

Construction of these educational facilities is emergency construction and not subject to competitive bid requirements of Minnesota Statutes, sections 123.37 and 471.345, or other law or charter or the requirements of Minnesota Statutes, section 16B.335. The department of children, families, and learning shall notify the chairs of the senate finance committees, the house ways and means committee, and the house capital investment committee that the projects have been approved under review and comment and necessary contracts have been executed.

**Sec. 31. SCHOOL FACILITY STORM DAMAGE RELATED BETTERMENT.**

A district may make an additional levy for facility betterment under this section. To make this levy, a district must:

- (1) qualify under Minnesota Statutes, section 124.239, in fiscal year 1998; and
- (2) have had damage to an instructional facility in excess of \$1,000,000 related to storms during the summer of 1997.

The levy must be directly related to the costs of the betterment of the damaged facility and may only be for costs not otherwise paid for by insurance or other proceeds. The total costs related to the levy may not exceed two percent of a district's 1995 adjusted net tax capacity. The project must be approved under Minnesota Statutes, section 121.15, and be a part of the plan under Minnesota Statutes, section 124.239. The district may either bond for the costs under Minnesota Statutes, section 124.239, subdivision 3, or levy under Minnesota Statutes, section 124.239, subdivision 5. The levy may be spread over more than one year. The levy is not eligible for state-aid payments under Minnesota Statutes, section 124.239, subdivision 3a or 5a, 124.83, or 124.95, or any other aid program. A district must consult with and receive approval from the city in which its administrative offices are located prior to making this levy.

**Sec. 32. REPEALER.**

Minnesota Statutes 1996, section 103F.141, subdivision 2; and Laws 1997, chapter 203, article 3, section 16, are repealed.

**Sec. 33. EFFECTIVE DATE.**

Sections 1 to 19, 21, 22, and 24 to 32 are effective on the day following final enactment. Section 20 is effective for taxes levied in 1997, payable in 1998, and thereafter. Section 23 is effective retroactive to April 1, 1997.

Presented to the governor August 20, 1997

Signed by the governor August 22, 1997, 11:13 a.m.

**CHAPTER 3—S.F.No. 2**

*An act relating to employment; regulating public employee and official compensation; amending Minnesota Statutes 1996, sections 3.855, subdivision 3; 15A.081, subdivisions 7b, 8, and 9;*

**New language is indicated by underline, deletions by strikeout.**

15A.083, subdivisions 5, 6a, and 7; 43A.17, subdivisions 1 and 3; 43A.18, subdivisions 4 and 5; 85A.02, subdivision 5a; 298.22, subdivision 1; and 349A.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 15A; repealing Minnesota Statutes 1996, section 15A.081, subdivisions 1 and 7.

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

Section 1. Minnesota Statutes 1996, section 3.855, subdivision 3, is amended to read:

Subd. 3. **OTHER SALARIES AND COMPENSATION PLANS.** The commission shall also:

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

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

(3) review and approve, reject, or modify recommendations for salaries submitted by the governor or other appointing authority under section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081-15A.0815;

(4) review and approve, reject, or modify recommendations for salaries of officials of higher education systems under section 15A.081, subdivision 7b; and

(5) review and approve, reject, or modify plans for compensation, terms, and conditions of employment proposed under section 43A.18, subdivisions 3a and 4.

Sec. 2. Minnesota Statutes 1996, section 15A.081, subdivision 7b, is amended to read:

Subd. 7b. **HIGHER EDUCATION OFFICERS.** The board of trustees of the Minnesota state colleges and universities and the higher education services council shall set the salary rates for, respectively, the chancellor of the Minnesota state colleges and universities and the director of the higher education services office. The board or the council shall submit the proposed salary change to the legislative coordinating commission for approval, modification, or rejection in the manner provided in section 3.855. ~~The salary rate for the chancellor of the Minnesota state colleges and universities may not exceed 95 percent of the salary of the governor under section 15A.082, subdivision 3. For purposes of this subdivision, "the salary rate of the chancellor" does not include:~~

(1) employee benefits that are also provided for the majority of all other full-time state employees, vacation and sick leave allowances, health and dental insurance, disability insurance, term life insurance, and pension benefits or like benefits the cost of which is borne by the employee or which is not subject to tax as income under the Internal Revenue Code of 1986;

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(2) dues paid to organizations that are of a civic, professional, educational, or governmental nature;

(3) reimbursement for actual expenses incurred by the employee that the appointing authority determines to be directly related to the performance of job responsibilities, including any relocation expenses paid during the initial year of employment; or

(4) a housing allowance that is comparable to housing allowances provided to chancellors and university presidents in similar higher education systems nationwide.

