minnesota nor to persons, institutions, or employes under their jurisdiction, nor to the professional and regulatory examining and licensing boards enumerated in Mason's Minnesota Statutes of 1927, Chapter 35, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 35; provided, that their books and accounts shall be subject to examination by the public examiner at any time, as in case of other state agencies.

Sec. 14. Laws repealed.—All other acts or parts of acts now in effect inconsistent with the provisions of this act are hereby repealed, superseded, modified, or amended so far as

necessary to conform to and give full force and effect to the provisions of this act.

Sec. 15. Application of act. — Except as hereinbefore otherwise provided, the provisions and limitations of this act shall be applicable to and shall govern each and every department, bureau, commission, board, agency, and institution of the state government, including state teachers' colleges, state hospitals, and other state institutions, wherever located, and all elected or appointed officers, officials, and employes of the state government. No provision of any subsequent act shall be construed as inconsistent with the provisions of this act or shall operate to limit or abrogate the effect of any provisions thereof or to remove any person, officer, or agency from the operation thereof unless and except only so far as it may be expressly provided in such subsequent act that the provisions of this act shall not be applicable, or shall be superseded, modified, amended, or repealed.

Sec. 16. Unexpended funds re-appropriated.—All unexpended funds appropriated to any department or agency for the purposes of any of its functions, powers, or duties which are transferred by this act to another department or agency are hereby transferred to such other department or agency.

Sec. 17. Provisions severable.—In case any section, provision, or part of this act, or any application thereof, shall be declared unconstitutional or invalid, it shall not in any way affect any other section, provision, or part hereof or any other application hereof.

Sec. 18. Act to take effect—When.—Except as otherwise provided herein, this act shall take effect and be in force from and after its passage; provided, that no transfer of functions, rights, powers, duties, or funds made by this act shall take effect until the commissioner or other head of the department or agency to whom the same are transferred shall have been appointed and shall have qualified, and until then the former department or agency vested therewith shall continue to exercise and perform such functions, rights, powers, and duties, and to have charge of such funds.

Approved April 22, 1939.

CHAPTER 432—H. F. No. 1369

An act relating to the state employees retirement fund; providing for deferred annuities upon leaving the service of