

## STATE OF MINNESOTA

## SEVENTY-SEVENTH SESSION—1992

## EIGHTIETH DAY

SAINT PAUL, MINNESOTA, THURSDAY, MARCH 19, 1992

The House of Representatives convened at 2:30 p.m. and was called to order by Dee Long, Speaker of the House.

Prayer was offered by Monsignor John C. Ward, former Pastor of St. Philips Catholic Church, Litchfield, Minnesota.

The roll was called and the following members were present:

Abrams	Frederick	Kelso	Ogren	Simoneau
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R. H.	Girard	Koppendrayar	Olson, K.	Solberg
Battaglia	Goodno	Krambeer	Omann	Sparby
Bauerly	Greenfield	Krinkie	Onnen	Stanius
Beard	Gruenes	Krueger	Orenstein	Steensma
Begich	Gutknecht	Lasley	Orfield	Sviggun
Bertram	Hanson	Leppik	Osthoff	Swenson
Bettermann	Hartle	Lieder	Ostrom	Thompson
Bishop	Hasskamp	Limmer	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Uphus
Boo	Heir	Macklin	Pelowski	Valento
Brown	Henry	Mariani	Peterson	Vanasek
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcmann
Davids	Jefferson	Morrison	Rukavina	Welker
Dawkins	Jennings	Munger	Runbeck	Welle
Dempsey	Johnson, A.	Murphy	Sarna	Wenzel
Dille	Johnson, R.	Nelson, K.	Schafer	Winter
Dorn	Johnson, V.	Nelson, S.	Schreiber	Spk. Long
Erhardt	Kahn	Newinski	Seaberg	
Farrell	Kalis	O'Connor	Segal	

A quorum was present.

Tunheim was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. McPherson moved that further reading of the Journal be

dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

#### REPORTS OF CHIEF CLERK

S. F. No. 1638 and H. F. No. 1860, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Wenzel moved that S. F. No. 1638 be substituted for H. F. No. 1860 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1919 and H. F. No. 1751, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Olsen, S., moved that the rules be so far suspended that S. F. No. 1919 be substituted for H. F. No. 1751 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2227 and H. F. No. 2475, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Jennings moved that the rules be so far suspended that S. F. No. 2227 be substituted for H. F. No. 2475 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2385 and H. F. No. 2585, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Jefferson moved that S. F. No. 2385 be substituted for H. F. No. 2585 and that the House File be indefinitely postponed. The motion prevailed.

**PETITIONS AND COMMUNICATIONS**

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

March 16, 1992

The Honorable Dee Long  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Long:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House File:

H. F. No. 1652, memorializing the Postmaster General to issue a postal stamp in commemoration of Wanda Gag, American Author and Illustrator.

Warmest regards,

ARNE H. CARLSON  
Governor

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Dee Long  
Speaker of the House of Representatives

The Honorable Jerome M. Hughes  
President of the Senate

I have the honor to inform you that the following enrolled Act of the 1992 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 1992</i>	<i>Date Filed 1992</i>
	1652	Resolution No. 9	2:45 p.m. March 16	March 16

Sincerely,

JOAN ANDERSON GROWE  
Secretary of State

## REPORTS OF STANDING COMMITTEES

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 419, A bill for an act relating to retirement; allowing payment of certain premiums on tax sheltered annuities; as an exception to the prohibition on supplemental pension plans; amending Minnesota Statutes 1990, section 356.24.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 356.24, is amended to read:

356.24 [SUPPLEMENTAL PENSION OR DEFERRED COMPENSATION PLANS, RESTRICTIONS UPON GOVERNMENT UNITS.]

Subdivision 1. [RESTRICTION; EXCEPTIONS.] (a) It is unlawful for a school district or other governmental subdivision or state agency to levy taxes for, or contribute public funds to a supplemental pension or deferred compensation plan that is established, maintained, and operated in addition to a primary pension program for the benefit of the governmental subdivision employees other than:

(1) to a supplemental pension plan that was established, maintained, and operated before May 6, 1971;

(2) to a plan that provides solely for group health, hospital, disability, or death benefits, to the individual retirement account plan established by sections 354B.01 to 354B.04;

(3) to a plan that provides solely for severance pay under section 465.72 to a retiring or terminating employee;

(4) for employees other than personnel employed by the state

university board or the community college board and covered by section 136.80, subdivision 1, to:

(i) the state of Minnesota deferred compensation plan under section 352.96; or

(ii) to payment of the applicable portion of the premium on a tax sheltered annuity contract qualified under section 403(b) of the federal Internal Revenue Code, purchased from a qualified insurance company; if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of public employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year per employee; or

(5) for personnel employed by the state university board or the community college board and covered by section 136.80, subdivision 1, to the supplemental retirement plan under sections 136.80 to 136.85, if provided for in a personnel policy or in the collective bargaining agreement of the public employer with the exclusive representative of the covered employees in an appropriate unit, in an amount matching employee contributions on a dollar for dollar basis, but not to exceed an employer contribution of \$2,000 a year for each employee.

(b) A qualified insurance company is a company that:

(1) meets the definition in section 60A.02, subdivision 4;

(2) is licensed to engage in life insurance or annuity business in the state;

(3) is determined by the commissioner of commerce to have a rating within the top two rating categories by a recognized national rating agency or organization that regularly rates insurance companies; and

(4) is determined by the state board of investment to be among the ten applicant insurance companies with competitive options and investment returns on annuity products. The state board of investment determination must be made on or before January 1, 1993, and must be reviewed periodically. The state board of investment shall use the board's actuary to assist it in this determination. The state board of investment shall establish a budget for its costs in the determination process and shall charge each applicant a proportional share of that budget as an application fee. All contracts must be approved before execution by the state board of investment. The executive director of the state board of investment shall establish rules and procedures to carry out this section.

(c) A personnel policy for unrepresented employees or a collective bargaining agreement may establish limits on the number of vendors under paragraph (b), clause (4), that it will utilize and conditions under which the vendors may contact employees both during working hours and after working hours.

Subd. 2. [LIMIT ON CERTAIN CONTRIBUTIONS OR BENEFIT CHANGES.] No change in benefits or employer contributions in a supplemental pension plan to which this section applies after May 6, 1971, is effective without prior legislative authorization."

Delete the title and insert:

"A bill for an act relating to retirement; public employee retirement savings programs; authorizing an employer matching contribution to certain tax sheltered annuity contracts; amending Minnesota Statutes 1990, section 356.24."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 804, A bill for an act relating to motor carriers; making technical changes to motor carrier laws; allowing motor carrier certificate to be suspended or revoked for certain violations; providing an exemption for limousine service by a luxury passenger automobile; requiring private carriers operating vehicles having a gross weight greater than 12,000 pounds to comply with driver qualification rules; requiring formerly exempt carriers operating vehicles having a gross weight greater than 12,000 pounds to comply with rules on driver qualifications and maximum hours of service of drivers; adopting federal out-of-service criteria for motor carriers; providing that certain federal laws and regulations apply to certain intrastate commerce; authorizing certain inspections and information gathering by the department of transportation regarding hazardous materials; authorizing variances to federal regulations regarding certain cargo tanks that transport gasoline; requiring immediate notice and subsequent written reports for additional situations involving hazardous materials transportation; prohibiting issuance of hazardous waste transporter license to applicant with history of repeated or serious violations; allowing exchange of information on applicant for hazardous waste transporter license; allowing trip permits for certain interstate transportation of hazardous waste and imposing a fee; requiring certain information from applicant to operate as permit carrier or local cartage carrier;

establishing the initial motor carrier contact program; requiring information to be displayed on power units of registered vehicles of certain motor carriers; authorizing commissioner of transportation to suspend or cancel the operating authority, permit, or certificate of a motor carrier failing to pay a required administrative penalty; imposing administrative penalties; requiring payment of service charge for each identification stamp issued to an interstate motor carrier; allowing commissioner of transportation to inspect vehicles and records of building movers; requiring building movers to comply with rules on driver qualifications, safe operation, maximum hours of service of drivers, inspection, repair and maintenance, and accident reporting; requiring police escort when moving building, when required by permit; allowing commissioner of transportation to revoke, suspend, or deny a license for noncompliance with certain moving permits and other violations regarding building movers; amending Minnesota Statutes 1990, sections 221.021, 221.025, 221.031, subdivisions 2, 3, and by adding a subdivision; 221.033, subdivision 1, and by adding a subdivision; 221.034, subdivisions 1 and 3; 221.035, subdivision 1, and by adding a subdivision; 221.121, subdivisions 1 and 7; 221.131, subdivisions 1 and 2; 221.185, subdivisions 1, 2, and 4; 221.60, subdivision 2; 221.605, by adding a subdivision; and 221.81, subdivisions 2 and 4, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 221.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1991 Supplement, section 169.781, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of sections 169.781 to 169.783:

(a) “Commercial motor vehicle” means:

(1) a commercial motor vehicle as defined in section 169.01, subdivision 75, paragraph (a); and

(2) each vehicle in a combination of more than 26,000 pounds.

“Commercial motor vehicle” does not include (1) a school bus displaying a certificate under section 169.451, (2) a bus operated by the metropolitan transit commission created in section 473.404 or by a local transit commission created in chapter 458A, or (3) a motor vehicle with a gross weight of not more than 26,000 pounds, carrying in bulk tanks a total of not more than 200 gallons of petroleum products or liquid fertilizer or pesticide.

(b) “Commissioner” means the commissioner of public safety.

(c) "Owner" means a person who owns, or has control, under a lease of more than 30 days' duration, of one or more commercial motor vehicles.

(d) "Storage semitrailer" means a semitrailer that (1) is used exclusively to store property at a location not on a street or highway, (2) does not contain any load when moved on a street or highway, (3) is operated only during daylight hours, and (4) is marked on each side of the semitrailer "storage only" in letters at least six inches high.

(e) "Building mover vehicle" means a vehicle owned or leased by a building mover as defined in section 221.81, subdivision 1, paragraph (a), and used exclusively for moving buildings.

Sec. 2. Minnesota Statutes 1991 Supplement, section 169.781, subdivision 5, is amended to read:

Subd. 5. [INSPECTION DECALS.] (a) A person inspecting a commercial motor vehicle shall issue an inspection decal for the vehicle if each inspected component of the vehicle complies with federal motor carrier safety regulations. The decal must state that in the month specified on the decal the vehicle was inspected and each inspected component complied with federal motor carrier safety regulations. The decal is valid for 12 months after the month specified on the decal. The commissioners of public safety and transportation shall make decals available, at a fee of not more than \$2 for each decal, to persons certified to perform inspections under subdivision 3, paragraph (b).

(b) Minnesota inspection decals may be affixed only to commercial motor vehicles bearing Minnesota-based license plates.

(c) Notwithstanding paragraph (a), a person inspecting (1) a vehicle of less than 57,000 pounds gross vehicle weight and registered as a farm truck, ~~or~~ (2) a storage semitrailer, ~~or~~ (3) a building mover vehicle must issue an inspection decal to the vehicle unless the vehicle has one or more defects that would result in the vehicle being declared out of service under the North American Uniform Driver, Vehicle, and Hazardous Materials Out-of-Service Criteria issued by the federal highway administration and the commercial motor vehicle safety alliance. A decal issued to a vehicle described in clause (1) ~~or~~, (2), ~~or~~ (3) is valid for two years from the date of issuance. A decal issued to such a vehicle must clearly indicate that it is valid for two years from the date of issuance.

(d) Notwithstanding paragraph (a), a commercial motor vehicle that (1) is registered as a farm truck, (2) is not operated more than 75 miles from the owner's home post office, and (3) was manufactured before 1979 that has a dual transmission system, is not required to comply with a requirement in an inspection standard



that requires that the service brake system and parking brake system be separate systems in the motor vehicle.

Sec. 3. Minnesota Statutes 1991 Supplement, section 169.825, subdivision 8, is amended to read:

Subd. 8. [PNEUMATIC-TIRED VEHICLES.] No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state:

(a) Where the gross weight on any wheel exceeds 9,000 pounds, except that on designated local routes and state trunk highways the gross weight on any single wheel shall not exceed 10,000 pounds;

(b) Where the gross weight on any single axle exceeds 18,000 pounds, except that on designated local routes and state trunk highways the gross weight on any single axle shall not exceed 20,000 pounds;

(c) Where the maximum wheel load:

(1) on the foremost and rearmost steering axles, exceeds 600 pounds per inch of tire width or the manufacturer's recommended load, whichever is less; or

(2) on other axles, exceeds 500 pounds per inch of tire width or the manufacturer's recommended load, whichever is less;

Clause (2) applies to new vehicles manufactured after August 1, 1991, ~~and after. For vehicles manufactured before August 2, 1991, the maximum weight per inch of tire width is 600 pounds per inch or the manufacturer's recommended load, whichever is less, until August 1, 1996, to all vehicles. After July 31, 1996, clause (2) applies to all vehicles regardless of date of manufacture.~~

(d) Where the gross weight on any axle of a tridem exceeds 15,000 pounds, except that for vehicles to which an additional axle has been added prior to June 1, 1981, the maximum gross weight on any axle of a tridem may be up to 16,000 pounds provided the gross weight of the tridem combination does not exceed 39,900 pounds where the first and third axles of the tridem are spaced nine feet apart.

(e) Where the gross weight on any group of axles exceeds the weights permitted under this section with any or all of the interior axles disregarded and their gross weights subtracted from the gross weight of all axles of the group under consideration.

Sec. 4. Minnesota Statutes 1991 Supplement, section 169.825, subdivision 10, is amended to read:

Subd. 10. [GROSS WEIGHT SCHEDULE.] (a) No vehicle or combination of vehicles equipped with pneumatic tires shall be operated upon the highways of this state where the total gross weight on any group of two or more consecutive axles of any vehicle or combination of vehicles exceeds that given in the following table for the distance between the centers of the first and last axles of any group of two or more consecutive axles under consideration; unless otherwise noted, the distance between axles being measured longitudinally to the nearest even foot, and when the measurement is a fraction of exactly one-half foot the next largest whole number in feet shall be used, except that when the distance between axles is more than three feet four inches and less than three feet six inches the distance of four feet shall be used:

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of		
	2 consecutive axles of a 2-axle vehicle or of any vehicle or combination of vehicles having a total of 2 or more axles	3 consecutive axles of a 3-axle vehicle or of any vehicle or combination of vehicles having a total of 3 or more axles	4 consecutive axles of a 4-axle vehicle or any combination of vehicles having a total of 4 or more axles
4	34,000		
5	34,000		
6	34,000		
7	34,000	<del>39,000</del> 37,000	
8	34,000	<del>39,000</del> 38,500	
8 plus	34,000 (38,000)	42,000	
9	35,000 (39,000)	43,000	
10	36,000 (40,000)	43,500	49,000
11	36,000	44,500	49,500
12		45,000	50,000
13		46,000	51,000
14		46,500	51,500
15		47,500	52,000
16		48,000	53,000
17		49,000	53,500

18	49,500	54,000
19	50,500	55,000
20	51,000	55,500
21	52,000	56,000
22	52,500	57,000
23	53,500	57,500
24	54,000	58,000
25	(55,000)	59,000
26	(55,500)	59,500
27	(56,500)	60,000
28	(57,000)	61,000
29	(58,000)	61,500
30	(58,500)	62,000
31	(59,500)	63,000
32	(60,000)	63,500
33		64,000
34		65,000
35		65,500
36		66,000
37		67,000
38		67,500
39		68,000
40		69,000
41		69,500
42		70,000
43		71,000
44		71,500
45		72,000
46		72,500
47		(73,500)
48		(74,000)
49		(74,500)
50		(75,500)
51		(76,000)

The maximum gross weight on a group of three consecutive axles where the distance between centers of foremost and rearmost axles is listed as seven feet or eight feet applies only to vehicles manufactured before August 1, 1991.

“8 plus” refers to any distance greater than eight feet but less than nine feet.

Distances in feet between centers of foremost and rearmost axles of a group	Maximum gross weight in pounds on a group of		
	5	6	7
	consecutive axles of a 5-axle vehicle or any combination of vehicles having a total of 5 or more axles	consecutive axles of a combination of vehicles having a total of 6 or more axles	consecutive axles of a combination of vehicles having a total of 7 or more axles
14	57,000		
15	57,500		
16	58,000		
17	59,000		
18	59,500		
19	60,000		
20	60,500	66,000	72,000
21	61,500	67,000	72,500
22	62,000	67,500	73,000
23	62,500	68,000	73,500
24	63,000	68,500	74,000
25	64,000	69,000	75,000
26	64,500	70,000	75,500
27	65,000	70,500	76,000
28	65,500	71,000	76,500
29	66,500	71,500	77,000
30	67,000	72,000	77,500
31	67,500	73,000	78,500
32	68,000	73,500	79,000
33	69,000	74,000	79,500
34	69,500	74,500	80,000
35	70,000	75,000	
36	70,500	76,000	
37	71,500	76,500	
38	72,000	77,000	
39	72,500	77,500	
40	73,000	78,000	

41	(74,000)	79,000
42	(74,500)	79,500
43	(75,000)	80,000
44	(75,500)	
45	(76,500)	
46	(77,000)	
47	(77,500)	
48	(78,000)	
49	(79,000)	
50	(79,500)	
51	(80,000)	

The gross weights shown in parentheses in this clause are permitted only on state trunk highways and routes designated under section 169.832, subdivision 11.

(b) Notwithstanding any lesser weight in pounds shown in this table but subject to the restrictions on gross vehicle weights in clause (c), two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each and a combined gross load of 68,000 pounds provided the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(c) Notwithstanding the provisions of section 169.85, the gross vehicle weight of all axles of a vehicle or combination of vehicles shall not exceed:

(1) 80,000 pounds for any vehicle or combination of vehicles on all state trunk highways as defined in section 160.02, subdivision 2, and for all routes designated under section 169.832, subdivision 11; and

(2) 73,280 pounds for any vehicle or combination of vehicles with five axles or less on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11; and

(3) 80,000 pounds for any vehicle or combination of vehicles with six or more axles on all routes, other than state trunk highways and routes that are designated under section 169.832, subdivision 11.

(d) The maximum weights specified in this subdivision for five consecutive axles shall not apply to a combination of vehicles that includes a three axle semitrailer first registered before August 1, 1981. All other weight limitations in this section are applicable.

(e) The maximum weights specified in this subdivision for five consecutive axles shall not apply to a four axle ready mix concrete

truck which was equipped with a fifth axle prior to June 1, 1981. The maximum gross weight on four or fewer consecutive axles of vehicles excepted by this clause shall not exceed any maximum weight specified for four or fewer consecutive axles in this subdivision.

Sec. 5. Minnesota Statutes 1990, section 169.825, subdivision 14, is amended to read:

Subd. 14. [VARIABLE LOAD AXLES.] A vehicle or combination of vehicles equipped with one or more variable load axles shall have the pressure control preset so that the weight carried on the variable load axle may not be varied by the operator during transport of any load. The actuating control for the axle shall function only as an on and off switch. The provisions of this subdivision do not apply to any farm truck registered prior to July 1, 1981, under section 168.013, subdivision 1c, for 57,000 pounds or less ~~or to any rear-loading refuse compactor vehicle.~~ This subdivision does not apply to rear-loading refuse compactor vehicles, except that any refuse compactor vehicle having a tridem rear axle must comply with this subdivision before being issued a special permit under section 169.86, subdivision 5, paragraph (h).

Sec. 6. Minnesota Statutes 1991 Supplement, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEES.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) ~~refuse compactor vehicles that carry a gross weight up to but not in excess of 22,000 pounds on a single rear axle and not in excess of 38,000 pounds on a tandem rear axle;~~

(2) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(3) (2) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(4) (3) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3); and

(5) (4) special pulpwood vehicles described in section 169.863.

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) farm equipment when the movement is not made according to the provisions of section 169.80, subdivision 1, paragraphs (a) to (f);

(5) double-deck buses;

(6) commercial boat hauling.

(e) For vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

#### Overweight Axle Group Cost Factors

##### Cost Per Mile For Each Group Of:

Weight (pounds) exceeding weight limitations on axles	Two consecutive axles spaced within 8 feet or less	Three consecutive axles spaced within 9 feet or less	Four consecutive axles spaced within 14 feet or less
0-2,000	.100	.040	.036
2,001-4,000	.124	.050	.044
4,001-6,000	.150	.062	.050
6,001-8,000	Not permitted	.078	.056
8,001-10,000	Not permitted	.094	.070
10,001-12,000	Not permitted	.116	.078
12,001-14,000	Not permitted	.140	.094
14,001-16,000	Not permitted	.168	.106
16,001-18,000	Not permitted	.200	.128
18,001-20,000	Not permitted	Not permitted	.140
20,001-22,000	Not permitted	Not permitted	.168

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of vehicle	Annual Permit Fee
90,000 or less	\$200
90,001-100,000	\$300
100,001-110,000	\$400
110,001-120,000	\$500
120,001-130,000	\$600
130,001-140,000	\$700
140,001-145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

(h) \$85 for an annual permit to be issued for a period not to exceed 12 months, for refuse compactor vehicles that carry a gross weight of not more than: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or, subject to section 169.825, subdivision 14, 46,000 pounds on a tridem rear axle. A permit issued for up to 46,000 pounds on a tridem rear axle must limit the gross vehicle weight to not more than 62,000 pounds.

Sec. 7. Minnesota Statutes 1990, section 174.23, is amended by adding a subdivision to read:

Subd. 9. [STATE TRANSIT SYSTEM AND PLAN.] By January 1, 1996, the commissioner shall provide a comprehensive, coordinated



public transit system serving every county of the state. By January 1, 1993, the commissioner shall submit a plan to the legislature to implement coordinated statewide public transit service.

Sec. 8. Minnesota Statutes 1990, section 174.30, subdivision 2, is amended to read:

Subd. 2. [AUTHORITY TO ADOPT; PURPOSE AND CONTENT; RULEMAKING.] The commissioner of transportation shall adopt by rule standards for the operation of vehicles used to provide special transportation service which are reasonably necessary to protect the health and safety of individuals using that service. The commissioner, as far as practicable, consistent with the purpose of the standards, shall avoid adoption of standards that unduly restrict any public or private entity or person from providing special transportation service because of the administrative or other cost of compliance.

Standards adopted under this section must include but are not limited to:

(a) Qualifications of drivers and attendants, including driver training requirements that must be met before a driver provides special transportation;

(b) Safety of vehicles and necessary safety equipment;

(c) General requirements concerning inspection and maintenance of vehicles, replacement vehicles, standard vehicle equipment, and specialized equipment necessary to ensure vehicle usability and safety for disabled persons; ~~and~~

(d) Minimum insurance requirements; and

(e) Assessment of administrative penalties for violations.

The commissioner shall consult with the council on disability before making a decision on a variance from the standards.

Sec. 9. Minnesota Statutes 1990, section 221.011, subdivision 20, is amended to read:

Subd. 20. "Charter" means the agreement whereby the owner of a motor bus vehicle lets the same to a group of persons as one party for a specified sum and for a specified act of transportation at a specified time.

Sec. 10. Minnesota Statutes 1990, section 221.011, subdivision 21, is amended to read:

Subd. 21. "Charter carrier" means a person who engages in the business of transporting the public by motor ~~buses~~ vehicle under charter. The term "charter carrier" does not include regular route common carriers of passengers and school buses described in section 221.025, clause (a), or persons providing limousine service described in section 221.84.

Sec. 11. Minnesota Statutes 1990, section 221.011, subdivision 25, is amended to read:

Subd. 25. "Courier services carrier" means any person who offers expedited door-to-door transportation of packages and articles less than 100 pounds in weight in ~~vehicles~~ a vehicle with a registered gross vehicle weight and gross vehicle weight rating not exceeding of 15,000 pounds or less.

Sec. 12. Minnesota Statutes 1990, section 221.011, is amended by adding a subdivision to read:

Subd. 33. "Gross vehicle weight" has the meaning given it in section 169.01, subdivision 46.

Sec. 13. Minnesota Statutes 1990, section 221.021, is amended to read:

#### 221.021 [OPERATION CERTIFICATE OR PERMIT REQUIRED.]

No person ~~shall~~ may operate as a motor carrier or advertise or otherwise hold out as a motor carrier without a certificate or permit in ~~full force and effect~~. A certificate or permit may be suspended or revoked upon conviction of violating a provision of sections 221.011 to 221.296 or an order or rule of the commissioner or board governing the operation of motor carriers, and upon a finding by the court that the violation was willful. The board may, for good cause after a hearing, suspend or revoke a certificate or permit for a violation of a provision of sections 221.011 to 221.296 or an order issued or rule of adopted by the commissioner or board ~~issued~~ under this chapter.

Sec. 14. Minnesota Statutes 1991 Supplement, section 221.025, is amended to read:

#### 221.025 [EXEMPTIONS.]

~~Except as provided in sections 221.031 and 221.033, The provisions of this chapter requiring a certificate or permit to operate as a motor carrier do not apply to the intrastate transportation described below:~~

(a) the transportation of students to or from school or school

activities in a school bus inspected and certified under section 169.451;

(b) the transportation of rubbish as defined in section 443.27 solid waste, as defined in section 116.06, subdivision 10, including recyclable materials and waste tires, except that the term "hazardous waste" has the meaning given it in section 221.011, subdivision 31;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances, and tow trucks when picking up and transporting disabled or wrecked motor vehicles and when carrying proper and legal warning devices;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) ~~a person while exclusively engaged in~~ the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile and the mortar mix to be used with the concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) a person while engaged exclusively in transporting the transportation of fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) ~~a person engaged in transporting the transportation of~~ property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) ~~a person engaged in transporting the transportation of~~ agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department or the regional transit board; and

(o) the transportation of newspapers, as defined in section 331A.01, subdivision 5, telephone books, handbills, circulars, or pamphlets in a vehicle with a gross vehicle weight of 10,000 pounds or less.

The exemptions provided in this section apply to a person only while the person is exclusively engaged in exempt transportation.

Sec. 15. Minnesota Statutes 1990, section 221.031, as amended by Laws 1991, chapter 333, section 33, is amended to read:

#### 221.031 [RULES FOR OPERATION OF CARRIERS.]

##### Subdivision 1. [POWERS, DUTIES, REPORTS, LIMITATIONS.]

(a) This subdivision applies to motor carriers engaged in intrastate commerce.

(b) The commissioner shall prescribe rules for the operation of motor carriers, including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; ~~maximum~~ hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and, proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules.

(c) The commissioner shall direct the repair and reconstruction or replacement of an inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms, and accommodations or shelters in a city in this state or at a point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property.

(d) The commissioner shall require the filing of annual and other

reports including annual accounts of motor carriers, schedules of rates and charges, or other data by motor carriers, regulate motor carriers in matters affecting the relationship between them and the traveling and shipping public, and prescribe other rules as may be necessary to carry out the provisions of this chapter.

(e) A motor carrier having gross revenues from for-hire transportation in a calendar year of less than \$50,000 may, at the discretion of the commissioner, be exempted from the filing of an annual report, if instead of filing the report the motor carrier files an affidavit, in a form as may be prescribed by the commissioner, attesting that the motor carrier's gross revenues did not exceed \$50,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, do not include gross revenues received from the operation of school buses as defined in section 169.01, subdivision 6.

(f) The commissioner shall enforce sections 169.781 to 169.783.

(g) The commissioner shall make no rules relating to the granting, limiting, or modifying of permits or certificates of convenience and necessity, which are powers granted to the board.

(h) The board may extend the termini of a route or alter or change the route of a regular route common carrier upon petition and after finding that public convenience and necessity require an extension, alteration, or change.

Subd. 2. [PRIVATE CARRIERS.] This subdivision applies to private carriers engaged in intrastate commerce.

(a) Private carriers operating vehicles ~~licensed and registered for with a gross vehicle weight of more than 12,000~~ 10,000 pounds, shall comply with rules adopted under this section ~~applying to maximum for driver qualifications; hours of service of drivers; safe operation of vehicles; equipment, parts, and accessories; leasing of vehicles or vehicles and drivers; and, inspection, repair, and maintenance. Private carriers not subject to the rules of the commissioner for driver qualifications on August 1, 1992, must comply with those rules on and after August 1, 1994.~~

(b) ~~In addition to the requirements in paragraph (a), private carriers operating vehicles licensed and registered for a gross weight in excess of 26,000 pounds shall comply with rules adopted under this section relating to driver qualifications.~~

(c) ~~The requirements as to driver qualifications and maximum rules for hours of service for of drivers do not apply to private carriers who are (1) public utilities as defined in section 216B.02, subdivision 4; (2) cooperative electric associations organized under~~

chapter 308A; (3) telephone companies as defined in section 237.01, subdivision 2; or (4) ~~who are~~ engaged in the transportation of construction materials, tools and equipment from shop to job site or job site to job site, for use by the private carrier in the new construction, remodeling, or repair of buildings, structures or their appurtenances.

~~(d)~~ (c) ~~The rules for driver qualification rule qualifications and the hours of service rules of drivers do not apply to vehicles controlled by a farmer and operated by a farmer or farm employee to transport agricultural products or farm machinery, or supplies to or from a farm if the vehicle is not used in the operations of a motor carrier and not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with section 221.033.~~

Subd. 2a. [AGRICULTURAL EXEMPTIONS.] (a) Notwithstanding the provisions of subdivision 2, private carriers engaged in intrastate commerce and operating vehicles transporting agricultural and other farm products within an area having a 50-mile radius from the business location of the private carrier must comply only with the commissioner's rules for driver qualifications ~~and safety of operations; safe operation of vehicles; and, equipment, parts, and accessories,~~ except as provided in paragraphs (b) and (c).

(b) A rear-end dump truck or other rear-unloading truck while being used for hauling agricultural and other farm products from a place of production or on-farm storage site to a place of processing or storage, is not subject to any rule of the commissioner requiring rear-end protection, including a federal regulation adopted by reference.

(c) A private carrier operating a commercial motor vehicle as defined in section 169.781, subdivision 1, must comply with sections 169.781 to 169.783.

Subd. 2b. [OTHER EXEMPTIONS.] From August 1, 1992 to August 1, 1994, the rules of the commissioner for hours of service for drivers do not apply to a person exclusively engaged in the transportation of asphalt cement, cementitious material, fly ash, or sod, when the transportation is provided within a radius of 100 miles from (1) the person's home post office, or (2) a highway construction or maintenance site where the asphalt cement, cementitious material, fly ash, or sod is being used.

Subd. 3. [VEHICLES OVER ~~12,000~~ 10,000 POUNDS NOT EXEMPT.] (a) This subdivision applies to ~~vehicles~~ persons engaged in intrastate commerce, who operate vehicles providing transportation described in section 221.025 ~~which are registered and licensed for with a gross vehicle weight in excess of 12,000 10,000 pounds,~~ except school buses, commuter vans, and authorized emergency vehicles.

(b) Persons providing transportation described in section 221.025, clause (f), (j), (l), or (m), must comply with the rules of the commissioner for safety of operations safe operation of vehicles and for equipment, parts, and accessories.

(c) Persons providing transportation described in section 221.025, except for persons providing transportation described in clause (f), (j), (l), or (m), must comply with the rules of the commissioner for safe operation of vehicles; equipment, parts, and accessories; and, after August 1, 1994, the rules of the commissioner for driver qualifications.

Subd. 3a. [CONTRACTORS OR RECIPIENTS OF TRANSPORTATION ASSISTANCE.] Notwithstanding subdivision 3, providers of passenger transportation service under contract to and with operating assistance from the department or the regional transit board must comply with rules of the commissioner for driver qualifications; safe operation of vehicles; equipment, parts, and accessories; ~~maximum~~ hours of service of drivers; inspection, repair, and maintenance; and accident reporting.

This subdivision does not apply to (1) a local transit commission, (2) a transit authority created by the legislature, (3) special transportation service certified by the commissioner under section 174.30, or (4) special transportation service defined in section 174.29, subdivision 1, when provided by a volunteer driver operating a private passenger vehicle defined in section 169.01, subdivision 3a.

Subd. 3b. [SOLID WASTE TRANSPORTERS NOT EXEMPT.] Persons providing transportation described in section 221.025, clause (b), must comply with the rules of the commissioner for driver qualifications after August 1, 1994; hours of service of drivers; safe operation of vehicles; equipment, parts, and accessories; and, inspection, repair, and maintenance. A local government unit, as defined in section 115A.03, subdivision 17, shall not enact or enforce laws, ordinances, or regulations for the operation of solid waste transporters that are inconsistent with the rules of the commissioner.

Subd. 5. [DEPARTMENT INVESTIGATES.] The department shall investigate the operation of carriers subject to the rules of the commissioner under this section, their compliance with rules of the department and board and with the provisions of chapter 221, and may institute and prosecute actions and proceedings in the proper district court for enforcement of those rules.

Subd. 6. [VEHICLE IDENTIFICATION RULE.] (a) The following carriers shall display the carrier's name and address on the power unit of each vehicle:

- (1) motor carriers, regardless of the weight of the vehicle;

(2) interstate and intrastate private carriers operating vehicles ~~licensed and registered for~~ with a gross vehicle weight of ~~12,000~~ 10,000 pounds or more; and

(3) vehicles providing transportation described in section 221.025 ~~which are licensed and registered for~~ with a gross vehicle weight of ~~12,000~~ 10,000 pounds or more except those providing transportation described in section 221.025, clauses (a), (c), and (d).

Vehicles described in clauses (2) and (3) that are operated by farmers or farm employees and have four or fewer axles are not required to comply with the vehicle identification rule of the commissioner.

(b) Vehicles subject to this subdivision must show the name or "doing business as" name of the carrier operating the vehicle and the ~~city or~~ community and ~~state~~ abbreviation of the state in which the carrier maintains its principal office or in ~~which the~~ vehicle is customarily based. If the carrier operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating carrier appears on the vehicle, the words "operated by" must immediately precede the name of the carrier.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings.

The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Subd. 7. [MEDICAL EXAMINER'S CERTIFICATE; CHARTER CARRIER DRIVERS.] While in the state, the driver for a charter carrier engaged in intrastate commerce who has in possession a license with a school bus endorsement under section 171.321 or rules of the commissioner of public safety is not required to have in possession or to present a separate medical examiner's certificate otherwise required by Code of Federal Regulations, title 49, sections 391.41 to 391.49.

Subd. 8. [DRIVEAWAY-TOWAWAY EXEMPTION.] For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

Subd. 9. [OUT-OF-SERVICE CRITERIA ADOPTED BY REFER-



ENCE.] The North American Uniform Driver, Vehicle, and Hazardous Materials Out-Of-Service Criteria developed and adopted by the federal highway administration and the commercial vehicle safety alliance are adopted in Minnesota.

Sec. 16. [221.0313] [CONTROLLED SUBSTANCES TESTING AND PROCEDURES.]

Subdivision 1. [PURPOSE; INTENT; EXEMPTION.] (a) The purpose of this section is to adopt federal regulations governing testing for controlled substances.

(b) The legislature intends that the adopted federal regulations be applied:

(1) to persons who provide intrastate transportation, who are subject to the rules of the commissioner for driver qualifications, and who operate commercial motor vehicles, as defined in Code of Federal Regulations, title 49, section 391.85; and

(2) in the same manner that the federal regulations apply to interstate transportation.

(c) Intrastate carriers who are required to comply with the adopted federal regulations are exempt from the requirements of sections 181.950 to 181.957. This exemption applies only to the testing of drivers.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms used in the federal regulations adopted in subdivisions 4 and 5, have the meanings given them in this subdivision:

(a) "DOT agency" means the commissioner of transportation.

(b) "DOT agency regulations" means the federal regulations adopted in subdivisions 4 and 5.

(c) "Motor carrier" means:

(1) a motor carrier as defined in section 221.011, subdivision 15; and

(2) a private carrier as defined in section 221.011, subdivision 26, or a person providing transportation described in section 221.025 when the private carrier or person:

(i) is subject to the rules of the commissioner for driver qualifications under section 221.031; and

(ii) is operating a commercial motor vehicle.

The term "motor carrier" includes a motor carrier's agents; officers; representatives; employees responsible for hiring, supervising, training, assigning, or dispatching drivers; and, employees concerned with installing, inspecting, and maintaining motor vehicle equipment or accessories. The definition of motor carrier includes the term "employer."

Subd. 3. [APPLICABILITY.] The regulations adopted in subdivisions 4 and 5 apply to a motor carrier providing transportation by commercial motor vehicle in intrastate commerce.

Subd. 4. [DRIVER QUALIFICATIONS; FEDERAL REGULATIONS ADOPTED.] Code of Federal Regulations, title 49, sections 391.41, paragraph (c); 391.43, paragraph (a)(2); 391.81, paragraphs (a) and (b); 391.85; 391.87; 391.89; 391.95 to 391.123; and, part 391, appendix D, are incorporated by reference.

