

tients . A copy of the final order for commitment shall be forwarded to the head of the proper hospital.

Sec. 3. Minnesota Statutes, 1975 Supplement, Section 253A.15, Subdivision 1, is amended to read:

253A.15 **DISCHARGE.** Subdivision 1. The head of a hospital shall discharge any patient admitted as mentally ill, inebriate or mentally deficient when certified by him to be no longer in need of institutional care and treatment, unless such patient was charged with or convicted of a criminal offense, or was found by the committing court to be dangerous to the public or to have a psychopathic personality. In the case of committed patients, other than those committed as mentally ill and dangerous to the public or as a psychopathic personality the head of the hospital may provisionally discharge any such patient; that is, discharge him from the hospital without discharging his commitment. Where such patient was charged with or convicted of a criminal offense, he shall not be discharged except upon order of a court of competent jurisdiction. In cases where the patient was charged with, or convicted of, a criminal offense the hospital shall notify the court that the patient is no longer in need of institutional care and treatment and the court shall order appropriate disposition of the patient. A patient committed as inebriate shall be subject to discharge pursuant to this section except that his commitment may not exceed the limits set by section 253A.07, subdivision 17, clause (d).

Approved April 20, 1976.

CHAPTER 331—S.F.No.2581

[Coded in Part]

An act relating to the organization and operation of state government; appropriating and reappropriating money for the general administrative expenses of state government and limiting the use thereof; providing for payment of claims against the state; abolishing the state claims commission; amending Minnesota Statutes 1974, Sections 3.732, Subdivisions 1, 2, and 5; 3.751, Subdivision 1; 176.011, Subdivision 9; 192.38; 238.04, by adding a subdivision; 345.48, Subdivision 2; and Chapter 3, by adding a section; Minnesota Statutes, 1975 Supplement, Sections 4.19; 177.43, Subdivision 4; and 177.44, Subdivision 4; repealing Minnesota Statutes 1974, Sections 3.66 to 3.731; 3.735; 3.752; 3.753; 3.76 to 3.83; 15.315; and Minnesota Statutes, 1975 Supplement, Section 299F.55.

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

Section 1. STATE GOVERNMENT; APPROPRIATIONS. Except as herein otherwise specifically provided the sums hereinafter set forth in the columns designated "APPROPRIATIONS", or so much thereof as may be necessary, are hereby appropriated out of the general fund in

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the state treasury, or any other fund herein designated, for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1976" and "1977" wherever used in this act, shall mean that the appropriations listed thereunder shall be available for the year ending June 30, 1976, and June 30, 1977, respectively.

APPROPRIATIONS
Available for the Year
Ending June 30,
1976 1977

Sec. 2. **LEGISLATURE.** To the legislative joint committee for review of administrative rules 1976..\$30,000

This appropriation shall not cancel but shall be available until June 30, 1977.

Sec. 3. **CONTINGENT ACCOUNT.** 1976..\$25,000

This sum is appropriated to the general contingent account for the purposes of sections 37 and 38 of this act dealing with prevailing wage administration.

Sec. 4. **MINNESOTA BICENTENNIAL COMMISSION.** 1976..\$300,000

No more than 80 percent of this appropriation may be expended in grants to state agencies or political subdivisions as defined in section 15.162, subdivisions 5 and 7. No more than 20 percent of the appropriation may be expended for statewide bicentennial commission programs. Notwithstanding the provisions of Laws 1975, Chapter 411, the Minnesota American Revolution Bicentennial Commission shall terminate December 1, 1976.

Sec. 5. **ATTORNEY GENERAL.** Subdivision 1. For moving, remodeling, furnishings, and related costs involved in the consolidation of offices in the highway, veterans service and capitol square buildings 1976..\$95,000

Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.

Subd. 2. Salaries, supplies and expense for defending tort claims against the state 1977..\$200,000

Sec. 6. **STATE TREASURER.**..... 1976..\$15,000

For advertising expenses relating to the disposition of unclaimed property.

Sec. 7. **ADMINISTRATION.** Subdivision 1. Utility Services

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1976..\$310,250 1977..\$322,250

These sums shall be added to the amounts appropriated in Laws 1975, Chapter 204, Section 18, Subdivision 1.

Subd. 2. Statewide licensing system development
1976..\$113,000

Any unexpended balance remaining in the first year shall not cancel but shall be available for the second year of the biennium.

Subd. 3. The commissioner of administration is authorized to pay this sum to the National Governor's Conference 1977..\$3,085

Subd. 4. Interstate Co-op Commission 1976..\$5,000

The sums appropriated in subdivisions 3 and 4 shall be added to the appropriations made in Laws 1975, Chapter 204, Section 18, Subdivision 1.