The salary of the director of the higher education services office may not exceed the maximum of the salary range for the commissioner of administration. In deciding whether to recommend a salary increase, the governing board or council shall consider the performance of the chancellor or director, including the chancellor's or director's progress toward attaining affirmative action goals.

Sec. 3. Minnesota Statutes 1996, section 15A.081, subdivision 8, is amended to read:

Subd. 8. **EXPENSE ALLOWANCE.** Notwithstanding any law to the contrary, positions listed in subdivision 1 section 15A.0815, subdivisions 2 and 3, constitutional officers, and the commissioner of iron range resources and rehabilitation are authorized an annual expense allowance not to exceed \$1,500 for necessary expenses in the normal performance of their duties for which no other reimbursement is provided. The expenditures under this subdivision are subject to any laws and rules relating to budgeting, allotment and encumbrance, preaudit and postaudit. The commissioner of finance may ~~promulgate~~ adopt rules to assure the proper expenditure of these funds, and to provide for reimbursement.

Sec. 4. Minnesota Statutes 1996, section 15A.081, subdivision 9, is amended to read:

Subd. 9. **TRANSFER OF VACATION AND SICK LEAVE; CERTAIN AP-  
POINTEES.** (a) This subdivision governs transfers of accumulated vacation leave and sick leave if the governor appoints the incumbent of a position listed in this section 15A.0815 to another position listed in this section 15A.0815.

(b) An appointee moving between positions in the executive branch shall transfer all vacation leave and sick leave hours to the appointee's credit at the time of the new appointment.

(c) The governor may authorize an appointee to transfer accumulated vacation leave and sick leave hours under the following conditions:

(1) an appointee moving to a position in the executive branch from a position outside the executive branch may be permitted to transfer no more than 275 hours of accumulated unliquidated vacation leave and no more than 900 hours of accumulated unliquidated sick leave; and

(2) an appointee moving to a position outside the executive branch from a position within the executive branch may be permitted to transfer accumulated unliquidated vaca-

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tion leave and sick leave hours up to the maximum accumulations permitted by the personnel policies governing the new position.

The governor shall notify the commissioner of employee relations of any transfers authorized under this paragraph.

**Sec. 5. [15A.0815] SALARY LIMITS FOR CERTAIN EMPLOYEES.**

Subdivision 1. SALARY LIMITS. The governor or other appropriate appointing authority shall set the salary rates for positions listed in this section within the salary limits listed in subdivisions 2 to 4, subject to approval of the legislative coordinating commission and the legislature as provided by sections 3.855, 15A.081, subdivision 7b, and 43A.18, subdivision 5.

Subd. 2. GROUP I SALARY LIMITS. The salaries for positions in this subdivision may not exceed 85 percent of the salary of the governor:

Commissioner of administration;

Commissioner of agriculture;

Commissioner of children, families, and learning;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of economic security;

Commissioner of employee relations;

Commissioner of finance;

Commissioner of health;

Executive director, higher education services office;

Commissioner, housing finance agency;

Commissioner of human rights;

Commissioner of human services;

Executive director, state board of investment;

Commissioner of labor and industry;

Commissioner of natural resources;

Director of office of strategic and long-range planning;

Commissioner, pollution control agency;

Commissioner of public safety;

Commissioner, department of public service;

Commissioner of revenue;

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Commissioner of trade and economic development;

Commissioner of transportation; and

Commissioner of veterans affairs.

**Subd. 3. GROUP II SALARY LIMITS.** The salaries for positions in this subdivision may not exceed 75 percent of the salary of the governor:

Ombudsman for corrections;

Executive director of gambling control board;

Commissioner, bureau of mediation services;

Ombudsman for mental health and retardation;

Chair, metropolitan council;

Executive director of pari-mutuel racing;

Executive director, public employees retirement association;

Commissioner, public utilities commission;

Executive director, state retirement system; and

Executive director, teachers retirement association.

**Subd. 4. GROUP III SALARY LIMITS.** The salary for a position in this subdivision may not exceed 25 percent of the salary of the governor:

Chair, metropolitan airports commission.

Sec. 6. Minnesota Statutes 1996, section 15A.083, subdivision 5, is amended to read:

**Subd. 5. TAX COURT.** Salaries The salary of judges a judge of the tax court are is the same as the base salary for a district judges as set under section 15A.082, subdivision 3 court judge. The salary of the chief tax court judge is the same as the salary for a chief district court judge.