Subd. 5. [CONTROLLED SUBSTANCES TESTING; FEDERAL REGULATIONS ADOPTED.] Code of Federal Regulations, title 49, sections 40.1; 40.3; 40.21, paragraphs (a), (c), and (d); 40.23 to 40.39; and, part 40, appendix A, are incorporated by reference.

Subd. 6. [APPLICABILITY OF OTHER TESTING PROGRAMS.] (a) If a drug testing program established under this section is limited to testing for the controlled substances listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), sections 181.950 to 181.957 do not apply.

(b) Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), or for alcohol, only in accordance with sections 181.950 to 181.957, and rules adopted under those sections.

Sec. 17. Minnesota Statutes 1990, section 221.033, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] Except as provided in subdivisions 2 and 3 to 4, no person may transport or have transported offer or shipped accept for transportation within the state of Minnesota a hazardous material, hazardous substance, or hazardous waste except in compliance with United States Code, title 49, sections 1801 to 1811 and the provisions of Code of Federal Regulations, title 49, sections parts 171 to 199. Those provisions apply to transportation in intrastate commerce to the same extent they apply to transportation in interstate commerce.

Sec. 18. Minnesota Statutes 1990, section 221.033, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION EXEMPTION FOR FARMERS.] (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Farmers or their employees transporting diesel fuel, gasoline, agricultural chemicals, or agricultural fertilizers for use on the transporter's farm are not required to comply with the driver qualification rules of the commissioner or with the shipping paper requirements of the Code of Federal Regulations, title 49, sections 172.200 and 177.817 or with section 397.7(B) or 397.9(A) of the Federal Motor Carrier Safety Regulations when:

(1) transporting diesel fuel or gasoline in motorized tank truck vehicles of less than 1,500-gallon capacity owned by the transporter, or in tanks securely mounted in other motor vehicles with a gross vehicle weight of less than ~~12,000~~ 10,000 pounds and owned by the transporter; or

(2) transporting agricultural chemicals and agricultural fertilizers.

Subd. 2a. [AGRICULTURALLY RELATED EXEMPTION.] (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Fertilizer and agricultural chemical retailers or their employees are exempt from the rule of the commissioner requiring that drivers must be at least 21 years of age when:

(1) the retailer or its employee is transporting fertilizer or agricultural chemicals directly to a farm for on-farm use within a radius of 50 miles of the retailer's business location; and

(2) the driver employed by the retailer is at least 18 years of age.

~~Fertilizer and agricultural chemical retailers or their employees are also exempt, during the period from April 1, 1991, to June 1, 1991, from the commissioner's rules governing maximum hours of service of drivers, when transporting fertilizer or agricultural chemicals directly to a farm for on-farm use within a radius of 50 miles of the retailer's business location.~~

(c) A fertilizer or agricultural chemical retailer, or a driver employed by a fertilizer or agricultural chemical retailer, is exempt from the rule of the commissioner adopting Code of Federal Regulations, title 49, section 395.3, paragraph (b), relating to hours of service of drivers, and section 395.8, requiring a driver's record of duty status, while exclusively engaged in the transportation of fertilizer or agricultural chemicals between April 1 and July 1 of each year when:

(1) the transportation is from the retailer's place of business

directly to a farm within a 50-mile radius of the retailer's place of business;

(2) the fertilizer or agricultural chemicals are for use on the farm to which they are transported; and

(3) the employer maintains a daily record for each driver showing the time a driver reports for duty, the total number of hours a driver is on duty, and the time a driver is released from duty.

Sec. 19. Minnesota Statutes 1990, section 221.033, is amended by adding a subdivision to read:

Subd. 2b. [CARGO TANKS.] The leakage test requirement in Code of Federal Regulations, title 49, section 180.407, paragraph (h), does not apply to cargo tanks of up to 3,000 gallons capacity that transport gasoline in intrastate commerce.

Sec. 20. Minnesota Statutes 1990, section 221.034, subdivision 1, is amended to read:

Subdivision 1. [NOTICE REQUIRED.] At the earliest practicable moment, each person who transports hazardous materials, including hazardous wastes, shall give notice in accordance with subdivision 2 after each incident that occurs during the course of transportation including loading, unloading, and temporary storage, in which as a direct result of hazardous materials:

(1) a person is killed;

(2) a person receives injuries requiring hospitalization;

(3) estimated carrier or other property damage exceeds \$50,000;

(4) an evacuation of the general public occurs lasting one or more hours;

(5) one or more major transportation arteries or facilities are closed or shut down for one hour or more;

(6) the operational flight pattern or routine of an aircraft is altered;

(7) fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material;

(5) (8) fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents; or

(6) (9) a situation exists of such a nature that, in the judgment of the carrier, it should be reported in accordance with subdivision 2 even though it does not meet the criteria of ~~subdivision 1~~, clause (1), (2), or (3), but a continuing danger to life exists at the scene of the incident.

Sec. 21. Minnesota Statutes 1990, section 221.034, subdivision 3, is amended to read:

Subd. 3. [TIME LIMIT.] Each carrier who transports hazardous materials shall report in writing in duplicate on a form prescribed by the commissioner within ~~15~~ 30 days of the date of discovery, each incident that occurs during the course of transportation, including loading, unloading, or temporary storage, in which, ~~as a direct result of the hazardous materials~~, any of the circumstances set forth in subdivision 1 occurs or there has been an unintentional release of hazardous materials from a package, including a tank, or any quantity of hazardous waste has been discharged during transportation.

Sec. 22. Minnesota Statutes 1990, section 221.035, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIREMENT.] (a) A person may not transport hazardous waste that is required to have a manifest under Minnesota Rules, part 7045.0261, or is required to have shipping papers under Minnesota Rules, part 7045.0125, without a license issued under this section.

(b) If the applicant complies with the requirements of this section, the commissioner shall issue the license and shall issue a vehicle identification decal for each single unit vehicle or trailer that the licensee will use to transport hazardous waste. The applicant shall pay a fee of \$500 for a three-year license and an annual fee of \$25 for each vehicle identification decal. The license must be maintained at the licensee's principal place of business. The name and address of the licensee must be displayed on both sides of each unit of the vehicle. The vehicle identification decal must be displayed on the single unit vehicle or trailer to which it is assigned, as prescribed by the commissioner, unless the vehicle carries a trip permit under subdivision 1a. ~~The decal is effective only when the license is effective.~~ The license must be renewed in the third year following the date of the issuance of the license. The licensee must obtain new decals each year. The license may not be transferred to another person. All decals issued during the year expire each year on the anniversary date of the issuance of the license.

(c) An applicant for a license under this section, who is not otherwise subject to section 221.141, shall file a certificate of insurance with the commissioner as provided in section 221.141. The certificate must state that the insurer has issued to the

applicant a policy that by endorsement provides public liability insurance in the amount required by Code of Federal Regulations, title 49, part 387.

(d) The commissioner may not issue a license to an applicant or renew a license if the commissioner determines the applicant's record of violations of federal and state motor carrier safety and hazardous material, hazardous waste, and hazardous substance requirements meets the standard for suspension or revocation of a license under subdivision 3 or if the applicant has an unsatisfactory or conditional safety rating from the United States Department of Transportation.

(e) Before issuing or renewing a license, the commissioner shall conduct a criminal record check of an applicant. If the applicant is a corporation, the commissioner may conduct a criminal record check of the applicant's owners, officers, or controlling agents. The commissioner may also conduct a criminal record check at any time while a person is licensed under this section. The criminal record check must consist of an examination of the state criminal records repository for violations of federal and state motor carrier safety and hazardous material, hazardous waste, and hazardous substance statutes, regulations, or rules. The bureau of criminal apprehension shall provide the commissioner, upon request, conviction information it has about an applicant. The conviction information must include convictions for violations of section 609.671 and, when available, similar statutes or rules of other states. An applicant's failure to cooperate with the commissioner in conducting a criminal record check is reasonable cause to deny an application or revoke a license. The commissioner may not release the results of a criminal record check to any person except the applicant.

Sec. 23. Minnesota Statutes 1990, section 221.035, is amended by adding a subdivision to read:

Subd. 1a. [TRIP PERMIT REQUIREMENTS; FEE.] A hazardous waste trip permit valid for ten days from the date of issue may be issued to a person licensed under subdivision 1 who also complies with section 221.141. The fee for a trip permit is \$10.

Sec. 24. Minnesota Statutes 1990, section 221.035, subdivision 2, is amended to read:

Subd. 2. [OPERATION REQUIREMENTS.] A vehicle operated under a license issued under this section must be operated in compliance with the rules of the commissioner adopted under this chapter governing: driver qualifications; safety of safe operation of vehicles; equipment, parts, and accessories; inspection, repair, and maintenance; and ~~maximum~~, hours of service of drivers.

Sec. 25. [221.037] [HAZARDOUS MATERIALS; INFORMATION, INSPECTION.]

Subdivision 1. [REQUIRED TO PROVIDE INFORMATION.] A person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous materials, hazardous substances, or hazardous waste shall (1) give to transportation representatives and hazardous material specialists of the department information relating to the materials, substances, or waste, or (2) permit them access to and copying of records relating to the materials, substances, or waste, or both.

Subd. 2. [AUTHORITY TO INSPECT.] Transportation representatives and hazardous material specialists of the department have the authority to enter at a reasonable time and place, any vehicle, cargo tank, or other container used to transport hazardous materials, hazardous substances, or hazardous waste and any treatment, storage, or disposal facility or other place where the materials, substances, or waste are or have been generated, stored, treated, disposed of, or transported from. They may inspect the vehicle, cargo tank, or container and obtain from any person samples of the materials, substances, or waste and samples of the containers or labeling of the materials, substances, or waste for enforcing sections 221.033 to 221.036 or rules adopted under those sections. The authority granted under this subdivision includes the right to break and replace seals.

Sec. 26. Minnesota Statutes 1990, section 221.121, subdivision 1, is amended to read:

Subdivision 1. [PERMIT CARRIERS.] A person desiring to operate as a permit carrier, except as a livestock carrier, or a local cartage carrier shall file a petition with the commissioner specifying the kind of permit desired, the name and address of the petitioner and the names and addresses of the officers, if a corporation, and other information as the board and commissioner may require. Letters of shipper support must be filed with the petition. No person shall knowingly make a false or misleading statement in a petition. The board, after notice to interested parties and a hearing, shall issue the permit upon compliance with the laws and rules relating to it, if it finds that petitioner is fit and able to conduct the proposed operations, that petitioner's vehicles meet the safety standards established by the department, that the area to be served has a need for the transportation services requested in the petition, and that existing permit and certificated carriers in the area to be served have failed to demonstrate that they offer sufficient transportation services to meet fully and adequately those needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect may be denied a renewal of the permit upon compliance with other provisions of sections 221.011 to 221.291. A permit once granted continues in full force and effect until abandoned or unless

suspended or revoked, subject to compliance by the permit holder with the applicable provisions of law and the rules of the commissioner or board governing permit carriers. No permit may be issued to a common carrier by rail permitting the common carrier to operate trucks for hire within this state, nor may a common carrier by rail be permitted to own, lease, operate, control, or have an interest in a permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through a holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 prevents the board from issuing a permit to a common carrier by rail authorizing the carrier to operate trucks wholly within the limits of a municipality or within adjacent or contiguous municipalities or a common rate point served by the railroad and only as a service supplementary to the rail service now established by the carriers.

Sec. 27. Minnesota Statutes 1990, section 221.121, subdivision 7, is amended to read:

Subd. 7. [FEES.] The permit holder petitioner shall pay a fee of \$150 into the treasury of the state of Minnesota for each kind of permit or extension of authority for which a petition is filed under this section.

Sec. 28. Minnesota Statutes 1990, section 221.131, subdivision 1, is amended to read:

Subdivision 1. [PERMIT RENEWAL.] Permits issued under section 221.121 are effective for a 12-month period. Each A permit must be renewed holder shall renew the permit annually and each by registration of the vehicles operated under authority of that permit as required by subdivision 2. A permit holder shall have has one annual renewal date encompassing all of the permits held by the holder.

Sec. 29. Minnesota Statutes 1990, section 221.131, subdivision 2, is amended to read:

Subd. 2. [PERMIT CARRIERS; ANNUAL VEHICLE REGISTRATION.] (a) The permit holder shall pay an annual registration fee of \$20 on each vehicle, including pickup and delivery vehicles, operated by the holder under authority of the permit during the 12-month period or fraction of the 12-month period. Trailers and semitrailers used by a permit holder in combination with power units may not be counted as vehicles in the computation of fees under this section if the permit holder pays the fees for power units.

(b) The commissioner shall furnish a distinguishing annual identification card for each vehicle or power unit for which a fee has been paid. The identification card must at all times be carried in the vehicle or power unit to which it has been assigned. An identifica-



tion card may be reassigned to another vehicle or power unit upon application of the permit holder and payment of a transfer fee of \$10. An identification card issued under the provisions of this section is valid only for the period for which the permit is effective.

(c) ~~The name and residence of the permit holder must be stenciled or otherwise shown identified on the outside of both doors power unit of each registered vehicle operated under the permit. Vehicles must show the name or the "doing business as" name of the permit holder operating the vehicle and the community and abbreviation of the state in which the permit holder maintains its principal office or in which the vehicle is customarily based. If the permit holder operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating permit holder appears on the vehicle, the words "operated by" must immediately precede the name of the permit holder. The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.~~

(d) A fee of \$10 is charged for the replacement of an unexpired identification card that has been lost ~~or damaged.~~

Sec. 30. Minnesota Statutes 1990, section 221.131, subdivision 6, is amended to read:

Subd. 6. [COURIER SERVICE CARRIERS; IDENTIFICATION CARDS.] The commissioner shall issue distinct annual identification cab cards for vehicles that provide courier service under a permit issued by the board. A courier service identification cab card may not be issued for a vehicle that has a ~~registered gross vehicle weight or gross vehicle weight rating~~ in excess of 15,000 pounds.

Sec. 31. Minnesota Statutes 1990, section 221.161, subdivision 1, is amended to read:

Subdivision 1. [FILING; HEARING UPON BOARD INITIATIVE.] ~~Every A~~ permit carrier, including a livestock carrier but not including a local cartage carrier, shall file and maintain with the commissioner a tariff showing rates and charges for the ~~transportation of transporting persons or property. The filing with and acceptance by the commissioner of these tariffs, in accordance with the rules relating to the tariffs, constitutes notice to the public and interested parties of the contents of the tariffs.~~ Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and

interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs ~~which~~ that are unjust and, unreasonable ~~or~~, unjustly discriminatory ~~or~~, unduly preferential or prejudicial, or otherwise in violation of the provisions of this section or rules adopted under this section. If the tariffs appear to be unjust ~~or~~, unreasonable ~~or~~, unjustly discriminatory ~~or~~, unduly preferential or prejudicial, or otherwise in violation of this section, ~~the board or rules adopted under this section,~~ after notification and investigation by the department, the board may suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the permit carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the permit carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. Tariffs for ~~the transportation of~~ transporting livestock are not subject to rejection, suspension, or postponement by the board, except as provided in subdivisions 2 and 3. The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

Sec. 32. Minnesota Statutes 1990, section 221.60, subdivision 2, is amended to read:

Subd. 2. [FORM AND FEES.] A motor carrier engaged in interstate commerce shall register its interstate transportation authority or exemption before February 1 of each year on a form prescribed by the commissioner. The fee for the initial registration is \$25. The fee for each identification stamp is \$5; however, a lesser fee may be collected pursuant to a reciprocal agreement authorized by section 221.65. In addition to the fees required by this subdivision, a motor carrier shall pay a service charge of 45 cents for each stamp or card issued.

Sec. 33. Minnesota Statutes 1990, section 221.605, subdivision 1, is amended to read:

Subdivision 1. [FEDERAL REGULATIONS.] (a) Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier safety regulations, Code of Federal Regulations, title 49, parts 390 to 398; with Code of Federal Regulations, title 49, part 40; and, with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists. For purposes of regulating commercial motor vehicles as defined in section 169.781, subdivision 1, the exemption provided in Code of Federal Regulations, title 49, section 396.11, paragraph (d), applies in Minnesota only to driveaway-towaway operations.

(b) An interstate carrier or private carrier engaged in interstate

commerce who complies with federal regulations governing testing for controlled substances is exempt from the requirements of sections 181.950 to 181.957 unless the carrier's drug testing program provides for testing for controlled substances in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), or for alcohol. Persons subject to this section may test for drugs, in addition to those listed in Code of Federal Regulations, title 49, section 40.21, paragraph (a), or for alcohol, only in accordance with sections 181.950 to 181.957 and rules adopted under those sections.

Sec. 34. Minnesota Statutes 1990, section 221.81, subdivision 2, is amended to read:

Subd. 2. [LICENSE.] No person may operate as a building mover in this state unless licensed by the commissioner. The commissioner may inspect a building mover's vehicles or records to determine compliance with this section.

Sec. 35. Minnesota Statutes 1990, section 221.81, is amended by adding a subdivision to read:

Subd. 3d. [IDENTIFICATION.] (a) A building mover's name and address must be displayed on the power unit of a vehicle used to move buildings and on buildings being moved.

(b) Vehicles and buildings must show the name or "doing business as" name of the license holder operating the vehicle and the community and abbreviation of the state in which the license holder maintains its principal office or in which the vehicle is customarily based. If the building mover operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the building mover appears on the vehicle, the words "operated by" must immediately precede the name of the building mover.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle or building is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

Sec. 36. Minnesota Statutes 1990, section 221.81, is amended by adding a subdivision to read:

Subd. 3e. [SAFETY RULES.] (a) A building mover must comply with the rules of the commissioner for safe operation of vehicles; equipment, parts, and accessories, except as provided in paragraph

(b) inspection, repair, and maintenance; accident reporting; and, on and after August 1, 1994, driver qualifications.

(b) A towed vehicle, other than a full trailer, pole trailer, or semitrailer, as those terms are defined in Code of Federal Regulations, title 49, section 390.5, used by a building mover to move a building on a highway is not required to comply with rules of the commissioner for equipment, parts, and accessories.

Sec. 37. Minnesota Statutes 1990, section 221.81, subdivision 4, is amended to read:

Subd. 4. [LICENSE REVOCATION, SUSPENSION, DENIAL.]  
The commissioner, after notice and a hearing, may revoke, suspend, or deny a license for:

(a) failure of the applicant or license holder to reimburse the road authority for damage to public highways, roads, streets, or utilities ~~which that~~ are not paid for by the license holders ~~holder's~~ insurer;

(b) conduct of the applicant or license ~~holders~~ holder that endangers the health and safety of users of the public highways, roads, streets, or utilities;

(c) conduct of the applicant or license holder that obstructs traffic in a manner other than as authorized in the permit;

(d) violation of ~~the provisions of~~ this section; ~~or~~

(e) failure to obtain or comply with required local moving permits or permits required by section 169.86;

(f) placing or leaving a building on property without the permission of the owner of the property or in violation of local ordinances; or

(g) abandoning a building after it is first moved under the road permit. For purposes of this subdivision, "abandon" means conduct that shows that a building mover has failed to use reasonable diligence in moving a building to the location described in the road permit.

Sec. 38. Minnesota Statutes 1991 Supplement, section 364.09, is amended to read:

#### 364.09 [EXCEPTIONS.]

(a) This chapter ~~shall~~ does not apply to the practice of law enforcement<sub>;</sub> to fire protection agencies<sub>;</sub> to eligibility for a private detective or protective agent license<sub>;</sub> to eligibility for a family day

care license, a family foster care license, or a home care provider license; to eligibility for a license issued or renewed by the board of teaching or state board of education; to eligibility for school bus driver endorsements; to eligibility for special transportation service endorsements; or to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district.

(c) Nothing in this section ~~shall be construed to preclude~~ precludes the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

Sec. 39. [EFFECTIVE DATE.]

Sections 5 and 6 are effective July 1, 1992. Section 16 is effective August 1, 1993."

Delete the title and insert:

"A bill for an act relating to transportation; making technical and clarifying changes; defining terms; providing for maximum weight per inch of tire width; modifying axle weight limitations; providing for a comprehensive, coordinated public transit system; allowing commissioner of transportation to adopt rules assessing administrative penalties for violations of special transportation service standards; providing for regulation of motor vehicles having a gross vehicle weight of 10,000 pounds or more and operated by motor carriers; requiring certain carriers to comply with rules on driver qualifications and maximum hours of service after August 1, 1994; applying federal regulations on drug testing to intrastate motor carriers; regulating transportation of hazardous materials, substances, and waste; specifying identification information required on power units; authorizing small fee for motor carrier identification stamps; regulating building movers; authorizing release of criminal history data for purposes of special transportation license endorsements; amending Minnesota Statutes 1990, sections 169.825, subdivision 14; 174.23, by adding a subdivision; 174.30, subdivision 2; 221.011, subdivisions 20, 21, 25, and by adding a subdivision; 221.021; 221.031, as amended; 221.033, subdivisions 1, 2, and by adding a subdivision; 221.034, subdivisions 1 and 3; 221.035, subdivisions 1, 2, and by adding a subdivision; 221.121, subdivisions 1 and 7; 221.131, subdivisions 1, 2, and 6; 221.161, subdivision 1; 221.60, subdivision 2; 221.605, subdivision 1; and 221.81, subdivisions 2, 4, and by adding subdivisions; Minnesota Statutes 1991 Supplement, sections 169.781, subdivisions 1 and 5; 169.825, subdi-

visions 8 and 10; 169.86, subdivision 5; 221.025; and 364.09; proposing coding for new law in Minnesota Statutes, chapter 221."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 1313, A bill for an act relating to traffic regulations; authorizing the operation of recreational vehicle combinations with certain restrictions; amending Minnesota Statutes 1990, sections 169.01, by adding a subdivision; and 169.81, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 15, delete "361.02" and insert "86B.005"

Page 1, line 16, delete "8" and insert "18"

Page 1, line 17, after the second "coupling" insert ", approved by the commissioner of public safety,"

Page 2, line 5, after "vehicles" insert ", and the towing rating of the pickup truck is equal to or greater than the total weight of all vehicles being towed"

Page 2, line 6, delete "70" and insert "59"

Page 2, delete lines 9 to 11

Page 2, line 12, delete "(5)" and insert "(4)"

Page 2, line 13, delete the period and insert a semicolon

Page 2, after line 13, insert:

"(5) the trailer carrying a watercraft meets all requirements of law;

(6) the trailers in the combination are connected to the pickup truck and each other in conformity with section 169.82; and

(7) the combination is not operated within Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington county on Mondays through Fridays between the hours of 6:30 to 9:30 a.m. and 3:30 to 6:30 p.m.

Sec. 3. [REPEALER.]

Sections 1 and 2 are repealed November 1, 1993.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1347, A bill for an act relating to state lands; authorizing the commissioner of administration to lease certain land adjacent to Minnehaha state park to the Minneapolis park and recreation board.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1531, A bill for an act relating to metropolitan government; providing for the appointments and terms of the metropolitan council; assigning duties relating to transit; transferring transit duties to the department of transportation; amending Minnesota Statutes 1990, sections 174.01; 398A.04, subdivision 8; 473.123, subdivisions 2a, 3, and 4; 473.373; 473.375, subdivisions 8, 11, 13, 14, and 15; 473.377; 473.38; 473.382; 473.384; 473.385, subdivision 2; 473.386; 473.387; 473.388; 473.39; 473.391; 473.392; 473.399, subdivision 3; 473.3991, subdivisions 1 and 4; 473.3994; 473.3996; 473.404, subdivisions 2 and 6; 473.446; proposing coding for new law in Minnesota Statutes, chapter 174; repealing Minnesota Statutes 1990, sections 473.373, subdivision 6; 473.375, subdivision 7; 473.38, subdivision 3; 473.384, subdivision 9; 473.388, subdivision 6; and 473.3994, subdivision 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
BUDGET REVIEW

Section 1. Minnesota Statutes 1990, section 473.1623, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL REPORT.] By December 15 of even-numbered years, the council, in consultation with the advisory committee, shall publish a consolidated financial report for the council and all metropolitan agencies and their functions, services, and systems. The financial report must cover the calendar year in which the report is published and the two years preceding and three years succeeding that year. The financial report must contain the following information, for each agency, function, or system, respectively, and in the aggregate, in a consistent format that allows comparison over time and among agencies in expenditure and revenue categories:

(1) financial policies, goals, and priorities as to capital expenditures and debt;

(2) levels and allocation of ~~public expenditure, including capital, expenditures and debt, operating, and pass through funds,~~ stated in the aggregate and by appropriate functional, ~~programmatic, administrative, and geographic~~ categories, and the changes in ~~expenditure capital level expenditures and debt~~ levels and allocations that the report represents;

(3) the resources available under existing fiscal policy for capital expenditures and debt;

(4) additional resources, if any, that are or may be required for capital expenditures and debt;

(5) changes in council or agency policies on regional sources of revenue and in levels of debt, user charges, and taxes;

(6) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that have been or may be recommended by the council or the respective agencies;

(7) an analysis that links, as far as practicable, the uses of funds and the sources of funds for capital expenditures and debt, by appropriate functional categories and in the aggregate;



(8) a description of how the fiscal policies for capital expenditures and debt effectuate current policy and implementation plans of the council and agencies concerned; and

(9) a summary of significant changes in council and agency finance and an analysis of fiscal trends as to capital expenditures and debt.

The council shall present the report for discussion and comment at a public meeting in the metropolitan area and request, in writing, an opportunity to make presentations on the report before appropriate committees of the legislature.

Sec. 2. Minnesota Statutes 1990, section 473.1623, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATIVE COORDINATION.] The advisory committee shall evaluate ~~the benefits, costs, methods, and effects, including operational effects, of and develop~~ a joint or uniform and coordinated exercise of powers by the council and metropolitan agencies for appropriate administrative functions. The study must include at least ongoing managerial reporting, contracts, purchasing, data processing, and personnel. The council shall report to the legislature ~~from time to time annually~~ on the findings and, recommendations, and implementation of the recommendations of the advisory committee to date and on legal and other impediments to increased coordination of administrative functions. Before submitting the report, the council shall request comments on the report from the affected metropolitan agencies, and the comments must be submitted along with the report.

Sec. 3. Minnesota Statutes 1990, section 473.1623, subdivision 6, is amended to read:

Subd. 6. [PERSONNEL AND ETHICAL PRACTICES; COMMUNICATION.] By January 1 of each year, the council and each agency represented on the advisory committee established under this section shall report to the legislature on the following:

(1) agency personnel compensation practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and

(2) human rights and affirmative action policies and procedures; and

(3) ethical practices requirements for board members and employees of each agency, including the sources of the requirements,

agency comparisons, and comparison with requirements for state and local government officers and employees; and

(3) (4) the activities undertaken by each agency board member and council member to regularly meet with and communicate with ~~local officials and~~ legislators in the member's district about issues before the agency or council.

The report on employee salaries under clause (1) must include details of: all lump sum payments or bonuses; and a description of all payments, expense accounts, allowances, including travel allowances, and other current benefits granted to individuals that are not made generally available to employees of the council or agency.

Sec. 4. Minnesota Statutes 1990, section 473.163, subdivision 2, is amended to read:

Subd. 2. [PROCEDURE; APPROVAL OF COUNCIL.] As early as practicable before August 15 of each year, the agency shall hold a public hearing on a draft of the proposed budget. Along with the draft, the agency shall publish a report on user charges. The report must include an estimate and analysis of the changes in user charges, rates, and fees that will be required by the agency's budget. Not less than 14 days before the hearing, the agency shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person. Following the hearing, the agency shall publish a report of the hearing that summarizes the comments received and the agency's response. Until the budget for agency fiscal year 1990, those parts of the budget relating to revenues and expenditures for capital improvements must be submitted to the council by August 15 of each year for review and approval by the council. If council approval is required the council shall act to approve or disapprove by October 1 of each year. By November 15 of each year, the council shall review and comment on the agency's operating budget, and shall review and approve or disapprove the agency's capital budget. Before December 15 of each year the agency shall by resolution adopt a final budget. Each agency shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets and the council's review and comment on the budgets with the secretary of the senate and the clerk of the house of representatives senate majority leader, the speaker of the house, the chairs of the house and senate tax committees, the chair of the senate metropolitan affairs committee, and the chair of the house local government and metropolitan affairs committee not later than January 1 of each year. At a minimum, the council must consider in its review and comment on agencies' budgets: whether the budget meets the requirements of this section and of section 473.1623, subdivision 4b; to what degree the budget will effectuate the agency's implementation plan or

program; whether the agency's levies and fees are appropriate for the services provided; whether any change in the agency's expenditures is warranted by a change in costs or services provided; and whether the agency's revenues are appropriate to the estimated expenditures and good financial management.

Sec. 5. Minnesota Statutes 1990, section 473.181, subdivision 5, is amended to read:

Subd. 5. [AIRPORTS.] ~~The council shall review metropolitan airports commission capital projects pursuant to section 473.621, subdivision 6.~~ The plans of the metropolitan airports commission and the development of the metropolitan airports system by the commission shall, as provided in sections 473.611, subdivision 5, and 473.655, be consistent with the development guide of the council.

Sec. 6. Minnesota Statutes 1990, section 473.38, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] The regional transit board shall prepare, submit for review, adopt, and implement budgets and conduct its financial affairs in the same manner, with the same requirements and restrictions, and to the same effect as provided in section 473.163, ~~subdivisions 1 to 4,~~ except as otherwise provided in this section.

Sec. 7. Minnesota Statutes 1990, section 473.523, is amended to read:

473.523 [CONTRACTS FOR CONSTRUCTION MATERIALS, SUPPLIES, AND EQUIPMENT.]

Subdivision 1. No contract for any construction work, or for the purchase of materials, supplies, or equipment, costing more than ~~\$15,000~~ \$25,000 shall be made by the commission without publishing once in a legal newspaper or trade paper published in a city of the first class not less than two weeks before the last day for submission of bids, notice that bids or proposals will be received. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, and a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids and readvertise. Each contract shall be duly executed in writing and the party to whom the contract is awarded shall give sufficient bond or security to the board for the faithful performance of the contract as required by law. The commission shall have the right to set qualifications and specifications and to require bids to meet all such qualifications and specifications before being accepted. If the commission by an affir-

mative vote of two-thirds of its members declares that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of ~~\$15,000~~ \$25,000, or in making emergency repairs, it shall not be necessary to advertise for bids.

Subd. 2. The administrator may, without prior approval of the commission and without advertising for bids, enter into any contract of the type referred to in subdivision 1 which is not in excess of ~~\$15,000~~ \$25,000.

#### Sec. 8. [473.613] [IMPLEMENTATION PLAN.]

The metropolitan airports commission shall prepare, submit to the council, and adopt an implementation plan at the time and in the manner provided in and otherwise comply with section 473.161. The implementation plan must implement and effectuate the policies of the aviation chapter of the council's development guide.

Sec. 9. Minnesota Statutes 1990, section 473.661, is amended by adding a subdivision to read:

Subd. 4. The commission must prepare, submit to the council for review and approval, and adopt a budget as required in section 473.163.

Sec. 10. Minnesota Statutes 1990, section 473.705, is amended to read:

#### 473.705 [CONTRACTS FOR MATERIALS, SUPPLIES, AND EQUIPMENT.]

No contract for the purchase of materials, supplies, and equipment costing more than ~~\$5,000~~ \$25,000 shall be made by the commission without publishing the notice once in the official newspaper of each of the counties in the district that bids or proposals will be received. The notice shall be published at least ten days before bids are opened. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, naming therein a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids. Each contract shall be duly executed in writing and the party to whom the contract is awarded may be required to give sufficient bond to the commission for the faithful performance of the contract. If no satisfactory bid is received the commission may readvertise. The commission shall have the right to set qualifications and specifications and to require bids to meet such qualifications and specifications before bids are accepted. If the commission by an affirmative vote of five-sixths of the voting power of the

commission shall declare that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of \$5,000 but not to exceed \$10,000 in amount \$25,000, or in making emergency repairs, it shall not be necessary to advertise for bids, but such material, equipment, and supplies may be purchased in the open market at the lowest price available without securing formal competitive bids. An emergency as used in this section shall be an unforeseen circumstance or condition which results in placing life or property in jeopardy. All contracts involving employment of labor shall stipulate terms thereof and such conditions as the commission deems reasonable as to hours and wages.

Sec. 11. [COORDINATED PERSONNEL POLICIES AND SERVICES.]

The chairs of the council, the metropolitan transit commission, the regional transit board, the metropolitan waste control commission, the metropolitan airports commission, and the metropolitan sports facilities commission shall establish a task force to develop a plan for implementing personnel policies that are uniform among each of the metropolitan agencies and the council. The task force shall also conduct a study of the feasibility of establishing a unified personnel or human resources department that would take the place of the agencies' and the council's separate personnel or human resources departments or offices. The study shall examine a suggested timeframe for implementing a unified personnel or human resources department or office, the estimated cost of the change, and the estimated cost increases or decreases over three, five, and ten years following implementation of the unified department or office. The task force shall complete its work and the chair of the council shall report on its results to the legislature by January 15, 1994.

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, sections 473.1623, subdivision 4; and 473.621, subdivisions 6 and 7, are repealed.

Sec. 13. [APPLICATION.]

This article applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

ARTICLE 2

PLANNING

Section 1. Minnesota Statutes 1990, section 462.357, subdivision 2, is amended to read:

Subd. 2. [GENERAL REQUIREMENTS.] At any time after the

adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption. Subject to the requirements of subdivisions 3, 4 and 5, the governing body may adopt and amend a zoning ordinance by a two-thirds vote of all its members. If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance supersedes the plan. Zoning ordinances and subdivision regulations adopted under this chapter shall implement the purpose, objectives, and policies of the comprehensive plan. Zoning ordinances and subdivision regulations must not allow land use and development that will effectively prevent the planned land use as designated within specific areas in the comprehensive plan. The determination of the timing of the implementation of the comprehensive plan shall be at the sole discretion of the governing body.

Sec. 2. Minnesota Statutes 1990, section 473.175, subdivision 1, is amended to read:

Subdivision 1. The council shall review the comprehensive plans of local governmental units and the capital improvement programs of school districts, prepared and submitted pursuant to Laws 1976, chapter 127, sections 1 to 23, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans and capital improvement programs with other adopted chapters of the metropolitan development guide. The council may require a local governmental unit to modify any comprehensive plan or part thereof which may have a substantial impact on or contain a substantial departure from metropolitan system plans. By January 1, 1994, the council shall establish criteria, after soliciting comments and suggestions from potentially affected local government units, for determining when a comprehensive local plan or plan amendment will have a substantial impact on or substantially depart from metropolitan system plans. The criteria may not be limited to a metropolitan facility's capacity, but must also address whether a proposed plan or plan amendment will have a substantial impact on or substantially depart from metropolitan system plans, as that phrase is used in section 473.852, subdivision 8. The criteria established under this subdivision shall become effective and apply to matters pending before the council on or after June 1, 1994.

Sec. 3. Minnesota Statutes 1990, section 473.858, subdivision 1, is amended to read:

Subdivision 1. Within three years following the receipt of the metropolitan system statement, every local governmental unit shall have prepared a comprehensive plan in accordance with sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 and the applicable planning statute and shall have submitted the plan to the

metropolitan council for review pursuant to section 473.175. The provisions of sections 462.355, subdivision 4, 473.175, and 473.851 to 473.871 shall supersede the provisions of the applicable planning statute wherever a conflict may exist. ~~If the comprehensive municipal plan is in conflict with the zoning ordinance, the zoning ordinance supersedes the plan.~~

Sec. 4. Minnesota Statutes 1990, section 473.865, subdivision 1, is amended to read:

Subdivision 1. Each local governmental unit shall adopt official controls as described in its adopted comprehensive plan and shall submit copies of the official controls to the council within 30 days following adoption thereof, for information purposes only. The official controls adopted shall implement the purpose, objectives, and policies of the comprehensive plan. Zoning ordinances and subdivision regulations must not allow land use and development that will effectively prevent the planned land use as designated within specific areas of the comprehensive plan. The determination of the timing of the implementation of the comprehensive plan shall be at the sole discretion of the governing body. The provisions of this subdivision do not limit the applicability of the requirements in subdivision 3.

Sec. 5. [APPLICATION.]

This article applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

## ARTICLE 3 APPOINTMENTS

Section 1. Minnesota Statutes 1990, section 473.123, subdivision 3, is amended to read:

Subd. 3. [MEMBERSHIP; APPOINTMENT; QUALIFICATIONS.]  
(a) Sixteen members must be appointed by the governor from districts defined by this section. Each council member must reside in the council district represented. Each council district must be represented by one member of the council.

