

SEVENTY-FOURTH DAY

St. Paul, Minnesota, Monday, February 24, 1986

The Senate met at 2:00 p.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Craig Belkie.

The roll was called, and the following Senators answered to their names:

Adkins	Diessner	Knutson	Novak	Schmitz
Anderson	Dieterich	Kroening	Olson	Sieloff
Belanger	Frank	Kronebusch	Pehler	Solon
Benson	Frederick	Laidig	Peterson, C.C.	Spear
Berg	Frederickson	Langseth	Peterson, D.C.	Storm
Berglin	Freeman	Lantry	Peterson, D.L.	Stumpf
Bernhagen	Gustafson	Lessard	Peterson, R.W.	Taylor
Bertram	Hughes	Luther	Petty	Vega
Brataas	Isackson	McQuaid	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	Mehrkens	Purfeerst	Wegscheid
Dahl	Johnson, D.J.	Merriam	Ramstad	Willet
Davis	Jude	Moe, D.M.	Reichgott	
DeCramer	Kamrath	Moe, R.D.	Renneke	
Dicklich	Knaak	Nelson	Samuelson	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

August 1, 1985

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The following appointment to the Board of the Arts is hereby respectfully submitted to the Senate for confirmation as required by law:

Carol Ann MacKay, 5925 Christmas Lake Rd., Excelsior, Hennepin

County, has been appointed by me, effective August 6, 1985, for a term expiring the first Monday in January, 1987.

(Referred to the Committee on Veterans and General Legislation.)

January 14, 1986

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The following appointment to the Minnesota Higher Education Coordinating Board is hereby respectfully submitted to the Senate for confirmation as required by law:

Thomas Auth, 763 Keller Pkwy., Little Canada, Ramsey County, has been appointed by me, effective January 17, 1986, for a term expiring the first Monday in January, 1992.

(Referred to the Committee on Education.)

Sincerely,
Rudy Perpich, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 671.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted February 20, 1986

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 671: A bill for an act relating to financial institutions; authorizing interstate acquisition and formation of banks between this state and certain states on a reciprocal basis; proposing coding for new law in Minnesota Statutes, chapter 48.

Mr. Petty moved that H.F. No. 671 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1619: A bill for an act relating to civil actions; providing a cause of action for sexual exploitation; proposing coding for new law as Minnesota Statutes, chapter 148A.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, line 9, delete "6" and insert "5"

Page 1, after line 9, insert:

"Subd. 2. [EMOTIONALLY DEPENDENT.] "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to believe that the patient or former patient is unable to withhold consent to sexual contact by the psychotherapist.

Subd. 3. [FORMER PATIENT.] "Former patient" means a person who was given psychotherapy within one year prior to sexual contact with the psychotherapist."

Page 1, line 20, delete "includes but"

Page 1, line 21, delete "is not limited to" and insert "means"

Page 1, line 22, before the colon, insert "or former patient"

Page 1, line 25, after "patient's" insert "or former patient's"

Page 2, line 2, before the semicolon, insert " , or any intrusion, however slight, into the genital or anal openings of the psychotherapist's body by any part of the patient's or former patient's body or by any object used by the patient or former patient for this purpose, if agreed to by the psychotherapist"

Page 2, line 6, after the semicolon, insert "or"

Page 2, delete lines 7 and 8

Page 2, line 9, after "patient" insert "or former patient"

Page 2, line 12, delete the colon

Page 2, line 13, delete "(a)" and delete "acquiesces in such" and insert "agrees to the"

Page 2, line 14, delete "initiated by the patient," and insert a period

Page 2, delete lines 15 to 20 and insert:

" "Sexual contact" includes requests by the psychotherapist for conduct described in clauses (1) to (3)."

Renumber the clauses in sequence

Page 2, delete lines 24 to 29

Renumber the subdivisions in sequence

Page 2, line 36, after "action" insert "against a psychotherapist" and delete "is created" and insert "exists"

Page 3, line 1, delete "against a psychotherapist" and delete "who"

Page 3, delete lines 2 to 10 and insert "for damages caused by sexual contact with the psychotherapist, if:

(1) the sexual contact occurred during a psychotherapy session;

(2) the sexual contact occurred while the patient or former patient was emotionally dependent on the psychotherapist; or

(3) the sexual contact occurred by means of therapeutic deception."

Page 3, line 11, delete the comma

Page 3, line 12, delete "including punitive damages,"

Page 3, line 13, delete "the" and insert "an action"

Page 3, delete lines 14 to 17 and insert "under clauses (1) to (3) that the sexual contact occurred off the premises regularly used by the psychotherapist for psychotherapy sessions. It is not a defense to an action under clause (2) or (3) that the sexual contact occurred outside a psychotherapy session."

Pages 3 and 4, delete sections 3 and 4 and insert:

"Sec. 3. [148A.03] [LIABILITY OF EMPLOYER.]

(a) An employer of a psychotherapist may be liable under section 2 if:

(1) the employer fails or refuses to take reasonable action when the employer knows or has reason to know that the psychotherapist engaged in sexual contact with the plaintiff or any other patient or former patient of the psychotherapist; or

(2) the employer fails or refuses to make inquiries of an employer or former employer, whose name and address have been disclosed to the employer and who employed the psychotherapist as a psychotherapist within the last five years, concerning the occurrence of sexual contacts by the psychotherapist with patients or former patients of the psychotherapist.

(b) An employer or former employer of a psychotherapist may be liable under section 2 if the employer or former employer:

(1) knows of the occurrence of sexual contact by the psychotherapist with patients or former patients of the psychotherapist;

(2) receives a specific written request by another employer or prospective employer of the psychotherapist, engaged in the business of psychotherapy, concerning the existence or nature of the sexual contact; and

(3) fails or refuses to disclose the occurrence of the sexual contacts.

(c) An employer or former employer may be liable under section 2 only to the extent that the failure or refusal to take any action required by paragraph (a) or (b) was a proximate and actual cause of any damages sustained.

(d) No cause of action arises, nor may a licensing board in this state take disciplinary action, against a psychotherapist's employer or former employer who in good faith complies with paragraph (b)."

Page 4, line 12, delete "[148A.05]" and insert "[148A.04]"

Page 4, line 25, delete "is" and insert "may be"

Page 4, line 27, delete "[148A.06]" and insert "[148A.05]"

Page 4, line 28, delete "shall" and insert "must"

Page 4, line 29, delete "seven" and insert "six"

Page 4, line 31, delete "6" and insert "5"

Renumber the sections in sequence

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1963: A bill for an act relating to metropolitan government; changing the treatment of current value credits and modifying the cost allocation system of the metropolitan waste control commission; providing for a reserve fund for the commission; authorizing appointment of advisory committees by the commission; authorizing an implementation period for transition to a new cost allocation system; amending Minnesota Statutes 1984, sections 473.511, subdivision 4; and 473.517, subdivisions 1, 2, 3, and 9; repealing Minnesota Statutes 1984, section 473.517, subdivisions 4, 5, and 7.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1780: A bill for an act relating to local government; authorizing local units of government to reimburse homeowners' associations for the cost of maintaining certain roadways; proposing coding for new law in Minnesota Statutes, chapter 471.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1883: A bill for an act relating to the city of St. Paul; permitting the establishment of special service districts in the city and providing taxing and other authority.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 12, delete " , but not limited to "

Page 1, delete lines 17 and 18

Page 1, line 19, delete "(4)" and insert "(3)"

Page 1, line 20, delete the period and insert " ; and "

Page 1, after line 20, insert:

"(4) the repair, maintenance, operation and replacement of improvements constructed or to be constructed as part of the Highland Village Improvement Project and the Grand Avenue Neighborhood Partnership projects, which are within the boundaries of the special service districts established under sec-

tion 2, subdivision 1."

Page 3, line 16, delete "all classes of"

Page 3, line 17, delete "taxable property excluding homestead property" and insert "properties within zoning districts classified by the city of St. Paul as: OS-1, B-1, B-2C, B-3, I-1 and P-1,"

Page 3, line 24, delete "Special service taxes may"

Page 3, delete lines 25 to 27

Page 3, line 28, delete "sufficient to pay for the increase."

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1548: A bill for an act relating to the city of Becker; authorizing a development fund; authorizing the creation of a board or agency to administer it.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, delete everything after "hand"

Page 1, line 14, delete "district"

Page 1, line 18, after "taxation" insert ", provided that the tax levied for this purpose does not exceed two mills annually"

Page 1, line 22, delete "financing of private" and insert "economic"

Page 2, line 10, after "273" insert ", provided that any general obligation bonds must be issued in the same manner as provided in chapter 475"

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 1659: A bill for an act relating to game and fish; authorizing stocking of fish in certain streams where public access is granted; amending Minnesota Statutes 1984, section 97.485.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 14, delete "department" and insert "commissioner"

Page 1, line 15, delete "streams" and insert "any stream" and delete "provided" and insert "where"

Page 1, line 16, after "access" insert "to" and delete "lands" and insert "stream"

Page 1, after line 17, insert:

"Sec. 2. [PASSAGE OF S.F. No. 1526.]

If S.F. No. 1526 is enacted in the 1986 legislative session, Minnesota Statutes 1984, section 97.485, as amended by section 1, is repealed and article 3, section 18 of S.F. No. 1526 is amended to read:

Sec. 18. [97C.201] [STATE FISH STOCKING PROHIBITED WITHOUT PUBLIC ACCESS.]

The commissioner and state agencies may only stock fish in waters where there is public access. *The commissioner may stock fish in any stream within privately owned lands where the public is granted free access to and use of the stream for fishing purposes.*"

Amend the title as follows:

Page 1, line 5, before the period, insert "; and S.F. No. 1526, if enacted"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 1744: A bill for an act relating to motor vehicles; providing for special license plates for Vietnam era veterans; amending Minnesota Statutes 1984, section 168.12, by adding a subdivision.

Reports the same back with the recommendation that the bill be re-referred to the Committee on Transportation. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 871: A bill for an act relating to health; authorizing the commissioner of health to inspect certain business premises; providing for disclosure of hazardous substances information in certain cases; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 2, after "information" insert "subject to section 13.02, subdivision 9,"

Page 2, line 11, delete "through his or her authority," and insert "directly"

Page 2, delete lines 14 to 20

Page 2, line 21, delete everything before "is" and insert "Nonpublic data obtained under subdivision 1"

Page 2, line 24, delete "information" and insert "nonpublic data so obtained"

Page 2, line 26, after "information" insert ", which is nonpublic data,"

Page 2, delete section 2

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "appropriating money;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was referred

S.F. No. 1065: A bill for an act relating to recreational vehicles; regulating all-terrain vehicles; providing penalties; appropriating money; amending Minnesota Statutes 1984, sections 84.92; 84.922, subdivisions 1, 3, 5, 6, 7, 8, and by adding subdivisions; 84.925; 84.927; 84.928; 85.018, subdivisions 1, 2, 3, 4, and 5; 100.273, subdivision 9; and 296.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 84.

Reports the same back with the recommendation that the bill be amended as follows:

Page 12, line 15, delete "\$830,000" and insert "\$400,000"

Page 12, delete lines 18 to 21 and insert:

"Sec. 24. [APPLICABILITY.]

Section 22 applies to gasoline received in or produced or brought into this state on and after January 1, 1986."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 1950: A bill for an act relating to taxation; limiting application of the open space property tax law to facilities that do not discriminate on the basis of sex; amending Minnesota Statutes 1984, section 273.112, subdivisions 3 and 4, and by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 22, after "taxes" insert "imposed under subdivision 7"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 1962: A bill for an act relating to taxation; property; changing the payment date for taxes on certain manufactured homes; amending Minnesota Statutes 1984, section 274.19, subdivision 5; Minnesota Statutes 1985 Supplement, section 274.19, subdivisions 3 and 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1801: A bill for an act relating to criminal procedure; providing

for in camera hearings on certain evidentiary issues in criminal sexual conduct cases; amending Minnesota Statutes 1984, section 609.347, subdivision 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1735: A bill for an act relating to probate; providing for an increased sum payable to a surviving spouse by affidavit; increasing the value of a probate estate allowed for purposes of collection by affidavit; amending Minnesota Statutes 1984, sections 181.58; and 524.3-1201.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, strike "executor or administrator" and insert "*personal representative*"

Page 1, line 21, delete "\$8,000" and insert "\$10,000"

Page 2, line 6, strike "executor or administrator" and insert "*personal representative*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1714: A bill for an act relating to trusts; providing for the standard of care of trustees; authorizing certain investments of trust property; providing for powers of trustees; amending Minnesota Statutes 1984, sections 501.125, subdivision 1, and by adding a subdivision; and 501.66, subdivision 28, and by adding a subdivision; Minnesota Statutes 1985 Supplement, section 501.125, subdivision 6.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 4, after "*skills*" insert "*or expertise*"

Page 2, line 5, delete "*is named trustee on the basis of representations of*" and insert "*if the trustee holds itself out as having*"

Page 2, line 7, after "*skills*" insert "*or expertise*"

Page 4, line 30, after "*on*" insert "*or after*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 51: A bill for an act relating to health; requiring licensure of home care agencies; providing a home care bill of rights; providing a complaint procedure for home care clients; appropriating money; amending Minnesota Statutes 1984, sections 144A.51, by adding a subdivision; 144A.52, subdivision 3; 144A.53, subdivisions 1, 2, 3, and 4; 144A.54, subdivision 1;

626.557, subdivision 2; and proposing coding for new law in Minnesota Statutes, chapter 144A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 144.335, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Patient" means a natural person who has received health care services from a provider for treatment of a medical, psychiatric or mental condition, or a person he designates in writing as his representative. Except for minors who have received health care services pursuant to sections 144.341 to 144.347, in the case of a minor, "patient" includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapters 147, 148, 150A, 151 or 153; (2) *a home care agency licensed under section 6*; and (2) (3) a health care facility licensed pursuant to chapters 144 or 144A.