Sec. 7. Minnesota Statutes 1996, section 15A.083, subdivision 6a, is amended to read:

**Subd. 6a. ADMINISTRATIVE LAW JUDGE; MAXIMUM SALARY SALARIES.** The salary of the chief administrative law judge is the same as the salary of a district court judge. The salaries of the assistant chief administrative law judge and administrative law judge supervisors are 95 percent of the salary of a district court judge. The maximum salary of an administrative law judge in the classified service employed by the office of administrative hearings is 90 percent of the salary of a district court judges judge as set under section 15A.082, subdivision 3.

Sec. 8. Minnesota Statutes 1996, section 15A.083, subdivision 7, is amended to read:

**Subd. 7. WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.** Salaries of judges of the workers' compensation court of ap-

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peals are the same as the salary for district court judges as set under section 15A.082, subdivision 3. The salary of the chief judge of the workers' compensation court of appeals is the same as the salary for a chief district court judge. Salaries of compensation judges are ~~75~~ 90 percent of the salary of district court judges. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry.

Sec. 9. Minnesota Statutes 1996, section 43A.17, subdivision 1, is amended to read:

Subdivision 1. **SALARY LIMITS.** As used in subdivisions 1 to 9, "salary" means hourly, monthly, or annual rate of pay including any lump-sum payments and cost-of-living adjustment increases but excluding payments due to overtime worked, shift or equipment differentials, work out of class as required by collective bargaining agreements or plans established under section 43A.18, and back pay on reallocation or other payments related to the hours or conditions under which work is performed rather than to the salary range or rate to which a class is assigned. For presidents of state universities, "salary" does not include a housing allowance provided through a compensation plan approved under section 43A.18, subdivision 3a.

The salary, as established in section ~~15A.081~~ 15A.0815, of the head of a state agency in the executive branch is the upper limit on the salaries of individual employees in the agency. The salary of the commissioner of labor and industry is the upper limit of salaries of employees in the bureau of mediation services. However, if an agency head is assigned a salary that is lower than the current salary of another agency employee, the employee retains the salary, but may not receive an increase in salary as long as the salary is above that of the agency head. The commissioner may grant exemptions from these upper limits as provided in subdivisions 3 and 4.

Sec. 10. Minnesota Statutes 1996, section 43A.17, subdivision 3, is amended to read:

Subd. 3. **UNUSUAL EMPLOYMENT SITUATIONS.** Upon the request of the appointing authority, and when the commissioner determines that changes in employment situations create difficulties in attracting or retaining employees, the commissioner may approve an unusual employment situation increase to advance an employee within the compensation plan. Such ~~The action will~~ must be consistent with applicable provisions of collective bargaining agreements or plans pursuant to adopted under section 43A.18. The commissioner shall review each proposal giving due consideration to salary rates paid to other employees in the same class and agency and may approve any request which in the commissioner's judgment is in the best interest of the state. If the commissioner determines that the position requires special expertise necessitating a higher salary to attract or retain qualified persons, the commissioner may grant an exemption not to exceed 120 percent of the base salary of the head of the agency or the maximum rate established for the position, whichever is less.

Sec. 11. Minnesota Statutes 1996, section 43A.18, subdivision 4, is amended to read:

Subd. 4. **PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.** (a) Notwithstanding any other law to the contrary, terms and conditions of em-

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ployment for employees listed in this subdivision must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. Compensation plans established under ~~paragraphs~~ paragraph (c) and (d), must be reviewed and approved, modified, or rejected by the legislature and the legislative coordinating commission ~~on employee relations~~ under section 3.855, ~~subdivision subdivisions 2 and 3~~, before becoming effective.

(b) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer must be determined by the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer, respectively.

(c) ~~Total compensation for classified administrative law judges in the office of administrative hearings must be determined by the chief administrative law judge.~~

(d) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education services office must be determined by the higher education services office.

Sec. 12. Minnesota Statutes 1996, section 43A.18, subdivision 5, is amended to read:

Subd. 5. **GOVERNOR APPOINTING AUTHORITIES TO RECOMMEND CERTAIN SALARIES.** (a) The governor shall, by July 1 of each odd-numbered year, or other appropriate appointing authority, may submit to the legislative coordinating commission on employee relations recommendations for salaries within the salary range limits for the positions listed in section 15A.081, subdivisions 1 and 7 15A.0815, subdivisions 2 to 4. The governor An appointing authority may also propose additions or deletions of positions from those listed.