(b) In addition to the notice required by section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which a member is to be appointed must be notified in writing. The notices must describe the appointments process and invite participation and recommendations on the appointment.

(c) The governor shall create a nominating committee, composed of seven metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Three of the committee members must be local elected officials. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee shall forward copies of the applications to legislators from the affected council districts. The legislators shall conduct public meetings, after appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. The committee Legislators from an affected district shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Among the legislators from an affected council district, the legislator with the most years of service in the legislature shall chair the meeting. At least one nominating committee member shall attend each meeting. Following the meetings, the committee shall submit to the governor a summary of the proceedings and a list of nominees for each appointment. The governor is not required to appoint from the list.

Notwithstanding section 15.0597, subdivision 5, an applicant shall indicate on the application form a political party preference or a lack thereof.

(d) Before making an appointment, the governor shall consult with all members of the legislature from the council district for which the member is to be appointed.

(e) Appointments to the council are subject to the advice and consent of the senate as provided in section 15.066.

(f) Members of the council must be appointed to reflect fairly the various demographic, political, and other interests in the metropolitan area and the districts.

(g) Members of the council must be persons knowledgeable about urban and metropolitan affairs.

(h) No more than ten members, excluding the chair, may support the same political party.

Sec. 2. Minnesota Statutes 1990, section 473.141, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP; APPOINTMENTS.] (a) Each agency consists of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight



members on a nonpartisan basis after consultation with the members of the legislature from the district for which the member is to be appointed. The consultation with legislators in the affected district must include informing each legislator of the name, address, and background of each candidate for appointment and soliciting and reporting to the appointments committee the recommendation of each legislator on the appointment.

(b) In addition to the notice required in section 15.0597, subdivision 4, notice of vacancies and expiration of terms must be published in newspapers of general circulation in the metropolitan area and the appropriate districts. The council shall notify in writing the governing bodies of the statutory and home rule charter cities, counties, and towns having territory in the district for which the member is to be appointed. The notices must describe the appointment process and invite participation and recommendations on the appointment.

(c) The council shall establish an appointments committee, composed of members of the council, to screen and review candidates. Following the submission of member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the appointments committee shall conduct public meetings, following appropriate notice, to accept statements from or on behalf of persons who have applied or been nominated for appointment and to allow consultation with and secure the advice of the public and local elected officials. Notwithstanding section 15.0597, subdivision 5, an applicant shall indicate on the application form a political party preference or lack thereof. The committee shall hold the meeting on each appointment in the district or in a reasonably convenient and accessible location in the part of the metropolitan area in which the district is located. The committee may consolidate meetings. Following the meetings, the committee shall submit to the council a written report that lists the persons who have applied or been nominated or recommended for the position, along with a description of the background and qualifications of each. In making its recommendation, the committee specifically shall consider evidence of the candidate's commitment to regularly communicate on issues before the agency with metropolitan council members, legislators and local elected officials in the district, and the committee shall report its findings on this subject in its written report to the council.

(d) One member shall be appointed from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;

- (4) district D, consisting of council districts 6 and 10;
- (5) district E, consisting of council districts 8 and 9;
- (6) district F, consisting of council districts 11 and 12;
- (7) district G, consisting of council districts 13 and 14; and
- (8) district H, consisting of council districts 15 and 16.

(e) No more than one-half plus one of the persons appointed to a commission under this section who serve at the same time, excluding the chair of the commission, may support the same political party. The limitation of this paragraph applies separately to the appointees of each appointing authority.

Sec. 3. Minnesota Statutes 1990, section 473.303, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The commission shall consist of eight members, plus a chair appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members in accordance with the provisions of section 473.141. The limitation of section 473.141, subdivision 2, paragraph (e), applies to the appointments made under this section.

Sec. 4. Minnesota Statutes 1991 Supplement, section 473.373, subdivision 4a, is amended to read:

Subd. 4a. [MEMBERSHIP.] (a) The board consists of 11 members with governmental or management experience. Appointments are subject to the advice and consent of the senate. Terms of members are four years commencing on the first Monday in January of the first year of the term.

(b) The council shall appoint eight members, one from each of the following agency districts:

- (1) district A, consisting of council districts 1 and 2;
- (2) district B, consisting of council districts 3 and 7;
- (3) district C, consisting of council districts 4 and 5;
- (4) district D, consisting of council districts 6 and 11;
- (5) district E, consisting of council districts 8 and 10;
- (6) district F, consisting of council districts 9 and 13;

(7) district G, consisting of council districts 12 and 14; and

(8) district H, consisting of council districts 15 and 16.

Six must be elected officials of statutory or home rule charter cities, towns, or counties.

(c) The governor shall appoint, in addition to the chair, two persons, one who is age 65 or older at the time of appointment, and one with a disability. These appointments must be made following the procedures of section 15.0597. In addition, at least 30 days before the expiration of a term or upon the occurrence of a vacancy in the office held by a senior citizen or a person with a disability, the governor shall request nominations from organizations of senior citizens and persons with disabilities. Each organization shall nominate at least two persons. The governor shall consider the nominations submitted.

(d) No more than three of the members appointed under paragraphs (b) and (c) may be residents of the same statutory or home rule city or town, and none may be a member of the joint light rail transit advisory committee established under section 473.3991.

The limitation of section 473.141, subdivision 2, paragraph (e), applies to the appointments made under this section.

Sec. 5. Minnesota Statutes 1990, section 473.404, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The transit commission consists of five members appointed by the transit board. One member must be a resident of the city of Minneapolis, one must be a resident of the city of St. Paul, two must reside in the service area of the commission outside Minneapolis and St. Paul, and one may reside anywhere in the metropolitan area. At least one of the members from outside of Minneapolis and St. Paul must reside in the commission's full-peak and off-peak service area, as defined for tax purposes in section 473.446. Applicants for appointment under this section shall indicate their political party preference or lack thereof. The limitation of section 473.141, subdivision 2, paragraph (e), applies to the appointments made under this section. Appointments are subject to the advice and consent of the senate.

Sec. 6. Minnesota Statutes 1990, section 473.553, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The commission shall consist of six members, appointed by the governor during the period before substantial completion of construction of sports facilities pursuant to sections 473.551 to 473.595 and thereafter as hereinafter pro-

vided, plus a chair appointed as provided in subdivision 3. Initial appointments of members shall be made within 30 days of May 17, 1977. One member shall be appointed from each of the following combinations of metropolitan commission precincts defined in section 473.141, subdivision 2: A and B; C and G; D and E; F and H. Two members shall be appointed from outside the metropolitan area. Upon substantial completion of construction of the sports facility, vacancies occurring on the commission, whether at the completion of or prior to the completion of a member's term, shall be filled by the city council of the city in which the stadium is located. Applicants for appointment under this section shall indicate their political party preference or lack thereof. The limitation of section 473.141, subdivision 2, paragraph (e), applies to the appointments made under this section.

Sec. 7. Minnesota Statutes 1990, section 473.604, subdivision 1, is amended to read:

Subdivision 1. The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473.123. Each member shall be a resident of the precinct represented. The members shall be appointed by the governor as follows: a number as near as possible to one-fourth, for a term of one year; a similar number for a term of two years; a similar number for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four-year terms commencing in July of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult with each member of the legislature from the precinct for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start

on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on July 1 of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor.

Applicants for appointment under this section shall indicate their political party preference or lack thereof. The limitation of section 473.141, subdivision 2, paragraph (e), applies to the appointments made under this section.

#### Sec. 8. [APPLICATION.]

Sections 1 to 7 apply to appointments made after January 1, 1994. Sections 1 to 7 shall not be construed to require the removal of a member of the council or metropolitan agency but shall be implemented as vacancies occur.

This article applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to metropolitan government; regulating reports, budgets, personnel, members, and planning; amending Minnesota Statutes 1990, sections 462.357, subdivision 2; 473.123, subdivision 3; 473.141, subdivision 2; 473.1623, subdivisions 3, 5, and 6; 473.163, subdivision 2; 473.175, subdivision 1; 473.181, subdivision 5; 473.303, subdivision 2; 473.38, subdivision 1; 473.404, subdivision 2; 473.523; 473.553, subdivision 2; 473.604, subdivision 1; 473.661, by adding a subdivision; 473.705; 473.858, subdivision 1; and 473.865, subdivision 1; Minnesota Statutes 1991 Supplement, section 473.373, subdivision 4a; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1990, sections 473.1623, subdivision 4; and 473.621, subdivisions 6 and 7."

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1778, A bill for an act relating to metropolitan government; limiting the authority of the metropolitan council to authorize issuance of bonds for sewer facilities; limiting the authority of the public facilities authority to fund certain sewer projects; amending Minnesota Statutes 1990, sections 446A.05, subdivision 1, and by adding a subdivision; and 473.541, subdivisions 3, 4, and by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [POLICY STATEMENT.]

It is the policy of the state of Minnesota to allocate the costs of metropolitan area infrastructure, including interceptors and treatment works in the metropolitan disposal system, by methods that do not encourage urban sprawl or subsidize development by taxes or other costs imposed upon persons living in developed areas.

Sec. 2. Minnesota Statutes 1990, section 473.517, subdivision 2, is amended to read:

Subd. 2. [ALLOCATION OF METROPOLITAN TREATMENT WORKS AND INTERCEPTOR COSTS; ADJUSTED VOLUME.] Except as provided in ~~subdivision~~ subdivisions 3 and 3a, the current costs of all treatment works and interceptors in the metropolitan disposal system shall be allocated among and paid by all local government units in the sewer service area which will discharge sewage into them, directly or indirectly, ~~into the metropolitan disposal system~~ during the budget year, in proportion to the total volume estimated to be so discharged by each local government unit, adjusted as follows:

(a) increased or decreased, as the case may be, to the extent the commission determines, on the basis of such historical and reasonably projected data as may be available, that the sewage discharged by one unit will require more or less treatment to produce a suitable effluent than that discharged by others;

(b) decreased by any amount of surface water estimated by the commission to be discharged by a local government unit from a combined storm and sanitary sewer system;

(c) increased by that volume of normal sanitary sewage which is equivalent for treatment purposes to the volume of surface water

referred to in clause (b), as determined by the commission from available engineering data; and

(d) increased or decreased, as the case may be, by the amount of any substantial and demonstrable error in a previous estimate.

Sec. 3. Minnesota Statutes 1990, section 473.517, is amended by adding a subdivision to read:

Subd. 3a. [ALLOCATION OF METROPOLITAN TREATMENT WORKS AND INTERCEPTOR COSTS; REHABILITATION COSTS.] In preparing each budget the commission shall estimate the costs for debt service and capital improvements related to rehabilitation of metropolitan treatment works and interceptors in the metropolitan disposal system and deduct those costs from the current costs allocated under subdivision 2. The total amount deducted under this subdivision must be allocated among and paid by all local government units which will discharge sewage, directly or indirectly, into the metropolitan disposal system during the budget year, in proportion to the total volume estimated to be discharged by each local government unit as determined under subdivision 2.

Sec. 4. Minnesota Statutes 1990, section 473.517, is amended by adding a subdivision to read:

Subd. 6a. [ESTABLISHMENT OF SERVICE AREAS.] The commission, with the approval of the council, shall by resolution establish sewer service areas, designated by name or number, each comprising that part of the metropolitan area primarily served or to be served by a particular interceptor or group of interceptors, or part thereof, situated within the sewer service area. The sewer service areas shall be reasonably consistent with the council's geographic policy areas as defined in the council's metropolitan development and investment framework.

Sec. 5. [TRANSITION PLAN.]

In order to minimize the effects of the change in the cost allocation method provided by sections 1 to 4, the commission may adopt a reasonable implementation plan for transition from the cost allocation system in effect before the effective date of sections 1 to 4 and the cost allocation system established by those sections. The cost allocation system established by sections 1 to 4 must be fully effective in fiscal year 1996 after a phase-in period occurring in fiscal years 1994 through 1995.

Sec. 6. Laws 1991, chapter 183, section 1, is amended to read:

Section 1. [FULLY DEVELOPED AREA; STUDY.]

The metropolitan council must conduct a study of the development patterns and needs in the council-defined fully developed area. The council must direct its staff to:

- (1) examine both the development patterns and the migration patterns in the fully developed area that have occurred in the last 20 years with special attention to household composition;
- (2) compare the relative public costs of redevelopment in the fully developed area with the costs of development within the council-defined developing area. This work should include, but is not limited to, transportation and transit, wastewater treatment, public safety services, housing, and education;
- (3) examine the changing demographics of the fully developed area and other areas within the metropolitan region, and make projections regarding the economic and social condition of the fully developed area;
- (4) examine the anticipated effects of a light rail transit system on the economic and social condition of the fully developed area; and
- (5) recommend changes that would encourage the economic and social strengthening of the fully developed area.

In conducting its study, the council must use, along with other information, any available data from the 1990 census. The council must present its findings to the legislature by February 15, ~~1994~~ 1993. The council must also present interim briefings to the legislature on work in progress at least annually between the effective date of this act and the completion of the study.

Sec. 7. [CITATION.]

This act may be cited as the "metropolitan infrastructure stability act."

Sec. 8. [EFFECTIVE DATE; APPLICATION.]

This act is effective August 1, 1993, and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to metropolitan government; regulating the allocation of certain sewer improvement costs; amending Minnesota Statutes 1990, section 473.517, subdivision 2, and by adding subdivisions; and Laws 1991, chapter 183, section 1."



With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 1933, A bill for an act relating to highways; changing description of a route in the state highway system.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1994, A bill for an act relating to agriculture; changing maximum annual ethanol producer payments in certain years; transferring certain money for an ethanol producers handbook; amending Minnesota Statutes 1991 Supplement, section 41A.09, subdivision 3.

Reported the same back with the following amendments:

Page 2, delete section 2

Page 3, delete section 3

Amend the title as follows:

Page 1, delete line 4

Page 1, line 5, delete "handbook;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 2000, A bill for an act relating to probate; changing provisions relating to merger of trusts, certificates of trust, affidavits of trustees, and powers of attorney; amending Minnesota Statutes

1990, sections 508.62; 508A.62; 523.02; 523.03; 523.07; 523.08; 523.09; 523.11, subdivisions 1 and 2; 523.17; 523.18; 523.19; 523.21; 523.22; 523.23, subdivisions 1, 2, 3, and by adding subdivisions; 523.24, subdivisions 1, 7, 8, and 9; Minnesota Statutes 1991 Supplement, section 518.58, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 501B; and 523; repealing Minnesota Statutes 1990, section 523.25.

Reported the same back with the following amendments:

Page 9, line 35, after "date" insert ", if any,"

Page 20, line 21, after "transactions" insert "in Minnesota" and delete "An attempt" and insert ")"

Page 20, delete line 22

Page 26, line 19, after the period insert "In the case of real property located in the state of Minnesota, the powers described in this subdivision are limited by the provisions of section 519.06."

Page 26, line 31, after "beneficiary" insert "or participant"

Page 28, line 29, after "beneficiary" insert "or participant"

Page 28, line 36, after "beneficiary" insert "or participant"

Page 29, line 13, delete "or, if" and insert "and, if authorized by"

Page 29, line 14, delete everything after "Third" and insert a comma

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2001, A bill for an act relating to retirement; requiring the metropolitan airports commission to apply for certain state aid; providing an optional method for calculating annuities of certain members of the Minneapolis employees retirement fund; amending Minnesota Statutes 1990, section 69.011, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 69.011, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 422A.

Reported the same back with the following amendments:

Page 1, line 22, after "and" insert ", for purposes of the police state aid program only,"

Page 2, line 35, strike "or" and insert a comma

Page 2, line 36, after "fund" insert ", or the Minneapolis employees retirement fund"

Page 3, line 22, delete "fire and"

Page 3, after line 24, insert:

"Sec. 3. Minnesota Statutes 1990, section 69.031, subdivision 5, is amended to read:

Subd. 5. [DEPOSIT OF STATE AID.] (1) The municipal treasurer, on receiving the fire state aid, shall within 30 days after receipt transmit it to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality; but if there is no relief association organized, or if any association dissolve, be removed, or has heretofore dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall keep the money in the municipal treasury as provided for in section 424A.08 and shall be disbursed only for the purposes and in the manner set forth in that section.

(2) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(a) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid shall be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(b) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members of the fund, the total state aid shall be applied toward the municipality's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall be deposited in the public employees insurance reserve holding account of the public employees retirement association; or

(c) For a municipality other than a city of the first class with a

population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (a), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (b), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (b) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association.

(3) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall be deposited in the public employees insurance reserve holding account of the public employees retirement association.

(4) The designated metropolitan airports commission official, upon receipt of the police state aid for the metropolitan airports commission, shall apply the total police state aid toward the commission's employer contribution to the Minneapolis employees retirement fund under section 422A.101, subdivision 2a.

Sec. 4. Minnesota Statutes 1990, section 422A.01, is amended by adding a subdivision to read:

Subd. 17. [FIREFIGHTER.] "Firefighter," for purposes of section 422A.151, means an employee of the metropolitan airports commission who was employed by the commission before June 30, 1978, and whose employment duties include, at a minimum, full-time service as an employee of a designated fire company who is engaged primarily in fire suppression and related duties, or as a person who is in charge of a designated fire company or companies and who is engaged in the hazards of fire fighting.

Sec. 5. Minnesota Statutes 1990, section 422A.01, is amended by adding a subdivision to read:

Subd. 18. [LICENSED PEACE OFFICER.] "Licensed peace officer," for purposes of section 422A.151, means an employee of the metropolitan airports commission who was employed by the commission before June 30, 1978, and whose employment duties include, at a minimum, full-time service as an officer whose primary job it is to enforce the law, who is licensed by the Minnesota board of peace officer standards and training under sections 626.84 to 626.855, who is engaged in the hazards of protecting the safety and property of others, and who has the power to arrest by warrant."

Page 3, delete lines 26 to 31, and insert:

"(a) In the case of a contributing member of the Minneapolis employees retirement fund who is employed as a licensed peace officer or firefighter with the metropolitan airports commission and who retires, becomes disabled within the meaning of section 422A.18, or dies, the retirement, disability, or survivor allowance is equal to the"

Page 3, lines 33 and 34, delete "the person is entitled to as a member" and insert "calculated for the person under the applicable provisions"

Page 3, line 36, delete "allowance" and insert "benefit"

Page 4, after line 7, insert:

"In computing the alternative benefit under section 353.651, 353.656, or 353.657, the applicable definitions and related provisions of chapter 353 must be used.

(b) If a contributing member under paragraph (a) has periods of coverage by the Minneapolis employees retirement fund that include service other than employment as a licensed peace officer or firefighter as well as employment as a licensed peace officer or firefighter, the calculation of the benefit under paragraph (a), clause (2), may only utilize service as a licensed peace officer or firefighter employed by the metropolitan airports commission."

Page 4, line 9, after "2," insert "3, 4, 5," and delete the first and second "3" and insert "6"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 7, delete "section" and insert "sections" and after

“subdivision” insert “; 69.031, subdivision 5; and 422A.01, by adding subdivisions”

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2014, A bill for an act relating to retirement; local police and salaried firefighter relief associations; authorizing a local option in interest and salary increase actuarial assumptions; amending Minnesota Statutes 1991 Supplement, section 356.215, subdivisions 4d and 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [AUSTIN FIRE DEPARTMENT RELIEF ASSOCIATION; BOARD MEMBER PER DIEM.]

Notwithstanding any provision of Minnesota Statutes, section 69.80, to the contrary, if its bylaws so permit, the Austin fire department relief association may pay a per diem amount to members of the board of trustees of the relief association. The per diem amount payable to each board member may not exceed \$35 for each meeting of the board of trustees or other official function of the board of trustees.

Sec. 2. [HEALTH OR MEDICAL INSURANCE PREMIUM BENEFIT.]

(a) Notwithstanding any provision of general law, special law, articles of incorporation, or bylaws to the contrary, if its articles of incorporation or bylaws so permit, the Austin fire department relief association may pay a health or medical insurance premium benefit to eligible pension recipients.

(b) The health or medical insurance premium benefit is an amount equal to the amount that the city of Austin would pay under the applicable collective bargaining agreement for medical or health insurance coverage for a firefighter who is employed by the city and who has no dependents.

(c) An eligible pension recipient is a person who receives a service pension or a disability pension from the relief association and who is

under age 65 or who is not yet eligible for the receipt of federal Medicare benefits, whichever occurs first.

(d) The health or medical insurance premium benefit is payable monthly, is in addition to any other pension amount received by the eligible pension recipient, and is not subject to any postretirement adjustments applicable to service pensions or disability pensions.

Sec. 3. [CHANGE IN MAJOR ECONOMIC ACTUARIAL ASSUMPTIONS.]

Notwithstanding any provision of Minnesota Statutes, section 69.77, 356.215, or 356.216, to the contrary, in preparing the actuarial valuations of the Austin fire department relief association, the following actuarial assumptions must be used:

- (1) preretirement interest, six percent;
- (2) postretirement interest, six percent; and
- (3) salary increase, four percent.

Sec. 4. [EFFECTIVE DATE; LOCAL APPROVAL.]

(a) Section 1 is effective on the day following local approval. Sections 2 and 3 are effective on the December 31 next following local approval.

(b) Sections 1 to 3 are effective as indicated in paragraph (a) following approval by the city council of the city of Austin and compliance with Minnesota Statutes, section 645.021, subdivision 3."

Delete the title and insert:

"A bill for an act relating to retirement; Austin fire department relief association; authorizing an actuarial assumption change; providing various benefit increases; authorizing board member per diem payments."

With the recommendation that when so amended the bill pass.

The report was adopted.

Reading from the Committee on Governmental Operations to which was referred:

H. F. No. 2018, A bill for an act relating to retirement; St. Paul fire department relief association; increasing service pension amounts; substituting a revised longevity benefit; limiting future benefit reductions; amending Laws 1955, chapter 375, sections 21 and 22, as amended.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Laws 1955, chapter 151, section 9, subdivision 5, as amended by Laws 1963, chapter 271, section 5, and Laws 1971, chapter 549, section 3, is amended to read:

Subd. 5. [ST. PAUL POLICE RELIEF ASSOCIATION; ADDITIONAL SERVICE PENSIONS.] (a) In addition to the pension of 40 units per month provided for in subdivision 4, the association shall pay a pension of one unit per month for each additional year of service over 20 years, provided, however that each member who retires from the service of the police department after June 1, 1971, shall receive two units per month for each additional year of service over 20 years, but the total of these pension payments shall not exceed 50 units per month.

(b) Beginning with the first service pension payment made after the effective date of this section, a person who retired before June 1, 1971, and who did not receive the benefit increase provided by Laws 1971, chapter 549, section 3, is entitled to receive an additional one unit per month for each year of active service rendered by the person with over 20 years of service but not to result in a service pension in total that exceeds 50 units per month.

Sec. 2. Laws 1955, chapter 151, section 9, subdivision 6, as amended by Laws 1973, chapter 286, section 1, is amended to read:

Subd. 6. [ST. PAUL, CITY OF; POLICE PENSIONS.] (a) The association shall pay to any member permanently disabled physically or mentally because of an injury received while on duty as a member of the city police department so as to render necessary his retirement from active police service, a pension of 40 units per month, if the date of the retirement was prior to January 1, 1949. If the date of such retirement is subsequent to January 1, 1949, and occurs during the first 20 years of his service, the association shall pay him a pension of 40 units per month. If such retirement occurs after 21 years of service, the association shall pay him a pension of one unit per month for each additional year of service over 20 years; provided, however, if the date of such retirement is subsequent to



June 1, 1971, the association shall pay him a pension of two units per month for each year of service over 20 years, regardless of whether he has attained the age of 50 years; but the total of these pension payments shall not exceed 50 units per month.

(b) Beginning with the first disability benefit payment made after the effective date of this section, a person who was disabled before June 1, 1971, and who did not receive the benefit increase provided by Laws 1973, chapter 286, section 1, is entitled to receive an additional one unit per month for each year of active service rendered by the person with over 20 years of service but not to result in a disability benefit in total that exceeds 50 units per month.

Sec. 3. Laws 1955, chapter 375, section 21, as amended by Laws 1967, chapter 644, section 1, is amended to read:

Sec. 21. [ST. PAUL, CITY OF; FIREMEN'S FIRE DEPARTMENT RELIEF ASSOCIATIONS ASSOCIATION; UNIT DEFINED; AMOUNT OF DISABILITY BENEFITS.]

Subdivision 1. [DEFINITION OF UNIT.] A unit as referred to hereinafter in this act shall be one-eightieth of the maximum current monthly salary of a first grade fire fighter on February 1 of the current calendar year in which the pensions provided for in this act are paid.

Subd. 2. [MAXIMUM DISABILITY BENEFITS.] A member of any such relief association is entitled to disability benefits as herein defined, shall receive the same from his association for such periods of time, at such times, and in such amounts, not to exceed 40 units per month, as the by-laws of said association provide.

Sec. 4. Laws 1955, chapter 375, section 22, as amended by Laws 1973, chapter 287, section 1, is amended to read:

Sec. 22. [SAINT PAUL, CITY OF; FIREMEN'S FIRE DEPARTMENT RELIEF ASSOCIATION; RETIREMENT BENEFITS SERVICE PENSIONS.]

Subdivision 1. [PRIMARY SERVICE PENSION; GENERAL PROVISIONS.] A member of such association who has completed a period, or periods of service on the fire department equal to 20 years or more, shall, after he has arrived at the age of 50 years, or more, and has retired from the payroll of the fire department, be entitled to a basic pension of not less than 20 units and not more than 33 units per month for his natural life in conformity to the by-laws of such association. Any and all leaves of absence of more than 90 days, except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing said period of service; and all periods of time during which a member received a

disability pension shall be excluded in such computation. No deduction shall be made for a leave of absence granted to a member to enable him to accept an appointive position in said fire department. No member shall be entitled to draw both a disability and a service pension.

Such monthly basic payments may be increased by adding to said basic pension 1 unit per month, or any portion thereof, for each year of active duty over 20 and not more than 35 years. Provided further, however, that for a member who retires after July 1, 1973, such monthly basic payments may be increased by the addition of 2 units per month, or any portion thereof, for each year of active duty over 20 years.

The by-laws of such association may provide for these increases, or any portion thereof: provided, that in no event the total pension exceed the sum of 40 units per month.

Subd. 2. [INCREASE IN CERTAIN PRE-1973 PENSION AMOUNTS.] Beginning with the first service pension payment made after the effective date of this section, a person who retired before July 1, 1973, and who did not receive the benefit increase provided by Laws 1973, chapter 287, section 1, is entitled to receive an additional one unit per month for each year of active service rendered by the person over 20 years of service, but not to exceed 35 years of service, and not to result in a service pension in total that exceeds 40 units per month.

Sec. 5. [LIMITATION ON POSTRETIREMENT BENEFIT REDUCTIONS.]

A monthly service pension or retirement benefit payment from the St. Paul fire department relief association or the St. Paul police relief association may not be reduced in amount to an amount that is less than that received by the person for the immediately previous month. This limitation may not be construed to limit the power of the board of trustees of the relief association to require proof of continuing eligibility for receipt of a disability benefit or a survivor benefit, or to require the reduction in amount or elimination of a disability benefit in the event of changed medical circumstances, or to require the reduction in amount or elimination of a survivor benefit in the event of changes in eligibility.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective upon approval by the city council of the city of St. Paul and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to retirement; St. Paul fire department and police relief associations; increasing service pension amounts; limiting future benefit reductions; amending Laws 1955, chapters 151, section 9, subdivisions 5 and 6, as amended; and 375, sections 21 and 22, as amended."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 2032, A bill for an act relating to highways; providing for resolution of local disapproval of certain county state-aid highway actions; providing that part of county state-aid highway fund be apportioned on basis of lane-miles; changing composition of county state-aid screening board; making technical changes; amending Minnesota Statutes 1990, sections 160.02, by adding a subdivision; 162.02, subdivisions 8, 10, and by adding a subdivision; 162.07, subdivisions 1, 5, and 6; and 162.155.

Reported the same back with the following amendments:

Page 3, after line 13, insert:

"Sec. 5. Minnesota Statutes 1991 Supplement, section 162.021, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; STANDARDS AND RULES.]  
(a) The commissioner shall establish a natural preservation routes category within the county state-aid highway system.

(b) Natural preservation routes include:

(1) those routes that possess designated by the commissioner under subdivision 5 as possessing particular scenic, environmental, or historical characteristics, such as routes along lakes or through forests, wetlands, or flood plains, that would be harmed by construction or reconstruction meeting the engineering standards under section 162.07 or the rules adopted under that section; and

(2) any county state-aid highway any segment of which passes through or adjacent to a wild and scenic river district established under chapter 103F.

(c) The commissioner shall adopt rules establishing minimum construction and reconstruction standards that address public safety

and reflect the function, lower traffic volume, and slower speed on natural preservation routes. The rules may not establish standards for natural preservation routes that are higher than the standards for national forest highways within national forests and state park access roads within state parks. Design standards specifying slopes, construction limits, and the width of vehicle recovery areas on forest highways, forest and park roads, and on natural preservation routes must minimize harmful environmental impact. In the case of reconstruction of a natural preservation route, design standards must provide for the preservation to the greatest extent possible of the existing profile, alignment, recovery area, and cross section of the existing highway, and the minimization to the greatest extent possible of acquisition of real property for the reconstruction.

Sec. 6. Minnesota Statutes 1991 Supplement, section 162.021, is amended by adding a subdivision to read:

Subd. 1a. [PROJECT REVIEW, HEARING, AND APPROVAL.] A county may not reconstruct a natural preservation route where the reconstruction project would (1) materially change the existing profile, alignment, recovery area, or cross section of the existing highway, or (2) require the acquisition of any significant amount of real property, unless the project has been approved by the commissioner as provided in this subdivision. On receiving a request for approval of such a project, the commissioner shall refer the request to the appropriate advisory committee established under subdivision 5, paragraph (b). The advisory committee shall, after holding at least one public hearing in the area affected by the project, consider the request and make a recommendation to the commissioner. Following receipt of the committee's recommendation the commissioner shall issue an order approving or disapproving the project, or approving it with such modifications as the commissioner determines will best preserve the highway's scenic, environmental, or historic characteristics. The county may not proceed with the reconstruction project except in conformity with the commissioner's order.

This subdivision does not apply to the construction of bicycle paths and pedestrian walkways that are separate from the roadway and shoulder of a natural preservation route.

Sec. 7. Minnesota Statutes 1991 Supplement, section 162.021, subdivision 5, is amended to read:

Subd. 5. [DESIGNATION; ADVISORY COMMITTEES.] (a) Except for those routes designated as natural preservation routes under subdivision 1, paragraph (b), clause (2), the commissioner may designate a county state-aid highway as a natural preservation route only on petition of the county board of the county having jurisdiction over the road. Within 60 days after a county board receives a written request to designate a county state-aid highway

as a natural preservation route, the county board shall act on the request.

(b) The commissioner shall appoint an advisory committee for each construction district consisting of seven members: one member of the department of natural resources, one county commissioner, one county highway engineer, one representative of a recognized environmental organization, and three members of the public. The commissioner shall refer each petition received under this subdivision to the appropriate advisory committee. The advisory committee shall consider the petition for designation and make a recommendation to the commissioner. Following receipt of the committee's recommendation, the commissioner may designate the highway as a natural preservation route."

Page 5, after line 11, insert:

"Sec. 11. Minnesota Statutes 1990, section 162.09, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] There is created a municipal state-aid street system within cities having a population of 5,000 or more. The extent of the municipal state-aid street system shall not exceed 2,500 3,000 miles, plus the mileage of all trunk highways reverted or turned back to the jurisdiction of cities pursuant to law on and after July 1, 1965. The system shall be established, located, constructed, reconstructed, improved, and maintained as public highways within such cities under rules, not inconsistent with this section, made and promulgated by the commissioner as hereinafter provided.

Sec. 12. Minnesota Statutes 1990, section 162.09, subdivision 4, is amended to read:

Subd. 4. [FEDERAL CENSUS TO BE CONCLUSIVE DETERMINING POPULATION.] (a) In determining whether any city has a population of 5,000 or more, the last federal census shall be conclusive.

(b) For purposes of eligibility for inclusion in the municipal state-aid system in any year, population shall be determined by the most recent federal decennial census, a special census conducted under contract with the United States Bureau of the Census, a population estimate made by the metropolitan council, or a population estimate of the state demographer, whichever the commissioner determines is the most recent as to the stated date of the count or estimate for the preceding calendar year. A city that has previously been classified as having a population of 5,000 or more for the purposes of chapter 162 and whose population decreases by less than 15 percent from the census figure that last qualified the city for inclusion shall receive the following percentages of its 1981 apportionment for the years indicated: 1982, 66 percent and 1983, 33

percent. Thereafter the city shall not receive any apportionment from the municipal state-aid street fund unless its population is determined to be 5,000 or over by a federal census. The governing body of the city may contract with the United States Bureau of the Census to take one special census before January 1, 1986. A certified copy of the results of the census shall be filed with the appropriate state authorities by the city. The result of the census shall be the population of the city for the purposes of any law providing that population is a required qualification for distribution of highway aids under chapter 162. The special census shall remain in effect until the 1990 federal census is completed and filed. The expense of taking the special census shall be paid by the city.

(e) (b) If an entire area not heretofore incorporated as a city is incorporated as such during the interval between federal censuses, its population shall be determined by its incorporation census. The incorporation census shall be determinative of the population of the city only until the next federal census.

Sec. 13. Minnesota Statutes 1990, section 162.13, subdivision 3, is amended to read:

Subd. 3. [~~SCREENING COMMITTEE BOARD.~~] On or before September 1 of each year, the engineer of each city having a population of 5,000 or more shall forward to the commissioner on forms prepared by the commissioner, all information relating to the money needs of the city that the commissioner deems necessary in order to apportion the municipal state-aid street fund in accordance with the apportionment formula heretofore set forth. Upon receipt of the information the commissioner shall appoint a board of city engineers. The board shall be composed of two engineers from the state highway construction district that includes the metropolitan area as defined in section 473.121, subdivision 2, one engineer from each of the remaining state highway construction district districts, and in addition thereto, one engineer from each city of the first class. The board shall investigate and review the information submitted by each city. On or before November 1 of each year, the board shall submit its findings and recommendations in writing as to each city's money needs to the commissioner on a form prepared by the commissioner. Final determination of the money needs of each city shall be made by the commissioner. In the event that any city shall fail to submit the information provided for herein, the commissioner shall estimate the money needs of the city. The estimate shall be used in solving the apportionment formula. The commissioner may withhold payment of the amount apportioned to the city until the information is submitted."

Page 5, line 26, delete "8" and insert "14"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, after the semicolon insert "expanding natural preservation routes category and specifying standards and procedures for their construction and reconstruction;"

Page 1, line 6, after "county" insert "and municipal"

Page 1, line 7, delete "board;" and insert "boards; increasing the mileage of the municipal state-aid street system; providing for determination of population for eligibility for inclusion in the municipal state-aid street system;"

Page 1, line 10, delete the second "and"

Page 1, line 11, before "162.155" insert "162.09, subdivisions 1 and 4; 162.13, subdivision 3; and" and before the period insert "; Minnesota Statutes 1991 Supplement, section 162.021, subdivisions 1, 5, and by adding a subdivision"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2065, A bill for an act relating to human services; establishing a grant program for crime prevention services for Asian youth; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

Reported the same back with the following amendments:

Page 2, after line 17, insert:

"Sec. 3. [APPROPRIATION.]

\$..... is appropriated from the general fund to the commissioner of the department of jobs and training for grants to supplement youth employment, training, service, or leadership development programs currently funded under the federal Job Training Partnership Act to be available for the biennium ending June 30, 1993."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 2076, A bill for an act relating to landlords and tenants; providing for assignment to the county attorney of the landlord's right to evict for breach of the covenant not to sell drugs or permit their sale; clarifying the law on forfeiture of real estate interests related to contraband or controlled substance seizures; amending Minnesota Statutes 1990, sections 504.181, subdivision 2; and 609.5317, subdivision 1.

Reported the same back with the following amendments:

Page 2, after line 7, insert:

"Sec. 2. Minnesota Statutes 1990, section 609.5311, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is



based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property: (1) if the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent is criminally liable under section 609.05 for the act or omission giving rise to the forfeiture."

Renumber the remaining sections in sequence

Page 3, line 6, delete "county" and insert "building or complex of buildings"

Page 3, line 19, after the period, insert:

"Section 2 is effective the day after final enactment and applies to forfeiture proceedings commenced or pending on or after that date."