Sec. 2. Minnesota Statutes 1984, section 144.699, subdivision 2, is amended to read:

Subd. 2. [FOSTERING PRICE COMPETITION.] The commissioner of health shall:

(a) Encourage hospitals, outpatient surgical centers, *home care agencies*, and professionals regulated by the health related licensing boards as defined in section 214.01, subdivision 2, and by the commissioner of health under section 214.13, to publish prices for procedures and services that are representative of the diagnoses and conditions for which citizens of this state seek treatment.

(b) Analyze and disseminate available price information and analyses so as to foster the development of price competition among hospitals, outpatient surgical centers, *home care agencies*, and health professionals.

Sec. 3. [144A.43] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 2 to 7.*

Subd. 2. [COMMISSIONER.] "*Commissioner*" means the commissioner of health.

Subd. 3. [HOME CARE SERVICE.] "*Home care service*" means any of the following services when delivered in a place of residence to a person whose advanced age, illness, disability, or physical condition creates a need for the service:

(1) nursing services, including the services of a home health aide;

(2) personal care services not included under sections 148.171 to 148.299;

(3) physical therapy;

- (4) speech therapy;
- (5) respiratory therapy;
- (6) occupational therapy;
- (7) nutritional services;
- (8) homemaker services, meal preparation, and similar nonmedical services when arranged to be provided along with at least one other home care service listed in this subdivision;
- (9) medical social services; and
- (10) other similar medical services and health-related support services identified by the commissioner in rule.

Subd. 4. [HOME CARE AGENCY.] "Home care agency" means an organization, unit of government, self-employed individual, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of home care services, including the provision of home care services in connection with other services or equipment, for a fee. "Home care agency" does not include:

- (1) any home or nursing services conducted by and for the adherents of any recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing;
- (2) an individual who only provides services to a relative;
- (3) an individual who provides chore or housekeeping services with incidental medical, nutritional, or personal care or treatment; or
- (4) an agency that only provides chore or housekeeping services which do not involve any medical care or treatment or personal care services.

Sec. 4. [144A.44] [HOME CARE BILL OF RIGHTS.]

Subdivision 1. [STATEMENT OF RIGHTS.] A person who receives home care services has these rights:

- (1) the right to receive written information about rights, including what to do if rights are violated;
- (2) the right to receive care and services according to a suitable and up-to-date plan, and subject to accepted medical or nursing standards, to take an active part in creating and changing the plan and evaluating care and services;
- (3) the right to be told about agency services that are being provided or suggested, about other choices that are available, and about the consequences of these choices including the consequences of refusing these services;
- (4) the right to refuse services or treatment;
- (5) the right to know, in advance, any limits to the services available from an agency, whether the services are covered by health insurance, medical assistance, or other health programs, and the agency's grounds for a termination of services;

(6) the right to know what the charges are for services, no matter who will be paying the bill;

(7) the right to know that there may be other services available in the community, including other home care services, agencies, and case management services, and to know where to go for information about these services;

(8) the right to choose freely among available agencies and to change agencies after services have begun, within the limits of health insurance, medical assistance, or other health programs;

(9) the right to have personal, financial, and medical information kept private;

(10) the right to be allowed access to records and written information from records;

(11) the right to be served by people who are properly trained and competent to perform their duties;

(12) the right to be treated with courtesy and respect;

(13) the right to be free from physical and verbal abuse;

(14) the right to reasonable notice of changes in services or charges;

(15) the right to a coordinated transfer when there will be a change in the provider of services;

(16) the right to know how to contact the director of an agency who is responsible for handling problems and where to go for help outside the agency; and

(17) the right to assert these rights without retaliation.

Subd. 2. [INTERPRETATION AND ENFORCEMENT OF RIGHTS.] These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 3, subdivision 3. The right of access to records in subdivision 1, clause (10), is subject to the conditions and requirements of section 144.335. A home care agency may not require a person to surrender these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist relative to persons receiving home care services, persons providing home care services, or agencies licensed under this act.

Sec. 5. [144A.45] [REGULATION OF HOME CARE SERVICES.]

Subdivision 1. [PURPOSE.] The commissioner shall regulate and control the delivery of home care services in order to protect consumers; assure quality of care; improve access to services; and prevent fraud.

Subd. 2. [REGULATORY FUNCTIONS.] The commissioner shall:

(1) evaluate, monitor, and license home care agencies in accordance with sections 5 to 7 and 16;

(2) inspect the office and records of an agency during regular business hours, provided that when conducting routine office visits or inspections, the

commissioner shall provide at least 48 hours' advance notice to the home care agency;

(3) with the consent of the consumer, visit the home where services are being provided;

(4) issue correction orders and assess civil penalties in accordance with section 144.653, subdivisions 5 to 8;

(5) take other action reasonably required to accomplish the purposes of sections 2 to 7 and 16; and

(6) in conformity with this section and in consultation with representatives of the various kinds of providers of home care services, community health service agencies, and consumers, adopt rules governing home care agencies. The rules adopted by the commissioner may include the following:

(a) provisions to assure, to the extent possible, the health, safety and well-being, and appropriate treatment of persons who receive home care services;

(b) requirements that home care agencies furnish the commissioner specified information necessary to implement sections 2 to 7 and 16;

(c) standards of training of home care agency personnel, which may vary according to the nature of the services provided or the health status of the consumer;

(d) standards of supervision by a physician or registered nurse of personnel providing home care services, which may vary according to the nature of the services provided or the health status of the consumer;

(e) requirements for the involvement of a consumer's physician, the documentation of physicians' orders and the consumer's treatment plan, and the maintenance of accurate, current clinical records;

(f) exemptions of specified classes of agencies, in addition to those provided in section 6, subdivision 2, from licensure requirements. When determining whether to exempt a class of agencies, the commissioner shall consider: (1) the extent to which the agencies, or the individuals who provide services through the agencies, are regulated under another law; (2) the risk to the health, safety, and well-being of the client; and (3) other factors the commissioner considers appropriate;

(g) the establishment of different classes of licenses for different types of agencies and different standards and requirements for different kinds of home care services; and

(h) operating procedures required to implement the home care bill of rights.

In the exercise of the authority granted in sections 2 to 7 and 16, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act.

Sec. 6. [144A.46] [LICENSURE.]

Subdivision 1. [LICENSE REQUIRED.] (a) A home care agency may not operate in the state without a current license issued by the commissioner of health.

(b) Within ten days after receiving an application for a license, the com-

missioner shall acknowledge receipt of the application in writing. The acknowledgement must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 60 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 60 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

Subd. 2. [EXEMPTIONS.] The following individuals are exempt from the requirement to obtain a home care agency license:

(1) a person who is licensed under sections 148.171 to 148.285 and who independently provides nursing services in the home without any contractual or employment relationship to a home care agency or other organization;

(2) a personal care attendant who provides services under the medical assistance program as authorized under section 256B.02, subdivision 8, paragraph (17), and section 17;

(3) a member professional corporation organized under sections 319A.01 to 319A.22; and

(4) a person licensed under chapter 147 who is conducting business as a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under section 317.67, a partnership organized under sections 323.01 to 323.43, or any other entities determined by the commissioner.

An exemption under this subdivision does not excuse the individual from complying with applicable provisions of the home care bill of rights.

Subd. 3. [ENFORCEMENT.] The commissioner may refuse to grant or renew a license, or may suspend or revoke a license, for violation of statutes or rules relating to home care services or for conduct detrimental to the welfare of the consumer. In addition to any other remedy provided by law, the commissioner may, without a prior contested case hearing, temporarily suspend a license or prohibit delivery of services by an agency for not more than 60 days if the commissioner determines that the health or safety of a consumer is in imminent danger, provided (1) advance notice is given to the agency; (2) after notice, the agency fails to correct the problem; (3) the commissioner has reason to believe that other administrative remedies are not likely to be effective; and (4) there is a subsequent opportunity for a contested case hearing. The process of suspending or revoking a license must include a plan for transferring affected clients to other agencies. At the request of a licensee who has been issued a correction order, the commissioner shall order a review of the appropriateness of the correction order by a person designated by the commissioner other than the person who issued the correction order. The review process must allow an opportunity for the licensee to submit a brief explanation of the objections to the correction order. If, after receiving the report and recommendation of the reviewer, the commissioner determines that the correction order was issued inappropriately, the commissioner shall retract the correction order and remove from the licensee's record all references to the order.

Subd. 4. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 2 to 7 and 16, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 4. For home care agencies certified under the medicare program, the state standards must not be inconsistent with the medicare standards for medicare services.

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] An applicant for a home care agency license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the agency. A home care agency shall require employees of the agency and applicants for employment to disclose all criminal convictions. No person may be employed by a home care agency or involved in the management, operation, or control of an agency, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care agency, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate.

Sec. 7. [144A.47] [INFORMATION AND REFERRAL SERVICES.]

The commissioner shall ensure that information and referral services relating to home care are available in all regions of the state. The commissioner shall collect and make available information about available home care services, sources of payment, agencies, and the rights of consumers. The commissioner may require home care agencies to provide information requested for the purposes of this section, including price information, as a condition of registration or licensure. Specific price information furnished by agencies under this section is not public data and must not be released without the written permission of the agency. The commissioner may publish and make available:

(1) general information and a summary of the range of prices of home care services in the state;

(2) limitations on hours, availability of services, and eligibility for third-party payments, applicable to individual agencies; and

(3) other information the commissioner determines to be appropriate.

Sec. 8. Minnesota Statutes 1984, section 144A.51, subdivision 6, is

amended to read:

Subd. 6. "Resident" means any resident or patient of a health facility or a consumer of services provided by a home care agency, or the guardian or conservator of a the resident or, patient of a health facility, or consumer, if one has been appointed.

Sec. 9. Minnesota Statutes 1984, section 144A.51, is amended by adding a subdivision to read:

Subd. 7. "Home care agency" means a home care agency as defined in section 3, subdivision 4.

Sec. 10. Minnesota Statutes 1984, section 144A.52, subdivision 3, is amended to read:

Subd. 3. The director may delegate to members of his staff any of his authority or duties except the duty of formally making recommendations to the legislature, administrative agencies, health facilities, health care providers, home care agencies, and the state commissioner of health.

Sec. 11. Minnesota Statutes 1984, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers, home care agencies, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that he may not charge a fee for filing a complaint;

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government;

(c) Investigate, upon a complaint or upon his own initiative, any action or failure to act by a health care provider, home care agency, or a health facility;

(d) Request and receive access to relevant information, records, or documents in the possession of an administrative agency, a health care provider, a home care agency, or a health facility which he deems necessary for the discharge of his responsibilities;

(e) Enter and inspect, at any time, a health facility; provided that the director shall not unduly interfere with or disturb the activities of a resident unless the resident consents;

(f) Issue a correction order pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health care facilities or home care agencies, or under section 5;

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or Title XIX of the United States Social Security Act;

(h) Assist residents of health facilities in the enforcement of their rights under Minnesota law; and

(i) Work with administrative agencies, health facilities, home care agencies, and health care providers and organizations representing consumers on

programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 12. Minnesota Statutes 1984, section 144A.53, subdivision 2, is amended to read:

Subd. 2. [COMPLAINTS.] The director may receive a complaint from any source concerning an action of an administrative agency, a health care provider, a *home care agency*, or a health facility. He may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

The director shall keep written records of all complaints and his action upon them. After completing his investigation of a complaint, he shall inform the complainant, the administrative agency having jurisdiction over the subject matter, the health care provider, the *home care agency*, and the health facility of the action taken.