Subd. 5. In the event the income from parking lots and facilities under the jurisdiction of the commissioner of administration is inadequate to make the annual payment of \$203,200 in November, 1975 and 1976, as required by Laws 1973, Chapter 778, Section 21, these payments may be wholly or partially deferred. To the extent these payments are deferred, the commissioner shall, from time to time, make additional payments so as to pay to the Minnesota state building account in the state bond fund the total sum of \$4,064,000.

Subd. 6. Notwithstanding the provisions of any law to the contrary, the commissioner of administration shall sell the state owned property comprising the Orr airport in the manner which will realize the greatest return to the state, if the airport is not returned to the community, county or region by December 31, 1976. The sale shall be made only after advertising the sale of the property and inviting sealed bids which shall be opened at the time specified and read aloud. The sale shall be made to the best bidder. The advertisement of such sale shall be made in local and national publications including, but not limited to, such publications as the Wall Street Journal and the New York Times. The state reserves the right to reject any and all bids.

Subd. 7. North Capitol Area Improvement 1977..\$800,000

To rehabilitate and redevelop the area north and west of the capitol bounded by Aurora Street, Marion Street, Edmund Avenue, Como Avenue, Park Street, Sherburne Avenue and Rice Street. The commissioner of administration shall consult with and coordinate development activities with the city of St. Paul or the St. Paul housing and redevelopment authority in performing the rehabilitation and redevelopment. The rehabilitation and redevelopment activities shall be consistent with the Minnesota State Capitol Area North Study, as adopted and inter-

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preted by the capitol area architectural and planning board. This appropriation is contingent upon the following events occurring prior to July 1, 1977: (1) the appropriation by the city of St. Paul of an equal or greater amount for the same purposes, and (2) the securing by the city of St. Paul or the St. Paul housing and redevelopment authority of a commitment from a qualified developer to construct housing units in the capitol north study area.

Prior to the expenditure of any moneys from the appropriation in this subdivision, the commissioner of administration shall consult with the chairman of the house appropriations committee and the chairman of the senate finance committee, and the chairmen will make their recommendations thereon. The recommendations shall be advisory only. Failure or refusal to make a recommendation promptly shall be deemed a negative recommendation.

Subd. 8. Acquisition of Mechanic Arts High School 1976..\$2,000,000

Notwithstanding any other law to the contrary, the commissioner of administration is authorized to negotiate and proceed with the acquisition of Mechanic Arts High School and adjacent athletic fields owned by the St. Paul School District.

Notwithstanding the provisions of Minnesota Statutes, Section 117.52, no relocation assistance, services, payments or benefits shall be provided by the commissioner of administration in connection with the acquisition.

Independent School District No. 625 shall place any money paid to it by the state for acquisition of the Mechanic Arts High School and its adjacent lands in its building construction fund.

Sec. 8. FINANCE. Tort Claims 1977..\$500,000

This appropriation is available to pay tort claims against the state, as approved by the commissioner of finance pursuant to section 33 of this act.

Sec. 9. PERSONNEL. Labor Negotiator 1976..\$13,938 1977..\$84,476

Notwithstanding the approved complement provision of Laws 1975, Chapter 204, Section 20, the approved complement shall be 94.

The appropriations made in this section shall be added to the appropriations made in Laws 1975, Chapter 204, Section 20.

Sec. 10. STATE PLANNING AGENCY. Subdivision 1. The state planning agency may during the biennium ending June 30, 1977 conduct training activities for local and regional government officials and

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the public in general as necessary to the implementation of its functions and responsibilities and may charge fees to the participants necessary to cover the agency costs for the activities. All fees received shall be paid into the state treasury and reappropriated to the state planning agency. The agency shall use these receipts to pay expenses relating to the activities for which the fees are paid.

Subd. 2. LOCAL GOVERNMENT TRAINING. 1977..\$75,000

The state planning agency may use this appropriation to organize and conduct training seminars for elected and appointed officials of municipalities and political subdivisions.

Subd. 3. Study of local government fiscal problems, debts, and fiscal management 1976..\$50,000

This appropriation shall not cancel but shall be available until June 30, 1977.

Sec. 11. INDIAN AFFAIRS BOARD. 1976..\$10,000

Notwithstanding the approved complement provision of Laws 1975, Chapter 204, Section 27, the approved complement shall be 7.

This sum shall be added to the appropriation for 1976 made in Laws 1975, Chapter 204, Section 27.

Sec. 12. VETERANS AFFAIRS. Notwithstanding the provisions of Laws 1976, Chapter 3, Section 4, Subdivision 1, Paragraph (a), the Minnesota veterans home may not expend any income in excess of \$1,472,300 for 1976.