Page 3, line 20, delete "2" and insert "3"

Amend the title as follows:

Page 1, line 9, after the semicolon insert "609.5311, subdivision 3,"

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 2093, A bill for an act relating to education; prohibiting the use of all tobacco products in public elementary and secondary schools; amending Minnesota Statutes 1990, sections 144.413, subdivision 2; and 144.417, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 144.413, subdivision 2, is amended to read:

Subd. 2. [PUBLIC PLACE.] "Public place" means any enclosed, indoor area used by the general public or serving as a place of work, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities other than public schools, as defined in section 120.05, subdivision 2, hospitals, nursing homes, auditoriums, arenas and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

Sec. 2. [144.4165] [TOBACCO PRODUCTS PROHIBITED IN PUBLIC SCHOOLS.]

No person shall at any time smoke or use any other tobacco product in a public school, as defined in section 120.05, subdivision 2. This prohibition extends to all facilities, whether owned, rented, or leased, all school grounds, and all vehicles that a school district owns, leases, rents, contracts for, or controls. This prohibition does not apply to a technical college.

Sec. 3. Minnesota Statutes 1990, section 144.417, subdivision 2, is amended to read:

Subd. 2. [PENALTIES.] Any person who violates section 144.414 or 144.4165 is guilty of a petty misdemeanor.

Sec. 4. Minnesota Statutes 1990, section 144.417, subdivision 3, is amended to read:

Subd. 3. [INJUNCTION.] The state commissioner of health, a board of health as defined in section 145A.02, subdivision 2, or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of section 144.416 or 144.4165.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective August 15, 1993."

Delete the title and insert:

"A bill for an act relating to education; prohibiting the use of all tobacco products in public elementary and secondary schools; amending Minnesota Statutes 1990, sections 144.413, subdivision 2; and 144.417, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 144."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2125, A bill for an act relating to agriculture; adding Roseau and Koochiching counties to the restricted seed potato growing area; amending Minnesota Statutes 1990, section 21.1196, subdivision 1.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2147, A bill for an act relating to the environment; banning placement of mercury in solid waste; regulating the sale and use of mercury; requiring recycling of mercury in certain products; amending Minnesota Statutes 1991 Supplement, section 115A.9561, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 115A and 116.

Reported the same back with the following amendments:

Page 1, line 11, before "medical" insert "or"

Page 1, line 12, delete everything after "instrument"

Page 1, line 13, delete everything before "from"

Page 2, line 29, after "product" insert ", other than a motor vehicle"

Page 2, line 33, before "When" insert "(a)"

Page 3, line 2, before "A" insert "(b)"

Page 3, line 11, after "provide" insert "incentives for and" and delete "and incentives for"

Delete page 3, line 21, to page 4, line 6, and insert:

"Subd. 7. [FLUORESCENT AND HIGH INTENSITY DISCHARGE LAMPS; LARGE USE APPLICATIONS.] (a) A person who sells fluorescent or high intensity discharge lamps that contain mercury to the owner or manager of an industrial, commercial, office, or multiunit residential building, or to any person who replaces or removes from service outdoor lamps that contain mercury, shall clearly inform the purchaser in writing on the invoice for the lamps, or in a separate writing, that the lamps contain mercury, a hazardous substance that is regulated by federal or state law.

(b) A person who contracts with the owner or manager of an industrial, commercial, office, or multiunit residential building, or with a person responsible for outdoor lighting, to remove from service fluorescent or high intensity discharge lamps that contain mercury shall clearly inform, in writing, the person for whom the work is being done that the lamps being removed from service contain mercury and what the contractor's arrangements are for the management of the mercury in the removed lamps.

Subd. 8. [FLUORESCENT OR HIGH INTENSITY DISCHARGE LAMPS; HOUSEHOLD APPLICATIONS.] On and after August 1, 1994, no person may sell a fluorescent or high intensity discharge lamp that contains mercury at retail that is not packaged in a reusable container. On and after August 1, 1994, no person may sell a fluorescent or high intensity discharge lamp that contains mercury at retail that is not labeled on the lamp or on the reusable packaging for the lamp that the lamp contains mercury and that any lamp it replaces must be placed in the packaging for the new lamp and returned to a designated place for proper management."

Page 4, line 7, delete "8" and insert "9"

Page 4, after line 9, insert:

"Subd. 10. [ENFORCEMENT.] Nothing in this section affects the authority of the pollution control agency or its commissioner to enforce any laws applicable to management of mercury."

Page 4, line 10, delete "AND FIXTURES"

Page 4, line 13, after "management" insert "and manufacturers of fluorescent or high intensity discharge lamps that contain mercury"

Page 4, line 14, delete "November 1, 1992" and insert "February 1, 1993"

Page 4, line 15, before "implementing" insert "fully" and after "implementing" insert "by January 1, 1996,"

Page 4, line 16, delete "or lighting fixtures"

Page 4, line 17, after "households" insert "and that a state agency replaces either indoors or outdoors, are" and delete "is"

Page 4, line 18, after the period insert "The commissioner shall submit a preliminary report to the commission by November 1, 1992."

Page 4, delete lines 20 to 23, and insert:

"Sections 1 and 3, subdivisions 2, 4, paragraph (a), 6, 7,"

Page 4, line 24, delete "and" and after "8" insert "," and 9"

Page 4, line 25, after "3," insert "and" and delete "and 7, paragraph (a)," and after the period insert "Section 3, subdivision 4, paragraph (b), is effective July 1, 1993."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2160, A bill for an act relating to family law; modifying provisions dealing with the administration, computation, and enforcement of child support; modifying visitation provisions; imposing penalties; appropriating money; amending Minnesota Statutes 1990, sections 257.67, subdivision 3; 357.021, subdivision 1a; 518.14; 518.171, subdivisions 1, 3, 4, and 6; 518.175, subdivision 1; 518.54, subdivision 4; 518.551, subdivisions 1, 7, and 10, and by adding subdivisions; 518.57, subdivision 1, and by adding a subdivision; 518.611, subdivision 4; 548.091, subdivision 1a; 588.20; 609.375, subdivisions 1 and 2; Minnesota Statutes 1991 Supplement, sections 214.101, subdivision 1; 357.021, subdivision 2; 518.551, subdivisions 5 and 12; 518.64, subdivisions 1, 2, and 5; proposing coding for new law in Minnesota Statutes, chapters 16B; and 518; repealing Minnesota Statutes 1990, section 609.37.

Reported the same back with the following amendments:

Page 4, line 29, delete the new language

Page 4, delete lines 30 to 33

Page 4, line 34, delete "amount,"

Page 5, line 35, strike "obligor's" and insert "parent's"

Page 6, line 1, strike "obligor" and insert "parent"

Page 6, lines 2 and 5, strike "obligor" and insert "parent"

Page 6, line 29, strike "obligor's" and insert "insured's"

Page 6, line 31, strike "obligee" and insert "other parent"

Page 6, delete lines 34 and 35

Page 6, line 36, delete everything before "the"

Page 7, line 4, after the period insert "The cost of child care for purposes of this section shall be determined by subtracting from the actual cost paid for child care, the amount of the federal and state income tax credits for child care."

Page 28, line 7, delete "TASK FORCE" and insert "COLLECTIONS AND COST RECOVERY"

Page 28, lines 8 and 9, delete "convene a task force consisting of" and insert "consult with"

Page 28, line 12, delete "collect" and insert "increase the collection of"

Page 28, line 13, after "arrearages" insert "and to institute cost recovery in child support enforcement"

Page 28, lines 14 and 15, delete "of the task force"

With the recommendation that when so amended the bill be re-referred to the Committee on Appropriations without further recommendation.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2168, A bill for an act relating to human services; providing for six demonstration projects to test alternatives to the delivery of mental health services; amending Minnesota Statutes 1990, section 256E.05, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 256E.05, is amended by adding a subdivision to read:

Subd. 3b. [DEMONSTRATION PROJECTS.] (a) Notwithstanding section 256E.05, subdivision 3a, the commissioner shall establish a pilot project in Ramsey county to test alternatives to the delivery of mental health services required under sections 245.461 to 245.486.

(b) The authority of the county board to set policy for the provision of mental health services is prescribed in section 245.466. The authority encompasses policies relating to all local administrative, fiscal, and clinical activity.

(c) The demonstration project may include issues in the service delivery system relating to:

(1) financial assistance and the ability to use existing funds flexibly to downsize residential facilities for persons with mental illness governed by Minnesota Rules, parts 9520.0500 to 9520.0690;

(2) integrated program funding to permit flexibility in expenditures based on local needs and local control;

(3) flexibility in the delivery of case management services;

(4) waiver or removal of the rate cap and moratorium on negotiated rate facilities; and

(5) establishing a county human services department as the primary agency accountable to the county board for planning, evaluation, and monitoring of a centralized mental health service system.

(d) For purposes of the demonstration project, the integrated funding may include, but not be limited to, current mental health expenditures, including maintenance costs, from the following sources provided that any share of mental health expenditures from sources listed that are used for commitment or treatment in a regional treatment center must not be part of integrated funding:

(1) general assistance medical care;

(2) general assistance;

(3) medical assistance;

(4) Minnesota supplemental aid;

(5) grants for residential services for adults with mental illness;

(6) grants for community support services programs for persons with serious and persistent mental illness; and

(7) mental health special project grants.

(e) Evaluation of the project will be based on outcome evaluation criteria negotiated with the county before implementation of the demonstration projects.

(f) If the county fails to meet the conditions in the demonstration projects' proposals as approved by the commissioner, the commissioner may rescind the waiver rule and regulations.

(g) The demonstration project must be completed by July 1, 1996, and a report issued to the commissioner by January 1, 1997."

Delete the title and insert:

"A bill for an act relating to human services; providing a pilot project to test alternatives to the delivery of mental health services; amending Minnesota Statutes 1990, section 256E.05, by adding a subdivision."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2183, A bill for an act relating to the city of Zumbrota; allowing informational signs.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 173.08, subdivision 1, is amended to read:



Subdivision 1. [ADVERTISING DEVICES RESTRICTED.] No advertising device, excepting the advertising devices described and permitted under sections 173.01 to 173.27, shall be erected or maintained in an adjacent area, after June 8, 1971, except the following:

(a) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, and which comply with rules which shall be promulgated by the commissioner relative to their lighting, size, spacing and other requirements as may be appropriate to implement sections 173.01 to 173.27;

(b) Advertising devices advertising the sale or lease of property upon which they are located, provided that there shall not be more than one such sign, advertising the sale or lease of the same property, visible to traffic proceeding in any one direction on any one interstate or primary highway;

(c) Advertising devices advertising activities conducted on the property on which they are located, including, without limiting the generality of the foregoing, goods sold, stored, manufactured, processed or mined thereon, services rendered thereon, and entertainment provided thereon;

(d) Advertising devices stating the name and address of the owner, lessee or occupant of such property or information otherwise required or authorized by law to be posted or displayed thereon;

(e) Public utility signs;

(f) Service club and religious notices;

(g) Advertising devices of which the advertising copy or the name of the owner thereof is in no part visible from the traveled way of the aforesaid highways;

(h) Advertising devices which are located, or which are to be located, in business areas and which comply, or will comply when erected, with the provisions of sections 173.01 to 173.27;

(i) Signs placed temporarily by auctioneers under section 169.07<sub>2</sub>;

(j) Community identification signs which are located within two miles of the community and do not exceed 750 square feet. "Community" means a county, town, or home rule charter or statutory city. Prior to the erection of a community identification sign, the community must:

(1) obtain approval from the governing body of the community;

(2) consult with local road authorities on placement and location of the sign; and

(3) obtain consent of the owner of the land on which the sign is to be erected.

Sec. 2. Minnesota Statutes 1991 Supplement, section 173.13, subdivision 4, is amended to read:

Subd. 4. [FEES.] The annual fee for each such permit or renewal thereof shall be as follows:

(1) If the advertising area of the advertising device does not exceed 50 square feet, the fee shall be \$25 ~~on July 1, 1991, and \$30 on July 1, 1992, and thereafter.~~

(2) If the advertising area exceeds 50 square feet but does not exceed 300 square feet, the fee shall be \$50 ~~on July 1, 1991, and \$60 on July 1, 1992, and thereafter.~~

(3) If the advertising area exceeds 300 square feet, the fee shall be \$100 ~~on July 1, 1991, and \$120 on July 1, 1992, and thereafter.~~

(4) No fee shall be charged for a permit for official signs and notices as they are defined in section 173.02, except that a fee may be charged for a star city sign erected under section 173.085.

Sec. 3. Minnesota Statutes 1990, section 173.16, subdivision 5, is amended to read:

Subd. 5. [LOCAL CONTROL.] (1) Whenever a bona fide county or local zoning authority has made a legitimate determination of customary usage and in the judgment of the commissioner, reasonably provides for size, lighting and spacing control of advertising devices, such determination shall be accepted in lieu of the provisions of this chapter in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.

(2) All county and local zoning authorities shall give notice to the commissioner of transportation of the establishment or revision of any commercial and industrial zones pursuant to subdivision 1. Notice shall be by certified mail sent to the office of the commissioner of transportation in St. Paul, Minnesota, within 15 days after the effective date of the zoning change or establishment.

(3) The commissioner may not disapprove any zoning ordinance adopted by a county or local zoning authority that has the effect of establishing a business area unless the zoning ordinance would result in the loss to the state of federal highway funds.

## Sec. 4. [PUBLIC LIBRARY DISTRICT; ADVISORY ELECTION.]

The board of county commissioners of Otter Tail county and the city council of the city of Fergus Falls by resolutions adopted by each of them may submit to the voters that reside within the boundaries of independent school district No. 544, except that part of the school district located in Wilkin county, the question of whether the county board and the city council shall request the legislature of the state of Minnesota to enact legislation to provide for the establishment of a public library district to provide library service to those persons residing within the boundaries of independent school district No. 544, except for that part of the school district located in Wilkin county. If the resolutions are adopted as provided in this section, the question shall be submitted at the 1992 general election and the form of the ballot shall be:

"Shall the board of county commissioners of Otter Tail county and the city council of the city of Fergus Falls request legislation from the Minnesota legislature to provide for a public library district for the purpose of providing library service to those persons residing within the boundaries of independent school district No. 544, except that part of the school district located in Wilkin county?"

Yes .....  
No .....

The results of the election on the question submitted shall be advisory only to the county board and the city council and shall have no binding effect upon a decision to request the Minnesota legislature to provide for a public library district.

## Sec. 5. [LOCAL APPROVAL.]

Section 4 takes effect the day after the filing of a certificate of local approval by the board of county commissioners of Otter Tail county and the city council of the city of Fergus Falls in compliance with Minnesota Statutes, section 645.021, subdivision 3."

Delete the title and insert:

"A bill for an act relating to local government; authorizing placement of community identification signs; amending fees for highway advertising devices; restricting the commissioner's authority over business zoning; authorizing Otter Tail county and the city of Fergus Falls to ask voters whether a public library district should be established; amending Minnesota Statutes 1990, section 173.08, subdivision 1; and 173.16, subdivision 5; Minnesota Statutes 1991 Supplement, section 173.13, subdivision 4."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2238, A bill for an act relating to health; requiring initiatives and program changes related to rural health; modifying rural hospital grant programs; establishing a rural health advisory committee; assigning duties to the office of rural health; modifying distribution of money in the emergency medical services system fund; creating an account for pediatric access and training; increasing medical assistance reimbursement to small hospitals and ambulance services; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, by adding a subdivision; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 144.147, subdivisions 1, 3, and 4; 144.581, subdivision 1, and by adding a subdivision; 144.8093; and 447.31, subdivisions 1 and 3; Minnesota Statutes 1991 Supplement, section 256.969, subdivision 20; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 2, delete section 3

Pages 5 to 9, delete sections 7 to 11

Pages 14 and 15, delete section 17

Pages 17 and 18, delete sections 22 to 24

Page 18, after line 28, insert:

“Sec. 16. [COMMUNITY HEALTH CLINIC DEMONSTRATION PROJECT.]

The commissioner of health shall establish a demonstration project to determine whether the community health clinic model can be successfully implemented by community action agencies established under Minnesota Statutes, sections 268.52 to 268.54. The commissioner shall contract with an association of nonprofit community health clinics that do not receive federal funding to implement and administer the demonstration project. The association awarded the contract shall establish a minimum of eight community health clinics in collaboration with community action agencies. The association shall develop criteria and an application process for choosing sites for the community health clinics. The criteria shall

ensure that the community health clinics are established in areas of the state that demonstrate a significant degree of health care underservice and high levels of poverty. The criteria must also include a local match requirement for the state funds provided. The commissioner, in consultation with the association, shall develop procedures for evaluating the effectiveness of the demonstration project. The association awarded the contract shall present a project evaluation report to the legislature and the commissioner by January 15, 1994.

Page 18, line 32, delete everything after “sections” and insert “3, 9, 10, and 16.”

Page 18, line 35, delete “17, 20, and 25” and insert “13 and 15”

Page 19, line 4, delete everything after the period

Page 19, delete line 5

Renumber sections in sequence

Correct internal references

Delete the title and insert:

“A bill for an act relating to health; requiring program changes related to rural health; modifying distribution of money in the emergency medical services system fund; creating an account for pediatric access and training; requiring studies; establishing a community health clinic demonstration project; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, by adding a subdivision; 43A.17, subdivision 9; 144.147, subdivisions 1, 3, and 4; 144.581, subdivision 1, and by adding a subdivision; 144.8093; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 144.”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2282, A bill for an act relating to outdoor recreation; granting counties an option to decline to participate in the distribution of snowmobile and all-terrain vehicle trail grant-in-aid

funds; amending Minnesota Statutes 1990, sections 84.83, by adding a subdivision; and 85.018, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 84.83, is amended by adding a subdivision to read:

Subd. 4. [PROVISIONS APPLICABLE TO FUNDING RECIPIENTS.] Recipients of Minnesota trail assistance program funds must be afforded the same protection and be held to the same standard of liability as a landowner under chapter 87 for activities associated with the administration, design, construction, maintenance, and grooming of snowmobile trails.

Sec. 2. Minnesota Statutes 1990, section 84.87, is amended by adding a subdivision to read:

Subd. 2c. [APPLICATION OF SPEED LIMITS TO TESTING ACTIVITIES.] (a) A speed limit established by the commissioner in rules adopted under section 84.86 does not apply to a snowmobile that is being operated as part of a testing program established by a snowmobile manufacturer if:

(1) the snowmobile is operated for testing purposes by a driver employed by the snowmobile manufacturer;

(2) the snowmobile is clearly marked as a test machine;

(3) the snowmobile is operated in compliance with all other applicable laws and rules; and

(4) a permit is obtained from the commissioner that identifies the testing area.

(b) A card containing a photograph of the driver and identifying the driver as a test driver for the manufacturer must be in the driver's possession at all times when the snowmobile is being operated at a speed in excess of the limit established by the commissioner under section 84.86.

Sec. 3. Minnesota Statutes 1990, section 84A.55, is amended by adding a subdivision to read:

Subd. 7a. [SNOWMOBILES ON CERTAIN LANDS.] Unless specifically prohibited by a rule of the commissioner, snowmobiles may

be operated on lands subject to this section that have been identified by the commissioner as wildlife management areas.

Sec. 4. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment.

Delete the title and insert:

"A bill for an act relating to natural resources; specifying certain provisions applicable to recipients of snowmobile grant funds; exempting snowmobile testing activities from applicable speed limits under certain conditions; allowing the use of snowmobiles on certain conservation lands unless prohibited by rule of the commissioner of natural resources; amending Minnesota Statutes 1990, sections 84.83, by adding a subdivision; 84.87, by adding a subdivision; and 84A.55, by adding a subdivision."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2324, A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited lands that border public water in Fillmore county.

Reported the same back with the following amendments:

Page 1, after line 23, insert:

"(e) A 33-foot easement must be maintained for public access.

Sec. 2. Minnesota Statutes 1991 Supplement, section 103F.535, subdivision 1, is amended to read:

Subdivision 1. [RESERVATION OF MARGINAL LAND AND WETLANDS.] (a) Notwithstanding any other law, marginal land and wetlands are withdrawn from sale by the state unless; ~~use of the marginal land or wetland is restricted by a conservation easement as provided in this section.~~

~~(b) This section does not apply to transfers of land by the board of water and soil resources to correct errors in legal descriptions under~~

section 103F.515, subdivision 8, or to transfers by the commissioner of natural resources for:

(1) land that is currently in nonagricultural commercial use if a conservation easement would interfere with the commercial use;

(2) land in platted subdivisions;

(3) conveyances of land to correct errors in legal descriptions under section 84.0273;

(4) exchanges of nonagricultural land with the federal government, or exchanges of Class A, Class B, and Class C nonagricultural land with local units of government under sections 94.342, 94.343, 94.344, and 94.349;

(5) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10; and

(6) land not needed for trail purposes that is sold to adjacent property owners and lease holders under section 85.015, subdivision 1, paragraph (b).

(e) This section does not apply to transfers of land by the commissioner of administration or transportation or by the Minnesota housing finance agency, or to transfers of tax-forfeited land under chapter 282 if:

(1) the land is in platted subdivisions; or

(2) the conveyance is a transfer to correct errors in legal descriptions.

(d) This section does not apply to transfers of land by the commissioner of administration or by the Minnesota housing finance agency for:

(1) land that is currently in nonagricultural commercial use if a conservation easement would interfere with the commercial use; or

(2) land transferred to political subdivisions for public purposes under sections 84.027, subdivision 10, and 94.10.

(1) notice of the existence of the nonforested marginal land or wetlands, in a form prescribed by the board of water and soil resources, is provided to prospective purchasers; and

(2) the deed contains a restrictive covenant, in a form prescribed by the board of water and soil resources, that precludes enrollment



of the land in a state-funded program providing compensation for conservation of marginal land or wetlands.

Sec. 3. [REPEALER.]

Minnesota Statutes 1990, section 103F.535, subdivisions 2, 3, and 4, are repealed."

Renumber sections in sequence

Amend the title as follows:

Page 1, line 4, before the period insert "; providing for withdrawal of wetlands and marginal lands from sale by the state unless notice is provided and the deed contains a restrictive covenant; abolishing certain conservation easement requirements to sell wetlands and marginal lands; amending Minnesota Statutes 1991 Supplement, section 103F.535, subdivision 1; repealing Minnesota Statutes 1990, section 103F.535, subdivisions 2, 3, and 4"

With the recommendation that when so amended the bill pass.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2342, A bill for an act relating to human services; providing for appointment of a member to the child abuse prevention advisory council by the commissioner of human services; providing for an American Indian child welfare advisory council; amending Minnesota Statutes 1990, section 257.3579; Minnesota Statutes 1991 Supplement, section 299A.23, subdivision 2.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 2375, A bill for an act relating to metropolitan government; providing a name for the transportation accessibility advisory committee; amending Minnesota Statutes 1990, section 473.386, subdivisions 2 and 3.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 2402, A bill for an act relating to corporations; making miscellaneous changes in provisions dealing with the organization and operation of nonprofit corporations; amending Minnesota Statutes 1990, sections 317A.011, subdivisions 7 and 14; 317A.111, subdivision 3; 317A.201; 317A.213; 317A.227; 317A.251, subdivision 3; 317A.255, subdivisions 1, 2, and by adding a subdivision; 317A.341, subdivision 2; 317A.431, subdivision 2; 317A.447; 317A.461; 317A.751, subdivision 3; and 317A.827, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 317A.821, subdivision 2; 317A.823; and 317A.827, subdivision 1.

Reported the same back with the following amendments:

Page 9, line 22, delete "three" and insert "six"

Page 9, lines 23 and 31, delete "with voting rights"

Page 9, line 24, delete "with voting"

Page 9, line 25, delete "rights"

Page 10, delete lines 1 to 22

Page 10, line 30, delete "Copies of all documents"

Page 10, delete lines 31 and 32

Page 10, line 33, delete everything before the first "the"

Page 10, line 35, delete "the copy" and insert "copies of documents under this section"

Page 11, delete line 2

Page 11, line 3, delete "micro-images,"

Page 11, line 12, delete "6" and insert "5"

Page 11, line 16, delete "with voting rights"

Renumber the subdivisions in sequence

Page 12, after line 30, insert:

"Sec. 17. Minnesota Statutes 1990, section 317A.821, subdivision 3, is amended to read:

Subd. 3. [DISSOLUTION; EXTENSION.] If a corporation fails to regain its good standing under subdivision 2 on or before December 31, ~~2000~~ 1997, the corporation is dissolved under section 317A.827. After December 31, ~~2000~~ 1997, the corporate existence of a corporation dissolved under this subdivision may be extended by filing the initial corporate registration with the secretary of state and payment of a \$1,000 fee. The extension relates back to December 31, ~~2000~~ 1997."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 11, after the first semicolon insert "317A.821, subdivision 3;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2404, A bill for an act relating to governmental operations; setting conditions for certain state laws; regulating payments; fixing local accounting procedures; providing for investments and uses of public facilities; amending Minnesota Statutes 1990, sections 11A.24, subdivision 6; 13.76, by adding a subdivision; 367.36, subdivision 1; 386.015, subdivision 5; 412.222; 471.49, by adding a subdivision; 471.66; 471.696; 471.697; 471.6985; 477A.017, subdivision 2; and 609.415, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 279; 471; and 609; repealing Minnesota Statutes 1991 Supplement, section 128B.10, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 6.02, is amended to read:

6.02 [DEPUTY, EMPLOYEES.]

The state auditor shall appoint a deputy, who may perform all the duties of the office when the auditor is absent or disabled. The state auditor may employ and at pleasure dismiss two additional deputies and a private secretary.

Sec. 2. Minnesota Statutes 1990, section 13.76, is amended by adding a subdivision to read:

Subd. 3. [BUSINESSES SEEKING STATE INCENTIVES.] Notwithstanding subdivision 1, any business seeking \$250,000 or more in financial assistance from the state of Minnesota in the form of grants, loans, or tax incentives shall make available for public inspection its audited financial statements for the three most recent years. These statements shall include all information that would be required by the United States Securities and Exchange Commission prior to any public stock offering.

Sec. 3. [279.025] [PAYMENT OF DELINQUENT PROPERTY TAXES.]

Payment of delinquent property tax and related interest and penalties shall be paid to the county auditor by check or money order drawn on a bank or other financial institution in the United States.

Sec. 4. Minnesota Statutes 1990, section 367.36, subdivision 1, is amended to read:

Subdivision 1. [INCUMBENT TREASURER; ANNUAL AUDIT.] In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined, the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor. Upon completion of an audit by a public accountant, the public accountant shall forward a copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23.

Sec. 5. Minnesota Statutes 1990, section 386.015, subdivision 5, is amended to read:

Subd. 5. The county recorder shall charge and collect all fees as prescribed by law and all such fees collected as county recorder shall be paid to the county in the manner and at the time prescribed by the county board, but not less often than once each month. This subdivision shall apply to the fees collected by the county recorder in performing the duties of the registrar of titles and all such fees shall be paid to the county as herein provided except that money paid to the registrar of titles for the state general fund as provided in section 508.74, shall be paid to the county as provided in section 508.75. A county recorder may retain as personal compensation any fees the recorder is permitted to charge by law for services rendered in a private capacity as a registered abstractor as defined in section 386.61, subdivision 2, clause (2). A county recorder, acting in a private capacity as a registered abstractor, may not use county resources for the provision of professional abstracting services, nor may a county recorder, acting in a private capacity as a registered abstractor, store business files, or other supplies or materials related to the provision of professional abstracting services, in county owned or leased buildings.

Sec. 6. Minnesota Statutes 1990, section 412.222, is amended to read:

412.222 [PUBLIC ACCOUNTANTS IN STATUTORY CITIES.]

The council of any city may employ public accountants on a monthly or yearly basis for the purpose of auditing, examining, and reporting upon the books and records of account of such city. For the purpose of this section ~~public accountants are defined as any individuals who for a period of five years prior to the date of such employment have been actively engaged exclusively in the practice of public accounting,~~ "public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23. All expenditures for these purposes shall be within the statutory limits upon tax levies in such cities.

Sec. 7. Minnesota Statutes 1990, section 471.49, is amended by adding a subdivision to read:

Subd. 10. [PUBLIC ACCOUNTANT.] "Public accountant" means a certified public accountant, a certified public accounting firm, or a licensed public accountant, all licensed by the board of accountancy under sections 326.17 to 326.23.

Sec. 8. Minnesota Statutes 1990, section 471.696, is amended to read:

471.696 [FISCAL YEAR; DESIGNATION.]

Beginning in 1979, the fiscal year of a city and all of its funds shall be the calendar year, except that a city may, by resolution, provide that the fiscal year for city-owned nursing homes be the reporting year designated by the commissioner of human services. Beginning in 1994, the fiscal year of a town and all of its funds shall be the calendar year. The state auditor may upon request of a city town and a showing of inability to conform, extend the deadline for compliance with this section for one year, except that a city may, by resolution, provide that the fiscal year for city owned nursing homes be the reporting year designated by the commissioner of human services.

Sec. 9. Minnesota Statutes 1990, section 471.697, is amended to read:

471.697 [FINANCIAL REPORTING; AUDITS; CITIES AND TOWNS OF MORE THAN 2,500 POPULATION.]

Subdivision 1. In any city with a population of more than 2,500 or town with a population of 2,500 with annual revenue of \$500,000 or more according to the latest federal census, the city clerk or, chief financial officer, town clerk, or town clerk-treasurer shall:

(a) Prepare a financial report covering the city's or town's operations including operations of municipal hospitals and nursing homes, liquor stores, and public utility commissions during the preceding fiscal year after the close of the fiscal year and. Cities shall publish the report or a summary of the report, in a form as prescribed by the state auditor, in a qualified newspaper of general circulation in the city or, if there is none, post copies in three of the most public places in the city, no later than 30 days after the report is due in the office of the state auditor. The report shall contain financial statements and disclosures which present the city's or town's financial position and the results of city or town operations in conformity with generally accepted accounting principles. The report shall include such information and be in such form as may be prescribed by the state auditor;

(b) File the financial report in the clerk's or financial officer's office for public inspection and present it to the city council or town board after the close of the fiscal year. One copy of the financial report shall be furnished to the state auditor after the close of the fiscal year; and

(c) Submit to the state auditor audited financial statements which have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may upon request of a city or town and a showing of inability to conform, extend the deadline. The state auditor may accept this report in lieu of the report required in clause (b) above.

A municipal hospital or nursing home established before June 6, 1979 whose fiscal year is not a calendar year on August 1, 1980 is not subject to this subdivision but shall submit to the state auditor a detailed statement of its financial affairs audited by a certified public accountant, a public accountant or the state auditor no later than 120 days after the close of its fiscal year. It may also submit a summary financial report for the calendar year.

Subd. 2. The state auditor shall continue to audit cities of the first class pursuant to section 6.49.

Sec. 10. Minnesota Statutes 1990, section 471.6985, is amended to read:

**471.6985 [FINANCIAL STATEMENT PUBLICATION REPORTING; AUDITS; MUNICIPAL LIQUOR STORE.]**

**Subdivision 1.** Any city operating a municipal liquor store shall publish a balance sheet using generally accepted accounting procedures and a statement of operations of the liquor store within 90 days after the close of the fiscal year in the official newspaper of the city. The statement shall be headlined, in a type size no smaller than 18-point: "Analysis of .....(city)..... municipal liquor store operations for .....(year)...." and shall be written in clear and easily understandable language. It shall contain the following information: total sales, cost of sales, gross profit, profit as percent of sales, operating expenses, operating income, contributions to and from other funds, capital outlay, interest paid and debt retired. The form and style of the statement shall be prescribed by the state auditor. Nonoperating expenses may not be extracted on the reporting form prior to determination of net profits for reporting purposes only. Administrative expenses charged to the liquor store by the city must be actual operating expenses and not used for any other public purpose prior to the determination of net profits. The publication requirements of this section shall be in addition to any publication or posting requirements for financial reports contained in sections 471.697 and 471.698. The statement may at the option of the city council be incorporated into the reports published pursuant to sections 471.697 and 471.698, in accordance with a form and style prescribed by the state auditor.

**Subd. 2.** Any city operating a municipal liquor store shall submit to the state auditor audited financial statements for the liquor store that have been attested to by a certified public accountant, public accountant, or the state auditor within 180 days after the close of the fiscal year, except that the state auditor may extend the deadline upon request of a city and a showing of inability to conform. The state auditor may accept this report in lieu of the report required by subdivision 1.

Sec. 11. Minnesota Statutes 1990, section 477A.017, subdivision 2, is amended to read:

Subd. 2. [STATE AUDITOR'S DUTIES.] The state auditor shall prescribe uniform financial accounting and reporting standards in conformity with national standards to be applicable to cities and towns of more than 2,500 population and uniform reporting standards to be applicable to cities of less than 2,500 population.

Sec. 12. Minnesota Statutes 1990, section 609.415, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in sections 609.415 to 609.465, and 609.515,

(1) "Public officer" means:

(a) an executive or administrative officer of the state or of a county, municipality or other subdivision or agency of the state;

(b) a member of the legislature or of a governing board of a county, municipality, or other subdivision of the state, or other governmental instrumentality within the state;

(c) a judicial officer;

(d) a hearing officer;

(e) a law enforcement officer; or

(f) any other person exercising the functions of a public officer.

(2) "Public employee" means a person employed by or acting for the state or a county, municipality, or other subdivision or governmental instrumentality of the state for the purpose of exercising their respective powers and performing their respective duties, and who is not a public officer.

(3) "Judicial officer" means a judge, court commissioner, referee, or any other person appointed by a judge or court to hear or determine a cause or controversy.

(4) "Hearing officer" means any person authorized by law or private agreement to hear or determine a cause or controversy who is not a judicial officer.

(5) "Political subdivision" means a county, town, statutory or home rule charter city, school district, special service district, or other municipal corporation of the state of Minnesota.



Sec. 13. [609.456] [REPORTING TO STATE AUDITOR REQUIRED.]

Whenever a public employee or public officer of a political subdivision discovers evidence of theft, embezzlement, or unlawful use of public funds or property, the employee or elected official shall promptly report in writing to the state auditor a detailed description of the alleged incident or incidents.

Sec. 14. [NEWSPAPER; QUALIFICATION.]

A newspaper otherwise in compliance with Minnesota Statutes, section 331A.02, subdivision 1, between September 1, 1991, and December 31, 1991, shall not be deemed to have lost its qualified status because any issue published between September 1, 1991, and December 31, 1991, failed to include the minimum number of column-inches required by Minnesota Statutes, section 331A.02, subdivision 1.

Sec. 15. [REPEALER.]

Minnesota Statutes 1991 Supplement, section 128B.10, subdivision 2, is repealed.

Sec. 16. [EFFECTIVE DATE.]

Section 14 is effective the day following enactment.

Section 15 is effective June 30, 1992."

Delete the title and insert:

"A bill for an act relating to governmental operations; providing for state auditor staff; providing for certain audits, reports, and payments; amending Minnesota Statutes 1990, sections 6.02; 13.76, by adding a subdivision; 367.36, subdivision 1; 386.015, subdivision 5; 412.222; 471.49, by adding a subdivision; 471.696; 471.697; 471.6985; 477A.017, subdivision 2; and 609.415, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 279; and 609; repealing Minnesota Statutes 1991 Supplement, section 128B.10, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2417, A bill for an act relating to telecommunications; allowing STARS system services to be resold or subleased to certain nonprofit organizations; amending Minnesota Statutes 1990, section 16B.465, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [STUDY.]

The commissioner of administration shall study and identify the issues associated with providing nonprofit and not-for-profit organizations access to the Statewide Telecommunications Access and Routing System (STARS).

The study shall assess the need for and the public policy issues associated with the expansion of STARS authority to serve certain nonprofit and not-for-profit organizations including but not limited to health care, social service, and educational organizations.

The study should identify issues of private to public information transactions and the barriers placed on both the public sector and private sector if STARS is unable to provide the necessary services.

The study will take into consideration opinions and interests of the organizations and industries affected by a change in the statutes to allow STARS to provide telecommunications services to certain nonpublic sector entities.

The study and recommendations shall be submitted to the appropriate committees of the legislature by January 15, 1993.

Sec. 2. [APPROPRIATION.]

\$25,000 is appropriated from the general fund to the commissioner of administration for purposes of section 1."