Sec. 13. Minnesota Statutes 1984, section 144A.53, subdivision 3, is amended to read:

Subd. 3. [RECOMMENDATIONS.] If, after duly considering a complaint and whatever material he deems pertinent, the director determines that the complaint is valid, he may recommend that an administrative agency, a health care provider, a *home care agency*, or a health facility should:

- (a) Modify or cancel the actions which gave rise to the complaint;
- (b) Alter the practice, rule or decision which gave rise to the complaint;
- (c) Provide more information about the action under investigation; or
- (d) Take any other step which the director considers appropriate.

If the director requests, the administrative agency, a health care provider, a *home care agency*, or health facility shall, within the time specified, inform the director about the action taken on his recommendation.

Sec. 14. Minnesota Statutes 1984, section 144A.53, subdivision 4, is amended to read:

Subd. 4. [REFERRAL OF COMPLAINTS.] If a complaint received by the director relates to a matter more properly within the jurisdiction of an occupational licensing board or other governmental agency, the director shall forward the complaint to that agency and shall inform the complaining party of the forwarding. The agency shall promptly act in respect to the complaint, and shall inform the complaining party and the director of its disposition. If a governmental agency receives a complaint which is more properly within the jurisdiction of the director, it shall promptly forward the complaint to the director, and shall inform the complaining party of the forwarding. If the director has reason to believe that an official or employee of an administrative agency, a *home care agency*, or health facility has acted in a manner warranting criminal or disciplinary proceedings, he shall refer the matter to the state commissioner of health, the commissioner of human services, an appropriate prosecuting authority, or other appropriate agency.

Sec. 15. Minnesota Statutes 1984, section 144A.54, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided by this section, the director may determine the form, frequency, and distribution of his conclusions and recommendations. The director shall transmit his conclusions and recommendations to the state commissioner of health and the legislature. Before announcing a conclusion or recommendation that expressly or by implication criticizes an administrative agency, a health care provider, a *home care agency*, or a health facility, the director shall consult with that agency, health care provider, *home care agency*, or facility. When publishing an opinion adverse to an administrative agency, a health care provider, a *home care agency*, or a health facility, he shall include in the publication any statement of reasonable length made to him by that agency, health care provider, *home care agency*, or health facility in defense or explanation of the action.

Sec. 16. [TEMPORARY PROCEDURES.]

Beginning July 1, 1986, no home care agency, as defined in section 3, subdivision 4, except an agency exempt from licensure under section 6, subdivision 2, may provide home care services in this state without registering with the commissioner. A home care agency is registered with the commissioner when the commissioner has received in writing the agency's name; the name of its parent corporation or sponsoring organization, if any; the street address and telephone number of its principal place of business; the street address and telephone number of its principal place of business in Minnesota; the counties in Minnesota in which it may render services; the street address and telephone number of all other offices in Minnesota; and the name, educational background, and ten-year employment history of the person responsible for the management of the agency. A registration fee must be submitted with the application for registration. The fee must be established pursuant to section 144.122 and must be based on the number of clients served by the home care agency. The registration is effective until licensure rules are adopted by the commissioner. In order to maintain its registration and provide services in Minnesota, a home care agency must comply with section 4 and comply with requests for information under section 7. A registered home care agency is subject to sections 144A.51 to 144A.54. Registration under this section does not exempt a home care agency from the licensure and other requirements later adopted by the commissioner.

Sec. 17. Minnesota Statutes 1984, section 256B.04, is amended by adding a subdivision to read:

Subd. 16. [PERSONAL CARE ATTENDANTS.] The commissioner shall adopt emergency and permanent rules to implement, administer, and operate the personal care attendant services program. The rules must incorporate the standards and requirements for personal care attendants adopted by the commissioner of health under section 5. The rules must provide, at a minimum:

(1) that agencies be selected by competitive bidding to employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ as a personal care attendant a qualified applicant that a qualified recipient proposes to the agency as his or her choice of attendant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care attendant and a visit by the registered nurse super-

vising the personal care attendant;

(4) that agencies establish a grievance mechanism;

(5) that agencies have a quality assurance program; and

(6) that all recipients requesting personal care services be screened by the preadmission screening team to determine the need for personal care services and the ability of the recipient to direct his or her own care.

Sec. 18. Minnesota Statutes 1984, section 364.09, is amended to read:

364.09 [~~LAW ENFORCEMENT; EXCEPTION~~ EXCEPTIONS.]

This chapter shall not apply to the practice of law enforcement or to eligibility for a family day care license ~~or~~, a family foster care license, ~~or a home care agency license~~. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board from recommending policies set forth in this chapter to the attorney general for adoption in his discretion to apply to law enforcement.

Sec. 19. Minnesota Statutes 1985 Supplement, section 626.557, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific context indicates otherwise.

(a) "Facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed to serve adults pursuant to section 144A.02; an agency; day care facility, or residential facility required to be licensed to serve adults pursuant to sections 245.781 to 245.812; or a home ~~health care~~ agency ~~certified for participation in Titles XVIII or XIX of the Social Security Act, United States Code, title 42, sections 1395 et seq~~ licensed under section 6.

(b) "Vulnerable adult" means any person 18 years of age or older:

(1) who is a resident or inpatient of a facility;

(2) who receives services at or from a facility required to be licensed to serve adults pursuant to sections 245.781 to 245.812, except a person receiving outpatient services for treatment of chemical dependency or mental illness;

(3) who receives services from a home ~~health care~~ agency ~~certified for participation under Titles XVIII or XIX of the Social Security Act, United States Code, title 42, sections 1395 et seq and 1396 et seq~~ licensed under section 6; or

(4) who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status.

(c) "Caretaker" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

(d) "Abuse" means:

(1) any act which constitutes a violation under sections 609.221 to 609.223, 609.23 to 609.235, 609.322, 609.342, 609.343, 609.344, or 609.345;

(2) nontherapeutic conduct which produces or could reasonably be expected to produce pain or injury and is not accidental, or any repeated conduct which produces or could reasonably be expected to produce mental or emotional distress;

(3) any sexual contact between a facility staff person and a resident or client of that facility; or

(4) the illegal use of a vulnerable adult's person or property for another person's profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person's property for any purpose not in the proper and lawful execution of a trust, including but not limited to situations where a person obtains money, property, or services from a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud.

(e) "Neglect" means:

(1) failure by a caretaker to supply a vulnerable adult with necessary food, clothing, shelter, health care or supervision;

(2) the absence or likelihood of absence of necessary food, clothing, shelter, health care, or supervision for a vulnerable adult; or

(3) the absence or likelihood of absence of necessary financial management to protect a vulnerable adult against abuse as defined in paragraph (d), clause (4). Nothing in this section shall be construed to require a health care facility to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

(f) "Report" means any report received by a local welfare agency, police department, county sheriff, or licensing agency pursuant to this section.

(g) "Licensing agency" means:

(1) the commissioner of health, for facilities as defined in clause (a) which are required to be licensed or certified by the department of health;

(2) the commissioner of human services, for facilities required by sections 245.781 to 245.813 to be licensed;

(3) any licensing board which regulates persons pursuant to section 214.01, subdivision 2; and

(4) any agency responsible for credentialing human services occupations.

Sec. 20. [APPROPRIATIONS.]

\$131,700 is appropriated from the general fund to the commissioner of health for the regulation of home care services to be available until June 30, 1987.

Sec. 21. [EFFECTIVE DATE.]

Sections 1 to 20 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to health; requiring licensure of home care agen-

cies; providing a home care bill of rights; providing a complaint procedure for home care clients; appropriating money; amending Minnesota Statutes 1984, sections 144.335, subdivision 1; 144.699, subdivision 2; 144A.51, subdivision 6, and by adding a subdivision; 144A.52, subdivision 3; 144A.53, subdivisions 1, 2, 3, and 4; 144A.54, subdivision 1; 256B.04, by adding a subdivision; and 364.09; Minnesota Statutes 1985 Supplement, section 626.557, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 144A."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1664: A bill for an act relating to airports; requiring approval of pollution control agency for expanded capacity at Minneapolis-St. Paul International Airport; amending Minnesota Statutes 1984, section 473.612.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 473.612, is amended to read:

473.612 [NOISE ABATEMENT PLAN.]

Subdivision 1. By December 31, 1981 the commission shall submit to the legislature a noise abatement plan for the Minneapolis-St. Paul International Airport, containing annual programmatic goals, numerical goals, and objectives until December 31, 1989, for reduction of aircraft noise within the metropolitan area. The plan shall also contain, but not be limited to, documentation of annual change in the maximum hourly noise levels, such as defined by Minnesota pollution control agency rules, Minnesota Rules, chapter 7010, based on the typically worst noise condition on an hourly basis received in residential areas representing the noise-impacted region of the metropolitan area. The pollution control agency shall participate in the selection and review of the monitoring of such residential areas.

Subd. 2. By December 31, 1982, and each year thereafter until December 31, 1989, the commission shall submit to the legislature and the pollution control agency a draft report detailing the accomplishment of programmatic goals and objectives and the annual change in noise levels as outlined in the above noise abatement plan. *The report must include a five-year plan describing all proposed expansions of the runways or terminal that will cause an increase in aircraft operations or passenger enplanement levels. The report must analyze the noise impact of the proposed expansions. The report must detail the commission's progress in implementing section 2. The commission shall also submit the draft report to the metropolitan council, which shall review and comment on the report.* By December 31, 1984, and each year thereafter until December 31, 1989, the commission shall submit to the legislature a report which includes any comments provided by the pollution control agency and the metropolitan council and the commission's response to the comments. In addition, the commission shall provide as part of the

annual reports its best estimate, in the form of numerical goals, of noise abatement to be achieved by December 31, 1989, in residential areas representing the noise-impacted region of the metropolitan area. The goals shall be updated annually.

Sec. 2. [473.613] [AIRPORT NOISE REDUCTION.]

The metropolitan airports commission shall implement at the Minneapolis-St. Paul International Airport the following noise reduction strategies by June 1, 1986:

(1) differential landing fees based on the noise levels of individual aircraft, with lower fees for quieter planes;

(2) preferential allocation of ground facilities for quieter aircraft; and

(3) a noise budget to prevent increases above the aggregate noise level in 1984.

Sec. 3. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to airports; requiring the metropolitan airports commission to implement noise reduction strategies and report to the legislature; amending Minnesota Statutes 1984, section 473.612; proposing coding for new law in Minnesota Statutes, chapter 473."

And when so amended the bill do pass and be re-referred to the Committee on Agriculture and Natural Resources. Amendments adopted. Report adopted.

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1641: A bill for an act relating to motor vehicles; defining term; establishing category and system of registration of fleet vehicles; amending Minnesota Statutes 1984, section 168.011, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 168.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 168.011, is amended by adding a subdivision to read:

Subd. 30. [FLEET.] "Fleet" means a combination of 1,000 or more vehicles and trailers owned by a person solely for the use of that person or employees of the person and registered in this state under section 2. It does not include vehicles licensed under section 168.187.

Sec. 2. [168.127] [FLEET VEHICLES; REGISTRATION, FEES.]

Subdivision 1. [REGISTRATION CATEGORY.] A unique registration category is established for vehicles and trailers of a fleet. Vehicles registered in the fleet must be issued a distinctive license plate. The design and size of

the fleet license plate must be determined by the commissioner.

Subd. 2. [ANNUAL REGISTRATION PERIOD.] Instead of the registration period assigned for vehicles registered under sections 168.014, 168.017, and 168.12, subdivisions 1 and 2a, a person may register a fleet on an annual basis. The annual registration period for vehicles in the fleet will be determined by the commissioner. By January 1, the applicant must provide all information necessary to qualify as a fleet registrant including a list of all vehicles in the fleet. On initial registration, all taxes and fees for vehicles in the fleet must be reassessed based on the expiration date. Gross weights for fleet vehicles may not be changed during the registration period.

Subd. 3. [REGISTRATION CARDS ISSUED.] On approval of the application for fleet registration the commissioner must issue a registration card for each qualified vehicle in the fleet. The registration card must be carried in the vehicle at all times and be made available to a peace officer on demand. Validation stickers must be issued to vehicles registered by gross weight.

Subd. 4. [FILING REGISTRATION APPLICATIONS.] Initial fleet applications for registration must be filed with the registrar or authorized representative at the main headquarters offices of the department of public safety in St. Paul. Renewal applications for fleet registrations may be filed either in the St. Paul office or with a deputy registrar.