Sec. 13. PUBLIC SAFETY. Subdivision 1. Crime Victims Reparation Board 1976..\$100,000 1977..\$100,000

These sums shall be added to the amounts appropriated in Laws 1975, Chapter 204, Section 31, Subdivision 8.

Subd. 2. MINCIS. Of the amount appropriated to the commissioner of public safety by Laws 1975, Chapter 204, Section 31, Subdivision 2, for fiscal year 1977, \$170,000 is hereby transferred and reappropriated to the same account for fiscal year 1976 to convert computer hardware for the Minnesota crime information system.

Subd. 3. Fire Services Advisory Council 1976..\$4,500

This sum shall be in addition to the amounts appropriated in Laws 1975, Chapter 204, Section 31.

Sec. 14. COMMERCE. Hearings costs and employee expenses 1976..\$102,000

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This appropriation shall be added to the appropriation made in Laws 1975, Chapter 204, Section 32.

Sec. 15. **LABOR AND INDUSTRY.** Subdivision 1. Salaries 1977..\$92,200

Notwithstanding the approved complement provision of Laws 1975, Chapter 204, Section 41, Subdivision 1, the approved complement shall be 238.

Subd. 2. Supplies and Expense 1977..\$6,000

The appropriations made in this section shall be added to the appropriations made in Laws 1975, Chapter 204, Section 41.

Sec. 16. **REVENUE.** Subdivision 1. Administrative costs, circuit breaker 1977..\$400,000

This amount shall be added to the appropriation for 1977 made in Laws 1975, Chapter 437, Article XIV, Section 1.

Subd. 2. State Board of Assessors 1976..\$28,865 1977..\$28,865

Sec. 17. **AERONAUTICS.** Operations and maintenance of the state owned airport at Orr 1977..\$10,000

Notwithstanding the provisions of Laws 1975, Chapter 204, Section 45, Subdivision 8, the commissioner may operate the airport until December 31, 1976.

This appropriation is from the state airport fund.

Sec. 18. **ENERGY.** Subdivision 1. Salaries 1976..\$7,911 1977..\$37,517

Notwithstanding the complement provision of Laws 1975, Chapter 204, Section 50, the approved complement of the agency is 30 for 1976 and 31 for 1977.

Subd. 2. Supplies and Expense 1976..\$86,100 1977..\$119,200

The appropriations in this section shall be added to the appropriations in Laws 1975, Chapter 204, Section 50.

It is the intent of the legislature that environmental impact statements shall not be prepared in conjunction with the certificate of need process defined in Minnesota Statutes 1974, Section 116H.13, and the sums appropriated by this section shall not be expended for environmental reports of any kind.

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Sec. 19. **NATURAL RESOURCES.** Subdivision 1. Administrative Management, Employee relocation expense 1976..\$43,000 1977..\$43,000

Of the amounts provided herein, \$14,000 each year is appropriated from the game and fish fund.

Subd. 2. Field Services Support, real estate taxes 1976..\$75,000 1977..\$150,000

Of the amounts provided herein, \$18,750 for the first year and \$37,500 in the second year are appropriated from the game and fish fund.

Subd. 3. Water Resources Management

a. Hydrologic studies 1976..\$192,000 1977..\$183,750

b. Supplies and expense 1977..\$87,000

Subd. 4. Forest Management, labor service 1976..\$50,000 1977..\$50,000

Subd. 5. Parks and Recreation Management, labor service 1976..\$50,000 1977..\$50,000

Subd. 6. **ENFORCEMENT.** The provisions of the labor agreement negotiated between the state of Minnesota and the Minnesota conservation officers' association and signed by the parties on September 17, 1975, relating to wages and economic fringe benefits are hereby accepted. The commissioners of administration and finance are authorized to make available such moneys as are required to fulfill the state's responsibilities from the moneys appropriated and under the conditions required in Laws 1975, Chapter 204, Section 60.

The appropriations made in subdivisions 1 to 6 shall be added to the appropriations made in Laws 1975, Chapter 204, Section 51, Subdivision 1.

Subd. 7. Of the amount appropriated by Laws 1975, Chapter 204, Section 51 for the program Administrative Management Services for 1976 a sum of not to exceed \$150,000 is transferred and reappropriated for development of a cost distribution and cost accounting system in 1977. The system shall be developed under the direction and control of the commissioner of finance.

Subd. 8. Environmental Impact Statement, Reserve Mining Company Disposal Site 1976..\$1,300,000

This appropriation shall be added to the appropriation made in Laws 1975, Chapter 204, Section 51, Subdivision 3, and shall be used

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to repay those appropriations from which moneys have been transferred to continue this activity. The commissioner of finance shall transfer from this account to the department of natural resources general operation and management account the sum of \$975,000, and to the pollution control agency salaries, supplies, and expense account the sum of \$325,000 for the 1976 year.