Delete the title and insert:

"A bill for an act relating to telecommunications; requiring commissioner of administration to study issues related to the statewide telecommunications access and routing system and submit a report to the legislature; appropriating money."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2423, A bill for an act relating to state government; creating a state board of pension investment; prescribing its powers and duties; transferring authority from the state board of investment; appropriating money; amending Minnesota Statutes 1990, sections 10A.01, subdivision 18; 11A.01; 11A.02, subdivisions 2 and 4; 11A.04; 11A.08, subdivisions 1 and 2; 11A.09; 11A.13, subdivision 1; 11A.14, subdivisions 5 and 13; 79.251, subdivision 7; 352.05; 353.05; 356.218, subdivision 1; 356A.01, subdivision 23; 356A.02, subdivision 1; 356A.11, subdivision 1; 422A.06, subdivision 8; and 490.123, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 11B; repealing Minnesota Statutes 1990, section 11A.14, subdivisions 6, 7, and 8.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;

(g) executive director of the Indian affairs intertribal board;

(h) commissioner of the iron range resources and rehabilitation board;

(i) commissioner of mediation services;

(j) deputy of any official listed in clauses (e) to (i);

(k) judge of the workers' compensation court of appeals;

(l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;

(m) solicitor general or deputy, assistant or special assistant attorney general;

(n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;

(o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;

(p) the commissioner of gaming and director of each division in the department of gaming and the deputy director of the division of state lottery;

(q) director of the division of gambling enforcement in the department of public safety;

(r) member or executive director of the higher education facilities authority; or

(s) member of the board of directors or president of the Minnesota world trade center corporation; or

(t) member of the state board of pension investment.

Sec. 2. Minnesota Statutes 1990, section 11A.01, is amended to read:

11A.01 [STATEMENT OF PURPOSE.]

The purpose of this chapter is to establish standards, ~~in addition to the applicable standards of chapter 356A,~~ to ensure that state ~~and pension~~ assets subject to this legislation will be responsibly invested to maximize the total rate of return without incurring undue risk.

Sec. 3. Minnesota Statutes 1990, section 11A.02, subdivision 2, is amended to read:

Subd. 2. [STATE BOARD.] "State board" means the Minnesota state board of investment created by article XI, section 8 of the Constitution of the state of Minnesota for the purpose of administering and directing the investment of all state funds ~~and pension funds.~~

Sec. 4. Minnesota Statutes 1990, section 11A.02, subdivision 4, is amended to read:

Subd. 4. [FUND.] "Fund" means any of the individual funds, including but not limited to the permanent school fund, general fund of the state, ~~retirement funds~~ and other funds and accounts for which the state board has responsibilities.

Sec. 5. Minnesota Statutes 1990, section 11A.04, is amended to read:

#### 11A.04 [DUTIES AND POWERS.]

The state board shall:

(1) Act as trustees for each fund for which it invests or manages money in accordance with the standard of care set forth in section 11A.09 ~~if state assets are involved and in accordance with chapter 356A if pension assets are involved.~~

(2) Formulate policies and procedures deemed necessary and appropriate to carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. Procedures and policies of the board are not subject to the administrative procedure act.

(3) Employ an executive director as provided in section 11A.07.

(4) Employ investment advisors and consultants as it deems necessary.

(5) Prescribe policies concerning personal investments of all employees of the board to prevent conflicts of interest.

(6) Maintain a record of its proceedings.

(7) As it deems necessary, establish advisory committees subject to section 15.059 to assist the board in carrying out its duties.

(8) Not permit state funds to be used for the underwriting or direct purchase of municipal securities from the issuer or the issuer's agent.

(9) Direct the state treasurer to sell property other than money that has escheated to the state when the board determines that sale of the property is in the best interest of the state. Escheated property must be sold to the highest bidder in the manner and upon terms and conditions prescribed by the board.

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

~~(11) Establish a formula or formulas to measure management performance and return on investment. Public pension funds in the state shall utilize the formula or formulas developed by the state board.~~

(12) Except as otherwise provided in article XI, section 8, of the constitution of the state of Minnesota, employ, at its discretion, qualified private firms to invest and manage the assets of funds over which the state board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board utilizes a private investment manager, sums sufficient to pay the costs of employing private firms. Each year, by January 15, the board shall report to the governor and legislature on the cost and the investment performance of each investment manager employed by the board.

~~(13)~~ (12) Adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement fund assets under its control. The statement may be revised at the discretion of the state board. The state board shall seek the advice of the council regarding its investment policy statement. Adoption of the statement is not subject to chapter 14.

Sec. 6. Minnesota Statutes 1990, section 11A.07, subdivision 5, is amended to read:

Subd. 5. [APPORTIONMENT OF EXPENSES.] The executive director shall apportion the actual expenses incurred by the board on an accrual basis among the several funds whose assets are invested by the board under this chapter and by the state board of pension investment under chapter 11B based on the weighted average assets under management during each quarter. The charge to each fund must be calculated, billed, and paid on a quarterly basis

in accordance with procedures for interdepartmental payments established by the commissioner of finance. The amounts necessary to pay these charges are appropriated from the investment earnings of each fund. Receipts must be credited to the general fund as nondedicated receipts.

Sec. 7. Minnesota Statutes 1990, section 11A.08, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] There is created an investment advisory council consisting of ~~17~~ 14 members. Ten of these members shall be experienced in general investment matters. They shall be appointed by the state board. The other ~~seven~~ members ~~shall be are:~~ the commissioner of finance; the executive director of the Minnesota state retirement system; the executive director of the public employees retirement association; and the executive director of the teachers retirement association; ~~a retiree currently receiving benefits from the postretirement investment fund; and two public employees who are active members of funds whose assets are invested by the state board. The retiree and the public employees shall be appointed by the governor for four-year terms.~~

Sec. 8. Minnesota Statutes 1990, section 11A.08, subdivision 2, is amended to read:

Subd. 2. [DUTIES AND POWERS.] The council shall:

(1) advise the state board, the state board of investment, and the director of the state board of investment on general policy matters relating to investments;

(2) advise the state board, the state board of investment, and the director on methods to improve the rate of return on invested money while insuring adequate security for that money;

(3) advise the state board, the state board of investment, and the director on the form and content of ~~the report~~ reports required by section 11A.07, subdivision 4, clause (7), and section 14, subdivision 7, so that ~~the report reports~~ clearly and objectively discloses ~~disclose~~ the investment activities of the state board, the state board of investment, and the director;

(4) perform other tasks of an advisory nature as requested by the state board or the state board of investment.

Sec. 9. Minnesota Statutes 1990, section 11A.09, is amended to read:

11A.09 [STANDARD OF CARE.]

In the discharge of their respective duties, the members of the state board, director, board staff, and members of the council and any other person charged with the responsibility of investing money pursuant to the standards set forth in sections 11A.01 to 11A.25 shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. ~~In addition, for the investment of pension fund assets, the members and director of the state board and members of the investment advisory council shall act in accordance with chapter 356A.~~

Sec. 10. Minnesota Statutes 1990, section 11A.13, subdivision 1, is amended to read:

Subdivision 1. [LEGAL TITLE TO FUND ASSETS.] Legal title to the assets of state funds to be invested by the state board must be in the state of Minnesota, or its nominees. ~~Legal title to pension funds to be invested by the state board must be as specified in section 356A.06.~~

Sec. 11. Minnesota Statutes 1990, section 11A.14, subdivision 3, is amended to read:

Subd. 3. [MANAGEMENT.] The combined investment funds shall be managed by the state board. The state board may invest any funds under its management in the combined investment funds under chapter 11A or 11B.

Sec. 12. [11B.01] [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of this chapter, the terms defined in this section have the meanings given them, unless the context clearly indicates otherwise.

Subd. 2. [STATE BOARD.] "State board" means the state board of pension investment.

Subd. 3. [FUND.] "Fund" means any of the individual retirement funds for which the state board has responsibilities.

Sec. 13. [11B.02] [STATE BOARD; MEMBERSHIP; TERMS; COMPENSATION.]

Subdivision 1. [MEMBERSHIP.] The state board is composed of:

(1) the governor, attorney general, state auditor, state treasurer, and secretary of state;



(2) one active member of a fund administered by each of the following groups, elected by the active members of the funds administered by the group: the Minnesota state retirement system, the teachers retirement association, and the public employees retirement association;

(3) one person elected at-large from among retired members of all pension funds whose assets are invested by the state board; and

(4) one person elected at-large from among active members of all pension funds whose assets are invested by the state board, elected by active members of these funds.

The active members elected under clause (2) also serve on their respective retirement fund boards.

An active legislator or judge may not serve on the board. A member of a local relief association that has consolidated with the public employees retirement association shall be considered a member of the public employees retirement association for purposes of this section if the member has chosen benefit coverage under the public employees retirement association police and fire fund.

Subd. 2. [TERMS.] Constitutional officers serve ex officio as voting members. The terms of other members are four years, ending on June 30 of even-numbered years. The term of a person who is elected as an active member ends when the person is no longer an active member. In the event of a vacancy in a position held by an active or retired member of a pension fund, the position shall remain vacant until the state board of pension investment appoints a new member from the respective pension fund to complete the balance of the term.

Subd. 3. [ELECTIONS.] (a) The governing boards of the Minnesota state retirement system, the teachers retirement association, and the public employees retirement association shall conduct elections to select the active member from each fund who will serve on the state board. These boards shall jointly conduct elections to select retired and active at-large members. The secretary of state shall supervise these elections. A person is eligible to vote for and serve as the retired member on the state board if the person is a retired member of a pension fund whose assets are invested by the state board.

(b) For seven days, beginning October 1 of each year preceding a year in which an election under this subdivision is held, the boards must accept filings. Filings must be made at the offices of one of the boards, by mail or in person. At the time of filing, a candidate shall submit a nominating petition signed by 25 or more persons eligible to vote for the position the candidate seeks. A candidate may not withdraw from nomination after October 15.

(c) At the request of a candidate, the board or boards conducting the election under this subdivision shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The boards may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between a board and a candidate regarding application of these policies to a particular statement.

(d) By January 31 of each year in which elections are to be held under this subdivision, the board or boards shall distribute ballots listing the candidates by mail to eligible voters. No special marking may be used on the ballot to indicate incumbents. The ballot envelopes must be designed and the ballots counted in a manner that ensures that each vote is secret. The last day for mailing ballots to the board is the last day of February.

(e) This paragraph applies to a candidate for election under this subdivision who: (1) receives contributions or makes expenditures in excess of \$100; or (2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election. A candidate subject to this paragraph shall file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The report must be filed within 30 days after the result of the election is announced. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meanings defined in section 10A.01. These terms do not include the mailing made under paragraph (c) on behalf of a candidate. The ethical practices board shall maintain reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it.

Subd. 4. [OFFICERS.] The governor is the chair of the board. The board may elect other officers.

Subd. 5. [COMPENSATION.] Section 15.059, subdivision 3, applies to service on the board, except that members do not receive the daily compensation.

Subd. 6. [MEETINGS.] A quorum consists of at least three constitutional officers and at least three other members of the board. The board shall meet at the call of the chair. The chair shall call a meeting at least quarterly, and must call a meeting within 14 days of receiving a written request from at least half of the board members.

Subdivision 1. [INVESTMENT STANDARDS.] The state board shall invest funds under its control in investments authorized by section 11A.24, subject to the standards of section 11A.241. The board shall act as trustees for each fund for which it invests or manages money, in accordance with the standard of care in section 16.

Subd. 2. [INVESTMENT POLICY STATEMENT.] The state board shall adopt an investment policy statement that includes investment objectives, asset allocation, and the investment management structure for the retirement funds assets under its control. The statement may be revised at the discretion of the board. In adopting the statement, the board shall seek the advice of the investment advisory council. Adoption of the statement is not subject to chapter 14.

Subd. 3. [INVESTMENT PERFORMANCE MEASUREMENT.] The state board shall establish a formula or formulas to measure management performance and return on investment. All public pension funds in the state shall use the formula or formulas developed by the board.

Subd. 4. [STAFF; INVESTMENT ADVISORS.] The state board shall enter into an agreement with the state board of investment to use the services of the executive director and staff of that board. The state board may employ qualified private firms to invest and manage the assets of funds over which the board has investment management responsibility. There is annually appropriated to the state board, from the assets of the funds for which the state board uses a private investment manager, sums sufficient to pay the costs of employing private firms. By January 15 of each year, the board shall report to the governor and the legislature on the cost and the investment performance of each investment manager employed by the board.

Subd. 5. [POLICIES AND PROCEDURES.] The state board shall formulate policies and procedures necessary to carry out its functions. Procedures adopted by the board must allow fund beneficiaries and members of the public to become informed of proposed board actions. The board must adopt a policy relating to the purchase and sale of securities on the basis of competitive offerings or bids. Procedures and policies of the board are not subject to the administrative procedure act.

Subd. 6. [PURCHASE OF MUNICIPAL SECURITIES.] The state board shall not permit pension funds to be used for the underwriting of direct purchase of municipal securities from the issuer or the issuer's agent.

Subd. 7. [REPORT.] The state board shall report to the legislature by December 31 each year on the activities of the board during the

preceding fiscal year. The report must provide a clear, comprehensive summary of the portfolio composition, the transactions, the total annual rate of return and the yield, and the recipients of business placed or commissions allocated among the various commercial banks, investment brokers, and brokerage organizations. The report must contain audited financial statements for funds managed by the board, prepared in accordance with generally accepted accounting principles.

Subd. 8. [OTHER POWERS AND DUTIES.] (a) The board must:

(1) consistent with chapter 356A, keep securities in the custody of the state treasurer, or with other depositories; and

(2) maintain a record of its proceedings and of securities transactions and official activities.

(b) The board may:

(1) establish advisory task forces, subject to section 15.014, to assist the board in carrying out its duties;

(2) require state officials from any department or agency to produce and provide access to any financial documents necessary to the board in the conduct of its investment activities;

(3) receive and expend legislative appropriations; and

(4) undertake any other activities necessary to implement the powers and duties set forth in this section, consistent with chapter 356A.

Sec. 15. [11B.04] [INVESTMENT AND MANAGEMENT EXPENSES.]

Subdivision 1. [APPORTIONMENT OF EXPENSES.] All expenses incurred by the board that are not paid for by direct legislative appropriations must be apportioned by the executive director of the state board of investment, as provided in section 11A.07, subdivision 5.

Subd. 2. [SUPPORT SERVICES.] The state board of investment shall provide the state board with office space and administrative services. Staff of the state board of investment shall cooperate with the state board.

Sec. 16. [11B.05] [STANDARD OF CARE.]

In the discharge of their respective duties, the members of the state board and any other person charged with the responsibility of

investing money under the standards set forth in this chapter shall act in good faith and shall exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom. Board members and others charged with the responsibility of investing money under the standards set forth in this chapter must also act in accordance with chapter 356A.

Sec. 17. [11B.06] [INVESTMENT AND EXPENSE APPROPRIATION.]

There is appropriated to the state board annually, and from time to time, the various money available for investment in the various funds subject to the state board's supervision and control, for the purposes of the purchase, sale, exchange, and lending of securities, reinvestment activities, payment of the execution expenses of securities transactions, amortization of premiums or accumulation of discounts, and contribution and redemption of participation in the funds.

Sec. 18. [11B.07] [GAINS AND LOSSES; DISPOSITION.]

All interest and profit accruing from and all losses incurred by investment activity must be credited to or borne by the fund from which the investment was made.

Sec. 19. [11B.08] [ASSETS AND DOCUMENTATION.]

Subdivision 1. [LEGAL TITLE TO FUND ASSETS.] Legal title to pension funds to be invested by the state board must be as specified in section 356A.06.

Subd. 2. [RIGHTS OF EMPLOYEES; VALIDITY OF DOCUMENTATION.] The rights of any public employee to any assets in the retirement funds are as fixed by the law or laws authorizing or requiring a retirement fund to purchase or order the redemption of investment participations or units on behalf of the public employee. The state board may rely on the documents, forms, and applications of the retirement funds which accompany money for investment or orders to redeem assets as being made in concert with the law and with the rights of public employees. The state board need not inquire into the legality or validity of any documents, forms, and applications.

Sec. 20. [11B.09] [AUDIT.]

The board is subject to audit by the legislative auditor.

## Sec. 21. [11B.10] [COMBINED INVESTMENT FUNDS.]

Subdivision 1. [ESTABLISHMENT.] The Minnesota combined investment funds are established for the purpose of providing investment vehicles for assets of the participating funds. The combined funds shall consist of the following investment accounts: cash management accounts, equity accounts, fixed income accounts, and any other accounts determined appropriate by the state board.

Subd. 2. [ASSETS.] The assets of the combined investment funds shall consist of the money certified to and received by the state board from participating retirement plans and funds which shall be used to purchase investment shares in the appropriate investment accounts. Each participating fund shall own an undivided participation in all the assets of the combined funds. As of any date, the total claim of a participating fund on the assets in each account shall be equal to the ratio of units owned by a fund in each account to the total issued units then outstanding.

Subd. 3. [MANAGEMENT.] The combined investment funds shall be managed by the state board. The state board may invest funds under its management in the combined investment funds.

Subd. 4. [INVESTMENTS.] The assets of the combined investment funds shall be invested by the state board subject to the provisions of section 11A.24, except that any individual account may be completely invested in a single asset class.

Subd. 5. [INITIAL TRANSFER OF ASSETS.] The participating funds shall transfer to the combined investment funds all appropriate securities then held together with cash necessary for the purchase of units in the combined fund accounts.

Subd. 6. [INITIAL VALUATION OF ASSETS AND UNITS.] All assets transferred to the Minnesota combined investment funds shall be valued at their current market value as determined by the state board, including accrued interest. The initial value of each account unit shall be \$1,000 with each participating fund allocated units in the various accounts of the Minnesota combined investment funds in the same proportion as their assets are to the total assets in each account.

Subd. 7. [REALIZED APPRECIATION (DEPRECIATION).] Any realized gains or losses in the value of investments incurred by a transferring fund pursuant to subdivision 6 shall be recognized on the date of the transfer.

Subd. 8. [VALUATION OF UNITS.] (a) Valuation of units for the accounts in the Minnesota combined investment funds shall be performed as of the last business day of each month, or more

frequently should the state board determine that additional valuation dates are necessary.

(b) The value of a unit for each account shall be determined by the following procedure:

(1) as of the close of business on the valuation date the state board shall determine the fair market value of each asset in each account, using the references, pricing services, consultants, or other methods as the state board deems appropriate; and

(2) the sum total of the market value of all securities plus cash, less the value of undistributed income in each account, shall be divided by the number of units issued and outstanding for the account to determine the value per account unit.

Subd. 9. [PURCHASE AND REDEMPTION OF UNITS.] Purchase and redemption of units shall be on the first business day following the valuation date. All transactions shall be at the unit value established on the immediately preceding valuation date. Except for the initial purchase of units by an authorized participant, all purchases and redemptions shall be made in cash unless the state board determines that an exception is necessary.

Subd. 10. [EARNINGS DEFINED.] Investment earnings shall be the sum total of the following of each account:

(1) dividends receivable on securities trading ex-dividend to and including the valuation date;

(2) cash dividends received to and including the valuation date that were not accounted for on a previous valuation date;

(3) accrued interest to and including the valuation date;

(4) interest received which had not been accrued and accounted for on a prior valuation date;

(5) income from the sale of options, rights, warrants, or security lending; and

(6) other income received to and including the valuation date.

Subd. 11. [DISTRIBUTION OF EARNINGS.] At least once each year the state board shall distribute to each participant net earnings determined proportionately in accordance with their average unit holdings in each account during the period. Unless otherwise directed by the participating fund, any distributions shall be used to purchase additional units in the accounts.

Subd. 12. [RECORDS REQUIRED.] The state board shall keep accounting records. The records shall reflect the number of units in the Minnesota combined investment funds owned by each participating fund. No certificates or other evidence of ownership shall be required.

Subd. 13. [REPORTS REQUIRED.] As of each valuation date, or as often as the state board determines, each participant shall be informed of the number of units owned and the current value of the units. Annually, the state board shall provide each participant financial statements prepared in accordance with generally accepted accounting principles.

Sec. 22. Minnesota Statutes 1990, section 79.251, subdivision 7, is amended to read:

Subd. 7. [INVESTMENT OF ASSETS.] The commissioner shall certify and transfer to the state board of investment all assigned risk plan assets which in the commissioner's judgment are not required for immediate use. The state board of investment shall invest the certified assets, ~~and may invest the assets~~ consistent with the provisions of section ~~11A.14~~ 11A.24. All investment income and losses attributable to the investment of assigned risk plan assets must be credited to the assigned risk plan. When the commissioner certifies to the state board that invested assets are required for immediate use, the state board shall sell assets to provide the amount of assets the commissioner certifies. The board shall transfer the sale proceeds to the commissioner.

Sec. 23. Minnesota Statutes 1990, section 352.05, is amended to read:

352.05 [STATE TREASURER TO BE TREASURER OF SYSTEM.]

The state treasurer is ex officio treasurer of the retirement funds of the system. The general bond to the state shall cover all liability for actions as treasurer of these funds. Funds of the system received by the treasurer must be set aside in the state treasury to the credit of the proper fund. The treasurer shall deliver to the director copies of all payroll abstracts of the state together with the commissioner of finance's warrants covering the deductions made on these payroll abstracts for the retirement fund. The director shall have a list made of the commissioner of finance's warrants. These warrants must then be deposited with the state treasurer to be credited to the retirement fund. The treasurer shall pay out of this fund only on warrants issued by the commissioner of finance, upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by ~~the execu-~~



the executive director of an official designated by the state board of pension investment.

Sec. 24. Minnesota Statutes 1990, section 353.05, is amended to read:

353.05 [CUSTODIAN OF FUNDS.]

The state treasurer shall be ex officio treasurer of the retirement funds of the association and the treasurer's general bond to the state shall be so conditioned as to cover all liability for acts as treasurer of these funds. All moneys of the association received by the treasurer shall be set aside in the state treasury to the credit of the proper fund. The treasurer shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the fund. Payments out the fund shall be made only on warrants issued by the commissioner of finance, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the secretary of an official designated by the state board of pension investment.

Sec. 25. Minnesota Statutes 1990, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund is vested in a board of ~~eight~~ nine trustees known as the board of trustees of the teachers retirement fund. It is composed of the following persons: the commissioner of education, the commissioner of finance, the commissioner of commerce, ~~four~~ five members of the fund elected by the members of the fund, and one retiree elected by the retirees of the fund. The ~~five~~ six elected members of the board of trustees must be chosen by mail ballot in a manner fixed by the board of trustees of the fund. ~~In every odd-numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year~~ The two active members whose terms began July 1, 1989, serve five-year terms ending June 30, 1994. Beginning in 1994 and every fourth year thereafter three members of the fund shall be elected to the board of trustees for terms of four years beginning on the first of July next succeeding their election. One of these three members must be elected to serve on the state board of pension investment. The two active members whose terms began July 1, 1991, serve five-year terms ending June 30, 1996. Beginning in 1996 and every fourth year thereafter two members of the fund shall be elected to the board of trustees for terms of four years commencing on the first of July next succeeding their election. The retiree of the fund whose term began July 1, 1991, serves a three-year term ending June 30, 1994. Beginning in 1994 and every even-numbered year thereafter one retiree of the fund must be elected to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of

candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election must be completed by June first of each succeeding ~~odd-numbered~~ even-numbered year. In the case of elective members, except for a member elected to serve on the state board of pension investment, any vacancy must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree may be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a member or retiree of the fund in good standing at the time of the appointment or election.

Sec. 26. Minnesota Statutes 1990, section 356.218, subdivision 1, is amended to read:

Subdivision 1. [REPORT REQUIRED.] (a) Unless paragraph (c) applies, the chief administrative officer of a public pension plan with an associated pension fund or investment fund specified in subdivision 2 shall annually prepare and file an investment performance report meeting the contents requirements of subdivision 3. The report must be filed with or distributed as specified in paragraph (b) by April 1 each year and must cover the previous calendar year. The report must be prepared under the supervision or at the direction of the chief administrative officer and must be signed by that officer. The investment performance report is a public record.

(b) A copy of the report or a synopsis of the report must be distributed to each member of the pension plan and must be filed with the chief administrative officer of each employing unit making employer contributions to the pension plan. A copy of the report also must be filed with the executive director of the legislative commission on pensions and retirement.

(c) This section does not apply to the state board of investment or to the state board of pension investment. This section also does not apply to a public pension plan if all assets of the pension fund or investment fund attributable to the public pension plan are invested by the state board of pension investment under chapters ~~11A~~ 11B and 356A and if the ~~executive director of the state board of pension investment~~ makes public in an annual report or in other documents the fiscal year investment performance results of the pension fund or investment fund attributable to the pension plan that substantially meet the requirements of subdivision 3 for that fiscal year period.

Sec. 27. Minnesota Statutes 1990, section 356A.01, subdivision 23, is amended to read:

Subd. 23. [STATE BOARD OF PENSION INVESTMENT.] "State board of pension investment" means the Minnesota state board of

pension investment created by the ~~Minnesota Constitution, article XI, in section 8 13.~~

Sec. 28. Minnesota Statutes 1990, section 356A.02, subdivision 1, is amended to read:

Subdivision 1. [FIDUCIARY STATUS.] For purposes of this chapter, the following persons are fiduciaries:

- (1) any member of the governing board of a covered pension plan;
- (2) the chief administrative officer of a covered pension plan or of the state board of investment;
- (3) any member of the state board of pension investment; and
- (4) any member of the investment advisory council.

Sec. 29. Minnesota Statutes 1990, section 356A.11, subdivision 1, is amended to read:

Subdivision 1. [INDEMNIFIED FIDUCIARIES.] A fiduciary who is a member of the governing board of a pension plan, the state board of pension investment or the investment advisory council, or who is an employee of a covered pension plan or of the state board of investment may be indemnified from liability for fiduciary breach. Indemnification is at the discretion of the governing board of the plan or of the state board of investment in the case of members of the state board or of the investment advisory council. A decision to indemnify a fiduciary must apply to all eligible fiduciaries of similar rank.

Sec. 30. Minnesota Statutes 1990, section 422A.06, subdivision 8, is amended to read:

Subd. 8. [RETIREMENT BENEFIT FUND.] The retirement benefit fund shall consist of amounts held for payment of retirement allowances for members retired pursuant to this chapter. Assets equal to the required reserves for retirement allowances pursuant to this chapter determined in accordance with the appropriate mortality table adopted by the board of trustees based on the experience of the fund as recommended by the commission-retained actuary shall be transferred from the deposit accumulation fund to the retirement benefit fund as of the last business day of the month in which the retirement allowance begins. The income from investments of these assets shall be allocated to this fund. There shall be paid from this fund the retirement annuities authorized by law. A required reserve calculation for the retirement benefit fund must be made by the actuary retained by the legislative commission on pensions and retirement and must be certified to the retirement board by the

commission-retained actuary. The retirement benefit fund shall be governed by the applicable laws governing the accounting and audit procedures, investment, actuarial requirements, calculation and payment of postretirement benefit adjustments, discharge of any deficiency in the assets of the fund when compared to the actuarially determined required reserves, and other applicable operations and procedures regarding the Minnesota postretirement investment fund established pursuant to section 11A.18, and any legal or administrative interpretations of those laws of the state board of investment, the state board of pension investment, the legal advisor to the board of investment these boards, and the executive director of the state board of investment. If a deferred yield adjustment account is established for the Minnesota postretirement investment fund under section 11A.18, subdivision 5, the retirement board shall also establish and maintain a deferred yield adjustment account within this fund.

Annually, following the calculation of any postretirement adjustment payable from the retirement benefit fund, the board of trustees shall submit a report to the executive director of the legislative commission on pensions and retirement and to the commissioner of finance indicating the amount of any postretirement adjustment and the underlying calculations on which that postretirement adjustment amount is based, including the amount of dividends, the amount of interest, and the amount of net realized capital gains or losses utilized in the calculations.

Sec. 31. Minnesota Statutes 1990, section 490.123, subdivision 2, is amended to read:

Subd. 2. [TREASURER.] The state treasurer shall be ex officio treasurer of the judges' retirement fund and the treasurer's general bond to the state shall be so conditioned as to cover all liability for acting as treasurer of this fund. All moneys received by the treasurer pursuant to this section shall be set aside in the state treasury to the credit of the judges' retirement fund. The treasurer shall transmit monthly to the executive director described in section 352.03, subdivision 5, a detailed statement of all amounts so received and credited to the fund. The treasurer shall pay out the fund only on warrants issued by the commissioner of finance, upon vouchers signed by said executive director; provided that vouchers for investment may be signed by the secretary of an official designated by the state board of pension investment.

Sec. 32. [INSTRUCTION TO REVISOR.]

Subdivision 1. [INTERNAL REFERENCE CHANGES.] In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall, in each section referred to in column A, strike the section referred to in column B and insert a reference to the section

in chapter 11B where the section referred to in column B is recodified.

Column A

3A.11, Subd. 1  
3A.11, Subd. 2  
11A.02, Subd. 3  
11A.08, Subd. 5  
11A.14, Subd. 5  
69.77, Subd. 2g  
69.77, Subd. 2g  
69.775  
69.775  
69.775  
352.04, Subd. 12  
352.061  
352.119, Subd. 2  
352.75, Subd. 3  
352.911, Subd. 3  
352.911, Subd. 3  
352.911, Subd. 5  
352.93, Subd. 3  
352.96, Subd. 2  
352B.26, Subd. 3  
352D.015, Subd. 3  
352D.03  
352D.04, Subd. 1  
353.06  
353.271, Subd. 2  
353.33, Subd. 7  
353A.02, Subd. 14  
353A.02, Subd. 14  
353A.02, Subd. 14  
353A.02, Subd. 20  
353A.02, Subd. 23  
353A.05, Subd. 1  
353A.05, Subd. 2  
353A.05, Subd. 2  
353A.05, Subd. 2  
353A.05, Subd. 2  
353A.08, Subd. 1  
353C.01, Subd. 3  
353C.01, Subd. 3  
353C.01, Subd. 5  
353C.06, Subd. 4  
353D.05, Subd. 1  
353D.05, Subd. 2  
354.05, Subd. 26  
354.63, Subd. 2  
354B.06

Column B

11A.18  
11A.18  
11A.08  
11A.09  
11A.17  
11A.17  
11A.24  
11A.17  
11A.24  
11A.04, clause(11)  
11A.18  
11A.18  
11A.18  
11A.18  
11A.14  
11A.23  
11A.18  
11A.18  
11A.17  
11A.18  
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11A.14  
11A.23  
11A.18  
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11A.18  
11A.18

<u>356.39</u>	<u>11A.18</u>
<u>356.41</u>	<u>11A.18</u>
<u>356A.01, Subd. 16</u>	<u>11A.08</u>
<u>422A.06, Subd. 8</u>	<u>11A.18</u>
<u>422A.18, Subd. 2</u>	<u>11A.18</u>
<u>422A.23, Subd. 10</u>	<u>11A.18</u>
<u>490.107</u>	<u>11A.18</u>
<u>490.123, Subd. 3</u>	<u>11A.18</u>

In the next and subsequent editions of Minnesota Statutes, the revisor shall substitute the term "state board of pension investment" for "state board of investment" in the following places: Minnesota Statutes, chapters 352, 352B, 353, 353A, 353B, 353D, 354, 354B, and 383B; Minnesota Statutes, sections 356.217, 356.615, 356.71, 356A.03, subdivision 4, 356A.06, subdivisions 1, 4, and 6; and 490.123, subdivision 3.

Subd. 2. [RECODIFICATION.] The revisor of statutes shall recodify the following sections of Minnesota Statutes in chapter 11B, so that the term "state board" will refer to the state board of pension investment created in Minnesota Statutes, chapter 11B: 11A.08, as amended by sections 7 and 8; 11A.13, subdivision 2; 11A.17; 11A.18; and 11A.23.

#### Sec. 33. [REPEALER.]

Minnesota Statutes 1990, section 11A.14, subdivision 5, is repealed.

#### Sec. 34. [TRANSITION.]

Minnesota Statutes, section 15.039, subdivisions 1 to 6, apply to transfers of duties and powers under this bill. All policies of the state board of investment related to investment of public pension funds remain in effect until amended by the state board of pension investment.

#### Sec. 35. [EFFECTIVE DATE.]

Sections 13 and 25 are effective July 1, 1993. Sections 1 to 12, 14 to 24, and 26 to 34, are effective July 1, 1994."

Delete the title and insert:

"A bill for an act relating to state government; creating a state board of pension investment; prescribing its powers and duties; transferring authority from the state board of investment; appropriating money; amending Minnesota Statutes 1990, sections 10A.01, subdivision 18; 11A.01; 11A.02, subdivisions 2 and 4; 11A.04; 11A.07, subdivision 5; 11A.08, subdivisions 1 and 2; 11A.09; 11A.13,

subdivision 1; 11A.14, subdivision 3; 79.251, subdivision 7; 352.05; 353.05; 354.06, subdivision 1; 356.218, subdivision 1; 356A.01, subdivision 23; 356A.02, subdivision 1; 356A.11, subdivision 1; 422A.06, subdivision 8; and 490.123, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 11B; repealing Minnesota Statutes 1990, section 11A.14, subdivision 5.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2480, A bill for an act relating to agriculture; establishing a dairy expansion and stabilization loan guarantee program; amending Minnesota Statutes 1990, section 41B.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 41B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 41B.03, is amended by adding a subdivision to read:

Subd. 6. [ELIGIBILITY FOR DAIRY EXPANSION LOANS.] In addition to the requirements under subdivision 1, a prospective borrower for a dairy expansion loan under section 2 must:

(1) have sufficient education, training, or experience in operating a dairy farm;

(2) certify that the loan will be used to expand an existing dairy farm by modernizing the existing facilities or replacing existing facilities with modern ones;

(3) have a reasonable business plan with documented production and management expertise;

(4) demonstrate a need for and an ability to repay the loan; and

(5) certify that dairy farming will be the borrower's principal occupation.

Sec. 2. [41B.041] [DAIRY EXPANSION PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The authority shall establish, develop criteria for, and implement a dairy expansion program designed to provide loans to dairy farmers who want to expand their production by modernizing or replacing existing dairy production facilities. Loans under this program must primarily finance depreciable assets and dairy cattle and should not be used to purchase real estate.

Subd. 2. [SPECIFICATIONS.] (a) Loans under this section may be for a term of up to 20 years.

(b) A loan under this section may not exceed 90 percent of the cost of the project.

(c) An application for a loan under this section should be evaluated on a commercial cash-flow basis.

(d) The authority shall charge a nonrefundable loan application fee and a loan origination fee to prospective borrowers. Fees shall be deposited to the general fund.

(e) Each loan must be secured by a mortgage on real property comprising all or part of the farm on which the improvements are made, and such other security as the authority may require.

(f) The state may participate in a new loan with an eligible lender to a dairy farmer to the extent of 45 percent of the principal amount of the loan or \$400,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the lender's retained portion of the loan.

(g) The rural finance authority board shall designate a portion of current bonding authority to be used for the dairy upgrade program."

Amend the title as follows:

Page 1, line 3, delete "guarantee"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.



Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2489, A bill for an act relating to agriculture; providing for a waiver from certain rules relating to water well placement; authorizing recertification of certain dairy farms for "grade A" production; providing for water testing guidelines; amending Minnesota Statutes 1990, section 32.394, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 103L.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 32.394, is amended by adding a subdivision to read:

Subd. 11. [WAIVER OF RULES; WATER WELL SET-BACK.] Notwithstanding any rule of the department of health or agriculture to the contrary, a dairy farmer who wishes to be permitted to produce grade A milk may not be denied the grade A permit solely because of provisions in the well code stipulating a minimum set-back of the water well from the dairy barn. To be eligible for a grade A permit, the following conditions must be met:

(1) the water well must have been in place prior to January 1, 1974;

(2) the water well must comply with all aspects of the current well code other than minimum set-back; and

(3) water from the well must be tested at least once each six months in compliance with guidelines established by the commissioner of agriculture.

Sec. 2. Minnesota Statutes 1990, section 32.394, is amended by adding a subdivision to read:

Subd. 12. [WATER TESTING GUIDELINES.] The commissioner of agriculture, in consultation with the commissioner of health, must establish guidelines for the types of testing or analysis to be performed on water samples from a well receiving a permit under section 1. The guidelines are not subject to chapter 14."

Amend the title as follows:

Page 1, line 7, delete everything after "adding" and insert "subdivisions."

Page 1, delete line 8

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2510, A bill for an act relating to transportation; providing procedures for design, approval, and construction of light rail transit; establishing corridor management committee; designating joint lead agencies for the metropolitan area; providing for resolution of disputes; changing membership and responsibilities of the light rail transit joint powers board; amending Minnesota Statutes 1990, sections 174.32, subdivision 2; 473.167, subdivision 1; 473.399, subdivision 1; 473.3994, subdivisions 2, 3, 4, 5, 6, 7, and by adding subdivisions; 473.3996; 473.4051; Minnesota Statutes 1991 Supplement, section 473.3998; Laws 1991, chapter 291, article 4, section 20; proposing coding for new law in Minnesota Statutes, chapter 174; repealing Minnesota Statutes 1990, sections 473.399, subdivisions 2 and 3; 473.3991; Minnesota Statutes 1991 Supplement, section 473.3997.