Subd. 5. [RENEWAL OF FLEET REGISTRATION.] On the renewal of a fleet registration the registrant shall pay full licensing fees for every vehicle registered in the preceding year unless the vehicle has been properly deleted from the fleet. In order to delete a vehicle from a fleet, the fleet registrant must surrender to the commissioner the registration card, validation stickers, and license plates. If the card, stickers, or license plates are lost or stolen, the fleet registrant shall submit a sworn statement stating the circumstances for the inability to surrender the card, stickers, and license plates. The commissioner shall assess a penalty of 20 percent of the total tax due on the fleet against the fleet registrant who fails to renew the licenses issued under this section or fails to report the removal of vehicles from the fleet within 30 days. The penalty must be paid within 30 days after it is assessed.

Subd. 6. [FEES.] Instead of the \$3.25 filing fee for each vehicle, the applicant shall pay a \$3.25 administrative fee for each vehicle in the fleet. The administrative fee must be deposited in the state treasury and credited to the highway user tax distribution fund. A filing fee of \$3.25 must be collected by the processing office for an application regardless of the number of vehicles listed."

Amend the title as follows:

Page 1, line 2, delete "defining term;"

Page 1, line 3, delete "category and" and insert "a"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1690: A bill for an act relating to traffic regulations; authorizing

municipalities to permit handicapped persons to operate three-wheel off-road vehicles on city streets and roads under certain conditions; amending Minnesota Statutes 1984, section 169.045.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 18, delete the new language

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Purfeerst from the Committee on Transportation, to which was referred

S.F. No. 1910: A bill for an act relating to transportation; adding new route to trunk highway system in substitution of existing route; allowing old highway to be turned back to city of Willmar; directing revisor of statutes to make route substitution; amending Laws 1974, chapter 151, section 3.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Lessard from the Committee on Veterans and General Legislation, to which was referred

S.F. No. 1853: A bill for an act relating to state government; authorizing the Indian affairs council to accept grants and gifts; amending Minnesota Statutes 1984, section 3.922, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 19, after the period, insert *"The council shall have power to contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chairperson and the executive director."*

Amend the title as follows:

Page 1, line 3, after "to" insert "enter contracts and to"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Veterans and General Legislation, to which was referred

S.F. No. 1852: A bill for an act relating to cemeteries; changing procedures for dealing with certain burial sites; increasing a penalty; amending Minnesota Statutes 1984, section 307.08.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 20, strike "or" and insert "and"

Page 2, line 20, after the period, insert *"Only after obtaining written permission from the property owner or lessee,"*

Page 2, line 23, delete everything after "*ceremonies*"

Page 2, line 24, delete "*the property owners, but*" and insert a period

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was re-referred

S.F. No. 1613: A bill for an act relating to agriculture; establishing filing requirements, enforcement, and priority of veterinarian's lien; amending Minnesota Statutes 1984, section 514.92.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, after line 27, insert:

"(5) the fraction of veterinary services performed that were primarily for the purpose of protecting human health, preventing the imminent spread of animal diseases, or necessary to restore the health of the animal or animals treated;"

Renumber the remaining clauses in sequence

Page 2, line 36, delete "*started*" and insert "*commenced*"

Page 3, line 1, delete "*last veterinary*" and insert "*veterinarian's most recent*"

Page 3, line 1, after "*service*" insert "*to the animals*"

Page 3, line 6, before the period, insert "*to the extent the veterinary services were performed primarily for the purpose of protecting human health, preventing the imminent spread of animal diseases, or restoring the health of the animal or animals treated*"

Page 3, line 8, delete "*first lien filed*" and insert "*most recent service provided*"

Page 3, line 11, delete "*last*" and before "*service*" insert "*most recent*"

Page 3, line 14, delete "*started*" and insert "*commenced*"

Page 3, after line 17, insert:

"Sec. 2. [EFFECTIVE DATE.]

This act applies to liens arising from services provided on or after May 1, 1986."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

H.F. No. 1035: A bill for an act relating to frauds; fixing conditions for the legal determination of fraud in property transfers; enacting the uniform fraudulent transfer act; proposing coding for new law in Minnesota Statutes, chapter 513; repealing Minnesota Statutes 1984, sections 513.20; 513.21; 513.22; 513.23; 513.24; 513.25; 513.26; 513.27; 513.28; 513.29; 513.30;

513.31; and 513.32.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, line 4, after the period, insert *“‘Transfer’ does not include a lien, charge, or encumbrance established pursuant to order, judgment, or decree under chapters 518, 518A, 518B, or 518C.”*

Page 5, line 21, after *“believed”* insert *“or reasonably should have believed”* and delete *“he or she”* and insert *“the debtor”*

Page 5, line 22, delete *“his or her”* and insert *“the debtor’s”*

Page 6, line 21, after *“to”* insert *“a spouse, child, or”* and after *“insider”* insert *“other than a relative”*

Page 6, line 22, after *“the”* insert *“spouse, child, or”* and delete *“had”*

Page 6, line 23, delete *“reasonable cause to believe”* and insert *“knew”*

Page 6, delete lines 27 to 36

Page 7, delete lines 1 to 9

Page 7, line 10, delete everything before *“transfer”* and insert *“(1) a”*

Renumber the clauses in sequence

Page 7, line 26, delete *“in”*

Page 7, delete line 27

Page 7, line 28, delete everything before the semicolon and insert *“as may be allowed by rule or law”*

Page 8, line 2, delete *“debtor”* and insert *“transferee”*

Page 8, line 12, after *“judgment”* insert *“from any party joined in the action against whom judgment is entered”*

Page 10, after line 5, insert:

“Sec. 14. [EFFECTIVE DATE.]

This act is effective for transfers made on or after August 1, 1986.”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1752: A bill for an act relating to statutes; adopting a gender neutral revision of Minnesota Statutes; providing for no substantive change; granting certain editorial authority to the revisor of statutes; amending Minnesota Statutes 1984, section 3C.10, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 11 and 12, after *“on”* insert *“January”*

Page 1, lines 12 and 13, before the first comma, insert *“24”*

Page 2, after line 33, insert:

“Sec. 5. [AMENDMENTS.]

Volume 2 of The Gender Revision of 1986 as adopted under section 1 is amended as follows:

Page 282, line 66, strike “hunter,”

Page 282, line 67, delete “fisher” and strike “, trapper, tourist or vacationist” and insert “person”

Page 284, line 2, before “license” insert “fishing” and after the stricken “fisherman” delete “fisher” and insert “person”

Page 294, line 35, delete “fishers” and insert “licensees”

Page 296, line 13, strike “licensed” and delete “fishers” and insert “fishing licensees”

Page 296, line 17, strike “licensed” and delete “fishers” and insert “fishing licensees”

Page 300, line 53, strike “licensed” and delete “fishers” and insert “fishing licensees”

Amend the title as follows:

Page 1, line 2, after “adopting” insert “as amended”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 1793: A bill for an act relating to local government; permitting an agreement to finance library construction in McGregor.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, delete line 6

Page 2, line 7, delete “subdivision 1, clause (a),” and delete “without local”

Page 2, line 8, delete “approval”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 1643: A bill for an act relating to Aitkin county; permitting the county to levy a tax for development purposes.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, after “levy” insert “a tax of”

Page 1, after line 14, insert:

"Sec. 2. [REVERSE REFERENDUM.]

If the Aitkin county board intends to exercise the authority provided by section 1, it shall pass a resolution stating the fact. Thereafter, the resolution shall be published for two successive weeks in the official newspaper of the county or, if there is no official newspaper, in a newspaper of general circulation in the county, together with a notice fixing a date for a public hearing on the matter. The hearing shall be held not less than two weeks nor more than four weeks after the first publication of the resolution. Following the public hearing, the county may determine to take no further action or, in the alternative, adopt a resolution confirming its intention to exercise the authority. That resolution shall also be published in the official newspaper of the county or, if there is no official newspaper, in a newspaper of general circulation in the county. If within 30 days thereafter a petition signed by voters equal in number to five percent of the votes cast in the county in the last general election requesting a vote on the proposed resolution is filed with the county auditor, the resolution shall not be effective until it has been submitted to the voters at a general or special election and a majority of votes cast on the question of approving the resolution is in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at the election. The referendum must be held at a special or general election prior to October 1 of the first year for which the tax authorized under section 1 is proposed to be levied.

Sec. 3. Laws 1984, chapter 502, article 13, section 10, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] The limitation imposed upon the levy of the city of Breezy Point by Minnesota Statutes, section 275.11, is increased by ~~\$125,000~~ \$175,000 for taxes levied in ~~1984~~ 1986 and thereafter.

Sec. 4. [REVERSE REFERENDUM.]

If the Breezy Point city council proposes to increase the levy limit base of the city pursuant to section 3, it shall pass a resolution stating the amount by which the levy limit base is proposed to be increased. Thereafter, the resolution shall be published for two successive weeks in the official newspaper of the city or if there is no official newspaper, in a newspaper of general circulation in the city, together with a notice fixing a date for a public hearing on the proposed increase. The hearing shall be held not less than two weeks nor more than four weeks after the first publication of the resolution. Following the public hearing, the city may determine to take no further action or, in the alternative, adopt a resolution authorizing the increase as originally proposed or approving an increase in the lesser amount it determines. The resolution authorizing an increase shall be published in the official newspaper of the city or if there is no official newspaper, in a newspaper of general circulation in the city. If within 30 days thereafter a petition signed by voters equal in number to five percent of the votes cast in the city in the last general election requesting a referendum on the proposed resolution is filed with the clerk, the resolution shall not be effective until it has been submitted to the voters at a general or special election and a majority of votes cast on the question of approving the resolution is in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at the referendum.

The referendum must be held at a special or general election prior to October of the first levy year in which the tax authorized under section 3 is proposed to be levied."

Page 1, line 16, delete "compliance with" and insert "final enactment."

Page 1, delete lines 17 and 18

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "Aitkin county" and insert "property taxes" and delete "the" and insert "Aitkin"

Page 1, line 3, after "purposes" insert "; permitting the city of Breezy Point to increase its levy; providing for reverse referendum; amending Laws 1984, chapter 502, article 13, section 10, subdivision 1"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Moe, D.M. from the Committee on Governmental Operations, to which was referred

S.F. No. 1916: A bill for an act relating to state government; ratifying certain labor agreements and compensation and salary plans; granting authority to the legislative commission on employee relations.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 8, before the period, insert "; except that the salary of the commissioner of human services is \$62,494; the salary of the chief administrative law judge, office of administrative hearings, is \$57,060; the salary of the chairman, metropolitan council, is \$52,000; the salary of the commissioner of veterans affairs is \$48,100; and the salary of a commissioner, public utilities commission, is \$44,850"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1913: A bill for an act relating to metropolitan government; providing for appointments, administration, reports, and duties of metropolitan agencies; amending Minnesota Statutes 1984, sections 473.121, subdivision 6, and by adding subdivisions; 473.123, subdivisions 2a, 3, and 3a; 473.141, subdivisions 2, 3, and 4a; 473.146, subdivisions 1, 2, and 3; 473.161; 473.163, subdivisions 1 and 2; and 473.303, subdivisions 2 and 4a; Minnesota Statutes 1985 Supplement, section 473.38, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1984, sections 473.121, subdivision 7; 473.163, subdivisions 3 and 4; 473.373, subdivision 3; 473.377; and 473.38, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 473.121, is amended by adding a subdivision to read:

Subd. 5a. "Metropolitan governmental unit" means any unit of government created by chapter 473, including the council, parks and open space commission, transit board, transit commission, waste control commission, airports commission, sports facilities commission, and mosquito control district.

Sec. 2. Minnesota Statutes 1984, section 473.121, is amended by adding a subdivision to read:

Subd. 5b. "Metropolitan agency" means the metropolitan waste control commission and the regional transit board.

Sec. 3. Minnesota Statutes 1984, section 473.121, subdivision 6, is amended to read:

Subd. 6. "Local governmental unit" means any county, city, town, school district, special district or other political subdivisions or public corporation, other than a metropolitan ~~commission~~ governmental unit, lying in whole or part within the metropolitan area.