That portion of the rider in section 51, subdivision 3 which states "should this appropriation prove to be insufficient, the commissioner shall inform the commissioner of administration and request that additional moneys be available from whatever sources are appropriated" is repealed.

Subd. 9. Peat information program 1976..\$25,000
1977..\$75,000

Sec. 20. **STATE PLANNING AGENCY.** Copper-nickel regional environmental impact study, phase II 1977..\$1,400,000

This appropriation shall be added to the appropriation made in Laws 1975, Chapter 204, Section 55, Subdivision 7, Paragraph (e).

The requirements of Laws 1975, Chapter 204, Section 55 shall be satisfied by the study undertaken with this appropriation.

Sec. 21. **GAME AND FISH APPROPRIATION CONTINGENT.**
Subdivision 1. There is appropriated the sum of \$2,500,000 from the general fund in the state treasury for the period ending June 30, 1978 as a contingent appropriation for the use and benefit of the game and fish fund in the state treasury. Transfers from the general fund account to maintain a balance in the game and fish fund may be made when authorized by the governor, but no such transfer shall be made until the governor has consulted with the legislative advisory commission and the commission has made its recommendation thereon. The recommendation shall be advisory only. Failure or refusal on the part of the commission to make its recommendation promptly shall be considered a negative recommendation.

Subd. 2. Any moneys transferred from the general fund shall be repaid to the general fund prior to June 30, 1978.

Sec. 22. Subdivision 1. The unencumbered balance of \$205,694.73 remaining in the appropriation made in Laws 1971, Chapter 963, Section 7, Subdivision 1, (1), to relocate computer facilities and install inverter is cancelled to the bond fund.

Subd. 2. The commissioner of finance is directed to transfer from the general fund to the computer services revolving fund the sum of \$205,694.73 to adjust the cost to the computer services revolving fund to the actual cost of relocation of computer facilities.

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Sec. 23. PUBLIC WELFARE. Subdivision 1. Notwithstanding the provisions of Laws 1975, Chapter 434, Section 2, the appropriation for Centralized disbursement in Laws 1975, Chapter 434, Section 2, Subdivision 2 for 1976 shall not be reduced unless the federal reimbursement is less than \$3,560,000.

Subd. 2. Notwithstanding the provisions of Laws 1975, Chapter 434, Section 2, federal funds budgeted to be earned in the Community Based Residential Services for the Chemically Dependent (subdivision 4) Activity shall be earned by the Daytime Activity Center grant in aid (subdivision 13) activity.

Sec. 24. CORRECTIONS. Notwithstanding any other law to the contrary, the commissioner of finance upon the request of the commissioner of corrections, may for purposes of budgeting and accounting, transfer and combine the amounts appropriated by Laws 1975, Chapter 434, Section 3, Subdivision 11, items a, b, c and d into single book-keeping accounts. Provided, however, that reports of expenditures shall be available from the amounts expended for items a, b, c and d for each correctional institution.

Sec. 25. BOARD OF DENTISTRY. 1977..\$37,000

This appropriation shall be added to the appropriation made in Laws 1975, Chapter 434, Section 4, Subdivision 8.

Sec. 26. BOARD OF HEALTH. Subdivision 1. Preventive and Personal Health Services 1976..\$123,344 1977..\$126,482

Water Conditioners and Installers Licensing \$9,631 \$9,967

Plumbers Licensing \$113,713 \$116,515

Notwithstanding the approved complement provision of Laws 1975, Chapter 434, Section 5, Subdivision 1, the approved complement shall be 188.5.

Subd. 2. Health Systems Quality Assurance 1976..\$79,006
..... 1977..\$85,296

Mortuary Science \$59,724 \$65,520

Hospital Administrators Registration \$19,282 \$19,776

Notwithstanding the approved complement provision of Laws 1975, Chapter 434, Section 5, Subdivision 2, the approved complement shall be 58.75.

The appropriations made in subdivisions 1 and 2 shall be added to the appropriations made in Laws 1975, Chapter 434, Section 5.

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Subd. 3. Notwithstanding any law to the contrary, the commissioner of finance may, upon the request of the commissioner of health, transfer amounts between appropriations for purposes of reflecting changes in the account structure of the department of health. Any transfer shall be reported to the committee on finance of the senate and the committee on appropriations in the house of representatives.