Reported the same back with the following amendments:

Page 4, lines 7, 9, and 17, delete “joint lead agencies” and insert “commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located”

Page 4, line 33, strike “and” and insert a comma

Page 4, lines 33 and 34, delete “joint lead agencies” and insert “commissioner of transportation, and the regional railroad authority or authorities in whose jurisdiction the line or lines are located”

Page 5, lines 5 and 8, delete “joint lead agencies” and insert “commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located”

Page 5, lines 14 and 15, delete “joint lead agencies” and insert “commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located”

Page 6, lines 26 and 27, delete “joint lead agencies” and insert “commissioner of transportation”

Page 7, lines 4 and 5, delete "joint lead agencies" and insert "commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located"

Page 7, line 13, delete "comment" and insert "approval"

Page 7, line 15, after the semicolon insert "and"

Page 7, line 16, delete ", and" and insert a period

Page 7, delete line 17 and insert:

"The commissioner must submit major contract changes during construction to each regional rail authority in which the corridor is located for review and comment."

Page 7, line 20, delete "JOINT LEAD AGENCIES" and insert "ALTERNATIVES ANALYSIS" and delete "(a)"

Page 7, delete lines 21 to 30

Page 7, line 31, delete "(b)"

Page 7, line 34, after "commissioner" insert "of transportation"

Page 7, line 34, delete "a final" and insert "an alternatives analysis, the"

Page 7, line 35, delete "impact statement and" and insert "review documents required, and the"

Page 7, line 36, after the period insert "The council must approve the design for the alternatives analysis and the completed alternatives analysis."

Page 8, line 1, delete everything after the period

Page 8, delete lines 2 to 4

Page 8, lines 23 and 33, delete "joint lead agencies" and insert "commissioner of transportation and the regional railroad authority or authorities in whose jurisdiction the line or lines are located"

Page 11, delete section 18 and insert:

"Sec. 18. Minnesota Statutes 1991 Supplement, section 473.3997, is amended to read:

473.3997 [FEDERAL FUNDING; LIGHT RAIL TRANSIT.]

By July 1, 1992, (a) The regional transit board, the regional rail authorities, and the commissioner of transportation, and the affected regional rail authorities shall jointly prepare any a joint application for federal assistance for light rail transit facilities in the metropolitan area. The application must be reviewed and approved by the metropolitan council before it is submitted by the board and the commissioner. In reviewing the application the council must consider the information submitted to it under section 473.3994, subdivision 9. The board, the rail authorities, and the commissioner must consult with the council in preparing the application. The application may provide for metropolitan regional railroad authorities to design or construct light rail transit facilities under contract with the commissioner.

(b) Until the application described in paragraph (a) is submitted, no political subdivision in the metropolitan area may on its own apply for federal assistance for light rail transit planning or construction."

Page 11, delete lines 28 and 29, and insert:

"Laws 1991, chapter 291, article 4, section 20, is repealed."

Amend the title as follows:

Page 1, delete line 5

Page 1, line 6, delete "area;"

Page 1, line 13, delete "section" and insert "sections 473.3997; and"

Page 1, lines 13 and 14, delete "Laws 1991, chapter 291, article 4, section 20;"

Page 1, line 17, delete "Minnesota Statutes"

Page 1, delete line 18 and insert "; and Laws 1991, chapter 291, article 4, section 20."

With the recommendation that when so amended the bill pass.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2563, A bill for an act relating to human services; regulating medical assistance payments for the services of occupational and physical therapy assistants.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2566, A bill for an act relating to agriculture; modifying license fees for certain food handlers; amending Minnesota Statutes 1991 Supplement, section 28A.08.

Reported the same back with the following amendments:

Page 4, after line 23, insert:

"Sec. 2. Minnesota Statutes 1990, section 28A.15, subdivision 7, is amended to read:

Subd. 7. Persons whose principal business is not food handling but who sell only ice manufactured and prepackaged by another or such nonperishable items as bottled or canned soft drinks ~~and~~, prepackaged confections ~~or~~ nuts at retail, or persons who for their own convenience or the convenience of their employees have available for rehydration and consumption on the premises such nonperishable items as dehydrated coffee, soup, hot chocolate or other dehydrated food or beverage."

Amend the title as follows:

Page 1, line 3, delete "amending" and insert "clarifying an exclusion from licensing provisions; amending Minnesota Statutes 1990, section 28A.15, subdivision 7;"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2684, A bill for an act relating to the department of health; establishing a service connection fee for certain public water supply users; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 1, delete Section 1

Page 2, line 17, delete "Sec. 2." and insert "Section 1."

Page 2, line 20, delete "Section 1" and insert "complying with the federal Safe Drinking Water Act"

Amend the title as follows:

Page 1, line 2, delete everything after "to" and insert "appropriations; appropriating money to the department of health to comply with the federal Safe Drinking Water Act."

Page 1, delete lines 3 to 5

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2716, A bill for an act relating to agriculture; changing the expiration of nursery stock dealers' certificates and the penalty for late certificate renewals; clarifying certain language; imposing a penalty for violation of the plant pest act; changing certain pesticide control requirements; changing certain emergency powers of the commissioner related to seeds; changing provisions concerning adulterated dairy products; amending Minnesota Statutes 1990, sections 18.52, subdivision 2; 18.59; 18B.31, subdivision 1; 18B.36, subdivision 1; 21.85, subdivision 10; and 32.21; Minnesota Statutes 1991 Supplement, sections 18.52, subdivision 5; and 18.60, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 17.03, is amended by adding a subdivision to read:

Subd. 9. [GIFTS; SALE OF PAMPHLETS AND PUBLICATIONS; ADVERTISING; SPECIAL RECEIPTS; FEES; APPROPRIATION.]

(a) The commissioner may accept for and on behalf of the state any gift, bequest, devise, grant, or interest in money or personal property of any kind tendered to the state for any purpose pertaining to the activities of the department of agriculture or any of its divisions.

(b) The commissioner may charge a fee for reports, publications, or other promotional or informational material produced by the department of agriculture. The commissioner may solicit and accept advertising revenue for any departmental publications or promotional materials.

(c) The commissioner may charge fees for seminars, workshops, or other informational meetings that are conducted by the department of agriculture.

(d) The fees collected by the commissioner under this section are to recover all or part of the costs of providing services for which the fees are paid. These fees are not subject to chapter 14 or sections 16A.128 and 16A.1281.

(e) Money received by the commissioner for these activities may be credited to one or more special accounts in the state treasury. Money in those special accounts is annually appropriated to the commissioner to provide the services for which the money was received.

Sec. 2. Minnesota Statutes 1990, section 18.52, subdivision 2, is amended to read:

Subd. 2. [EXPIRATION.] Said certificate shall expire on ~~November 15~~ December 31 of each year.

Sec. 3. Minnesota Statutes 1991 Supplement, section 18.52, subdivision 5, is amended to read:

Subd. 5. [FEES; PENALTY.] A nursery stock dealer shall pay an annual fee based on the dealer's gross sales during the preceding certificate year. A nursery stock dealer operating for the first year will pay the minimum fee.

## Dealers:

- |  |                                     |
|--|-------------------------------------|
| (1) Gross sales up to \$5,000                  | at a location<br>\$70 per location  |
| (2) Gross sales over \$5,000 up to \$10,000    | at a location<br>\$100 per location |
| (3) Gross sales over \$10,000 up to \$25,000   | at a location<br>\$200 per location |
| (4) Gross sales over \$25,000 up to \$75,000   | at a location<br>\$300 per location |
| (5) Gross sales over \$75,000 up to \$100,000  | at a location<br>\$400 per location |
| (6) Gross sales over \$100,000 up to \$250,000 | at a location<br>\$500 per location |
| (7) Gross sales over \$250,000                 | at a location<br>\$600 per location |

In addition to the above fees, A minimum penalty of \$10 or 25 percent of the fee due, ~~whichever is greater~~, shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

Sec. 4. Minnesota Statutes 1990, section 18.59, is amended to read:

## 18.59 [VIOLATIONS.]

It shall be a violation of the plant pest act for any person:

(1) to hinder or prevent the commissioner from carrying out the duties of the act.

(2) to sell, transport, or offer for sale nursery stock which has not been inspected and certified, by a duly authorized nursery inspector, to be apparently free of plant pests.

(3) to fail to carry out the treatment or destruction of condemned plants or other material after official notification by the commissioner.

(4) to use an invalid certificate of inspection or shipping tag in the sale or distribution of nursery stock covered by this act.

(5) to misrepresent or mislabel nursery stock as to vigor, hardiness and viability.



(6) to violate any quarantine promulgated by the commissioner in accordance with the act.

(7) to fail to comply with any provision of the plant pest act, or any rules promulgated thereunder.

(8) to possess nursery stock or have it on the premises for the purposes of sale or disposition without a valid certificate of inspection, nursery stock dealer's certificate, nursery stock grower's certificate, or greenhouse certificate.

Sec. 5. Minnesota Statutes 1991 Supplement, section 18.60, is amended by adding a subdivision to read:

Subd. 4. [MISDEMEANOR.] A person who violates a provision of the plant pest act or a rule adopted under the plant pest act is guilty of a misdemeanor.

Sec. 6. Minnesota Statutes 1990, section 18B.26, subdivision 3, is amended to read:

Subd. 3. [APPLICATION FEE.] (a) A registrant shall pay an annual application fee for each pesticide to be registered, and this fee is set at one-tenth of one percent for calendar year 1990 and at one-fifth of one percent thereafter of annual gross sales within the state and annual gross sales of pesticides used in the state, with a minimum nonrefundable fee of \$150 plus an additional one-tenth of one percent for each pesticide for which the United States Environmental Protection Agency, Office of Water, has published a Health Advisory Summary by December 1 of the previous year. A registrant need not pay the annual gross sales fee if the fee is less than \$10. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the state for use outside of the state are exempt from the application fee in this paragraph if the registrant properly documents the sale location and distributors. A registrant paying more than the minimum fee shall pay the balance due by March 1 based on the gross sales of the pesticide by the registrant for the preceding calendar year. The fee for disinfectants and sanitizers is \$150 the minimum. The minimum fee is due by December 31 preceding the year for which the application for registration is made. Of the amount collected after calendar year 1990, up to \$600,000 per year must may be credited to the waste pesticide account under section 18B.065, subdivision 5, and the additional amount collected for pesticides with Health Advisory

Summaries shall be credited to the agricultural project utilization account under section 116O.13 to be used for pesticide use reduction grants by the agricultural utilization research institute.

(b) An additional fee of \$100 must be paid by the applicant for each pesticide to be registered if the application is a renewal application that is submitted after December 31.

(c) A registrant must annually report to the commissioner the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report shall be filed by March 1 for the previous year's registration. The commissioner shall specify the form of the report and require additional information deemed necessary to determine the amount and type of pesticides annually distributed in the state. The information required shall include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

Sec. 7. Minnesota Statutes 1991 Supplement, section 18E.03, subdivision 5, is amended to read:

Subd. 5. [FEE AFTER 1990.] (a) The response and reimbursement fee for calendar years after calendar year 1990 consists of the surcharges in this subdivision and shall be collected by the commissioner. The amount of the response and reimbursement fee shall be determined and imposed annually as required under subdivision 3. The amount of the surcharges shall be proportionate to the surcharges in subdivision 4.

(b) The commissioner shall impose a surcharge on pesticides registered under chapter 18B to be collected as a surcharge on the registration application fee under section 18B.26, subdivision 3, as a percent of gross sales of the pesticide in the state and sales of the pesticide for use in the state during the previous calendar year, except the surcharge may not be imposed on pesticides that are sanitizers or disinfectants as determined by the commissioner. No surcharge is required if the surcharge amount based upon percent of annual gross sales is less than \$10. Corrective action costs incurred in responding to incidents involving sanitizers or disinfectants are ineligible for reimbursement or payment under this chapter. The registrant shall determine when and which pesticides are sold or used in this state. The registrant shall secure sufficient sales information of pesticides distributed into this state from distributors and dealers, regardless of distributor location, to make a determination. Sales of pesticides in this state and sales of pesticides for use in this state by out-of-state distributors are not exempt and must be included in the registrant's annual report, as required under section 18B.26, subdivision 3, paragraph (c), and fees shall be paid by the registrant based upon those reported sales. Sales of pesticides in the

state for use outside of the state are exempt from the surcharge in this paragraph if the registrant properly documents the sale locations and the distributors.

(c) The commissioner shall impose a fee per ton surcharge on the inspection fee under section 18C.425, subdivision 6, for fertilizers, soil amendments, and plant amendments.

(d) The commissioner shall impose a surcharge on the application fee of persons licensed under chapters 18B and 18C consisting of:

(1) a surcharge for each site where pesticides are stored or distributed, to be imposed as a surcharge on pesticide dealer application fees under section 18B.31, subdivision 5;

(2) a surcharge for each site where a fertilizer, plant amendment, or soil amendment is distributed, to be imposed on persons licensed under sections 18C.415 and 18C.425;

(3) a surcharge to be imposed on a structural pest control applicator license application under section 18B.32, subdivision 6, for business license applications only;

(4) a surcharge to be imposed on commercial applicator license application fees under section 18B.33, subdivision 7;

(5) a surcharge to be imposed on noncommercial applicator license application fees under section 18B.34, subdivision 5, except a surcharge may not be imposed on a noncommercial applicator that is a state agency, a political subdivision of the state, the federal government, or an agency of the federal government; and

(6) a surcharge for licensed lawn service applicators under chapter 18B or 18C, to be imposed on license application fees.

(e) If a person has more than one license for a site, only one surcharge may be imposed to cover all the licenses for the site.

(f) A \$1,000 fee shall be imposed on each site where pesticides are stored and sold for use outside of the state unless:

(1) the distributor properly documents that it has less than \$2,000,000 per year in wholesale value of pesticides stored and transferred through the site; or

(2) the registrant pays the surcharge under paragraph (b) and the registration fee under section 18B.26, subdivision 3, for all of the pesticides stored at the site and sold for use outside of the state.

Sec. 8. Minnesota Statutes 1990, section 18B.31, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) Except as provided in paragraph (b), a no person may not shall distribute at wholesale or retail ~~or possess~~ restricted use pesticides or bulk pesticides ~~with an intent to distribute them to an ultimate user~~ without a pesticide dealer license.

(b) The pesticide dealer license requirement does not apply to:

(1) a licensed commercial applicator, noncommercial applicator, or structural pest control applicator who uses restricted use pesticides only as an integral part of a pesticide application service;

(2) a federal, state, county, or municipal agency using restricted use pesticides for its own programs; or

(3) a licensed pharmacist, physician, dentist, or veterinarian when administering or dispensing a restricted use pesticide for use in the pharmacist's, physician's, dentist's, or veterinarian's practice.

(c) A licensed pesticide dealer may sell distribute a restricted use ~~pesticides~~ pesticide or a bulk pesticide only to an applicator a person who is properly licensed or certified by the commissioner or that licensed or certified person's designated agent, unless a sale is allowed otherwise authorized by rule. A licensed or certified person is responsible for all acts of that person's agent in regard to distribution under this paragraph.

Sec. 9. Minnesota Statutes 1990, section 18B.36, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] (a) Except for a licensed commercial or noncommercial applicator, only a certified private applicator may use a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation; or

(2) on a site owned, rented, or managed by the person or the person's employees.

(b) A private applicator or the applicator's agent may not purchase a restricted use pesticide without presenting a certified private applicator card or the card number.

Sec. 10. Minnesota Statutes 1990, section 21.85, subdivision 10, is amended to read:

Subd. 10. [COMMISSIONER MAY ALTER REQUIREMENTS IN EMERGENCIES.] In the event of acute shortages of any seed or seeds, or the occurrence of other conditions which in the opinion of the commissioner create an emergency which would make impractical the enforcement of any requirement of sections 21.80 to 21.92 relating to the percentage of purity and, weed seed content, and the variety name of any seed or seeds, the commissioner may temporarily change and alter any requirement relating to percentage of purity and, weed seed content, and the variety name for the duration of the emergency.

Sec. 11. Minnesota Statutes 1990, section 32.21, is amended to read:

32.21 [ADULTERATED MILK AND CREAM DAIRY PRODUCTS.]

Subdivision 1. [PURCHASE AND SALE PROHIBITION.] A person may not sell or knowingly buy adulterated ~~milk or cream~~ dairy products.

Subd. 2. [MANUFACTURE OF FOOD FOR HUMAN CONSUMPTION FROM ADULTERATED MILK OR CREAM PROHIBITED.] An article of food for human consumption may not be manufactured from adulterated milk or cream, except as provided in section 32.22 or the federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 301 et seq., and related federal regulations.

Prior to processing milk, all bulk milk pickup tankers must be tested for the presence of beta lactum drug residues and for other residues as determined necessary by the commissioner. Test methods must be those approved by the Association of Analytical Chemists (AOAC) or under the AOAC C2 program. Bulk milk tankers testing positive must be reported to the commissioner or the commissioner's agent within 24 hours. This report must include how and where the milk was disposed of, the volume, the responsible producer, and the possible cause of the violative residue. All milk sample residue results must be recorded and retained for examination by the commissioner or the commissioner's agent for six months by the receiving plant. Milk received from a producer in other than a bulk milk pickup tanker is also subject to this section.

Subd. 3. [ADULTERATED MILK OR CREAM.] For purposes of this section and section 32.22, ~~milk or cream~~ is adulterated if it:

- (1) ~~milk~~ is drawn in a filthy or unsanitary place;
- (2) ~~milk~~ is drawn from unhealthy or diseased cows;

(3) ~~milk~~ is drawn from cows that are fed garbage or an unwholesome animal or vegetable substance;

(4) ~~milk~~ is drawn from cows within 15 days before calving, or five days after calving;

(5) ~~milk or cream~~ contains water in excess of that normally found in milk;

(6) contains a substance that is not a normal constituent of the ~~milk or cream~~, as determined by laboratory procedures established by rule or except as allowed in this chapter;

(6) ~~milk contains water in excess of that normally present in milk;~~  
or

(7) ~~milk or cream~~ contains ~~antibiotics~~ drug residues or other bacterial inhibitory chemical or biological substances in amounts above the actionable tolerances or safe levels established by rule or under section 32.415.

Subd. 4. [PENALTIES.] (a) A person, other than a milk producer, who violates this section is guilty of a misdemeanor or subject to a civil penalty up to \$1,000.

(b) A milk producer may not change milk plants within 30 days, without permission of the commissioner, after receiving notification from the commissioner under paragraph (c) or (d) that the milk producer has violated this section.

(c) A milk producer who violates this section shall be subject to a civil penalty of \$100. The commissioner must notify the person violating this section by certified mail stating:

(1) the milk producer violating this section is on probation for one year after the date of violation; and

(2) the \$100 civil penalty is suspended unless the milk producer violates this section during the probation period, including changing milk plants within 30 days after the violation.

(d) A milk producer who violates this section a second time within a 12-month period is subject to a \$200 civil penalty. The commissioner must notify the milk producer violating this section stating:

(1) the milk producer is still on probation;

(2) the \$200 civil penalty is suspended, unless the milk producer violates this section during the probation period, including changing milk plants within 30 days after the violation; and

(3) the consequences of a third violation.

(e) A milk producer who violates this section three or more times within a 12-month period is subject to a fine of \$300.

(f) Penalties collected under this section shall be deposited in the milk inspection service account created in section 32.394, subdivision 9. subdivision 3, clause (1), (2), (3), (4), or (5), is subject to clauses (1) to (3) of this paragraph.

(1) Upon notification of the first violation, the producer must meet with the dairy plant field service representative to initiate corrective action within 30 days.

(2) Upon the second violation within a 12-month period, the producer is subject to a civil penalty of \$300. The commissioner shall notify the producer by certified mail stating the penalty is payable in 30 days, the consequences of failure to pay the penalty, and the consequences of future violations.

(3) Upon the third violation within a 12-month period, the producer is subject to an additional civil penalty of \$300 and possible revocation of the producer's permit or certification. The commissioner shall notify the producer by certified mail that all civil penalties owed must be paid within 30 days and that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for at least 30 days.

(d) The producer's shipment of milk must be immediately suspended if the producer is identified as an individual source of milk containing residues in violation of subdivision 3, clause (6) or (7). Shipment may resume only after subsequent milk has been sampled by the commissioner or the commissioner's agent and found to contain no residues above established tolerances or safe levels. A milk producer who violates subdivision 3, clause (6) or (7), is subject to clauses (1) to (3) of this paragraph.

(1) For the first violation in a 12-month period, a producer shall not receive payment for any milk contaminated or the equivalent of at least the value of two days' milk production on that farm. Milk purchased for use from the producer during the two-day penalty period will be assessed a civil penalty equal to the minimum value of that milk and is payable to the commissioner by the dairy plant or marketing organization who purchases the milk. The producer remains eligible only for manufacturing grade until the producer completes the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the signed certificate in the milkhouse, and sends verification to the commissioner. To maintain a permit or certification to market milk, this program must be completed within 30 days.

(2) For the second violation in a 12-month period, a producer shall not receive payment for any milk contaminated or the equivalent of at least the value of four days' milk production on that farm. Milk purchased for use from the producer during the four-day penalty period will be assessed a civil penalty equal to the minimum value of that milk and is payable to the commissioner by the dairy plant or marketing organization who purchases the milk. The producer remains eligible only for manufacturing grade until the producer reviews the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the updated certificate in the milkhouse, and sends verification to the commissioner. To maintain a permit or certification to market milk, this program must be reviewed within 30 days.

(3) For the third violation in a 12-month period, a producer shall not receive payment for any milk contaminated or the equivalent of at least the value of four days' milk production on that farm. Milk purchased for use from the producer during the four-day penalty period will be assessed a civil penalty equal to the minimum value of that milk and is payable to the commissioner by the dairy plant or marketing organization who purchases the milk. The producer remains eligible only for manufacturing grade until the producer reviews the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the updated certificate in the milkhouse, and sends verification to the commissioner. To maintain a permit or certification to market milk, this program must be reviewed within 30 days. The commissioner shall also notify the producer by certified mail that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for a minimum of 30 days.

(e) A milk producer that has been certified as completing the "Milk and Dairy Beef Residue Prevention Protocol" within 12 months of the first violation of subdivision 3, clause (7), need only review the cause of the violation with a field service representative within three days to maintain shipping status if all other requirements of this section are met.

(f) Civil penalties collected under this section must be deposited in the milk inspection services account established in this chapter.

Sec. 12. [EFFECTIVE DATE.]

Section 11 is effective July 1, 1992."

Delete the title and insert:

"A bill for an act relating to agriculture; changing the expiration of nursery stock dealers' certificates and the penalty for late certificate renewals; clarifying certain language; imposing a penalty for



violation of the plant pest act; changing certain pesticide control requirements; authorizing acceptance of certain money and charging of certain fees; changing certain pesticide registration fee provisions; changing certain emergency powers of the commissioner related to seeds; changing provisions concerning adulterated dairy products; amending Minnesota Statutes 1990, sections 17.03, by adding a subdivision; 18.52, subdivision 2; 18.59; 18B.26, subdivision 3; 18B.31, subdivision 1; 18B.36, subdivision 1; 21.85, subdivision 10; and 32.21; Minnesota Statutes 1991 Supplement, sections 18.52, subdivision 5; 18.60, by adding a subdivision; and 18E.03, subdivision 5."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2733, A bill for an act relating to agriculture; establishing a dairy fund in the state treasury; imposing fees; providing for certain milk premium payments to dairy farmers; establishing a Minnesota dairy board; proposing coding for new law in Minnesota Statutes, chapter 32.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE INTENT.]

It is the intent of the legislature that establishing an over-order premium milk price will benefit the incomes of all Minnesota dairy farmers and improve the economies in rural communities.

Sec. 2. [MINIMUM CLASS I MILK PRICE.]

The minimum price for Class I milk as defined by the upper midwest federal milk marketing order (Code of Federal Regulations, title 7, part 1068) for milk purchased in Minnesota for Class I use shall be not less than \$1.50 per hundredweight higher than the Class I price specified in the applicable milk marketing order. This price shall be paid by processors of Class I milk directly to their suppliers of Grade A milk or to the agents of such suppliers. Suppliers or agents shall pass the entire over-order premium payment equally to dairy producers.

## Sec. 3. [RULES.]

The commissioner of agriculture shall promulgate rules or emergency rules to implement section 2 in a manner that minimizes disruption to existing trade practices and commercial transactions. The rules may contain provisions allowing the commissioner to audit processors for compliance with section 2.

## Sec. 4. [REPORT.]

Not later than March 1, 1993, and each year thereafter, the commissioner of agriculture shall report to the chairs of the senate and house of representatives standing committees dealing with agriculture policy on the impacts and benefits to dairy farmers of the minimum Class I milk price established under section 2.

## Sec. 5. [EFFECTIVE DATE.]

Section 3 is effective the day following final enactment. Section 2 is effective June 1, 1992."

Delete the title and insert:

"A bill for an act relating to agriculture; establishing a state over-order premium milk price for dairy farmers for certain milk; requiring an annual report."

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2734, A bill for an act relating to agriculture; the Minnesota rural finance authority; providing for establishment of an agricultural improvement loan program for grade B dairy producers; appropriating money and authorizing the issuance of state bonds to fund the program; amending Minnesota Statutes 1990, section 41B.02, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 41B.

Reported the same back with the following amendments:

Page 2, line 1, after the period insert "In the first two years of the program, only projects in the first and second priority categories may be funded."

Page 2, line 2, after the period insert “Second priority must be for financing waste management facilities for livestock operations.”

Page 2, line 3, delete “\$15,000” and insert “\$20,000”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 2750, A bill for an act relating to human rights; defining certain terms; clarifying certain discriminatory practices; amending Minnesota Statutes 1990, sections 363.01, subdivision 35, and by adding subdivisions; 363.02, subdivision 1; 363.03, subdivisions 1, 2, 3, 4, and 10.

Reported the same back with the following amendments:

Page 3, after line 16, insert:

“Subd. 41a. [SPECIFIED PUBLIC TRANSPORTATION.] “Specified public transportation” means transportation by bus, rail, or any other conveyance other than aircraft that provides the general public with general or special service, including charter service, on a regular and continuing basis.

Sec. 9. Minnesota Statutes 1990, section 363.01, is amended by adding a subdivision to read:”

Page 3, line 17, delete “41a” and insert “41b”

Page 3, after line 26, insert:

“Sec. 10. Minnesota Statutes 1990, section 363.01, is amended by adding a subdivision to read:

Subd. 44. [VEHICLE.] “Vehicle” does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or railroad car.”

Page 4, lines 29 to 31, strike “for the purpose of determining the person’s capability to perform available employment,”

Page 5, strike lines 5 and 6

Page 5, line 7, strike “(c)” and insert “(b)”

Page 5, line 10, delete “and”

Page 5, line 11, delete “(d)” and insert “(c)”

Page 5, line 21, delete everything after “and”

Page 5, delete line 22 and insert:

“(d) the results of the examination are used only in accordance with this chapter; or”

Page 5, line 23, strike “, after employment has”

Page 5, line 24, strike “commenced,” and strike “additional”

Page 17, line 36, delete “accommodations, including” and insert “modifications, provide”

Page 18, delete lines 1 to 4 and insert “auxiliary aids and services, and remove barriers, consistent with section 363.03, subdivision 3, paragraph (c);

(3) the purchase or lease of a new vehicle (other than an automobile or van with a seating capacity of fewer than eight passengers, including the driver, or an over-the-road bus) that is to be used to provide”

Page 18, line 14, delete “(3)” and insert “(4)”

Page 18, line 28, delete “(4)” and insert “(5)”

Page 18, line 36, delete “less” and insert “fewer”

Page 19, line 8, delete “(5)” and insert “(6)”

Renumber the sections in sequence

Correct internal references

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 2754, A bill for an act relating to retirement; Columbia Heights paid firefighters relief association; authorizing the termination of the relief association; providing a procedure for the conversion of retirement benefits for the active and retired membership; continuing certain state aid payments; amending Laws 1965, chapter 605, sections 5, 16, 18 and 31; Laws 1975, chapter 424, section 13; and Laws 1977, chapter 374, sections 39, 40, 45, 47, 49, 51, as amended, and 54; repealing Laws 1965, chapter 605, sections 1, 2, 4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, and 30; Laws 1975, chapter 424, sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12; Laws 1977, chapter 374, sections 38, 48, 52, 53, 56, 57, 58, and 59; Laws 1978, chapter 563, sections 29 and 30; Laws 1979, chapter 201, section 40; and Laws 1981, chapter 224, section 267.

Reported the same back with the following amendments:

Page 16, after line 14, insert:

### **"ARTICLE 3**

#### **COLUMBIA HEIGHTS POLICE RELIEF ASSOCIATION BENEFIT AND RELATED CHANGES**

Section 1. Laws 1977, chapter 374, section 8, subdivision 1, is amended to read:

Subdivision 1. The words "salary of a top patrolman" and "top patrolman's salary" as used in this act shall mean all monthly wages and salaries subject to Minnesota state or federal withholding for tax purposes of a top patrolman employed by the city of Columbia Heights on scheduled shifts set by the city of Columbia Heights pursuant to the current terms of any labor agreement between the policeman or his union and the city of Columbia Heights. The terms "salary of a top patrolman" and "top patrolman's salary" shall exclude payment for overtime work which shall be defined as work performed at the express authorization of the city of Columbia Heights in excess of the policeman's scheduled shift, any increased amount of pay over the pay of a top patrolman for duties as a detective investigator, payment for volunteer work, payment for court time, payment for call back time which shall be defined as work performed by a policeman who is called to duty during his scheduled off-duty time, ~~payment of education incentive or for longevity~~, payment for clothing, payment for holiday service, night shift pay, emergency duty pay, standby pay or pay for or in lieu of any fringe benefit or term or condition of employment whatsoever other

than payment for scheduled shifts. This definition shall be effective retroactive to June 15, 1976.

## Sec. 2. [REQUIRED EMPLOYEE CONTRIBUTIONS.]

Each active member of the Columbia Heights police relief association who elects to be covered by the public employees police and fire fund benefit plan following consolidation under Minnesota Statutes, section 353A.08, shall contribute the member contribution on the person's actual salary that the active member would have contributed to the public employees police and fire fund had the person been a member of the public employees police and fire fund since the start of the person's employment as a police officer by the city of Columbia Heights, reduced by the actual contribution to the relief association made by the member. The payment is due within 180 days of the public employees police and fire fund benefit plan election, plus interest from the midpoint of the member's period of service as a Columbia Heights police officer at an annual compound rate of 8.5 percent.

## Sec. 3. [LOCAL APPROVAL.]

Sections 1 and 2 are effective upon an affirmative vote by the city of Columbia Heights police relief association to consolidate with the public employees police and fire fund under Minnesota Statutes, section 353A.04, and on approval of sections 1 and 2 by the Columbia Heights city council and compliance with Minnesota Statutes, section 645.021. Section 1 applies only to benefits payable and contributions made after that date. Notwithstanding Minnesota Statutes, section 645.021, subdivision 3, the Columbia Heights city council has until December 31, 1993, to approve sections 1 and 2."

Amend the title as follows:

Page 1, line 2, after "Heights" insert "police and"

Page 1, line 3, delete "association" and insert "associations"

Page 1, line 7, after the semicolon insert "requiring additional police member contributions in certain instances;"

Page 1, line 10, after "sections" insert "8, subdivision 1,"

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2783, A bill for an act relating to agriculture; authorizing the commissioner of agriculture to make certain adjustments, agreements, and settlements in family farm security loans; providing for transfer and disposition of certain funds; appropriating money; amending Minnesota Statutes 1990, sections 41.56, subdivision 3; 41.57, by adding subdivisions; and 41.61, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2830, A bill for an act relating to agriculture; providing assistance to legal challenges of certain aspects of the federal milk marketing order system; appropriating money.

Reported the same back with the following amendments:

Page 1, line 14, delete "of other funds available"

Page 1, line 15, delete everything before the period and insert "the dairy industry unfair trade practices account established under Minnesota Statutes, section 32A.05, subdivision 4"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2849, A bill for an act relating to state parks; authorizing the commissioner of natural resources to negotiate a special fee structure for the Split Rock Lighthouse state historic site within Split Rock Lighthouse state park; amending Minnesota Statutes 1990, section 85.053, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Rodosovich from the Committee on Health and Human Services to which was referred:

H. F. No. 2858, A bill for an act relating to human services; expanding provider surcharges to include providers not participating in the medical assistance program; modifying provider reimbursement rates; amending Minnesota Statutes 1990, sections 256B.431, subdivision 2i, and by adding a subdivision; and 256B.48, subdivision 1b, and by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 144A.071, subdivisions 3 and 3a; 256.9656; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding a subdivision; 256.969, subdivisions 1, 9, 20, and 21; 256B.431, subdivision 3f; and 256B.74, subdivisions 1 and 3; repealing Minnesota Statutes 1991 Supplement, sections 256.9657, subdivision 5; 256B.74, subdivisions 8 and 9; and Laws 1991, chapter 292, article 4, section 77.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1991 Supplement, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified



beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided:

(1) the nursing home beds are not certified for participation in the medical assistance program; and

(2) the relocation of nursing home beds under this clause should not exceed a radius of six miles;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital build-

ings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds. The relocated beds need not be licensed and certified at the new location simultaneously with the delicensing and decertification of the old beds and may be licensed and certified at any time after the old beds are delicensed and decertified;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian Reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less; or to license as nursing home beds boarding care beds in a facility with an addendum to its provider agreement effective beginning July 1, 1983, if the boarding care beds to be upgraded meet the standards for nursing home licensure. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding

the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause;

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(s) to license or certify beds that are moved from a nursing home to a separate facility under common ownership or control that was formerly licensed as a hospital and is currently licensed as a nursing facility and that is located within eight miles of the original facility, provided the original nursing home building will no longer be operated as a nursing home. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation; or

(t) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that

licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of \$200,000 or more; or

(u) to certify, prior to July 1, 1993, beds in a facility that has no certified beds but was licensed and in operation prior to January 1, 1992.

Sec. 2. Minnesota Statutes 1991 Supplement, section 144A.071, subdivision 3a, is amended to read:

Subd. 3a. [CERTIFICATION OF LICENSED BEDS IN A CERTIFIED FACILITY.] Nothing in this section prohibits the commissioner of health from certifying licensed nursing home beds in a facility certified for medical assistance provided that these beds meet the certification requirements ~~and the facility enters into a written agreement with the commissioner of human services specifying that medical assistance reimbursement shall not be requested for a greater number of residents than the facility had medical assistance certified beds on April 1, 1991.~~

Sec. 3. Minnesota Statutes 1991 Supplement, section 256.9656, is amended to read:

256.9656 [DEPOSITS INTO THE GENERAL FUND.]

All money collected under section 256.9657 shall be deposited in the general fund ~~and is appropriated to the commissioner of human services for the purposes of section 256B.74.~~ Deposits do not cancel and are available until expended.

Sec. 4. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 1, is amended to read:

Subdivision 1. [NURSING FACILITY HOME LICENSE SURCHARGE.] Effective ~~July 1, 1991~~ October 1, 1992, each ~~nonstate operated nursing facility subject to the reimbursement principles in Minnesota Rules, parts 9549.0010 to 9549.0080, home licensed under chapter 144A~~ shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as ~~\$500~~ \$520 per bed licensed on the previous ~~April 1~~ July 1, except that if the number of licensed beds is reduced after July 1 but prior to August 1, the surcharge shall be based on the number of remaining licensed beds. A nursing home entitled to a reduction in the number of beds subject to the surcharge under this provision must demonstrate to the satisfaction of the commissioner by August 5 that the number of beds has been reduced.

Sec. 5. Minnesota Statutes 1991 Supplement, section 256.9657, is amended by adding a subdivision to read:

Subd. 1a. [WAIVER REQUEST.] The commissioner shall request a waiver from the secretary of health and human services to exclude from the surcharge under subdivision 1 a nursing home that provides all services free of charge. If a waiver is approved under this subdivision, the commissioner shall not collect a surcharge from a nursing home that demonstrates to the satisfaction of the commissioner that all services are provided free of charge.

Sec. 6. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 2, is amended to read:

Subd. 2. [HOSPITAL SURCHARGE.] (a) Effective July 1, 1991 October 1, 1992, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to ten 1.29 percent of medical assistance payments issued to net patient revenues excluding net Medicare revenues reported by that provider for inpatient services to the health care cost information system according to the schedule in subdivision 4. Medicare crossovers and indigent care payments paid under section 256B.74 are excluded from the amount of medical assistance payments issued.

(b) Effective July 1, 1991, each Minnesota and local trade area hospital except facilities of the federal Indian Health Service and regional treatment centers shall pay to the medical assistance account a surcharge equal to five percent of medical assistance payments issued to that provider for outpatient services according to the schedule in subdivision 4. Medicare crossovers are excluded from the amount of medical assistance payments issued.