Sec. 4. Minnesota Statutes 1984, section 473.123, subdivision 2a, is amended to read:

Subd. 2a. [TERMS.] Following each apportionment of council districts, as provided under subdivision 3a, ~~the terms of council members shall commence on the effective date of that apportionment,~~ must be appointed from newly drawn districts as provided in subdivision 3a. The terms of members are as follows: members representing even-numbered districts for terms ending the first Monday in January of the year ending in the numeral "7"; members representing odd-numbered districts for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member is four years, ~~with terms ending the first Monday in January,~~ except that all terms expire on the effective date of the next apportionment. A member shall continue to serve his district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. ~~The appointment to the council must be made by the first Monday in March of the year in which the term ends.~~

Sec. 5. Minnesota Statutes 1984, section 473.123, subdivision 3, is amended to read:

Subd. 3. [MEMBERSHIP; APPOINTMENT; QUALIFICATIONS.] (a) ~~The council shall be composed of 16~~ Sixteen members must be appointed by the governor from districts defined by this section. ~~The governor shall appoint members on a nonpartisan basis after consultation with all members of the legislature from the council district for which the member is to be appointed. Appointments are subject to the advice and consent of the senate.~~ Each council member shall must reside in the council district which he represents. Each council district shall 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 ~~shall~~ 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 metropolitan citizens appointed by the governor, to nominate persons for appointment to the council from districts. Following the submission of applications as provided under section 15.0597, subdivision 5, the nominating committee 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 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 governor a list of nominees for each appointment. The governor is not required to appoint from the list.*

(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.*

Sec. 6. Minnesota Statutes 1984, section 473.123, subdivision 3a, is amended to read:

Subd. 3a. [APPORTIONMENT.] The legislature shall redraw the boundaries of the council districts after each decennial federal census so that each district has substantially equal population. Redistricting is effective on the first Monday in January in the year ending in the numeral "3." ~~Within two months thereafter~~ *By the first Monday in March of that year*, the governor shall appoint members from the newly drawn districts to serve terms as provided under subdivision 2a.

Sec. 7. Minnesota Statutes 1984, section 473.141, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP; APPOINTMENTS.] (a) Each ~~commission~~ *consist* agency consists of eight members, plus a chairman 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 ~~commission~~ district for which the member is to be

appointed. ~~Appointments are subject to the advice and consent of the senate.~~

(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 ~~commission~~ member applications to the metropolitan council as provided under section 15.0597, subdivision 5, the ~~council~~ appointments committee shall conduct ~~one or more~~ public hearings on the matter of the appointments for the ~~commission~~ districts 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. 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.*

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

- (1) ~~Commission~~ district A, consisting of council districts 1 and 2;
- (2) ~~Commission~~ district B, consisting of council districts 3 and 7;
- (3) ~~Commission~~ district C, consisting of council districts 4 and 5;
- (4) ~~Commission~~ district D, consisting of council districts 6 and 10;
- (5) ~~Commission~~ district E, consisting of council districts 8 and 9;
- (6) ~~Commission~~ district F, consisting of council districts 11 and 12;
- (7) ~~Commission~~ district G, consisting of council districts 13 and 14; and
- (8) ~~Commission~~ district H, consisting of council districts 15 and 16.

Sec. 8. Minnesota Statutes 1984, section 473.141, subdivision 3, is amended to read:

Subd. 3. [CHAIRMAN.] The chairman of each ~~commission~~ agency shall be appointed by the governor with the advice and consent of the senate and, shall be the ninth voting member of the ~~commission~~ and shall meet all qualifications established for members, except the chairman need only reside within the metropolitan area. *The council, by resolution after a public meeting on the subject, shall provide the governor with a list of nominees for the position.* Senate confirmation ~~shall be~~ is as provided by section 15.066. The chairman shall preside at all meetings of the ~~commission~~ agency, if present,

and shall perform all other duties and functions assigned to him by the ~~commission~~ agency or by law. Each ~~commission~~ agency may appoint from among its members a vice-chairman to act for the chairman during his temporary absence or disability.

Sec. 9. Minnesota Statutes 1984, section 473.141, subdivision 4a, is amended to read:

Subd. 4a. [TERMS.] Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, ~~the terms of members and the chairman of each commission shall commence on the effective date of that apportionment, the metropolitan council, newly appointed as provided in section 473.123, subdivision 3a, shall appoint eight agency board members from newly drawn districts.~~ The terms of members and chairmen are as follows: members representing ~~commission~~ districts A, B, C, and D, and the chairman of each ~~commission~~, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing ~~commission~~ districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chairman is four years, *with terms ending the first Monday in January*, except that all terms expire on the effective date of the next apportionment. A chairman shall continue to serve until a successor is appointed and qualified. A member shall continue to serve his ~~commission~~ district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appointed pursuant to section 473.123, subdivision 3a appoints eight ~~commission~~ members as provided under subdivision 2, to serve terms as provided under this subdivision. *The appointments to the agency must be made by the first Monday in May of the year in which the term ends.*

Sec. 10. Minnesota Statutes 1984, section 473.146, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] ~~Within 12 months after April 12, 1974, The council shall adopt after appropriate study and such public hearings as may be necessary, as a part of its development guide, a long-range comprehensive policy plans plan for each metropolitan commission and when adopted, the policy plans shall be followed by the council and the affected commissions agency. The plans shall must substantially conform to all policy statements, purposes, goals, standards, and maps in the development guide sections and comprehensive plans as developed and adopted by the council pursuant to the chapters of the Minnesota Statutes directly relating to the council and the metropolitan commissions. In preparing or amending a policy plan the council shall consult with and make maximum use of the expertise of the affected commission, and each such commission shall cooperate with and make its employees, records, studies, plans and other information available to the council under chapter 473. Each such policy plan shall must include, to the extent appropriate to the functions, services, and systems covered thereby, the following:~~

(a) A statement of the needs of the metropolitan area with respect to the functions covered and the objective of and the policies to be forwarded by the policy plan;

(b) A general description of the physical facilities and services to be developed by the metropolitan commission in performing its functions;

(c) A statement as to the general location of physical facilities and service areas;

(d) A general statement of timing and priorities in the development by the metropolitan commission of those physical facilities and service areas;

(e) A general statement on the level of public expenditure both capital and operating appropriate to the facilities and

(1) Forecasts of changes in the general levels and distribution of population, households, employment, land uses, and other relevant matters, for the metropolitan area and appropriate subareas, to be used in preparing the implementation plan of the affected metropolitan agency;

(2) A statement of issues, problems, needs, and opportunities with respect to the functions, services, and systems covered;

(3) A statement of the council's goals, objectives, and priorities with respect to the functions, services, and systems covered, addressing areas and populations to be served, the levels, distribution, and staging of services; a general description of the facility systems required to support the services, and other similar matters;

(4) A statement of policies to effectuate the council's goals, objectives, and priorities;

(5) A statement of the fiscal implications of the council's plan, including a statement of: (i) the resources available under existing fiscal policy; (ii) the adequacy of resources under existing fiscal policy and any shortfalls and unattended needs; (iii) additional resources, if any, that are or may be required to effectuate the council's goals, objectives, and priorities; and (iv) any changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the council has recommended or may recommend;

(6) A statement of the standards, criteria, and procedures that the council will use in monitoring and evaluating the implementation of the plan;

(7) A statement of the matters that must be addressed in the implementation plan of the affected metropolitan agency;

(8) A statement of the relationship of the policy plan to other policy plans and chapters of the metropolitan development guide;

(f) (9) A statement of the relationships to any current local comprehensive plans and any related development programs on file with the council prepared under sections 473.851 to 473.872; and

(g) Such (10) Additional general information as may be necessary to develop the policy plan or as may be required by the laws relating to the metropolitan commission agency and function covered by the policy plan; and

(h) A general statement relating to future population, employment levels, and land use in the metropolitan area and in the individual local governmental units located therein, including population densities and anticipated rates of

change in such densities.

Sec. 11. Minnesota Statutes 1984, section 473.146, subdivision 2, is amended to read:

Subd. 2. [CONSULTATION WITH AGENCY; PRE-DRAFTING NOTICE.] *In preparing or amending the policy plan, the council shall consult with and make maximum use of the expertise of the affected metropolitan agency. The agency shall cooperate with the council and make its records, studies, plans, and other information available to the council.*

Before beginning to prepare a substantial revision of a policy plan, the council shall publish notice and request comments from the public. At least 90 days before publication of the pre-drafting notice, the council shall submit a draft of the notice to the affected metropolitan agency for review and comment. The pre-drafting notice must include a statement of the subjects expected to be covered by the policy and implementation plans; a summary of important problems, issues, and matters that are expected to be addressed in the plans; and a summary of the studies and other information required as the basis of the plans. All interested persons must be afforded an opportunity to submit data or views on the pre-drafting notice, either orally or in writing.

Before adopting a policy plan or substantial revision thereof, the council shall submit the proposed plan to the affected metropolitan ~~commission~~ agency for its review, and the ~~commission~~ agency shall report its comments to the council within 60 90 days and may, within that period request the council to hold a special public hearing for the purpose of receiving the ~~commission's~~ report and comments. Within 60 days after the submission of the proposed plan to the ~~commission~~, any local governmental unit may request a public hearing for the purpose of receiving testimony from local governmental units and the general public concerning the proposed policy plan prior to the adoption of a policy plan. Within a reasonable time, not to exceed 60 days, after receiving a request for a hearing.

Subd. 2a. [HEARING; ADOPTION.] *The council shall hold a public hearing on the proposed policy plan at ~~such~~ a time and place in the metropolitan area as ~~it shall determine~~ determined by the council. Not less than 15 days before the hearing, the council shall publish notice ~~thereof~~ in a newspaper or newspapers having general circulation in the metropolitan area, stating the date, time and place of hearing, and the place where the proposed policy plan and ~~commission~~ agency comments may be examined by any interested person. At any hearing interested persons ~~shall~~ must be permitted to present their views on the policy plan, and the hearing may be continued from time to time. After receipt of the ~~commission's~~ agency's report and ~~such~~ the hearing, if ~~any~~, the council may revise the proposed plan giving appropriate consideration to all comments received, and thereafter shall adopt the plan by resolution.*

Subd. 2b. [EFFECT.] *Adopted policy plans must be followed by the council and the affected metropolitan agency.*

Subd. 2c. [AMENDMENT.] *An amendment to a policy plan may be initiated by the council or by an affected ~~commission~~ metropolitan agency. At least every ~~four~~ five years the council shall engage in a comprehensive review of the policy plan and revise the plan as necessary. ~~Development~~*

guide sections, comprehensive plans, capital improvement programs and other plans in substantial conformance with the requirements of subdivision 1 which have been adopted by the council pursuant to Minnesota Statutes 1971, Chapters 473A, 473B and 473C, shall continue in force and effect until expressly superseded by a policy plan adopted pursuant to this subdivision. The council shall not amend a policy plan except in accordance with the procedures herein established in this section.

Sec. 12. Minnesota Statutes 1984, section 473.146, subdivision 3, is amended to read:

Subd. 3. [TRANSPORTATION CHAPTER OF THE DEVELOPMENT GUIDE.] The council shall adopt a transportation policy plan as a part of its comprehensive development guide as provided in subdivisions 1 and 2. The regional transit board shall perform the functions and have the responsibility and authority provided for a metropolitan commission. The policy plan chapter must include policies relating to all transportation forms and be designed to promote the legislative determinations, policies and goals set forth in section 473.371. In addition to the requirements of subdivision 1 regarding the contents of the policy plan, the transit elements of the plan must include the following:

(1) a statement of service objectives, policies, and standards that should govern the distribution, coordination, and general location of facilities, services, and service areas to be planned, deployed, or developed by or under the direction or auspices of the transit board;

(2) a general statement of timing and priorities in the planning, deployment, and development of services;

(3) a statement of the policies and standards that should govern the levels of public expenditure, both capital and operating, for various services and service areas;

(4) a statement of the policies and standards that should govern total annual regional funding levels, the sources of funds, and the distribution of funds among the facilities, services, and service areas; and

(5) a description of the contents that should be included in the implementation plans prepared by the transit board.

In addition to the requirements of subdivisions 1 and 2 regarding the use of the expertise of the affected agency, the state transportation department, metropolitan transit commission, and affected counties and municipalities may provide technical assistance requested by the council. The council shall amend its policy plan to conform to the requirements of this subdivision by January 1, 1986 non-transit element of the transportation chapter must include the following:

(1) a statement of the needs of the metropolitan area with respect to the functions covered and the objectives of and the policies to be forwarded by the policy plan;

(2) a general description of the physical facilities and services to be developed;

(3) a statement as to the general location of physical facilities and service

areas;

(4) a general statement of timing and priorities in the development of those physical facilities and service areas; and

(5) a general statement on the level of public expenditure appropriate to the facilities.

Sec. 13. Minnesota Statutes 1984, section 473.161, is amended to read:

473.161 [DEVELOPMENT PROGRAMS OF METROPOLITAN COMMISSIONS.]