(b) Before submitting the recommendations, the governor appointing authority shall consult with the commissioner of administration, the commissioner of finance, and the commissioner of employee relations concerning the recommendations.

(c) In making recommendations, the governor appointing authority shall consider the criteria established in subdivision 8 and the performance of individual incumbents. The performance evaluation must include a review of an incumbent's progress toward attainment of affirmative action goals. The governor appointing authority shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities, and accountabilities and in determining recommendations rate each position by this system.

(d) Before the governor's appointing authority's recommended salaries take effect, the recommendations must be reviewed and approved, rejected, or modified by the legislative coordinating commission on employee relations and the legislature under section 3.855, ~~subdivision subdivisions 2 and 3~~. The governor may also at any time propose changes in the salary rate of any positions covered by this subdivision, which must be submitted and approved in the same manner as provided in this subdivision. If, when the legislature is not in session, the commission fails to reject or modify salary recommendations of the governor within 30 calendar days of their receipt, the recommendations are deemed to be approved.

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(e) The governor appointing authority shall set the initial salary of a head of a new agency or a chair of a new metropolitan board or commission whose salary is not specifically prescribed by law after consultation with the commissioner, whose recommendation is advisory only. The amount of the new salary must be comparable to the salary of an agency head or commission chair having similar duties and responsibilities.

(f) The salary of a newly appointed head of an agency or chair of a metropolitan agency listed in section ~~15A.081, subdivision 1 or 7~~ 15A.0815, subdivisions 2 to 4, may be increased or decreased by the governor appointing authority from the salary previously set for that position within 30 days of the new appointment after consultation with the commissioner. If the governor appointing authority increases a salary under this paragraph, the governor appointing authority shall submit the new salary to the legislative coordinating commission on employee relations and the full legislature for approval, modification, or rejection under section 3.855, ~~subdivision subdivisions 2 and 3~~. If, when the legislature is not in session, the commission fails to reject or modify salary recommendations of the governor within 30 calendar days of their receipt, the recommendations are deemed to be approved.

Sec. 13. Minnesota Statutes 1996, section 85A.02, subdivision 5a, is amended to read:

Subd. 5a. **EMPLOYEES.** (a) The board shall appoint an administrator who shall serve as the executive secretary and principal administrative officer of the board and, subject to its approval, the administrator shall operate the Minnesota zoological garden and enforce all rules and policy decisions of the board. The administrator must be chosen solely on the basis of training, experience, and other qualifications appropriate to the field of zoo management and development. The board shall set the compensation for salary of the administrator within the limits established for the commissioner of agriculture in section 15A.081, subdivision 1. The salary of the administrator may not exceed 85 percent of the salary of the governor. The administrator shall perform duties assigned by the board and shall serve in the unclassified service at the pleasure of the board. The administrator, with the participation of the board, shall appoint a development director in the unclassified service or contract with a development consultant to establish mechanisms to foster community participation in and community support for the Minnesota zoological garden. The board may employ other necessary professional, technical, and clerical personnel. Employees of the zoological garden are eligible for salary supplement in the same manner as employees of other state agencies. The commissioner of finance shall determine the amount of salary supplement based on available funds.

(b) The board may contract with individuals to perform professional services and may contract for the purchases of necessary species exhibits, supplies, services, and equipment. The board may also contract for the construction and operation of entertainment facilities on the zoo grounds that are not directly connected to ordinary functions of the zoological garden. The zoo board ~~shall~~ may not enter into any a final agreement for construction of any an entertainment facility that is not directly connected to the ordinary functions of the zoo until after final construction plans have been submitted to the chairs of the senate finance and house appropriations committees for their recommendations.

The zoo may not contract for entertainment during the period of the Minnesota state fair that would directly compete with entertainment at the Minnesota state fair.

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Sec. 14. Minnesota Statutes 1996, section 298.22, subdivision 1, is amended to read:

Subdivision 1. (1) ~~The office of governor shall appoint the commissioner of iron range resources and rehabilitation is created. The commissioner shall be appointed by the governor under the provisions of section 15.06.~~

(2) ~~The commissioner may hold such other positions or appointments as that are not incompatible with duties as commissioner of iron range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of such assistance as may be necessary, shall must be paid out of the amounts appropriated by section 298.28. The compensation salary of the commissioner shall must be set by the legislative coordinating commission and may not exceed the maximum salary set for the commissioner of administration under section 15A.081, subdivision 1 75 percent of the salary of the governor.~~