Sec. 27. Subdivision 1. All moneys appropriated for fiscal year 1977 in Laws 1975, Chapter 433, as shown in the worksheets of the conferees of the Senate and House of Representatives to the University of Minnesota, State University System, Community College System and Department of education for the purpose of providing funding for the use of and communications costs for the Minnesota educational computing consortium (MECC) managed Univac 1110 instructional time sharing system, and which are unencumbered after completion of the system acceptance test period commencing April 15, 1976, shall not be expended except under the conditions of subdivision 3, unless Univac meets the acceptance test criteria as defined in the contract between MECC and Univac, including the requirements that:

(1) The criteria that the system be available to users for productive operational use an average of 90 percent or more of the principal period of maintenance (have an average effectiveness level of 90 percent) for a period of 30 consecutive days shall include unavailability from failure of hardware, software and Univac related communications capability and compatibility and shall provide system security as set forth in the MECC bid specifications and Univac's response thereto. The average effectiveness level shall be the percentage figure determined by dividing the total productive operational use time by the total productive operational use time plus associated down time for all users except for intervals specifically provided for in the MECC/Univac contract.

(2) The MECC Acceptance Test Guide shall be used by MECC as the governing document for acceptance test procedures except that it shall not conflict with or lessen any of the performance requirements of the MECC/Univac contract itself.

(3) The systems acceptance criteria shall require throughput and response time for demand mode processing to be reasonably close to the throughput and response time required in the MECC/Univac contract for real time processing considering the functions being performed. The response time for real time processing as required in the benchmark performance demonstration criteria is four seconds or less.

(4) In the event that any of the terms or provisions in subparts 1, 2 and 3 of this subdivision conflict with the language of the contract, the language of the contract shall prevail.

Provided, however, that if any portion of the successful 30 continuous day performance period occurs after May 28, 1976, Univac shall

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be required to again successfully perform the acceptance test during the period beginning October 1, 1976 and continuing through December 22, 1976. If the acceptance test is not successfully performed within 90 days of April 15, 1976 or by December 22, 1976, if the second acceptance period is utilized, MECC shall terminate the agreement without further extension. Utilization of the second acceptance test period shall not relieve the contracting parties of any of the contract provisions relating to delivery of required features at the conclusion of the first acceptance period.

Subd. 2. The governor shall, using the procedures of Minnesota Statutes, Section 3.30, obtain the services of a consultant to monitor the contract and acceptance test and shall, again using the procedures of Minnesota Statutes, Section 3.30, determine whether the Univac 1110 has successfully passed the acceptance test. The governor's decision shall be binding on MECC. There is appropriated to the general contingent account the sum of \$100,000 which may be expended to accomplish the purposes of this subdivision.

Subd. 3. In the event that the Univac 1110 fails the acceptance test as defined in subdivision 1, or in the event that Univac removes the 1110 prior to the completion of the test the unencumbered funds may be expended and shall be used to provide back up computer service to the MECC users. There is appropriated to the general contingent account the sum of \$500,000 which may be expended to provide additional back up service in the event the unencumbered funds are not sufficient.

Sec. 28. INSERVICE TRAINING FOR RIGHT TO READ PROGRAM STAFF MEMBERS. The department of education shall implement an inservice training program for the staff members of the right to read program. The training shall be conducted jointly by the division of instruction and the division of special and compensatory education of the department of education. This section shall expire June 30, 1977.

Sec. 29. The higher education coordinating board shall not, prior to March 1, 1977, enforce any provisions of sections 136A.61 to 136A.71 or any rules or regulations promulgated thereunder.

Sec. 30. Minnesota Statutes 1974, Section 3.732, Subdivision 1, is amended to read:

3.732 SETTLEMENT OF CLAIMS. Subdivision 1. As used in this section and section 33 of this act the terms defined in this section have the meanings given them.

(1) "State" means each of its departments, boards, commissions, officers in the executive branch financed in whole or in part with moneys appropriated by the legislature and includes but is not limited to the University of Minnesota, state colleges, community colleges, state

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hospitals, state penal institutions, and other state agencies. It does not include a city, town, county, school district, or other body corporate and politic.

(2) "Employee of the state" means all officers or employees of the state or of any of the aforesaid enumerated agencies thereof, members of the national guard, or persons acting on behalf of such enumerated agencies in an official capacity, temporarily or permanently, with or without compensation, but does not include an independent contractor

(3) "Scope of his office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned to him by competent authority.

Sec. 31. Minnesota Statutes 1974, Section 3.732, Subdivision 2, is amended to read:

Subd. 2. The head of each department or agency of the state, or his designee, acting on behalf of the state, shall attempt to determine, adjust and settle, at any time, any claim for money damages of ~~\$500-~~ \$2,500 or less against the state for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of his office or employment, under circumstances where the state, if a private person, would be liable to the claimant. Any such settlement shall be final and conclusive on all officers of the state, except where procured by fraud. The acceptance by the claimant of any such settlement shall be final and conclusive on the claimant and shall constitute a complete release of any claim against the state and against the employee of the state whose act or omission gave rise to the claim, by reason of the same subject matter.