Subdivision 1. [PREPARATION OF DEVELOPMENT PROGRAMS.] Each metropolitan commission shall prepare a development program covering the detailed technical planning, engineering, financing, scheduling and other information necessary to the development of the program elements to be performed by the commission in implementing the policy plan adopted by the council pursuant to section 473.146. The program may include such other technical information as the metropolitan commission deems necessary. The program shall prescribe and delineate the functions to be performed and activities to be undertaken by the metropolitan commission and shall cover at least the five year period commencing with the first calendar year beginning after its approval or such longer period as the council may prescribe. The program shall describe all capital improvements to be undertaken in such period and with respect to each improvement shall include the following:

(a) A description of the improvement, its location, function and estimated cost;

(b) The proposed manner of financing the capital costs of the improvement, and the sources of revenue available for payment of such costs;

(c) A schedule showing on a yearly basis the timing of land acquisition, construction and capital expenditures for the improvements;

(d) A review and description of the public need for the improvement, alternatives to the improvement, (including alternatives not involving capital expenditures); the environmental and social effects of the improvement and all actions and steps theretofore taken by the commission with respect to the improvement;

(e) An estimate of the probable impact of the improvement on the responsibilities of the other metropolitan commissions;

(f) An estimate of the annual operating costs of the improvement and the sources of revenue available for payment of such costs;

(g) An evaluation of the relative priority of the improvement taking into consideration other capital improvements described in the program;

(h) Each program shall include such additional information as the council or commission may deem appropriate.

Upon a request from any local governmental unit, the commission shall hold a public hearing for the purpose of receiving testimony from local governmental units and the public prior to submission to the council as provided in subdivision 2.

Subd. 1a. [REQUIREMENT; PURPOSE.] Each metropolitan agency shall

adopt an implementation plan meeting the requirements of this section. The implementation plan must implement and effectuate the policy plan adopted by the council under section 473.146. Elements of the implementation plan must cover the period or periods prescribed in the council's policy plan.

Subd. 1b. [CONTENT.] The implementation plan must include the following:

(1) a statement of objectives and priorities for capital development, services, and system management;

(2) a statement of agency plans to achieve the objectives, describing the functions, services, and systems that will be provided by or under the direction or auspices of the agency;

(3) a statement of how the agency's objectives, priorities, and plans will implement and effectuate the council's policy plan;

(4) a statement of the fiscal implications of the agency's plan, including a statement of: (i) the anticipated expenditure of public and private funds, for capital developments, services, and system administration and management, and the changes in expenditure levels that the plan represents; (ii) the resources available under existing fiscal policy and additional resources, if any, that are or may be required to effectuate the agency's plan; (iii) any changes in agency policy on regional sources of revenue and changes in levels of debt, user charges, and taxes; (iv) other changes in existing fiscal policy, on regional revenues and intergovernmental aids respectively, that are expected or that the agency has recommended or may recommend; and (v) the effect on functions and levels and types of services, and the agency's contingency and cost-containment strategies, if the additional resources required to effectuate the agency's plan do not become available;

(5) a statement of the standards, criteria, and procedures that the agency will use in monitoring and evaluating the results of the implementation plan;

(6) a statement of the effect of the plan on the responsibilities of other governmental units; and

(7) other information that the council or agency deems appropriate.

The plan must include a services and systems management component that describes the levels and costs of services that will be provided to service areas and populations within the metropolitan area. The plan must also include a capital investment component that sets forth a capital investment strategy and estimates the fiscal and other effects of the strategy.

Subd. 1c. [SERVICES AND SYSTEMS MANAGEMENT.] The services and systems management component required by subdivision 1b must describe: (1) service needs, objectives, and priorities; (2) changes in existing services; (3) deployment of new services; (4) distribution and coordination of services; (5) delivery methods and providers; (6) system management and administration; (7) costs; (8) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (9) fiscal effects.

Subd. 1d. [CAPITAL INVESTMENT.] The capital investment component required by subdivision 1b must specify, to the extent practicable, the capital

improvements to be undertaken. For each improvement specified, the plan must describe: (1) need, function, objective, and relative priority; (2) alternatives, including alternatives not involving capital expenditures; (3) ownership and operating entity; (4) location and schedule of development; (5) environmental, social, and economic effects; (6) cost; (7) manner of finance and revenue sources, including federal and state funds, private funds, taxes, and user charges; and (8) fiscal effects, including an estimate of annual operating costs and sources of revenue to pay the costs.

Subd. 2. [SUBMISSION TO PROCEDURE; REVIEW AND APPROVAL BY COUNCIL.] The development program implementation plan prepared by the metropolitan commission shall agency must be submitted to the council for review and approval or disapproval at the time or times stated in the policy plan. The agency shall hold a public hearing on the plan before submitting it to the council and shall transmit a report of the hearing to the council along with the plan. The council shall complete its review within 90 days after receipt of the proposed development program implementation plan. In the course of its review of the implementation plan the council shall publish an analysis and evaluation of the success of the agency in effectuating the council's policy plan. If the council determines that the program implementation plan is consistent with the policy plan it shall approve the program plan as submitted. If it determines that the program implementation plan or part thereof is inconsistent with the policy plan, it shall disapprove it and return it to require the submitting commission with comments and the commission shall agency to make appropriate revisions in the program and resubmit it to the council for review and approval or disapproval. Before approving a program or returning it to the submitting commission, the council shall hold a public hearing for the purpose of considering the program and the council's comments thereon, if requested to do so by the affected commission. The council may approve or disapprove a development program in whole or in part. implementation plan necessary to bring it into conformance with the policy plan. The agency shall make the revisions required by the council within 60 days, or a longer period agreed to by the council, and resubmit the plan to the council for review. If the agency refuses to make the revisions required by the council in the time allowed, the council shall hold a public hearing on the matter in dispute. At the hearing the council shall make an affirmative presentation of its position on the required revisions, shall allow the agency to present its objections to the revisions, and shall allow all persons to present their views on the matter. Following the hearing the council shall prepare a report on the hearing, including a summary of the disagreeing positions of the council and the agency, and shall make a final decision on the revision. If the council decides to require revision, the council's decision shall contain specific changes in the implementation plan. The changes contained in the council's decision are binding on the agency and are part of the implementation plan required to be adopted and implemented by the agency under subdivision 3.

Subd. 2a. [AMENDMENT.] Within two years of the approval of its first development program by the council and At least biennially thereafter each commission metropolitan agency shall review the program implementation plan, make such the revisions as are necessary, including an updating of the five year capital improvement program, and submit the program plan to the council for its review and approval or disapproval as herein provided in this section.

Subd. 3. [ADOPTION; EFFECT OF DEVELOPMENT PROGRAM.]

After approval by the council of a development program the commission The metropolitan agency shall adopt and implement the program implementation plan, with the revisions required by the council, within 60 days following council approval. No capital improvements shall be undertaken by the metropolitan commission unless authorized by the program or The activities of the agency, including its priorities and timing, must be consistent with its approved and adopted implementation plan or be specifically approved by the council. The council shall may not approve any improvement activity not in substantial conformance with the appropriate policy plan.

Sec. 14. [473.1623] [METROPOLITAN GOVERNMENTAL UNITS; FINANCIAL REPORTING AND MANAGEMENT.]

Subdivision 1. [PURPOSE.] The purpose of this section is to enhance the efficiency, effectiveness, and responsiveness of metropolitan governmental units and services, by improving coordination among metropolitan governmental units in financial reporting and management for metropolitan systems and services.

Subd. 2. [FINANCIAL REPORTING AND MANAGEMENT ADVISORY COMMITTEE.] A financial reporting and management advisory committee is created, consisting of the chairs of the following metropolitan governmental units: the council, waste control commission, transit board, parks and open space commission, and sports facilities commission. The committee is established to assist and advise the council and other governing boards in meeting the requirements of this section. Staff and administrative services for the committee must be provided by the member units.

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 all metropolitan governmental units who are represented on the advisory committee 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 unit, 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;*
- (2) levels and allocation of public expenditure, including capital, debt, operating, and pass through funds, stated in the aggregate and by appropriate functional, programmatic, administrative, and geographic categories, and the changes in expenditure levels and allocations that the report represents;*
- (3) the resources available under existing fiscal policy;*
- (4) additional resources, if any, that are or may be required;*
- (5) changes in 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 inter-governmental aids respectively, that are expected or that have been or may be recommended by the respective agencies;*
- (7) an analysis that links, as far as practicable, the uses of funds and the*

sources of funds, by appropriate categories and in the aggregate;

(8) a description of how the fiscal policies effectuate current policy and implementation plans of the governmental units concerned; and

(9) a summary of significant changes in agency finance and an analysis of fiscal trends.

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.

Subd. 4. [FINANCIAL REPORTING; BUDGETING.] The advisory committee, with the assistance of the state auditor and the legislative auditor, shall develop uniform or consistent standards, formats, and procedures for the budgets and financial reports of all metropolitan governmental units who are represented on the advisory committee. The council shall report to the legislature from time to time on progress made by the committee in improving the uniformity and quality of budgets and financial reports and on legislation that may be needed for this purpose.

Subd. 5. [ADMINISTRATIVE COORDINATION.] The advisory committee shall evaluate the benefits, costs, methods, and effects; including operational effects, of joint or uniform and coordinated exercise of powers by metropolitan governmental units who are represented on the advisory committee 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 on the findings and recommendations of the advisory committee to date by January 1, 1987, 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 governmental units, and the comments must be submitted along with the report.

Sec. 15. Minnesota Statutes 1984, section 473.163, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Each metropolitan ~~commission~~ agency shall prepare a proposed budget for ~~calendar year 1976 and each calendar year thereafter. The proposed budget shall be prepared on or before by August 1, 1975 and of each year thereafter.~~ The budget must be consistent with and effectuate the implementation plan. The budget ~~shall~~ must show for each ~~such~~ year:

(a) The estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service; ~~and~~

(b) Capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year; all in such detail and form as the council may prescribe; ~~and~~

(c) *The estimated source and use of pass-through funds.*

Sec. 16. Minnesota Statutes 1984, section 473.163, subdivision 2, is

amended to read:

Subd. 2. [PROCEDURE; APPROVAL OF COUNCIL.] ~~Between~~ *As early as practicable before August 1 and September 15 of each year, the commission 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 commission agency shall publish notice thereof 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 shall must be submitted to the council on or before by August 15 of each year and shall be subject to 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. Before December 15 of each year the commission, after obtaining approval of the council for any changes in the capital improvements budget, agency shall by resolution adopt a final budget. Each commission agency shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year.*

Subd. 2a. [EFFECT.] Except in an emergency, for which procedures shall must be established by the commission agency, the commission agency and its officers, agents and employees shall may not spend money for any purpose, other than debt service, without an appropriation by the commission or in excess of the amount appropriated therefor agency, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. ~~The commission may.~~ After obtaining approval of the council, *if required under subdivision 2, the agency may amend the capital improvements budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose. The council shall file the budgets of all commissions with the secretary of the senate and the clerk of the house of representatives not later than January 15 of each year.*

Sec. 17. Minnesota Statutes 1984, section 473.303, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The commission shall consist of eight members, plus a chairman appointed as provided in subdivision 3. The metropolitan council shall appoint the eight members ~~on a nonpartisan basis.~~

One member shall be appointed from each of the following commission districts:

- (1) Commission district A, consisting of council districts 1 and 2;

- (2) Commission district B, consisting of council districts 3 and 7;
- (3) Commission district C, consisting of council districts 4 and 5;
- (4) Commission district D, consisting of council districts 6 and 10;
- (5) Commission district E, consisting of council districts 8 and 9;
- (6) Commission district F, consisting of council districts 11 and 12;
- (7) Commission district G, consisting of council districts 13 and 14; and
- (8) Commission district H, consisting of council districts 15 and 16 in accordance with the provisions of section 473.141.

Sec. 18. Minnesota Statutes 1984, section 473.303, subdivision 4a, is amended to read:

Subd. 4a. [TERMS.] Following each apportionment of metropolitan council districts, as provided under section 473.123, subdivision 3a, ~~the terms of members and the chairman of the commission shall commence on the effective date of that apportionment, metropolitan council appointed as provided in section 473.123, subdivision 3a, shall appoint a chair and eight commission members from newly drawn districts.~~ The terms of members and chairmen are as follows: members representing commission districts A, B, C, and D, and the chairman of the commission, for terms ending the first Monday in January of the year ending in the numeral "7"; members representing commission districts E, F, G, and H, for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member and the chairman is four years, *with terms ending the first Monday in January*, except that all terms expire on the effective date of the next apportionment. The chairman shall continue to serve until a successor is appointed and qualified. A member shall continue to serve his commission district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the metropolitan council appointed pursuant to section 473.123, subdivision 3a appoints eight commission members as provided under subdivision 2, to serve terms as provided under this subdivision. *The appointments to the commission must be made by the first Monday in May of the year in which the term ends.*

Sec. 19. Minnesota Statutes 1985 Supplement, section 473.38, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL PLAN; COUNCIL APPROVAL.] Along with its annual budget, each *even-numbered* year the board shall prepare a financial plan for the succeeding three calendar years, in half-year segments. The financial plan must be consistent with the board's implementation plan and must contain the elements specified in section ~~473.377, subdivision 2, clauses (a), (e), (f), and (g) 14, subdivision 3.~~ The financial plan ~~prepared in even-numbered years~~ must contain a proposed request for state financial assistance for the succeeding biennium. The board shall submit the financial plan to the council for review and approval or disapproval. The council may approve or disapprove in whole or in part. The council may disapprove only for inconsistency with the policy plan of the council.