(3) ~~When the commissioner shall determine determines that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use thereof of natural resources in the future and the any resulting decrease in employment resulting therefrom, now or hereafter, the commissioner may use such whatever amounts of the appropriation made to the commissioner of revenue in section 298.28 as that are determined to be necessary and proper in the development of the remaining resources of said the county and in the vocational training and rehabilitation of its residents, except that the amount needed to cover cost overruns awarded to a contractor by an arbitrator in relation to a contract awarded by the commissioner or in effect after July 1, 1985, is appropriated from the general fund. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.~~

Sec. 15. Minnesota Statutes 1996, section 349A.02, subdivision 1, is amended to read:

Subdivision 1. **DIRECTOR.** A state lottery is established under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The director must be qualified by experience and training in the operation of a lottery to supervise the lottery. The director serves in the unclassified service. The annual salary rate authorized for the director is equal to 80 85 percent of the salary rate prescribed for the governor as of the effective date of Laws 1993, chapter 146.

Sec. 16. **SALARIES OF CONSTITUTIONAL OFFICERS, LEGISLATORS, AND JUDGES.**

(a) The salaries of constitutional officers are increased by 2.5 percent effective July 1, 1997, and by 2.5 percent effective January 1, 1998.

(b) The salaries of legislators are increased by 5.0 percent effective January 4, 1999.

(c) The salaries of the judges of the supreme court, court of appeals, and district court are increased by 4.0 percent effective July 1, 1997, and by 5.0 percent effective January 1, 1998.

(d) Effective July 1, 1999, the salaries of judges of the supreme court, court of appeals, and district court are increased by the average of the general salary adjustments for

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state employees in fiscal year 1998 provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session.

(e) Effective January 1, 2000, the salaries of judges of the supreme court, court of appeals, and district court are increased by the average of the general salary adjustments for state employees in fiscal year 1999 provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session.

(f) The commissioner of employee relations shall calculate the average of the general salary adjustments provided by negotiated collective bargaining agreements or arbitration awards ratified by the legislature in the 1998 legislative session. Negotiated collective bargaining agreements or arbitration awards that do not include general salary adjustments may not be included in these calculations. The commissioner shall weigh the general salary adjustments by the number of full-time equivalent employees covered by each agreement or arbitration award. The commissioner shall calculate the average general salary adjustment for each fiscal year covered by the agreements or arbitration awards. The results of these calculations must be expressed as percentages, rounded to the nearest one-tenth of one percent. The commissioner shall calculate the new salaries for the positions listed in paragraphs (d) and (e) using the applicable percentages from the calculations in this paragraph and report them to the speaker of the house, the president of the senate, the chief justice of the supreme court, and the governor.

#### Sec. 17. PHASE-IN OF SALARY INCREASES.

(a) Notwithstanding Minnesota Statutes, section 15A.083, subdivisions 6a and 7, the salary of an administrative law judge or compensation judge may not exceed 85 percent of the salary of a district court judge before July 1, 1998. After June 30, 1998, the salary of an administrative law judge and a compensation judge is governed by Minnesota Statutes, section 15A.083, subdivisions 6a and 7. If an employee's current salary exceeds the salary provided by this subdivision, the employee retains that salary, but may not receive a salary increase until the salary provided by this section exceeds the employee's current salary.

(b) Notwithstanding Minnesota Statutes, section 15A.083, subdivision 6a, the salary of the assistant chief administrative law judge and administrative law judge supervisors in the office of administrative hearings is 90 percent of the salary of a district court judge effective July 1, 1997. After June 30, 1998, the salary of the assistant chief administrative law judge and administrative law judge supervisors is governed by Minnesota Statutes, section 15A.083, subdivision 6a. If an employee's current salary exceeds the salary provided by this subdivision, the employee retains the salary, but may not receive a salary increase until the salary provided by this section exceeds the employee's current salary.

#### Sec. 18. REVISOR INSTRUCTION.

The revisor of statutes shall substitute the reference "section 15A.0815" for each reference to section 15A.081, subdivisions 1, 7, and 7b, wherever they occur in the next edition of Minnesota Statutes and Minnesota Rules.

#### Sec. 19. REPEALER.

**New language is indicated by underline, deletions by strikeout.**

Minnesota Statutes 1996, section 15A.081, subdivisions 1 and 7, are repealed.

**Sec. 20. EFFECTIVE DATE.**

Sections 1 to 19 are effective retroactive to July 1, 1997.

Presented to the governor August 20, 1997

Signed by the governor August 22, 1997, 10:55 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.