Sec. 32. Minnesota Statutes 1974, Section 3.732, Subdivision 5, is amended to read:

Subd. 5. Nothing in this section is to be construed as to deny a claimant who is not paid pursuant to the provisions hereof from ~~presenting a claim to the state claims commission or the legislature bringing an action at law in the courts of this state~~.

Sec. 33. Minnesota Statutes 1974, Chapter 3, is amended by adding a section to read:

[3.736] TORT CLAIMS. Subdivision 1. GENERAL RULE. The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of his office or employment, under circumstances where the state, if a private person, would be liable to the claimant.

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Subd. 2. PROCEDURE. Claims of various kinds shall be considered and paid only in accordance with the statutory procedures provided. Where there is no other applicable statute, a claim shall be brought pursuant to this section as a civil action in the courts of the state.

Subd. 3. EXCLUSIONS. Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or regulation;

(b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) Any loss in connection with the assessment and collection of taxes;

(d) Any loss caused by snow or ice conditions on any highway or other public place, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) Any loss caused by wild animals in their natural state;

(f) Any loss other than injury to or loss of property or personal injury or death;

(g) Any loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures and attachments to land that the state has neither affixed nor improved;

(h) Any loss arising from the construction, operation, or maintenance of the outdoor recreation system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.

(i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

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(k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) Any loss, damage, or destruction of property of a patient or inmate of a state institution.

The state will not pay punitive damages.

Subd. 4. LIMITS. The total liability of the state and its employees acting within the scope of their employment on any tort claim shall not exceed:

(a) \$100,000 when the claim is one for death by wrongful act or omission and \$100,000 to any claimant in any other case.

(b) \$500,000 for any number of claims arising out of a single occurrence. If the amount awarded to or settled upon multiple claimants exceeds \$500,000, any party may apply to any district court to apportion to each claimant his proper share of the \$500,000. The share apportioned each claimant shall be in the proportion that the ratio of the award or settlement made to him bears to the aggregate awards and settlements for all claims arising out of the occurrence.

The limitation imposed by this subdivision on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

Subd. 5. NOTICE REQUIRED. Except as provided in subdivision 6, every person, whether plaintiff, defendant or third party plaintiff or defendant, who claims compensation from the state or a state employee acting within the scope of his employment for or on account of any loss or injury shall present to the attorney general of the state or, in the case of a claim against the university of Minnesota, to the person designated by the regents of the university as the university attorney, and any state employee from whom the claimant will seek compensation, within 180 days after the alleged loss or injury is discovered, a notice stating the time, place and circumstances thereof, the names of any state employees known to be involved, and the amount of compensation or other relief demanded. Actual notice of sufficient facts to reasonably put the state or its insurer on notice of a possible claim complies with the notice requirements of this section. Failure to state the amount of compensation or other relief demanded does not invalidate the notice, but the claimant shall furnish full information available regarding the nature and extent of the injuries and damages within 15 days after demand by the state. The time for giving the notice does not include the time during which the person injured is incapacitated by the injury from giving the notice.

Subd. 6. CLAIMS FOR WRONGFUL DEATH; NOTICE. When the
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claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury or loss resulting in the death. If the person for whose death the claim is made has presented a notice that would have been sufficient had he lived, an action for wrongful death may be brought without any additional notice.

Subd. 7. PAYMENT. A state agency, including any entity defined as part of the state in section 3.732, subdivision 1, clause (1), incurring a tort claim judgment or settlement obligation or whose employees acting within the scope of their employment incur the obligation may seek payment from money appropriated for this purpose by submitting a written request to the commissioner of finance. The request shall contain a description of the tort claim precipitating the request, specify the amount of the obligation and be accompanied by copies of judgments, settlement agreements or other documentation relevant to the obligation for which the agency is seeking payment. Upon receipt of the request and review of the claim, the commissioner of finance shall transfer money necessary to pay the obligation to the agency. On January 1 and July 1 of each year, the commissioner of finance shall transmit to the legislature and to the chairmen of the house appropriations and senate finance committees copies of all requests in the preceding six months together with a report on the transfers made with respect to each request. Payment shall be made only upon receipt of a written release by the claimant in a form approved by the attorney general, or the person designated as the university attorney, as the case may be.

No attachment or execution shall issue against the state.

Subd. 8. LIABILITY INSURANCE. A state agency, including any entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages resulting from the torts of the agency and its employees. The procurement of this insurance constitutes a waiver of the defense of governmental immunity to the extent of the liability stated in the policy but has no effect on the liability of the agency and its employees beyond the coverage so provided.

Subd. 9. INDEMNIFICATION. The state shall defend, save harmless, and indemnify any state employee against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission if the employee provides complete disclosure and cooperation in the defense of the claim or demand and if, except for elected employees, the employee's appointing authority certifies that the employee was acting within the scope of his employment. This determination may be overruled by the attorney general. This subdivision does not apply in case of malfeasance in office or willful or wanton neglect of duty.