Sec. 20. Minnesota Statutes 1984, section 473.852, subdivision 8, is amended to read:

Subd. 8. "Metropolitan system plans" means the airports ~~portion and transportation portions~~ of the metropolitan development guide, and the policy plans, ~~development programs~~ *implementation plans*, and capital budgets for metropolitan waste control, transportation, and regional recreation open space.

Sec. 21. [REPEALER.]

Minnesota Statutes 1984, sections 473.121, subdivision 7; 473.163, subdivisions 3 and 4; 473.373, subdivision 3; 473.377; and 473.38, subdivision 1, are repealed.

Sec. 22. [APPLICATION.]

Sections 1 to 20 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington. Sections 10 to 13 are effective for plans and plan amendments adopted after January 1, 1987, and do not apply to the amendments to the transportation policy plan and transit implementation plan required to be adopted in 1986 by Laws 1984, chapter 654, article 3, sections 108 and 118.

Sec. 23. [INSTRUCTION TO REVISOR.]

The revisor of statutes is directed to change the phrase "metropolitan commission" to "metropolitan agency" and the word "commission" to "agency," if it refers to a metropolitan agency, wherever they appear in chapter 473, except as otherwise provided in section 3, in the next and subsequent editions of the statutes.

Sec. 24. [REPORT.]

The report required in 1986 by section 14, subdivision 3, should be in the scope and detail that the council, in consultation with the advisory committee, deems appropriate and practicable."

Delete the title and insert:

"A bill for an act relating to metropolitan government; providing for appointments, administration, reports, and duties of metropolitan agencies; amending Minnesota Statutes 1984, sections 473.121, subdivision 6, and by adding subdivisions; 473.123, subdivisions 2a, 3, and 3a; 473.141, subdivisions 2, 3, and 4a; 473.146, subdivisions 1, 2, and 3; 473.161; 473.163, subdivisions 1 and 2; 473.303, subdivisions 2 and 4a; 473.852, subdivision 8; Minnesota Statutes 1985 Supplement, section 473.38, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1984, sections 473.121, subdivision 7; 473.163, subdivisions 3 and 4; 473.373, subdivision 3; 473.377; and 473.38, subdivision 1."

And when so amended the bill do pass and be re-referred to the Committee on Governmental Operations. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1682: A bill for an act relating to real property; requiring condominium plats after July 31, 1986; requiring certification by a registered

land surveyor only, that condominium plat accurately depicts certain required information in 515A.2-110; amending Minnesota Statutes 1984, sections 515A.1-102; 515A.1-103; 515A.2-105; 515A.2-110; 515A.2-114; 515A.2-115; 515A.2-116; 515A.4-102; 515A.4-107; 515A.4-116; and 515A.4-117; and Minnesota Statutes 1985 Supplement, sections 389.09; 508.82; and 508A.82.

Reports the same back with the recommendation that the bill do pass.
Report adopted.

Mr. Dieterich from the Committee on Public Utilities and State Regulated Industries, to which was referred

S.F. No. 1869: A bill for an act relating to utilities; changing the powers and responsibilities of the chair of the public utilities commission; requiring commissioners to file certain financial information before taking office; prohibiting commissioners and certain employees from engaging in certain activity after leaving the commission; requiring the commission to adopt a code of conduct; amending Minnesota Statutes 1984, sections 216A.035; and 216A.04; proposing coding for new law in Minnesota Statutes, chapter 216A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 13, insert:

“Section 1. Minnesota Statutes 1984, section 216A.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] As of January 1, 1975 the public utilities commission shall consist of five members, three of whom shall be the members then serving, who shall continue to serve for the balance of their elective or appointive terms. There shall be two additional commissioners appointed by the governor with the advice and consent of the senate, one for a term expiring December 31, 1975, and one for a term expiring December 31, 1977. Thereafter the terms of all subsequent members of the commission shall be six years and until their successors have been appointed and qualified. Each commissioner shall be appointed by the governor by and with the advice and consent of the senate. Not more than three commissioners shall belong to the same political party. The governor in his selection of commissioners shall give consideration to persons learned in the law or persons who have engaged in the profession of engineering, public accounting or property and utility valuation as well as being representative of the general public.

At least one commissioner must be domiciled at the time of appointment outside the seven-county metropolitan area. For the purposes of this subdivision, “seven-county metropolitan area” means Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

Sec. 2. Minnesota Statutes 1984, section 216A.03, subdivision 3, is amended to read:

Subd. 3. [CHAIRMAN.] ~~The commission governor shall elect~~ *select one of their number the commissioners to serve as the chairman at the meeting of the commission in the second week in January of each year for a term of one*

~~year~~ concurrent with that of the governor.

If a vacancy occurs in the position of chairman, the ~~commission~~ governor shall ~~elect~~ select a new chairman to complete the unexpired term."

Page 2, after line 17, insert:

"A professional employee of the commission or department must immediately disclose to the commission any communication, direct or indirect, with a person who is a party to a pending proceeding before the commission regarding future benefits, compensation, or employment to be received from that person."

Page 2, delete lines 18 to 25 and insert:

"Sec. 4. [216A.036] [EMPLOYMENT RESTRICTIONS.]

(a) A person who serves as (1) a commissioner of the public utilities commission, (2) director of the department of public service, or (3) deputy director of the department, shall not, while employed with or within one year after leaving the commission, or department, accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an entity, or an affiliated company of an entity, that is subject to rate regulation by the commission.

(b) An entity or an affiliated company of an entity that is subject to rate regulation by the commission, or a person acting on behalf of the entity, shall not negotiate or offer to employ or compensate a commissioner, the director, or the deputy director, while the person is so employed or within one year after the person leaves that employment.

(c) For the purposes of this section, "affiliated company" means a company that controls, is controlled by, or is under common control with an entity subject to rate regulation by the commission."

Page 2, line 26, delete "CODE OF CONDUCT" and insert "RULES"

Page 2, line 27, delete "A commissioner"

Page 2, delete lines 28 to 31

Page 2, line 32, delete, "the parties to the proceeding" and insert "The commission shall adopt rules under chapter 14 prescribing impermissible ex parte communications"

Page 2, line 32, after the period, insert "The commission may adopt rules governing ex parte communications only by commission members with a party relating to a material issue in a pending contested rate proceeding. A case is pending from the time the commission refers the matter to the office of administrative hearings until the commission has issued its final order and the time to petition for reconsideration has expired or the commission has issued an order finally disposing an application for reconsideration, whichever is later."

Page 3, line 1, delete "RULES" and insert "CODE OF CONDUCT" and before "The" insert "Except as limited by subdivision 1,"

Page 3, after line 6, insert:

"Sec. 6. [216A.038] [PENALTY.]

A person who violates section 4 is subject to a civil penalty not to exceed \$10,000 for each violation. The attorney general may bring an action in district court to collect the penalties provided in this section."

Pages 3 and 4, delete section 4

Page 4, line 15, delete "Section" and insert "Sections" and delete "is" and insert "and 3 are"

Page 4, line 16, delete "applies" and insert "apply"

Page 4, line 17, after the period, insert "Section 2 is effective January 1, 1987." and delete "2, 3, and" and after "4" insert ", 5, and 6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring the governor to appoint the chair of the commission; changing qualification for commissioners;"

Page 1, line 9, after the semicolon, insert "providing penalties;" and after "sections" insert "216A.03, subdivisions 1 and 3; and"

Page 1, line 10, delete "and 216A.04;"

And when so amended the bill do pass and be re-referred to the Committee on Governmental Operations. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Veterans and General Legislation, to which was referred

S.F. No. 1711: A bill for an act relating to animals; prohibiting theft of dogs or cats for research purposes; prescribing a penalty; proposing coding for new law in Minnesota Statutes, chapter 346.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, delete "is prohibited."

Page 1, line 11, delete "Violation of this section"

Page 1, after line 11, insert:

"Sec. 2. Minnesota Statutes 1984, section 347.31, is amended to read:

347.31 [REGULATION OF DOG KENNELS; DEFINITIONS.]

Subdivision 1. [TERMS.] For the purpose of sections 347.31 to 347.40 the terms defined in this section shall have the meanings given to them.

Subd. 2. [DOG KENNEL.] "Dog Kennel" means any place, building, tract of land, abode, or vehicle wherein or whereupon dogs or cats are kept, congregated, or confined, such if the dogs having been or cats were obtained from municipalities, dog pounds, dog auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. "Dog Kennel" does not mean includes a dog pound owned and operated by any political subdivision of the state. "Kennel" does not include a person's home where dogs or cats are kept as pets.

Subd. 3. [PREMISES.] The word "premises" means any building, structure, shelter, or land wherein or whereon dogs or cats are kept or confined.

Subd. 4. [DEALER.] "Dealer" means any licensed or unlicensed public or private agency, person, society, or corporation which buys, sells, or provides live dogs or cats for research purposes to institutions which the federal government requires to be licensed under Public Law Number 89-544, the federal Laboratory Animal Welfare Act.

Subd. 5. [INSTITUTION.] "Institution" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry, or other educational or scientific organization properly concerned with the investigation of living organisms, instruction concerning the structure or functions of living organisms, or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

Sec. 3. Minnesota Statutes 1984, section 347.32, is amended to read:

347.32 [LICENSE FOR ~~DOG~~ KENNEL OR DEALER.]

No person, firm, or corporation shall establish, maintain, conduct, or operate a ~~dog~~ kennel or operate as a dealer within this state without first obtaining a license therefor from the board of animal health. The license shall be issued for a term of one year.

Sec. 4. Minnesota Statutes 1984, section 347.33, is amended to read:

347.33 [LICENSING PROCEDURES; INSPECTIONS; ADMINISTRATION.]

Subdivision 1. [APPLICATION.] The application for a license to operate and maintain a ~~dog~~ kennel or operate as a dealer shall be made to the board of animal health, in the manner prescribed by rules of the board.

Subd. 2. [CONTENTS.] The application for a license shall be in writing and on a form as the board may by rule provide, and shall set forth:

(1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the address of the corporation.

(2) The legal description or, in its place, the address and specific location of the site, lot, field, or tract of land upon which it is proposed to operate and maintain a ~~dog~~ kennel.

Subd. 3. [FEES; ISSUANCE OF LICENSE.] The annual license fee is \$10 for each kennel or dealer licensed. All license fees collected by the board shall be deposited in the state treasury and credited to the general fund.

When application is made to the board, complete in the manner set forth by rule to be issued by the board, and upon payment of the license fee, the license shall be issued by the board if, after inspection of the premises, the board determines that the ~~dog~~ kennel or dealer complies with sections 347.31 to 347.40 and the rules promulgated pursuant to ~~those~~ sections.

Sec. 5. Minnesota Statutes 1984, section 347.34, is amended to read:

347.34 [LICENSES REQUIRED.]

It shall be unlawful for any person, firm, or corporation to establish, maintain, conduct, carry on, or operate a ~~dog~~ kennel *or operate as a dealer* without first having received a license to maintain, conduct, carry on, and operate a ~~dog~~ kennel, *or operate as a dealer*, duly signed and executed in the name of the state of Minnesota and signed by the board of animal health. The license shall be conspicuously displayed upon the licensed premises.

All licenses issued under sections 347.31 to 347.40 shall be personal to the licensee and be nontransferable.

Sec. 6. Minnesota Statutes 1984, section 347.35, is amended to read:

347.35 [BOARD OF ANIMAL HEALTH AUTHORIZED TO PROMULGATE RULES.]

The board of animal health shall promulgate rules as it deems necessary for the operation of ~~dog~~ kennels *and dealers* and the enforcement of sections 347.31 to 347.40 which shall be in addition to rules established herein. Rules may include, but are not limited to, requirements governing the care of dogs *and cats*, minimum conditions, and maintenance of quarters and ~~dog~~ kennels, the humane treatment of dogs *and cats* while in the ~~dog~~ kennels, maintenance of *detailed* records showing the person from whom any dog *or cat* aged over three months has been received, *including address, drivers license number, social security card number*, and to whom it has been transferred, and preservation of the records for a minimum period of two years.

Sec. 7. Minnesota Statutes 1984, section 347.37, is amended to read:

347.37 [INSPECTION; ENFORCEMENT.]