Sec. 7. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 3, is amended to read:

Subd. 3. [HEALTH PLAN MAINTENANCE ORGANIZATION SURCHARGE.] Effective July 1, 1991 October 1, 1992, each health plan under contract with maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D shall pay to the commissioner of human services a surcharge equal to the equivalent value of the surcharges described in subdivision 2 for each medical assistance rate cell payment four-tenths of one percent of the total expenses allocated to outpatient services by the health maintenance organization as reported to the commissioner of health according to the schedule in subdivision 4. The surcharge for each quarter or month of a fiscal year shall be calculated based on the payments due in September of the same fiscal year under subdivision 2.

Sec. 8. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS INTO THE ACCOUNT.] Payments to the commissioner under ~~subdivision~~ subdivisions 1 to 3 must be paid in monthly installments due on the 15th of the month beginning ~~August 15, 1991~~ October 15, 1992. The monthly payment must be equal to the annual surcharge divided by 12. Payments to the commissioner under subdivisions 2 and 3 for fiscal year 1993 must be paid as follows: the first payment is a quarterly payment due September 15, 1991, with subsequent payments due monthly on the fifteenth of each month. The September 15, 1991, payment under subdivisions 2 and 3 shall be determined by taking the amount of medical assistance payments issued to each provider in the calendar quarter beginning six months prior to the quarter in which the payment is due multiplied by the percentage surcharge for each provider. The subsequent monthly payments shall be determined by taking the amount of medical assistance payments issued to each provider in the month beginning six months prior to the month in which the payment is due multiplied by the percentage surcharge for each provider based on calendar year 1990 revenues. Effective July 1 of each year, beginning in 1993, payments under subdivisions 2 and 3 must be based on revenues earned in the second previous calendar year.

Sec. 9. Minnesota Statutes 1991 Supplement, section 256.9657, subdivision 7, is amended to read:

Subd. 7. [ENFORCEMENT COLLECTION; CIVIL PENALTIES.] ~~The commissioner shall bring action in district court to collect provider payments due under subdivisions 1 to 3 that are more than 30 days in arrears. The provisions of sections 289A.35 to 289A.50 relating to the authority to audit, assess, collect, and pay refunds of other state taxes may be implemented by the commissioner of human services with respect to the tax, penalty, and interest imposed by this section. The commissioner of human services shall impose civil penalties for violation of this section as provided in section 289A.60, and the tax and penalties are subject to interest at the rate provided in section 270.75.~~

Sec. 10. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL COST INDEX.] The hospital cost index shall be obtained from an independent source and shall represent a weighted average of historical, as limited to statutory maximums, and projected cost change estimates determined for expense categories to include wages and salaries, employee benefits, medical and professional fees, raw food, utilities, insurance including malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust

the base year operating payment rate through the rate year on an annually compounded basis. Notwithstanding section 256.9695, subdivision 3, paragraph (c), the hospital cost index shall not be effective under the general assistance medical care program for admissions occurring during the biennium ending June 30, 1993, and the hospital cost index under medical assistance shall be increased by one percentage point to reflect changes in technology.

Sec. 11. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 9, is amended to read:

Subd. 9. [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] For admissions occurring on or after ~~July 1, 1989~~ October 1, 1992, the medical assistance disproportionate population adjustment shall ~~comply with federal law at fully implemented rates be paid to any hospital with medical assistance days in~~ excess of the arithmetic mean. The adjustment must be determined by multiplying the operating payment rate by the difference between a hospital's actual percentage of medical assistance days and the arithmetic mean for all hospitals. If federal matching funds are not available for all adjustments under this subdivision, the commissioner shall reduce payments on a pro rata basis so that all adjustments qualify for federal match. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program.

Sec. 12. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 20, is amended to read:

Subd. 20. [INCREASES IN MEDICAL ASSISTANCE INPATIENT PAYMENTS; CONDITIONS.] (a) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(b) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is



located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(c) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occur on or after October 1, 1992, if: (i) the hospital does not receive an adjustment under subdivision 9; (ii) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987 to June 30, 1987; (iii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iv) the hospital is located in Minnesota; and (v) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(d) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occur after September 30, 1992, if: (i) the hospital does not receive an adjustment under subdivision 9; (ii) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988, for the period January 1, 1987 to June 30, 1987; (iii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iv) the hospital is located in Minnesota; and (v) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

Sec. 13. Minnesota Statutes 1990, section 256B.41, subdivision 2, is amended to read:

Subd. 2. [FEDERAL REQUIREMENTS.] If any provision of this section and sections 256B.421, 256B.431, 256B.4311, 256B.47, 256B.48, 256B.50, and 256B.502, is determined by the United States government to be in conflict with existing or future requirements of the United States government with respect to federal participation in medical assistance, the federal requirements shall prevail.

Sec. 14. Minnesota Statutes 1990, section 256B.421, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of this section and sections 256B.41, 256B.411, 256B.431, 256B.4311, 256B.432, 256B.433, 256B.47, 256B.48, 256B.495, 256B.50, and 256B.502, the following terms and phrases shall have the meaning given to them.

Sec. 15. Minnesota Statutes 1990, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. [OPERATING COSTS AFTER JULY 1, 1988.] (a) [OTHER OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

(b) [CARE-RELATED OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2. For the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1993, the amount of the surcharge under section 256.9657, subdivision 1, shall be included in the plant operations and maintenance operating cost category. The surcharge shall be an allowable cost for the purpose of establishing the payment rate.

(c) [SALARY ADJUSTMENT PER DIEM.] For the rate period October 1, 1988, to June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the

weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this subdivision shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

(d) [NEW BASE YEAR.] The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.

(e) [NEW BASE YEAR.] The commissioner shall establish a new base year for the reporting year ending September 30, 1991. In establishing a new base year, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs.

Sec. 16. Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. [PROPERTY COSTS AFTER JULY 1, 1988.] (a) [INVESTMENT PER BED LIMIT.] For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom. For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1). Beginning January 1, 1991, the replacement-cost-new

per bed limits will be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1), except that the index utilized will be the Bureau of the Census: Composite fixed-weighted price index as published in the Survey of Current Business.

(b) [RENTAL FACTOR.] For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) [OCCUPANCY FACTOR.] For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 percent of capacity days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed 95 percent of capacity days.

(d) [EQUIPMENT ALLOWANCE.] For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E. For the rate period beginning October 1, 1992, the equipment allowance for each nursing facility shall be increased by 30 percent. For rate years beginning after June 30, 1993, the allowance must be adjusted annually for inflation.

(e) [POST CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.] For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, shall not apply to outstanding related organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principal payments, and the nursing home demonstrates to the commissioner's satisfaction that

the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) [BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.] For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.

Sec. 17. Minnesota Statutes 1990, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, but before January 1, 1988, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the fiscal year beginning on January 1, 1988, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted prior year's payment rate plus the real estate tax and special assessment per diem.

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of

Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

(6) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

(d) A facility that meets the criteria of paragraph (c) shall submit annual cost reports on forms prescribed by the commissioner.

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

(f) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

- (1) ~~the sale or transfer of a nursing home upon death of an owner;~~
- (2) ~~the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;~~
- (3) ~~the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;~~
- (4) ~~any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;~~
- (5) a sale and leaseback to the same licensee which does not constitute a change in facility license;
- (6) (2) a transfer of an interest to a trust;
- (7) (3) gifts or other transfers for no consideration;

~~(8)~~ (4) a merger of two or more related organizations;

~~(9)~~ a transfer of interest in a facility held in receivership;

~~(10)~~ (5) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa; or

~~(11)~~ (6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or

~~(12)~~ an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(g) Upon receiving a recommendation from the commissioner of health for a review of rates under section 144A.15, subdivision 6, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report to determine whether or not the deficiency or need can be corrected or met by reallocating nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report. The payment rate adjustment must meet the conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets.

Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

Sec. 18. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:



Subd. 9a. [ONE-TIME ADJUSTMENT FOR 21-MONTH FACTOR.] For the rate period beginning October 1, 1992, the 21-month inflation factor for operating costs shall be increased by .7 percent.

Sec. 19. [256B.4311] [NURSING FACILITY PROPERTY REIMBURSEMENT.]

Subdivision 1. [AUTHORITY.] The commissioner shall establish nursing facility property-related payment rates for nursing facilities certified under the medical assistance program for the rate period beginning October 1, 1992, and for rate years beginning after June 30, 1992, according to the provisions of this section.

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms shall have the meaning given to them.

Subd. 2a. [ADDITION.] "Addition" means an extension, enlargement, or expansion of the nursing facility for the purpose of increasing the number of licensed beds or improving resident care.

Subd. 2b. [APPRAISED VALUE.] "Appraised value" means the value of the nursing facility buildings, attached fixtures, and land improvements used directly for resident care.

Subd. 2c. [ATTACHED FIXTURES.] "Attached fixtures" means equipment used directly for resident care affixed to the building and not easily movable as specified in the fixed equipment table of the depreciation guidelines.

Subd. 2d. [BUILDINGS.] "Buildings" means the physical plant used directly for resident care and licensed under sections 144.50 to 144.56 or chapter 144A, and auxiliary buildings in the nature of sheds, garages, and storage buildings located on site if used directly for resident care. This definition does not include buildings or portions of buildings used by central, affiliated, or corporate offices.

Subd. 2e. [CAPITAL ASSETS.] "Capital assets" means a nursing facility's buildings, attached fixtures, land improvements, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Subd. 2f. [COMMENCED CONSTRUCTION.] "Commenced construction" means the date on which a newly constructed nursing facility, or nursing facility with an increase in licensed beds of 50 percent or more, meets all the following conditions.

(a) The final working drawings and specifications were approved by the commissioner of health.

(b) The construction contracts were let.

(c) A timely construction schedule was developed stipulating dates for beginning, achieving various stages, and completing construction.

(d) All zoning and building permits have been issued.

(e) Financing for the project was secured as evidenced by the issuance of a binding letter of commitment by the financial institution, sale of bonds, or other similarly binding agreements.

Subd. 2g. [DELETION.] "Deletion" means the sale, destruction, or dismantling of a nursing facility capital asset or a portion of a nursing facility capital asset without subsequent replacement.

Subd. 2h. [DEPARTMENT.] "Department" means the Minnesota department of human services.

Subd. 2i. [DEPRECIATED REPLACEMENT COST METHOD.] "Depreciated replacement cost method" means the method of property appraisal which determines the value of a capital asset by establishing the replacement cost new reduced by depreciation.

Subd. 2j. [REPLACEMENT COST NEW.] "Replacement cost new" means the amount required to obtain a new asset of equivalent utility to that which exists, but built at current prices, with modern materials and according to current standards, designs, and layout.

Subd. 2k. [DEPRECIATION.] "Depreciation" as pertains to property appraisals, means a loss of utility and value caused by deterioration or physical depreciation such as wear and tear, decay, dry rot, cracks, encrustations, or structural defects; and functional obsolescence such as poor plan, mechanical inadequacy or overadequacy, and functional inadequacy or overadequacy due to size, style, or age.

Subd. 2l. [DEPRECIABLE EQUIPMENT.] "Depreciable equipment" means the standard movable care equipment and support service equipment generally used in nursing facilities. Depreciable equipment includes that equipment specified in the major movable equipment table of the depreciation guidelines.

Subd. 2m. [DEPRECIATION GUIDELINES.] "Depreciation guidelines" means the most current version of "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association. Except as provided in Minnesota Rules, part 9549.0030, subpart 4, useful life in the depreciation guidelines must not be used in the determination of the total payment rate.

Subd. 2n. [EQUIPMENT ALLOWANCE.] "Equipment allowance" means that component of the property-related payment rate which is denominated as a payment for the use of depreciable equipment.

Subd. 2o. [LAND IMPROVEMENT.] "Land improvement" means an improvement to the land surrounding the nursing facility directly used for resident care as specified in the land improvements table of the depreciation guidelines, if replacement of the land improvement is the responsibility of the nursing facility.

Subd. 2p. [NOMINAL LEASE.] "Nominal lease" means a lease which meets the following conditions:

(1) the annual lease payment compared to the rental value of the physical plant and the depreciable equipment is a nominal amount, usually \$1 per year;

(2) the length of the lease, including renewal provisions, reflects the intent of the lessor and lessee to lease the physical plant and depreciable equipment for the remainder of their useful lives;

(3) the lease agreement imposes a duty upon the lessee to make improvements and to properly maintain the nursing facility;

(4) the lease agreement has no restrictions on the free use of the nursing facility by the lessee other than it must be used as a licensed nursing facility;

(5) the lease agreement is not between related organizations; and

(6) the lease agreement must not require the furnishing of any indirect benefits to the lessor.

Subd. 2q. [REPAIR.] "Repair" means the cost of labor and materials needed to restore an existing capital asset to sound condition after damage or malfunction or to maintain an existing capital asset in a usable condition.

Subd. 2r. [REPLACEMENT.] "Replacement" means a renovation or substitution of an existing capital asset to improve function or extend useful life.

Subd. 2s. [USEFUL LIFE.] "Useful life" means the length of time an asset is expected to provide economic service before needing replacement.

Subd. 3. [ALLOWABLE CAPITAL ASSETS.] The nursing facility's allowable capital assets shall be determined as follows.

(a) The nursing facility must classify capital assets and depreciable equipment using the depreciation guidelines. The commissioner shall use the nursing facility's capital assets as adjusted by the department using the depreciation guidelines, plus capital asset additions and minus capital asset deletions.

(b) The total amount of capital assets in paragraph (a) must be subject annually to the replacement cost per bed limits in subdivision 6, paragraph (a), as computed in subdivision 6, paragraph (b). The nursing facility's allowable capital assets is the lesser of those two amounts.

(c) If the nursing facility's capital assets is leased with an arms-length operating lease, the commissioner must compute the present value of the lease. For the purpose of computing the present value of the lease, the commissioner must apply the following conditions:

(1) the term of the lease, including option periods, must not be less than 20 years;

(2) the maximum interest rate used in determining the present value must not exceed the lesser of the interest rate limitation in subdivision 4a, paragraph (b), or 15 percent; and

(3) the residual value used in determining the present value of the lease must be 20 percent of the lessor's capital assets leased.

(d) A nonprofit nursing facility must first use restricted funds, then capital asset replacement funds in subdivision 8 to purchase or replace capital assets to the extent of the cost of those capital assets before it borrows funds for the purchase or replacement of those capital assets. For purposes of this subdivision and Minnesota Rules, part 9549.0035, subpart 2, a restricted fund is a fund for which use is restricted to the purchase or replacement of capital assets by the donor or by the nonprofit nursing facility's board.

(e) Construction period interest expense must be capitalized as a part of the cost of the building. The period of construction extends to the earlier of either the first day a resident is admitted to the nursing facility or the date the nursing facility is certified to receive medical assistance recipients.

(f) A nursing facility whose capital assets are leased with a nominal lease shall have that lease capitalized under generally accepted accounting principles as between related organizations.

Subd. 3a. [CAPITALIZATION.] The cost of purchasing or repairing capital assets shall be capitalized under paragraphs (a) to (e).

(a) The cost of purchasing a capital asset listed in the depreciation guidelines must be capitalized. The cost of purchasing any other capital asset not included in the depreciation guidelines must be capitalized if the asset has a useful life of more than two years and costs more than \$500. In no case shall a capital asset or piece of equipment costing less than \$200 be capitalized.

(b) The nursing facility may consider as an expense a repair that costs \$500 or less. Repairs that are considered as an expense must be classified in the plant operation and maintenance cost category. If the cost of a repair to a capital asset is \$500 or more, and the estimated useful life of the capital asset is extended beyond its original estimated useful life by at least two years, or if the productivity of the capital asset is increased significantly over original productivity, then the cost of the repair must be capitalized.

(c) The property-related expenditures related to capital assets such as lease or depreciation, interest, and real estate taxes which are used by central, affiliated, or corporate offices must be classified in the nursing facility's general and administrative cost category.

(d) Construction period interest expense, feasibility studies, and other costs related to the construction period must be capitalized.

(e) The commissioner shall allow as an expense in the reporting year of occurrence the lesser of the actual allowable plant and maintenance costs for supplies, minor equipment, equipment repairs, building repairs, purchased services and service contracts, except for arms-length service contracts whose primary purpose is supervision, or \$325 per licensed bed.

Subd. 4. [ALLOWABLE DEBT.] For purposes of determining the property-related payment rate, the commissioner shall allow or disallow debt according to paragraphs (a) to (e), and subdivision 4a.

(a) Debt shall be limited as follows:

(1) debt incurred for the purchase of land directly used for resident care and the purchase or construction of nursing facility buildings, attached fixtures, or land improvements or the capitalized replacement or capitalized repair of existing buildings, attached fixtures, or land improvements shall be allowed. Debt incurred for any other purpose shall not be allowed;

(2) working capital debt shall not be allowed;

(3) an increase in the amount of a debt as a result of refinancing of capital assets which occurs after May 22, 1983, shall not be allowed except to the extent permitted by this subdivision and subdivision 4a, and to the extent that the increase in debt is the result of refinancing costs such as points, loan origination fees, or title searches. The total interest expense must be computed as the sum of the annual interest expense over the remaining term of the debt refinanced. Increases in total interest expense which result from refinancing a balloon payment on allowable debt after May 22, 1983, shall be allowed according to items (i) to (iii):

(i) the interest rate on the refinanced debt shall be limited under subdivision 4a, paragraphs (b) and (c);

(ii) the refinanced debt shall not exceed the balloon payment; and

(iii) the term of the refinanced debt must not exceed the term of the original debt computed as though the balloon payment did not exist;

(4) an increase in the amount of total outstanding debt incurred after May 22, 1983, as a result of a sale, change in ownership, or reorganization of provider entities, shall not be allowed except as provided in subdivision 9;

(5) any portion of the total allowable debt exceeding the appraised value as determined in subdivision 3 shall not be allowed; and

(6) any portion of a debt of which the proceeds exceed the historical cost of the capital asset acquired at the time of purchase shall not be allowed. If the debt includes financing costs which are financed, the debt on the financing costs must not exceed ten percent of the cost of those capital assets acquired.

(b) The nursing facility must apportion debts incurred before October 1, 1984, among land and buildings, attached fixtures, land improvements, depreciable equipment, and working capital by direct identification. If direct identification of any part of the debt is not possible, that portion of the debt which cannot be directly identified shall be apportioned to each component, except working capital debt, based on the ratio of the historical cost of the component to the total historical cost of all components. The portion of debt assigned to land and buildings, attached fixtures, and land improvements is allowable debt.

A hospital-attached nursing facility that has debts that are not directly identifiable to the hospital or the nursing facility shall allocate the portion of allowable debt computed according to this subdivision to land and buildings, attached fixtures, and land improvements using the Medicare step-down method described in subdivision 10.

(c) The nursing facility shall directly identify the proceeds of the debt associated with specific land and buildings, attached fixtures, and land improvements, and keep records that separate such debt proceeds from all other debt. Only the debt identified with specific land and buildings, attached fixtures, and land improvements shall be allowed.

(d) The total amount of allowable debt shall be the sum of all allowable debts at the beginning of the reporting year plus all

allowable debts at the end of the reporting year divided by two. Nursing facilities which have a debt with a zero balance at the beginning or end of the reporting year must use a monthly average for the reporting year.

(e) Except as otherwise permitted by laws in effect prior to the enactment of this section, debt incurred as a result of loans between related organizations must not be allowed.

Subd. 4a. [ADDITIONAL ALLOWABLE DEBT CONDITIONS.] Additional conditions and limitations for debts entered into after September 30, 1992, are as follows.

(a) The term over which the debt is to be amortized must not be less than 20 years.

(b) The maximum interest rate is the lesser of two percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation as published in the Wall Street Journal and in effect on the first day of the month in which the debt is incurred, or 16 percent. For each allowable debt with a variable or adjustable rate, the effective interest rate must be computed by dividing the interest expense for the reporting year by the average allowable debt computed under subdivision 4, paragraph (d).

(c) A nursing facility with an amortization schedule of less than 20 years or a nursing facility with debt which has a balloon payment within 20 years of the date the debt was entered into may refinance debt with an amortization schedule that does not exceed 25 years in the aggregate.

(d) A nursing facility which refinances debt during a reporting year beginning after June 30, 1992, in order to achieve a savings in total remaining principal and interest expense payments shall receive as an incentive prior annual principal and interest expense payment for the current rate year and for the three consecutive rate years following the refinancing.

(e) Debt incurred for the acquisition of capital assets must not exceed 80 percent of the allowable cost of the capital assets acquired.

Subd. 5. [ALLOWABLE PRINCIPAL EXPENSE.] Allowable principal expense shall be determined by applying the proportion of nursing facility debt that is allowed by the commissioner under subdivision 4 to the required annual principal payments.

Subd. 5a. [ALLOWABLE INTEREST EXPENSE.] Allowable interest expense shall be determined by applying the proportion of

nursing facility debt that is allowed by the commissioner under subdivision 4 to the required annual interest expense.

Subd. 6. [REPLACEMENT COST NEW INVESTMENT PER BED LIMITS; COMPUTATION OF THE MAXIMUM ALLOWABLE REPLACEMENT COST NEW AND ALLOWABLE APPRAISED VALUE.] The nursing facility's appraised values in subdivision 10 shall be limited as in paragraphs (a) to (f). The maximum allowable replacement cost new is computed in paragraph (b).

(a) Effective January 1, 1992, the replacement cost new per bed limit for single bed rooms and multiple bed rooms shall be \$71,250 and \$47,500, respectively. Beginning January 1, 1993, and each January 1 thereafter, the commissioner shall index these limits annually by percentage change in the Bureau of the Census: Composite Fixed-weighted Price Index as published in the Survey of Current Business.

(b) Each nursing facility's maximum allowable replacement cost new is determined annually according to the following:

(1) the multiple bed room replacement cost new per bed limit in paragraph (a) must be multiplied by the number of licensed beds in multiple bed rooms;

(2) the single bed room replacement cost new per bed limit in paragraph (a) must be multiplied by the number of licensed beds in single bed rooms except as provided in subdivision 11, paragraph (c), clause (2); and

(3) the nursing facility's maximum allowable replacement cost new is the sum of clauses (1) and (2).

(c) The nursing facility's replacement cost new determined in paragraph (b) must be reduced by the replacement cost new of portions of the nursing facility used for functions whose costs are not allowable under this section and Minnesota Rules, parts 9549.0010 to 9549.0080.

(d) The adjusted replacement cost new is the lesser of paragraph (b) or (c).

(e) The adjusted depreciation is determined by subtracting from the depreciation in subdivision 10, the amount of depreciation, if any, related to the portion of the nursing facility's replacement cost new disallowed in paragraph (c) or (d).

(f) The nursing facility's allowable appraised value is determined by subtracting the amount determined in paragraph (e) from the amount in paragraph (d). If no adjustment to the replacement cost



new is required in paragraphs (c) and (d), then the nursing facility's allowable appraised value is the appraised value determined in subdivision 10.

Subd. 7. [EQUIPMENT ALLOWANCE.] The equipment allowance for each nursing facility shall be its equipment allowance in effect for the rate year ending June 30, 1992, increased by eight percent.

Subd. 8. [CAPITAL ASSET REPLACEMENT FUND.] Provisions governing the computation, distribution, indexing, and restrictions of the capital asset replacement fund are as follows.

(a) The commissioner shall establish the maximum capital asset replacement fund factor at 3.6 percent.

(b) The commissioner shall annually determine for each nursing facility a distribution factor as follows:

(1) each nursing facility's age component shall be established by dividing appraisal depreciation component by replacement cost new;

(2) each nursing facility's equity component shall be established by subtracting allowable debt from appraised value and dividing the result by appraised value; and

(3) each nursing facility's age component and equity component must be added together and divided by two to establish the distribution factor.

(c) For rate years beginning after June 30, 1993, the commissioner shall index or adjust the various components of the distribution factor as follows:

(1) nursing facilities eligible for a special reappraisal under subdivision 10 shall have their distribution factor components reestablished according to those provisions; and

(2) nursing facilities not eligible for special reappraisals shall have their distribution factor components indexed or adjusted as follows:

(i) the replacement cost new portion of the appraised value for each nursing facility must be indexed annually by the same index used to adjust the replacement cost new limit in subdivision 6, paragraph (a);

(ii) the depreciation component of the appraised value for each nursing facility must be increased annually determined by multiplying its replacement cost new as adjusted in item (i) by 1.43 percent; and

(iii) each nursing facility's appraised value shall be the amount determined in clause (1), if appropriate, or item (i) minus item (ii).

(d) The commissioner shall determine the capital asset replacement fund per diem by multiplying each nursing facility's replacement cost new, by the maximum capital asset replacement fund factor, and by the distribution factor, and dividing the result by capacity days as determined under subdivision 11. The minimum capital asset replacement fund per diem shall be 80 cents.

(e) Capital asset replacement fund restrictions shall be as follows:

(1) capital asset replacement fund payments must be invested in liquid marketable investments such as savings or money market accounts, certificates of deposit, and United States treasury bills;

(2) capital asset replacement funds and interest income earned on these funds must be used for the purchase or replacement of leasehold improvements, buildings, attached fixtures, and land improvements, or payment of capitalized repairs on these same assets for the nursing facility. If the nursing facility has principal and interest expense payments from debts incurred prior to September 30, 1992, which are nonallowable but are related to the nursing facility's capital assets, the nursing facility may use up to 50 percent of the annual capital asset replacement fund payment to cover these expenses;

(3) a separate capital asset replacement account must be maintained for each nursing facility;

(4) the capital asset replacement fund and any interest accrued and money earned on the fund shall remain the property of the nursing facility regardless of sale, transfer, change of ownership, dissolution, receivership, bankruptcy, merger, consolidation, or reorganization. If the nursing facility closes or otherwise ceases operations as a nursing facility under the medical assistance program, any capital asset replacement funds including interest accrued and money earned on the fund must be returned to the state; and

(5) a nursing facility which does not deposit the amount earned during the reporting year in the capital asset replacement fund account by the end of the reporting year will have payment rates reduced by five percent until the nursing facility demonstrates compliance with this requirement to the satisfaction of the commissioner. If the nursing facility complies, the commissioner shall retroactively reinstate the payment rates.

Subd. 9. [LIMITATIONS ON SALES OF NURSING FACILITIES.] For the rate period beginning October 1, 1992, and for rate years

beginning after June 30, 1993, a nursing facility's property-related payment rate may be adjusted for the sale of the nursing facility which occurs after September 30, 1992, as provided in paragraphs (a) to (d). For purposes of this subdivision, the term "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility, or any of the transactions described in section 256B.431, subdivision 4, paragraph (f). For purposes of this subdivision, the term "effective date of sale" means the later of the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

(a) The commissioner shall limit the debt and related principal and interest expense to:

(1) the allowable historical cost of capital assets since the nursing facility's previous effective date of sale or the nursing facility's initial cost of constructing capital assets;

(2) plus allowable capital asset additions and minus allowable capital asset deletions; and

(3) plus one-third of the allowed inflation on the nursing facility's allowable capital assets. The commissioner shall compute the allowed inflation as described in paragraph (c). The inflation in paragraph (c), clause (1), shall be computed from the month following the date of the prior sale to the month preceding the sale to be recognized under this subdivision. The inflation in paragraph (c), clause (2), shall be computed on the average capital assets acquired in each reporting year.

(b) In addition to the limit in paragraph (a), the commissioner shall limit the maximum amount of debt to 90 percent of the amount determined in paragraph (a).

(c) For purposes of computing the amount of allowed inflation, the commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for All Urban Consumers or the Dodge Construction Systems Cost for Nursing Homes Index must be used. If the Dodge Construction Index becomes unavailable, the commissioner shall substitute the index in section 256B.431, subdivision 3f, or other index as the secretary of the health care financing administration may designate;

(2) the amount of allowed inflation to be applied to the capital assets in paragraph (a), clauses (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated for partial years;

(4) the amount of allowed inflation to be applied to the capital assets in paragraph (a), clauses (1) and (2), must not exceed 500 percent on any group of capital assets; and

(5) must be computed starting with the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the date of the nursing facility's initial cost of constructing capital assets, and ending with the effective date of sale.

(d) In order for the debt, principal, and interest expense on a sale to be allowed under this section, the nursing facility's historical cost of capital assets must be classified or reclassified using the depreciation guidelines.

Subd. 10. [APPRAISALS AND SPECIAL REAPPRAISALS.] The commissioner shall contract with a property appraisal firm which shall use the depreciated replacement cost method to determine the appraised value of a nursing facility participating in the medical assistance program. Appraisals and special reappraisals shall be conducted by the property appraisal firm under contract with the commissioner as necessary to implement provisions of this section. The appraised value of each nursing facility and any subsequent reappraisal under this subdivision must be limited to the value of buildings, attached fixtures, and land improvements used by the nursing facility and must be subject to the limits in subdivision 6.

For hospital attached nursing facilities, the commissioner shall require the appraisal of those portions of buildings, attached fixtures, and land improvements in service areas shared between the nursing facility and the hospital. The appraised value of the shared service areas must be allocated between the nursing facility and the hospital or other nonnursing facility areas using the Medicare worksheet B-1 statistics in effect on September 30, 1984. The appraised value of the shared service areas must be allocated by step-down placing the appraised values on the appropriate line of column 1 on the Medicare worksheet B. The appraised value of the shared service areas allocated to the nursing facility shall be added to the appraised value of the nursing facility's buildings, attached fixtures, and land improvements.

Special reappraisals are subject to the following requirements.

(a) A nursing facility which makes an addition to or replacement of buildings, attached fixtures, or land improvements may request the commissioner to conduct a reappraisal upon project completion. A special reappraisal request must be submitted to the commissioner within 60 days after the project's completion date to be considered eligible for a special reappraisal. If a project has multiple

completion dates or involves multiple projects, only projects or parts of projects with completion dates within one year of the completion date associated with a special reappraisal request can be included for the purpose of establishing the nursing facility's eligibility for a special reappraisal. Upon receipt of a written request, the commissioner shall conduct a reappraisal within 60 days provided that all conditions of this paragraph are met.

The total historical cost of the addition or replacement, exclusive of the proceeds from disposals of capital assets or applicable credits such as public grants and insurance proceeds, must exceed the lesser of \$200,000 or ten percent of the most recent allowable appraised value determined under subdivision 6. The addition or replacement must be completed and a certificate of occupancy issued, or if a certificate of occupancy is not required, the addition or replacement must be available for use. Special reappraisals under this paragraph are limited to one per 12-month period.

(b) A nursing facility which retires buildings, attached fixtures, land improvements, or portions thereof without replacement, shall report the deletion to the commissioner within 30 days if the historical cost of the deletion exceeds \$200,000. The commissioner shall conduct a reappraisal of the nursing facility to establish the new appraised value and adjust the property-related payment rate accordingly.

(c) The adjusted property-related payment rate computed as a result of reappraisals in paragraphs (a) and (b) is effective on the first day of the month following the month in which the addition or replacement was completed or when the deletion occurred.

(d) The commissioner may require the reappraisal of a nursing facility within 60 days of receipt of information provided by the Minnesota department of health regarding the violation of standards and rules relating to the condition of capital assets.

Subd. 11. [CAPACITY DAYS.] The number of capacity days is determined as follows.

(a) The number of capacity days is determined by multiplying the number of licensed beds in the nursing facility by the number of days in the nursing facility's reporting period.

(b) Except as in paragraph (c), nursing facilities shall increase the number of capacity days by multiplying the number of licensed single bed rooms by 0.5 and by the number of days in the nursing facility's reporting period.

(c) The commissioner shall waive the requirements of paragraph (b) if a nursing facility agrees in writing to:

(1) the nursing facility shall agree not to request a private room payment in Minnesota Rules, part 9549.0070, subpart 3, for any medical assistance residents in licensed single bed rooms;

(2) the nursing facility shall agree not to use the single bed room replacement cost new limit for any of licensed single bed rooms in the computation of the allowable appraised value in subdivision 6; and

(3) the nursing facility shall agree not to charge any private paying resident in a single bed room a payment rate that exceeds the amount calculated under items (i) to (iii):

(i) the nursing facility's average total payment rate shall be determined by multiplying the total payment rate for each case mix resident class by the number of resident days for that class in the nursing facility's reporting year and dividing the sum of the resident class amounts by the total number of resident days in the nursing facility's reporting year;

(ii) the nursing facility's maximum single bed room adjustment must be determined by multiplying average total payment rate calculated under item (i) by ten percent; and

(iii) the nursing facility's single bed room adjustment which must not exceed the amount computed in item (ii) must be added to each total payment rate established by the commissioner to determine the nursing facility's single bed room payment rates.

(d) Except as in paragraph (e), the amount determined in paragraphs (a) to (c) must be multiplied by 0.95.

(e) If the average length of stay in a nursing facility is 180 days or less, the nursing facility capacity days shall be the greater of resident days or 80 percent of the amount determined in paragraphs (a) to (c), but in no event shall the divisor exceed 95 percent of the amount determined in paragraphs (a) to (c). For purposes of this subdivision, the nursing facility shall compute the average length of stay by dividing resident days for the reporting year by total discharges for that reporting year.

**Subd. 12. [DETERMINATION OF PROPERTY-RELATED PAYMENT RATES; ARMS-LENGTH LEASES.]** The commissioner shall compute the property-related payment rate for nursing facilities with an arms-length lease on the nursing facility's capital assets by adding together the following per diems:

(1) the nursing facility's allowable annual arms-length lease payment for capital assets plus the nursing facility's allowable annual principal and interest expense payments on leasehold im-

provements must be divided by their capacity days as determined under subdivision 11, to determine the principal and interest expense per diem; and

(2) the equipment allowance per diem as determined in subdivision 7.

Subd. 13. [DETERMINATION OF PROPERTY-RELATED PAYMENT RATES; NON-ARMS-LENGTH LEASES.] The commissioner shall compute the property-related payment rate for nursing facilities without an arms-length lease by adding together the following per diems:

(1) the nursing facility's allowable annual principal and interest expense payments must be divided by their capacity days as determined under subdivision 11, to determine the principal and interest expense per diem;

(2) a return on investment per diem of 45 cents;

(3) the capital asset replacement fund per diem as determined in subdivision 8, paragraph (d); and

(4) the equipment allowance per diem as determined in subdivision 7.

Subd. 14. [ARMS-LENGTH LEASES.] Leases or rental agreements shall be considered arms-length transactions unless the lease or rental agreement:

(1) results from sale and lease-back arrangements;

(2) results from a lease with option to buy at less than anticipated value;

(3) is paid to a related organization; or

(4) for other reasons is required to be capitalized in accordance with generally accepted accounting principles.

A nominal lease is not an arms-length lease.

Subd. 15. [DETERMINATION OF INTERIM AND SETTLE-UP PAYMENT RATES.] The commissioner shall determine interim and settle-up payment rates under this section and Minnesota Rules, parts 9549.0010 to 9549.0080.

Sec. 20. Minnesota Statutes 1990, section 256B.48, subdivision 1b, is amended to read:

Subd. 1b. [EXCEPTION.] Notwithstanding any agreement between a nursing home and the department of human services or the provisions of this section or section 256B.411, other than subdivision 1a, the commissioner may authorize continued medical assistance payments to a nursing home which ceased intake of medical assistance recipients prior to July 1, 1983, and which charges private paying residents rates that exceed those permitted by subdivision 1, paragraph (a), for (i) residents who resided in the nursing home before July 1, 1983, or (ii) residents for whom the commissioner or any predecessors of the commissioner granted a permanent individual waiver prior to October 1, 1983. Nursing homes seeking continued medical assistance payments under this subdivision shall make the reports required under subdivision 2, except that on or after December 31, 1985, the financial statements required need not be audited by or contain the opinion of a certified public accountant or licensed public accountant, but need only be reviewed by a certified public accountant or licensed public accountant. In the event that the state is determined by the federal government to be no longer eligible for the federal share of medical assistance payments made to a nursing home under this subdivision, the commissioner may cease medical assistance payments, under this subdivision, to that nursing home. Between October 1, 1992 and July 1, 1993, a facility governed by this subdivision may elect to resume full participation in the medical assistance program by agreeing to comply with all of the requirements of the medical assistance program, including the rate equalization law in subdivision 1, paragraph (a), and all other requirements established in law or rule, and to resume intake of new medical assistance recipients.

Sec. 21. Minnesota Statutes 1990, section 256B.48, is amended by adding a subdivision to read:

Subd. 9. [MEDICAL ASSISTANCE PARTICIPATION FOR CERTAIN FACILITIES.] An agreement entered into between a nursing facility and the commissioner of human services that limits the number of residents that will be reimbursed under the medical assistance program as a condition of allowing additional beds to be certified under section 144A.071, subdivision 3a, terminates effective October 1, 1992.