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Subd. 10. JUDGMENT AS BAR. The judgment in an action under this section is a complete bar to any action by the claimant, by reason of the same subject matter, against the state employee whose act or omission gave rise to the claim.

Subd. 11. STATUTE OF LIMITATIONS. The statute of limitations for all tort claims brought against the state shall be as set forth in chapter 541 and other applicable laws.

Sec. 34. Minnesota Statutes 1974, Section 3.751, Subdivision 1, is amended to read:

3.751 CONTRACT CLAIMS. Subdivision 1. When a controversy arises out of any contract for work, services, or the delivery of goods entered into by any state agency through established procedure, in respect to which controversy a person to the contract would be entitled to redress against the state, in a court of appropriate jurisdiction, if the state were suable, and when no claim against the state has been filed ~~in the state claims commission or made in a bill pending in the legislature for the same redress against it,~~ the state hereby waives immunity from suit in connection with such controversy and confers jurisdiction on the district court to hear and determine any such controversy in the manner provided for the trial of causes in the district court. Only a party to the contract may bring action against the state. ~~The state does not waive immunity with respect to claims of patients or other inmates of state institutions.~~

Sec. 35. Minnesota Statutes, 1975 Supplement, Section 4.19, is amended to read:

4.19 CONSULTING CONTRACTS BY STATE AGENCIES OR DEPARTMENTS, FUNCTION OF STATE PLANNING AGENCY. When any state agency or department proposes to contract with a person, other than a state employee, for information relating to whether or not an activity should be undertaken, that agency or department shall ~~consult with~~ obtain the approval of the state planning agency prior to entering into any contract or contracts relating to the same project or study when the aggregate amount is \$15,000 or more. The state planning agency shall ~~advise as to determine~~ whether the information to be obtained through the proposed contract or contracts can be obtained more economically in another way, such as through the services of another state agency or department. A copy of all proposed contracts shall be furnished to the state planning agency, the senate finance committee and the house appropriations committee. Before a contract is approved or rejected, the state planning agency shall obtain the recommendations of the senate finance committee and the house appropriations committee. The recommendations are advisory only. Failure or refusal to make a recommendation promptly is deemed a negative recommendation. If a consulting contract is entered into by the state, a copy of the contract shall be immediately filed with the state planning agency, which shall continuously monitor work performed under the

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contract. The contracting agency shall also continuously monitor work performed under the contract.

Sec. 36. Minnesota Statutes 1974, Section 176.011, Subdivision 9, is amended to read:

Subd. 9. **EMPLOYEE.** "Employee" means any person who performs services for another for hire; and includes the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, policeman, fireman, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in and about the pursuit or capture of any person charged with or suspected of crime;

(4) a county assessor;

(5) an elected or appointed official of the state, except members of the state legislature, or of any county, city, town, school district or governmental subdivision therein but an officer of a political subdivision elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation;

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of public welfare and state institutions under the commissioner of corrections similar to those of officers and employees of such institutions, and whose services have been accepted or contracted for by the commissioner of public welfare or the commissioner of corrections as authorized by law, shall be employees within the meaning of this subdivision. In the event of injury or death of any such voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of such injury or death for similar services in institutions where such services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision thereof, shall be employees. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of such injury or death for similar services where such services are performed by paid employees;

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(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee within the meaning of this subdivision. In the event of injury or death of any such voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of such injury or death for similar services where such services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 85.041 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under chapter 176, shall be the usual going wage paid at the time of injury or death for similar services where such services are performed by paid employees - ;

(11) a member of the military forces, as defined in section 190.05, while in "active service" or "on duty" as defined in section 190.05, when the service or duty is ordered by state authority. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the commission shall consider the member's earnings as a member of the military forces;

In the event it is difficult to determine the daily wage as herein provided, then the commission may determine the wage upon which the compensation is payable.

Sec. 37. Minnesota Statutes, 1975 Supplement, Section 177.43, Subdivision 4, is amended to read:

Subd. 4. The prevailing wage rates, prevailing hours of labor and hourly basic rates of pay for all trades and occupations required in any contemplated project shall be ascertained before the state asks for bids. The ~~department commissioner~~ of labor and industry shall make such investigations as may be necessary to enable ~~it~~ him to ascertain such information. The ~~department commissioner~~ shall keep the information posted on the project in at least one conspicuous place for the information of the employees working on the project. A person aggrieved by a final determination of the commissioner may petition the commissioner for reconsideration of his findings. A person aggrieved by a decision of the commissioner after reconsideration may within 20 days after the decision petition the commissioner for a public hearing in the manner of a contested case under the administrative procedures act, sections 15.0418 to 15.0421.

Sec. 38. Minnesota Statutes, 1975 Supplement, Section 177.44, Subdivision 4, is amended to read:

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Subd. 4. The commissioner of labor and industry shall at least once a year certify the prevailing hours of labor, the prevailing wage rate and the hourly basic rate of pay for all classes of laborers and mechanics referred to in subdivision 3 in each area. The certification shall in addition to the current prevailing hours of labor, the prevailing wage rates and the hourly basic rates of pay include future hours and rates when such hours and rates can be determined for any such classes of laborers and mechanics in any area and shall specifically set forth the effective dates thereof when future hours and rates are certified. If a construction project extends into more than one area there shall be but one standard of hours of labor and wage rates for the entire project. A person aggrieved by a final determination of the commissioner may petition the commissioner for reconsideration of his findings. A person aggrieved by a decision of the commissioner after reconsideration may within 20 days after the decision petition the commissioner for a public hearing in the manner of a contested case under the administrative procedures act, sections 15.0418 to 15.0421. If, in the opinion of the commissioner, a change in the certified prevailing hours of labor, prevailing wage rate and the hourly basic rate of pay for any class of laborers or mechanics in any area is required, the commissioner may at any time certify that change.

Sec. 39. Minnesota Statutes 1974, Section 192.38, is amended to read:

192.38 ILLNESS, INJURY, OR DEATH OF MEMBER OF MILITARY FORCES; COMPENSATION. Subdivision 1. **TEMPORARY EMERGENCY RELIEF.** If any officer or enlisted man of the military forces is wounded or otherwise disabled, dies from disease contracted or injuries received, or is killed while in "active service" or "on duty" as defined in Minnesota Statutes 1961, Section 190.05, and acts amendatory thereof, when such service or duty is ordered by state authority, he, or in the case of his death his dependent widow, child, or parent, may be provided with such immediate temporary relief as may be necessary in cases of severe hardship, in amount to be determined by the adjutant general and approved by the governor. All such payments under this subdivision shall be made from appropriations for the maintenance of the state military forces. The adjutant general shall notify the workers' compensation commission of any payments made pursuant to this subdivision and the amount thereof shall be subtracted from any award made by the commission.

Subd. 2. **ASSISTANCE TO CLAIMANTS.** To the extent information is available to him, the adjutant general shall provide information to a person seeking a benefit from the state or federal government or instituting a claim before a state or federal claims commission arising from loss, damage, or destruction of property or for injury or death incurred or sustained by a member of the military forces. The adjutant general shall notify the workers' compensation commission of any payments made pursuant to federal law, other than the federal social security act or the federal government life insurance program for members

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of the armed forces, for the same personal injury as the claimant is seeking workers' compensation for, and the amount thereof shall be subtracted from any award made by the commission.

Sec. 40. Minnesota Statutes 1974, Section 238.04, is amended by adding a subdivision to read:

Subd. 5a. CABLE COMMUNICATIONS BOARD MEMBERS EXPENSE. The chairman and other members of the board shall receive their ordinary and necessary expenses in the same manner and amount as state employees.

Sec. 41. Minnesota Statutes 1974, Section 345.48, Subdivision 2, is amended to read:

Subd. 2. Before making any deposit to the credit of the general fund, the state treasurer may deduct: (a) costs incurred in connection with any sale of abandoned property, (b) any costs of mailing and publication in connection with any abandoned property, and (c) reasonable service charges. Any amounts so deducted shall be credited to a special account and are appropriated to pay costs required by the state treasurer for administration of this section.

Sec. 42. **REPEALER.** Minnesota Statutes 1974, Sections 3.66; 3.67; 3.68; 3.69; 3.70; 3.71; 3.72; 3.7311; 3.735; 3.752; 3.753; 3.76; 3.77; 3.78; 3.79; 3.80; 3.81; 3.82; and 3.83; are repealed.

Sec. 43. **REPEALER.** Minnesota Statutes 1974, Section 15.315, is repealed.

Sec. 44. **REPEALER.** Minnesota Statutes, 1975 Supplement, Section 299F.55, is repealed.

Sec. 45. **EFFECTIVE DATES.** Section 40 is effective January 1, 1976. Section 44 is effective July 1, 1976. Section 43 is effective August 1, 1976. Sections 30 to 34 apply to claims arising from events occurring on and after August 1, 1976. The remainder of this act is effective the day following its final enactment.

Approved April 20, 1976.

CHAPTER 332—H.F.No.424

[Coded]

An act relating to the operation of state government; creating a department of vocational rehabilitation; transferring the powers and duties of the division of vocational rehabilitation to the department; transferring personnel and appropriations; repealing Minnesota Statutes 1974, Sections 121.29; 121.30; 121.301; 121.31;

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