Sec. 22. Minnesota Statutes 1991 Supplement, section 256B.74, subdivision 1, is amended to read:

Subdivision 1. [HOSPITAL REIMBURSEMENT.] (a) Effective for admissions occurring on or after July 1, 1991, the commissioner shall make an indigent care payment to Minnesota and local trade area hospitals except facilities of the federal Indian Health Service and regional treatment centers, in addition to all other payment to hospitals for inpatient services. The indigent care payment shall be ten percent of the amount of medical assistance payments issued to that provider for inpatient services in a given calendar quarter or



month, excluding indigent care payments paid under this section, divided by the number of related admissions, or patient days if applicable, and multiplying the result by 111 percent. The indigent care payment is added to each admission, or patient day if applicable, occurring (1) in the second calendar quarter beginning after the quarter on which the September 15, 1991, indigent care payment amount is based and (2) in the month beginning six months after the month on which the subsequent monthly indigent care payment amount is based. Medicare crossovers are excluded from indigent care payments and from the payments and admissions on which the indigent care payment is based. The commissioner may issue indigent care payments as disproportionate population adjustments for eligible hospitals.

(b) Effective for services rendered on or after July 1, 1991, the commissioner shall reimburse outpatient hospital facility fees at 80 percent of calendar year 1990 submitted charges, not to exceed the Medicare upper payment limit. Services excepted from this payment methodology are emergency room facility fees, clinic facility fees, and those services for which there is a federal maximum allowable payment.

Sec. 23. Minnesota Statutes 1991 Supplement, section 256B.74, subdivision 3, is amended to read:

Subd. 3. [NURSING FACILITY REIMBURSEMENT.] For rate years beginning on or after July 1, 1991, the commissioner shall reimburse nursing facilities participating in the medical assistance program as follows:

(1) a capital allowance of \$1.44 per resident day shall be paid. For a licensed provider with an operating lease on the nursing facility, the capital equipment allowance shall not be the property of the lessor but shall be the property of the licensed provider for the duration of the operating lease or any renewal or extension of the operating lease; and

(2) the maximum efficiency incentive per diem payment established annually under section 256B.431, subdivision 2b, paragraph (d), shall be increased to \$2.10 effective July 1, 1991, and \$2.20 effective July 1, 1992.

Sec. 24. [HOSPITAL OUTPATIENT REIMBURSEMENT.]

For services rendered on or after October 1, 1992, the commissioner of human services shall increase hospital outpatient rates by ten percent over the rates in effect on September 30, 1992, provided that no rate shall exceed the upper payment limit established by Medicare.

## Sec. 25. [COMMISSIONER'S DUTIES.]

The commissioner of human services shall report to the legislature quarterly on the first day of January, April, July, and October regarding the provider surcharge program. The report shall include information on total billings, total collections, and administrative expenditures. The report on January 1, 1993, shall include information on all surcharge billings, collections, federal matching payments received, efforts to collect unpaid amounts, and administrative costs pertaining to the surcharge program in effect from July 1, 1991 to September 30, 1992. The commissioner shall report when submitting the budget forecast regarding any changes in the amount of the nursing home surcharge needed to ensure that collections continue at the level anticipated for fiscal year 1993. The commissioner shall continue to track and report separately any provider reimbursement increases or other payments authorized in Laws 1992, chapter 292, article 4, and under sections 1 to 12, 15, 16, 18, and 20 to 24. The commissioner shall request the Minnesota congressional delegation to support a change in federal law that would prohibit federal disallowances for any state that makes a good faith effort to comply with Public Law Number 91-234 by enacting conforming legislation prior to the issuance of federal implementing regulations.

## Sec. 26. [REPEALER.]

(a) Minnesota Statutes 1991 Supplement, sections 256.9657, subdivision 5; and 256B.74, subdivisions 8 and 9; and Laws 1991, chapter 292, article 4, section 77, are repealed.

(b) Minnesota Rules, part 9549.0060, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, are repealed.

(c) Minnesota Statutes 1990, section 256B.431, subdivisions 3, 3a, 3b, 3c, 3d, 3g, 3h, 3i, and 3j; and Minnesota Statutes 1991 Supplement, section 256B.431, subdivision 3f, are repealed.

## Sec. 27. [EFFECTIVE DATE.]

Sections 1 to 12, 15, 16, 18, 20 to 25, and 26, paragraph (a) are effective October 1, 1992, except that if Congress delays the effective date specified in Public Law Number 102-234, the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, section 2(a)(w)(1)(F), the effective date of this act is delayed until the latest possible date permitted by federal law."

Delete the title and insert:

"A bill for an act relating to human services; expanding provider surcharges to include providers not participating in the medical

assistance program; modifying provider reimbursement rates; establishing nursing facility property reimbursement; amending Minnesota Statutes 1990, sections 256B.41, subdivision 2; 256B.421, subdivision 1; 256B.431, subdivisions 2i, 4, and by adding a subdivision; and 256B.48, subdivisions 1b, and by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 144A.071, subdivisions 3 and 3a; 256.9656; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding a subdivision; 256.969, subdivisions 1, 9, and 20; 256B.431, subdivision 3f; and 256B.74, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota Statutes 1990, sections 256B.431, subdivisions 3, 3a, 3b, 3c, 3d, 3g, 3h, 3i, and 3j; Minnesota Statutes 1991 Supplement, sections 256.9657, subdivision 5; 256B.431, subdivision 3f; and 256B.74, subdivisions 8 and 9; Laws 1991, chapter 292, article 4, section 77; Minnesota Rules, part 9549.0060, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 2885, A bill for an act relating to agriculture; making political subdivisions of the state eligible for reimbursement from the agricultural chemical response and reimbursement account; amending Minnesota Statutes 1990, section 18E.02, subdivision 5.

Reported the same back with the recommendation that the bill be re-referred to the Committee on Appropriations without further recommendation.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

S. F. No. 1399, A bill for an act relating to utilities; determining when reconciliation of actual assessments to public utilities and telephone companies must be completed; amending Minnesota Statutes 1990, sections 216B.62, subdivision 3; and 237.295, subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 7, insert:

“Section 1. Minnesota Statutes 1990, section 216B.045, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] For the purposes of this section “intrastate pipeline” means a pipeline wholly within the state of Minnesota which transports or delivers natural gas received from another person at a point inside or at the border of the state, which is delivered at a point within the state to another, provided that all the natural gas is consumed within the state. An intrastate pipeline does not include a pipeline owned or operated by a public utility, unless a public utility files a petition requesting that a pipeline or a portion of a pipeline be classified as an intrastate pipeline and the commission approves the petition.

Sec. 2. Minnesota Statutes 1991 Supplement, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] The commissioner may by rule require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover a two-year period. The commissioner shall require at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass and shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the department must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department. Load management may be used to meet the requirements for energy conservation improvements under this section if it results in a demonstrable reduction in consumption of energy. The commissioner shall consider and may require a utility to undertake a program suggested by an outside

source, including a political subdivision or a nonprofit or community organization. No utility may make an energy conservation improvement under this section to a building envelope unless:

(1) it is the primary supplier of energy used for either space heating or cooling in the building;

(2) the commissioner determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise; or

(3) the utility has been awarded a contract under subdivision 2a.

The commissioner shall require that a substantial portion of residential conservation improvement spending and investment by public utilities addresses residential conservation improvement needs of low-income persons and shall review conservation improvement spending and investment by cooperative electric associations and municipalities in light of whether a portion of the spending or investment addresses the residential conservation improvement needs of low-income persons. For the purposes of this paragraph, "low-income" means an income less than 185 percent of the federal poverty level.

A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, ~~or the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33~~ may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest."

Page 1, line 8, delete "Section 1." and insert "Sec. 3."

Page 2, line 7, delete "Sec. 2." and insert "Sec. 4."

Amend the title as follows:

Page 1, line 2, after the semicolon insert "authorizing a public utility to petition to have a pipeline classified as an intrastate pipeline; requiring conservation improvement plans to address the needs of low-income persons; authorizing utility customers not

represented by the attorney general to challenge an energy conservation improvement program;”

Page 1, line 5, after “sections” insert “216B.045, subdivision 1;”

Page 1, line 6, before the period insert “; Minnesota Statutes 1991 Supplement, section 216B.241, subdivision 2”

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

S. F. No. 1619, A bill for an act relating to crimes; expanding list of offenses that result in ineligibility for a pistol permit to include all felonies, domestic abuse, and malicious punishment of a child; amending Minnesota Statutes 1990, section 624.713, subdivision 1; and Minnesota Statutes 1991 Supplement, section 624.712, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 609.224, is amended by adding a subdivision to read:

Subd. 3. [DOMESTIC ASSAULTS.] (a) Whoever assaults a family or household member, as defined in section 518B.01, subdivision 2, is guilty of a misdemeanor.

(b) Whoever violates the provisions of paragraph (a) within five years of a previous conviction under paragraph (a) is guilty of a gross misdemeanor.

(c) When a person is convicted of a violation of paragraph (a) or (b), the court shall determine and make written findings on the record as to whether:

(1) the defendant owns or possesses a firearm; and

(2) the firearm was used in any way during the commission of the assault.

If the court determines that the defendant owns or possesses a firearm and used it in any way during the commission of the assault,

it shall order the defendant to relinquish possession of the firearm and give it to the sheriff of the county where the offense occurred. The sheriff shall retain custody of the firearm for two years following the date of conviction.

(d) When a person is convicted of a violation of paragraph (a) or (b), the court shall inform the defendant that the defendant is prohibited from possessing a pistol for a period of two years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

Sec. 2. Minnesota Statutes 1990, section 624.713, subdivision 1, is amended to read:

Subdivision 1. [INELIGIBLE PERSONS.] The following persons shall not be entitled to possess a pistol:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol and approved by the commissioner of natural resources;

(b) a person who has been convicted in this state or elsewhere of a crime of violence unless ten years have elapsed since the person has been restored to civil rights or the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other crime of violence. For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" person as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other

than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent" as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts; ~~or~~

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts; or

(g) a person who has been convicted of assault in the fifth degree under section 609.224, subdivision 3, unless two years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224, subdivision 3. Property rights may not be abated but access may be restricted by the courts.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

Sec. 3. Minnesota Statutes 1990, section 624.714, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] A person, other than a law enforcement officer who has authority to make arrests other than citizens arrests, who carries, holds or possesses a pistol in a motor vehicle, snowmobile or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place or public area without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who has been issued a permit and who fails to have the permit in actual possession whenever the person carries the pistol or who engages in activities other than those for which the permit has been issued, is guilty of a misdemeanor.

Sec. 4. Minnesota Statutes 1990, section 624.714, is amended by adding a subdivision to read:



Subd. 5a. [FORM OF PERMIT.] By December 1, 1992, the commissioner of public safety shall adopt statewide standards governing the form and contents of every permit to carry a pistol that is granted or renewed on or after January 1, 1993. These standards must, at a minimum, require the permit to carry a pistol to include a recent photograph of the permittee. The adoption of these standards is not subject to the rulemaking provisions of chapter 14.

Every permit to carry a pistol that is granted or renewed by a police chief or county sheriff on or after January 1, 1993, must meet the statewide standards adopted by the commissioner of public safety.

Sec. 5. Minnesota Statutes 1990, section 624.714, subdivision 7, is amended to read:

Subd. 7. [RENEWAL.] Permits to carry a pistol issued pursuant to this section shall expire after one year and shall thereafter be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner of public safety under subdivision 5a.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective August 1, 1992, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; creating a separate crime of fifth degree domestic assault; requiring courts to take possession of any firearm used in the commission of the assault; disqualifying persons convicted of fifth degree domestic assault from possessing a firearm for two years after the date of the conviction; requiring the commissioner of public safety to adopt statewide standards governing form and content of permits to carry a pistol; amending Minnesota Statutes 1990, sections 609.224, by adding a subdivision; 624.713, subdivision 1; and 624.714, subdivisions 1, 7, and by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

**SECOND READING OF HOUSE BILLS**

H. F. Nos. 419, 1347, 1531, 1778, 1933, 2000, 2001, 2014, 2018, 2076, 2093, 2125, 2147, 2183, 2324, 2342, 2375, 2402, 2404, 2423, 2510, 2566, 2733, 2750, 2754 and 2849 were read for the second time.

**SECOND READING OF SENATE BILLS**

S. F. Nos. 1638, 1919, 2227, 2385, 1399 and 1619 were read for the second time.

**INTRODUCTION AND FIRST READING  
OF HOUSE BILLS**

The following House Files were introduced:

Runbeck, Schreiber, Bishop and Wenzel introduced:

H. F. No. 2975, A resolution making application to the Congress of the United States to adopt an amendment to the Constitution of the United States, for submission to the States, to require, with certain exceptions, that the Federal budget be balanced; or, in the alternative, to call a convention for the sole and exclusive purpose of proposing such an amendment for submission to the States for ratification.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Dawkins; Peterson; Jefferson; Anderson, I., and Orenstein introduced:

H. F. No. 2976, A resolution memorializing Congress to grant statehood to the District of Columbia.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Wenzel, Uphus and Koppendrayer introduced:

H. F. No. 2977, A bill for an act relating to capital improvements; authorizing bonds and appropriating money for capital planning for the St. Cloud state university library.

The bill was read for the first time and referred to the Committee on Appropriations.

Lourey and Jaros introduced:

H. F. No. 2978, A bill for an act relating to the health department; modifying the commissioner's duties; expanding outreach efforts; changing reporting requirements and expanding services for the nutritional supplement food program known as W.I.C.; appropriating money; amending Minnesota Statutes 1990, section 145.894.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Begich, Janezich and Schreiber introduced:

H. F. No. 2979, A bill for an act relating to taxation; property tax; granting a temporary exemption for certain utility distribution property located in St. Louis, Cook, Itasca, and Lake counties.

The bill was read for the first time and referred to the Committee on Taxes.

Milbert; Jacobs; Johnson, A.; Valento and Macklin introduced:

H. F. No. 2980, A bill for an act relating to taxation; property; providing for valuation of manufactured home parks; amending Minnesota Statutes 1990, sections 273.11, by adding a subdivision; and 273.124, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 276.04, subdivision 2.

The bill was read for the first time and referred to the Committee on Taxes.

Seaberg introduced:

H. F. No. 2981, A bill for an act relating to domestic abuse; waiving service of process fees of petitioners under the domestic abuse act; amending Minnesota Statutes 1991 Supplement, section 518B.01, subdivision 3a.

The bill was read for the first time and referred to the Committee on Judiciary.

## MESSAGES FROM THE SENATE

The following message was received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 1911, A bill for an act relating to Hubbard county; authorizing the private sale of certain land which was exchanged for tax-forfeited land.

PATRICK E. FLAHAVEN, Secretary of the Senate

### CONCURRENCE AND REPASSAGE

Kinkel moved that the House concur in the Senate amendments to H. F. No. 1911 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1911, A bill for an act relating to state lands; authorizing the private sale of certain land which was exchanged for tax-forfeited land; authorizing the commissioner of natural resources to sell certain land and related improvements located in Cass county to the United States of America; requiring the commissioner of natural resources to convey certain land to Hubbard county.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Carruthers	Goodno	Jaros	Lasley
Anderson, I.	Clark	Greenfield	Jefferson	Leppik
Anderson, R. H.	Cooper	Gruenes	Jennings	Lieder
Battaglia	Dauner	Gutknecht	Johnson, A.	Limmer
Bauerly	Davids	Hanson	Johnson, R.	Lourey
Beard	Dawkins	Hartle	Johnson, V.	Lynch
Begich	Dempsey	Hasskamp	Kahn	Macklin
Bertram	Dille	Haukoos	Kalis	Mariani
Bettermann	Dorn	Hausman	Kelso	Marsh
Bishop	Erhardt	Heir	Kinkel	McEachern
Blatz	Farrell	Henry	Knickerbocker	McGuire
Bodahl	Frederick	Hufnagle	Koppendrayer	McPherson
Boo	Frerichs	Hugoson	Krambeer	Milbert
Brown	Garcia	Jacobs	Krinkie	Morrison
Carlson	Girard	Janezich	Krueger	Munger

Murphy	Orfield	Rodosovich	Sparby	Wagenius
Nelson, K.	Osthoff	Rukavina	Stanis	Waltman
Nelson, S.	Ostrom	Runbeck	Steensma	Weaver
Newinski	Ozment	Sarna	Sviggum	Wejzman
O'Connor	Pauly	Schafer	Swenson	Welker
Ogren	Pellow	Schreiber	Thompson	Welle
Olsen, S.	Pelowski	Seaberg	Tompkins	Wenzel
Olson, E.	Peterson	Segal	Trimble	Winter
Olson, K.	Pugh	Simoneau	Uphus	Spk. Long
Omann	Reding	Skoglund	Valento	
Onnen	Rest	Smith	Vanasek	
Orenstein	Rice	Solberg	Vellenga	

The bill was repassed, as amended by the Senate, and its title agreed to.

### CONSENT CALENDAR

S. F. No. 2210 was reported to the House.

Orenstein moved to amend S. F. No. 2210, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 383A.291, is amended by adding a subdivision to read:

Subd. 4. In addition to the eligibles certified under other subdivisions of this section, the personnel director shall certify as eligibles for a position each county employee who has been displaced or laid off because of the closing of a county facility or for another reason and meets the minimum qualifications of the position and passes the competitive open or competitive promotional examination for the position.

Sec. 2. [LOCAL APPROVAL.]

This act takes effect the day after the Ramsey county board complies with the provisions of Minnesota Statutes, section 645.021, subdivision 3."

The motion prevailed and the amendment was adopted.

S. F. No. 2210, A bill for an act relating to Ramsey county; providing for the certification of eligibles for county positions; amending Minnesota Statutes 1990, section 383A.291, by adding a subdivision.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Olsen, S.	Skoglund
Anderson, I.	Frerichs	Kinkel	Olson, E.	Smith
Anderson, R.	Garcia	Knickerbocker	Olson, K.	Solberg
Anderson, R. H.	Girard	Koppendrayner	Omann	Sparby
Battaglia	Goodno	Krambeer	Onnen	Stanisus
Bauerly	Greenfield	Krinkie	Orenstein	Steensma
Beard	Gruenes	Krueger	Orfield	Sviggum
Begich	Gutknecht	Lasley	Osthoff	Swenson
Bertram	Hanson	Leppik	Ostrom	Thompson
Bettermann	Hartle	Lieder	Ozment	Tompkins
Bishop	Hasskamp	Limmer	Pauly	Trimble
Blatz	Haukoos	Lourey	Pellow	Uphus
Bodahl	Hausman	Lynch	Pelowski	Valento
Boo	Heir	Macklin	Peterson	Vanasek
Brown	Henry	Mariani	Pugh	Vellenga
Carlson	Hufnagle	Marsh	Reding	Wagenius
Carruthers	Hugoson	McEachern	Rest	Waltman
Clark	Jacobs	McGuire	Rice	Weaver
Cooper	Janezich	McPherson	Rodosovich	Wejzman
Dauner	Jaros	Milbert	Rukavina	Welker
Davids	Jefferson	Munger	Runbeck	Welle
Dawkins	Jennings	Murphy	Sarna	Wenzel
Dempsey	Johnson, A.	Nelson, K.	Schafer	Winter
Dille	Johnson, R.	Nelson, S.	Schreiber	Spk. Long
Dorn	Johnson, V.	Newinski	Seaberg	
Erhardt	Kahn	O'Connor	Segal	
Farrell	Kalis	Ogren	Simoneau	

The bill was passed, as amended, and its title agreed to.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Welle, from the Committee on Rules and Legislative Administration, pursuant to rule 1.09, designated the following bills as Special Orders to be acted upon immediately preceding General Orders for Monday, March 23, 1992:

H. F. Nos. 2115 and 1969; S. F. No. 1689; H. F. No. 1701; S. F. No. 1666; and H. F. Nos. 1488, 1489, 1976, 2030, 2099, 1875, 1988, 2046, 2186, 2313, 2388, 2658, 1978, 2113, 2273, 2345, 2483, 2593, 2106 and 2352.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Welle, for the Committee on Rules and Legislative Administration, offered the following report and moved its adoption:

*Resolved*, that Rules 1.16, 1.18, 3.04, 6.06, and 6.11 of the Permanent Rules of the House of Representatives for the 77th Session be amended to read as follows:

**1.16 TIME LIMIT FOR CONSIDERATION OF BILLS.** If 20 legislative days after a bill has been referred to committee or division (other than a bill in Appropriations) no report has been made upon it by the committee or division, its chief author may request that it be returned to the House and the request shall be entered in the Journal for the day. The committee or division shall have ten calendar days thereafter in which to vote upon the bill requested. If the committee or division fails to vote upon it within the ten days, the chief author may, at any time within five calendar days thereafter, present a written demand to the Speaker for its immediate return to the House. The demand shall be entered in the Journal for that day and shall constitute the demand of the House. The bill shall then be considered to be in the possession of the House, given its second reading and placed at the end of General Orders.

Such bill is subject to re-reference by a majority vote of the whole House. If the motion to re-refer is made on the day of the demand or within one legislative day thereafter, the motion shall take precedence over all other motions except privileged motions and shall be in order at any time.

In regular session in the odd-numbered year after Friday, May 17, 1991, and in the even-numbered year after Monday, March 30, 1992, the House shall not act on bills other than those recommended by conference committee reports or the Committee on Rules and Legislative Administration, and those bills contained in messages from the Senate or from the Governor.

**1.18 RECORDED FLOOR PROCEEDINGS.** All proceedings on the floor of the House shall be recorded on magnetic tape or similar recording device under the direction of the Chief Clerk. ~~Two copies of each tape~~ All taped proceedings of the House floor sessions shall be delivered to the Director of the Legislative Reference Library and there maintained on file for use by any member of the public in accordance with the rules of the Legislative Reference Library. At the end of each biennium, the Director of Tapes delivered to the Legislative Reference Library shall deliver one copy of each tape be kept by the library for eight years after which they shall be delivered to the Director of the Minnesota Historical Society.

Any person may obtain a copy of any such tape during the biennium in which it is recorded upon payment of a fee determined by the Chief Clerk to be adequate to cover the cost of preparing the copy.

Discussion preserved under this rule is not intended to be admis-

sible in any court or administrative proceeding on an issue of legislative intent.

3.04 MOTION FOR RECONSIDERATION. When a question has been decided either in the affirmative or negative, it shall be in order for any member who voted with the prevailing side to move its reconsideration, provided that such motion is made either on the same day the vote was taken or within the following two days of actual session of the House. A motion for reconsideration can be made at any time in the Order of Business and shall take precedence over all other questions except the motion to adjourn and the notice of intention to move reconsideration. Such motion or notice shall not be in order if the document, bill, resolution, message, report or other official action on which the vote was taken shall have left the possession of the House.

When a member gives notice of intention to move reconsideration of the final action of the House on any bill, resolution, message, report or other official action, the Chief Clerk shall retain the same until after the matter is disposed of or the time has expired during which the motion for reconsideration can be made.

On the last day allowed for the motion to reconsider, it shall be in order for any member who voted on the prevailing side to make the motion, unless the matter has been already disposed of.

A motion for reconsideration having been voted upon and lost shall not be renewed.

In regular session in an odd-numbered year, notice of intention to move reconsideration shall not be in order after Monday, April 22, 1991.

In regular session in an even-numbered year, notice of intention to move reconsideration shall not be in order after .....  
Thursday, March 26, 1992.

6.06 COMMITTEE RECORDS. The chair or acting chair of each standing committee shall cause a record to be kept, in the form prescribed by the Committee on Rules and Legislative Administration, which shall include the record of each bill referred to the committee and the minutes of the committee. The minutes shall include:

- a. The time and place of each hearing or meeting of the committee;
- b. Committee members present;
- c. The name and address of each person appearing before the committee, together with the name and address of the person,



association, firm or corporation in whose behalf the appearance is made;

d. The language of each motion, the name of the committee member making the motion, and the result of any vote taken upon the motion, including the yeas and nays whenever a roll call is demanded;

e. The date on which any subcommittee is created, the names of its members and the bills referred to it;

f. The record of each subcommittee meeting, including the time and place of the meeting; members present; the name of each person appearing before the subcommittee, together with the name of the person, association, firm or corporation in whose behalf the appearance is made; and the language of each motion, together with the name of the member making the motion, and the result of any vote taken upon the motion, including the yeas and nays whenever a roll call is demanded;

g. Other important matters related to the work of the committee.

The minutes shall be approved at the next regular meeting of the committee.

Copies of the minutes, after approval by the committee, shall be filed with the Chief Clerk and shall be open to public inspection in the Chief Clerk's office. At the end of the biennium they shall be delivered, together with the other committee records, to the Director of the Legislative Reference Library, where they shall remain open for public inspection during regular office hours. A copy of any page of any committee minutes may be obtained upon payment of a fee determined by the Chief Clerk to be adequate to cover the cost of preparing the copy.

The magnetic tape recording of any committee meetings shall be retained by the chair until the minutes of that meeting have been approved by the committee. The recording ~~or a copy of the recording~~ shall then be filed with the Director of the Legislative Reference Library; ~~where it shall be maintained for a period of two years from the date of filing for use by any person in accordance with the rules of the Legislative Reference Library. After expiration of the two-year period the recording may be erased and the tape may be reused.~~ Tapes filed with the Legislative Reference Library shall be kept by the library for eight years after which they shall be delivered to the Director of the Minnesota Historical Society.

Any person may obtain a copy of such tape during the period in which it is maintained in the Legislative Reference Library upon payment of a fee determined by the Chief Clerk to be sufficient to

cover the cost of the copy. Testimony and discussion preserved under this rule is not intended to be admissible in any court or administrative proceeding on an issue of legislative intent.

**6.11 CONFERENCE COMMITTEES.** A conference committee may report at any time. No committee except a conference committee or the Committee on Rules and Legislative Administration shall sit during any daily session of the House without leave.

A conference committee report shall include only subject matter contained in the House or Senate versions of the bill for which that conference committee was appointed, or like subject matter contained in a bill passed by the House. The member presenting the conference committee report to the House shall disclose all substantive changes from the House version of the bill.

In regular session in an odd-numbered year except after Monday, May 13, 1991, and in an even-numbered year except after ~~.....~~ Thursday, April 2, 1992, a written copy of a report of a conference committee shall be placed on the desk of each member of the House 24 hours before action on the report by the House. If the report has been reprinted in the Journal of the House for a preceding day and is available to the members, the Journal copy shall serve as the written report.

Schreiber moved to amend the report from the Committee on Rules and Legislative Administration, as follows:

*Resolved*, that rule 6.02 be amended as follows:

**6.02 COMMITTEE MEMBERSHIP.** No less than 30 days prior to the opening of a regular session of the Legislature, the Speaker-designate shall provide the minority group with a list of the standing committees proposed for the session. The Speaker-designate shall also designate the number of minority members to be appointed to each committee and may require general membership guidelines to be followed in the selection of committee members.

If the minority leader submits to the Speaker-designate, at least 15 days prior to the opening of the session, a list of proposed committee assignments for the minority group, which complies with the numbers and guidelines provided, the Speaker shall make such proposed assignments with the purpose of attaining proportionate representation on the committees for the minority group.

No committee of the House shall have exclusive membership from any one profession, occupation or vocation.

No member may serve as chair of the same standing committee for more than three consecutive terms.

Trimble moved that the Schreiber amendment be referred to the Committee on Rules and Legislative Administration.

A roll call was requested and properly seconded.

The question was taken on the Trimble motion and the roll was called. There were 73 yeas and 59 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Dorn	Kelso	Olson, K.	Skoglund
Anderson, R.	Farrell	Kinkel	Orenstein	Solberg
Battaglia	Garcia	Krueger	Orfield	Sparby
Bauerly	Greenfield	Lieder	Osthoff	Steensma
Beard	Hanson	Lourey	Ostrom	Thompson
Begich	Hasskamp	Mariani	Pelowski	Trimble
Bertram	Hausman	McEachern	Peterson	Vanasek
Bodahl	Jacobs	McGuire	Pugh	Vellenga
Brown	Janezich	Munger	Reding	Wagenius
Carlson	Jefferson	Murphy	Rest	Wejcmán
Carruthers	Jennings	Nelson, K.	Rodovich	Welle
Clark	Johnson, A.	Nelson, S.	Rukavina	Winter
Cooper	Johnson, R.	O'Connor	Sarna	Spk. Long
Dauner	Kahn	Ogren	Segal	
Dawkins	Kalis	Olson, E.	Simoneau	

Those who voted in the negative were:

Abrams	Girard	Knickerbocker	Morrison	Seaberg
Anderson, R. H.	Goodno	Koppendrayner	Newinski	Smith
Bettermann	Gruenes	Krambeer	Olsen, S.	Stanis
Bishop	Gutknecht	Krinkie	Omman	Sviggum
Blatz	Hartle	Lasley	Onnen	Swenson
Boo	Haukoos	Leppik	Ozment	Tompkins
Davids	Heir	Limmer	Pauly	Uphus
Dempsey	Henry	Lynch	Pellow	Valento
Dille	Hufnagle	Macklin	Rice	Waltman
Erhardt	Hugoson	Marsh	Runbeck	Weaver
Frederick	Jaros	McPherson	Schafer	Welker
Frerichs	Johnson, V.	Milbert	Schreiber	

The motion prevailed and the Schreiber amendment was referred to the Committee on Rules and Legislative Administration.

Stanis, Sviggum, Welker, Pauly, Gutknecht, Omann, Koppendrayner, Abrams and Seaberg moved to amend the report from the Committee on Rules and Legislative Administration, as follows:

*Resolved*, that rule 6.12 be amended as follows:

**6.12 COMMITTEE BUDGETS AND EXPENSES.** The Committee on Rules and Legislative Administration shall establish a budget for each standing committee of the House for expenses incurred by the committee, its members, or its staff in conducting its legislative business. Per diem expense allowances paid to members during sessions or at times set by the Speaker shall not be charged against

the budget. No committee shall incur expenses in excess of its authorized budget.

Employees shall be reimbursed for actual expenses in the same manner as state employees.

During sessions, for travel away from the Capitol, members shall be reimbursed for actual expenses in the same manner as state employees in addition to per diem expense allowances.

All charges against the committee budget must be approved by the chair before payment is made.

In April, July, October, and January, each committee shall report its expenditures during the prior quarter to the committee on Rules and Legislative Administration. The reports shall be available to any member of the House.

A roll call was requested and properly seconded.

Welle moved that the Stanius et al amendment be referred to the Committee on Rules and Legislative Administration.

A roll call was requested and properly seconded.

The question was taken on the Welle motion and the roll was called. There were 70 yeas and 62 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Farrell	Kelso	Olson, K.	Skoglund
Battaglia	Garcia	Kinkel	Osthoff	Solberg
Bauerly	Greenfield	Krueger	Ostrom	Sparby
Beard	Hanson	Lieder	Pelowski	Steensma
Begich	Hasskamp	Lourey	Peterson	Thompson
Bertram	Hausman	McEachern	Pugh	Trimble
Bodahl	Jacobs	McGuire	Reding	Vanasek
Brown	Janezich	Milbert	Rest	Vellenga
Carlson	Jaros	Munger	Rice	Wagenius
Carruthers	Jefferson	Murphy	Rodosovich	Wejzman
Clark	Johnson, A.	Nelson, K.	Rukavina	Welle
Cooper	Johnson, R.	O'Connor	Sarna	Wenzel
Dille	Kahn	Ogren	Segal	Winter
Dorn	Kalis	Olson, E.	Simoneau	Spk. Long

Those who voted in the negative were:

Abrams	Boo	Frederick	Hartle	Jennings
Anderson, R.	Dauner	Frerichs	Haukoos	Johnson, V.
Anderson, R. H.	Davids	Girard	Heir	Knickerbocker
Bettermann	Dawkins	Goodno	Henry	Koppendrayner
Bishop	Dempsey	Gruenes	Hufnagle	Krambeer
Blatz	Erhardt	Gutknecht	Hugoson	Krinkie

Lasley	Morrison	Orfield	Seaberg	Valento
Leppik	Nelson, S.	Ozment	Smith	Waltman
Limmer	Newinski	Pauly	Stanis	Weaver
Lynch	Olsen, S.	Pellow	Svigum	Welker
Macklin	Omann	Runbeck	Swenson	
Marsh	Onnen	Schafer	Tompkins	
McPherson	Orenstein	Schreiber	Uphus	

The motion prevailed and the Stanis et al amendment was referred to the Committee on Rules and Legislative Administration.

The question recurred on the Welle motion that the report of the Committee on Rules and Legislative Administration be now adopted. The motion prevailed and the report amending the Permanent Rules of the House for the 77th Session was adopted.

### GENERAL ORDERS

Welle moved that the bills on General Orders for today be continued. The motion prevailed.

### MOTIONS AND RESOLUTIONS

Simoneau moved that the name of Dorn be added as an author on H. F. No. 2420. The motion prevailed.

Sparby moved that the names of Steensma and Omann be added as authors on H. F. No. 2422. The motion prevailed.

Clark moved that the name of Koppendraye be stricken and the name of Krambeer be added as an author on H. F. No. 2704. The motion prevailed.

Osthoff moved that the name of Frerichs be added as an author on H. A. No. 40. The motion prevailed.

Begich moved that H. F. No. 2869 be recalled from the Committee on Labor-Management Relations and be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

Johnson, R., moved that H. F. No. 2423, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Wenzel moved that H. F. No. 2566, now on the Technical Consent

Calendar, be re-referred to the Committee on Appropriations. The motion prevailed.

Bettermann moved that H. F. No. 1774 be returned to its author. The motion prevailed.

Ogren moved that H. F. No. 2703 be returned to its author. The motion prevailed.

Bishop moved that H. F. No. 2027 be returned to its author. The motion prevailed.

Bishop moved that H. F. No. 2538 be returned to its author. The motion prevailed.

Kahn moved that H. F. No. 376 be returned to its author. The motion prevailed.

Stanisus introduced:

House Resolution No. 11, A house resolution setting the maximum limit on revenues and appropriations for the biennium.

The resolution was referred to the Committee on Ways and Means.

Bishop, Trimble, Limmer, Boo and Begich introduced:

House Resolution No. 12, A house resolution expressing thanks to the Chinese citizens who saved the lives of American airmen in 1942.

#### SUSPENSION OF RULES

Bishop moved that the rules be so far suspended that House Resolution No. 12 be now considered and be placed upon its adoption. The motion prevailed.

#### HOUSE RESOLUTION NO. 12

A house resolution expressing thanks to the Chinese citizens who saved the lives of American airmen in 1942.

*Whereas*, on April 18, 1942, five months after the Japanese attack on Pearl Harbor, 80 American airmen in 16 B-25 bombers took off from the USS Hornet and bombed Tokyo and other targets in Japan; and

*Whereas*, low on fuel and fighting bad weather, they flew on to China, where some of the crews crash-landed in coastal waters, and others parachuted into Japanese-occupied territory; and

*Whereas*, many of the crew members would have died but for the generous help of the Chinese people; and

*Whereas*, the occupying Japanese exacted terrible retribution from the Chinese villages that aided the airmen; and

*Whereas*, nearly 50 years later, in September of 1990, Bryan Moon of Frontenac, Minnesota, led an expedition into China's Zhejiang Province and made contact with some of those who had risked their lives to help the American airmen; and

*Whereas*, five of these Chinese "saviors" are present here today, along with Col. Hank Potter, one of the airmen saved by their help; *Now, Therefore*,

*Be It Resolved* by the House of Representatives of the State of Minnesota that it extends its thanks to Mr. Zhu Xuesan, Dr. Chen Shenyang, Mrs. Zhao Xiaobao, Mrs. Zeng Jianpei, and Mr. Liu Fangchiao for their care, their courage, and their generosity.

*Be It Further Resolved* that the House of Representatives welcomes them to Minnesota, along with Huang Enbo and Zhao Xiang-Ling of the Chinese consulate; Li Wen, their interpreter; Col. Hank Potter; and artist Bryan Moon.

*Be It Further Resolved* that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and transmit it to Mr. Zhu Xuesan, Dr. Chen Shenyang, Mrs. Zhao Xiaobao, Mrs. Zeng Jianpei, Mr. Liu Fangchiao, Col. Hank Potter, and Mr. Bryan Moon.

Bishop moved that House Resolution No. 12 be now adopted. The motion prevailed and House Resolution No. 12 was adopted.

#### ADJOURNMENT

Welle moved that when the House adjourns today it adjourn until 2:30 p.m., Monday, March 23, 1992. The motion prevailed.

Welle moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Monday, March 23, 1992.

EDWARD A. BURDICK, Chief Clerk, House of Representatives