The board of animal health shall cause to be inspected from time to time all ~~dog~~ kennels *and dealers* licensed hereunder and all records required by sections 347.31 to 347.40 to be kept by the licensees.

Any duly authorized agent of the board, any sheriff, or his deputy, or police officer, or state humane agent appointed pursuant to section 343.01, is granted the power and the authority to enter upon the premises of any ~~dog~~ kennel *or dealer* at any time during the daylight hours for the purposes herein set forth, and for the purposes of inspecting the compliance with the provisions of sections 347.31 to 347.40 and the rules issued pursuant thereto, and for the purposes of enforcing sections 347.31 to 347.40.

Sec. 8. Minnesota Statutes 1984, section 347.38, is amended to read:

347.38 [REVOCAION OF LICENSE.]

The board of animal health may as hereinafter set forth revoke or suspend the license of any person, firm, or corporation, for violation of the rules issued pursuant to sections 347.31 to 347.40.

Upon written complaint made to the board by any person, firm, or corporation alleging any violation of ~~this law~~ *sections 347.31 to 347.40* or any rules pursuant thereto by any licensee, the board may cause an investigation to be made upon matters related in said complaint.

Thereupon the board shall in its discretion either dismiss the complaint or require the kennel *or dealer* against whom the complaint is made to correct the conditions or violations complained of within ten days after receipt of

written notice of the same. If upon termination of the ten day period the licensee has failed to correct or to remedy the violation or violations of sections 347.31 to 347.40 or any rules pursuant thereto, the board shall, upon a minimum of 30 days' notice to the licensee, conduct a hearing for the purpose of determining whether the license to operate a kennel *or as a dealer* should be revoked or temporarily suspended for a period not to exceed six months. If after notice and hearing the board finds that any provision of sections 347.31 to 347.40 has been violated by the licensee or any rule issued by the board has been violated by the licensee, the board may revoke and suspend the license. ~~The suspension shall not exceed a period of six months~~ *Possession or transfer of a stolen dog or cat by a kennel or dealer to an institution is grounds for license revocation.* The licensee whose license is revoked or suspended may within 20 days after the board's decision appeal to the district court. The district court shall upon 20 days' notice to the board hear the appeal within 45 days after the filing of the appeal. On the hearing of the appeal the court shall review the decision of the board in a manner as though reviewed by certiorari, except that new or additional evidence may be taken, if in the opinion of the court additional evidence is necessary or proper to the disposition of the case.

Sec. 9. Minnesota Statutes 1984, section 347.39, is amended to read:

347.39 [PENALTIES.]

Violation of any provision of sections 347.31 to 347.40 or of any rule of the board of animal health issued pursuant to sections 347.31 to 347.40, or ~~the~~ operation of a kennel *or as a dealer* without a license, or ~~the~~ operation of a kennel *or as a dealer* after revocation of a license or during a period of suspension, shall constitute a misdemeanor.

Sec. 10. Minnesota Statutes 1984, section 347.40, is amended to read:

347.40 [EXCEPTIONS.]

Sections 347.31 to 347.40 shall in no way apply to any veterinarian licensed to practice in the state of Minnesota who keeps, congregates, or confines dogs *or cats* in the normal pursuit of the practice of veterinary medicine.

~~The provisions of Sections 347.31 to 347.40 shall do not apply to any institution licensed to obtain animals under the provisions of section 35.71, and to any person licensed under P.L. 89-544, the federal laboratory animal welfare act."~~

Amend the title as follows:

Page 1, line 3, after the first semicolon, insert "regulating dog and cat dealers;" and after the second semicolon, insert "amending Minnesota Statutes 1984, sections 347.31; 347.32; 347.33; 347.34; 347.35; 347.37; 347.38; 347.39; and 347.40;"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1794: A bill for an act relating to Washington county; permitting the negotiated sale of certain property.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 11, insert:

“Sec. 2. [REPEALER.]

Laws 1959, chapter 14, section 1, subdivision 5, is repealed.”

Renumber the remaining section in sequence

Amend the title as follows:

Page 1, line 3, after “property” insert “; repealing a provision relating to county interests in certain hospital property; repealing Laws 1959, chapter 14, section 1, subdivision 5”

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Mr. Schmitz from the Committee on Local and Urban Government, to which was referred

S.F. No. 1710: A bill for an act relating to health; creating a public corporation to provide health care services and research; providing that subsidiaries govern St. Paul Ramsey Medical Center and a physicians and dentists association; proposing coding for new law as Minnesota Statutes, chapter 246A; repealing Minnesota Statutes 1984, section 383A.41, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, line 36, before “*Notwithstanding*” insert “*Notwithstanding any law to the contrary, the hospital subsidiary corporation shall not be subject to the provisions of chapter 179A and sections 471.345 to 471.37.*”

Page 7, line 1, delete “*hospital,*”

Page 7, line 31, delete “*, sell, transfer, or dispose of*”

Page 7, line 35, delete “*, sale,*”

Page 7, line 36, delete “*transfer, or disposition*”

Page 8, line 12, delete the second comma

Page 8, line 13, delete “*sale, transfer, or disposition*”

Page 9, line 27, after “*established*” insert “*or negotiated*”

Page 12, line 5, after “CORPORATION” insert “AND HOSPITAL SUBSIDIARY”

Page 12, lines 6 and 23, after “*corporation*” insert “*and the hospital subsidiary corporation*”

Page 12, lines 6 and 24, after “*shall*” insert “*each*”

Page 12, line 7, delete “*, except as*”

Page 12, line 8, delete everything before the period

Page 12, line 10, delete everything after the first "the"

Page 12, line 11, delete "corporation's board" and insert "corporation and the hospital subsidiary corporation"

Page 12, line 12, delete "the following" and insert "contractual" and delete "when:"

Page 12, delete lines 13 to 20

Page 12, line 21, delete everything before the period and insert "or matters relating to marketing activity"

Page 12, line 27, after "concerning" insert "contractual" and delete "affecting the"

Page 12, line 28, delete "competitive position" and insert "or matters relating to marketing activity"

Page 13, line 21, after "LIMITS" insert "AND COMPENSATION"

Page 13, line 22, before "Notwithstanding" insert "Subdivision 1. [EMPLOYEE SALARIES.]"

Page 13, after line 25, insert:

"Subd. 2. [EMPLOYEE COMPENSATION; CONSTRUCTION AND BUILDING TRADE.] *The total compensation package, including wage plus benefit rates, of all employees that are members of a construction or building trade for which there is a generally established and recognized scale of wages inside the county, shall be equal to the total compensation package of private sector construction trade employees within the county as established by collective bargaining agreements.*"

Page 16, after line 18, insert:

"Subdivision 1. [SERVICES.] *The hospital subsidiary corporation shall provide hospital and medical services for the indigent of Ramsey county. The services shall be equivalent to those made available to nonindigent patients.*"

Page 16, line 19, before "Notwithstanding" insert "Subd. 2. [FUNDS.]"

Amend the title as follows:

Page 1, line 3, after "services" insert ", education,"

Page 1, line 4, delete "that subsidiaries govern" and insert "for governance of"

Page 1, line 5, after the first "and" insert "creation of" and delete "association" and insert "subsidiary"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services; to which was referred

S.F. No. 1717: A bill for an act relating to controlled substances; establishing a multiple prescription system for monitoring controlled substances;

providing penalties; appropriating money; amending Minnesota Statutes 1984, sections 152.09, subdivision 2, and by adding a subdivision; 152.11, subdivision 1; and 152.15, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 152.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 152.09, subdivision 2, is amended to read:

Subd. 2. It shall be unlawful for any person to:

(1) procure, attempt to procure, possess or have in his control a controlled substance by ~~any of the following means:~~ (1) fraud, deceit, misrepresentation or subterfuge; (2) using a false name or giving false credit; (3) ~~or~~ falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance; ~~or~~

(2) *knowingly obtain or possess a controlled substance obtained by a prescription that does not comply with this chapter.*

Sec. 2. Minnesota Statutes 1984, section 152.09, is amended by adding a subdivision to read:

Subd. 3. It shall be unlawful for any person to:

(1) prescribe a controlled substance for one's own use;

(2) intentionally prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this chapter;

(3) make a false statement in any prescription, order, report, or record required under this chapter; or

(4) affix a false or forged label to a package or receptacle containing a controlled substance.

Sec. 3. Minnesota Statutes 1984, section 152.11, subdivision 1, is amended to read:

Subdivision 1. No person may dispense a controlled substance included in Schedule II of section 152.02 without a prescription written by a doctor of medicine, a doctor of osteopathy licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a doctor of podiatry, or a doctor of veterinary medicine, lawfully practicing his profession in this state. ~~Provided that~~ In emergency situations, as authorized by federal law, such a schedule II drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, as authorized by federal law. ~~Such~~ Oral prescriptions for schedule II substances shall be processed and retained in conformity with section 152.101 and section 4, subdivision 4. A prescription for a schedule II substance must be filled within three days from the date the prescription was written. No prescription for a Schedule II substance may be refilled. Beginning January 1, 1987, a prescription for a schedule II substance must be recorded on an official prescription blank in the manner

required in section 4, unless the prescription is written for a patient who is admitted to a hospital or nursing home at the time the prescription is written and filled.

For the purposes of Laws 1971, Chapter 937, a written prescription or oral prescription, which shall be reduced to writing, for a controlled substance in Schedules II, III, IV or V is void unless (1) it is written in ink and contains the name and address of the person for whose use it is intended; (2) it states the amount of the controlled substance to be compounded or dispensed, with directions for its use; (3) if a written prescription, it contains the signature, address and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of his branch of the healing art; and (4) it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription. Every licensed pharmacist who compounds any such prescription shall retain such prescription in a file for a period of not less than two years, open to inspection by any officer of the state, county, or municipal government, whose duty it is to aid and assist with the enforcement of this chapter. Every such pharmacist shall distinctly label the container with the directions contained in the prescription for the use thereof.

Sec. 4. [152.115] [MULTIPLE PRESCRIPTION SYSTEM.]

Subdivision 1. [OFFICIAL PRESCRIPTION BLANKS.] The commissioner of public safety shall furnish serially-numbered, triplicate-copy official prescription blanks to persons authorized to write prescriptions for schedule II substances. Prior to distributing blanks to authorized persons, the commissioner shall imprint upon each blank the name, address, category of professional licensure and specialization, federal drug enforcement administration number, and state professional license number of the person to whom the blanks will be furnished. Each official prescription blank must contain spaces for: (1) the date the prescription is written; (2) the name, address, and age of the person for whom the substance is prescribed or, if the ultimate user is an animal, the species of the animal and the name and address of the owner; (3) information concerning the form of identification presented to the pharmacist or other methods used to authenticate the prescription; (4) the drug prescribed, the numerical and written dosage, instructions for use, and a notation of whether the drug was dispensed directly to the patient by the practitioner; (5) the date the prescription is filled; (6) the name, address, and federal drug enforcement administration number of the dispensing pharmacy and the name and license number of the pharmacist who fills the prescription; and (7) the national drug code product identification number of the substance prescribed. The commissioner of public safety shall charge a fee for the blanks that is sufficient to cover printing and distribution costs. Official prescription blanks are not transferable. Lost or stolen blanks must be immediately reported to the commissioner of public safety. Within seven days after a practitioner's license to practice or federal drug enforcement administration number has been suspended, canceled, denied, surrendered, or revoked, the practitioner shall return to the commissioner of public safety all official prescription blanks in the practitioner's possession that have not been used for prescriptions. A person who possesses an official prescription blank other than as authorized in this section is guilty of a

misdemeanor.

Subd. 2. [DUTIES OF PRESCRIBERS.] Except as allowed under subdivision 4 and section 152.11, subdivision 1, a prescription for a schedule II drug authorized by section 152.11 must be written on an official prescription blank issued by the commissioner of public safety under subdivision 1. No more than one prescription may be written on each blank. The prescribing practitioner shall enter on the blank the following information: (1) the date the prescription is written; (2) the drug prescribed, the dosage, and instructions for use; and (3) the name, address, and age of the patient (or, in the case of an animal, its owner) for whom the substance is prescribed. This information must be legible on all three copies of the blank. The prescriber shall sign the first and second copies and give them to the person authorized to receive the prescription. If a practitioner dispenses a schedule II drug directly to a patient, the practitioner must mark the appropriate space on the prescription form, enter the national drug code product identification number, and send the first and second copies to the commissioner of public safety. The prescriber shall retain the third copy for a period of not less than two years from the date the prescription is written.

Subd. 3. [DUTIES OF PHARMACISTS.] A pharmacist shall not dispense a schedule II substance except pursuant to a prescription properly written on an official prescription blank or pursuant to an emergency oral prescription authorized under subdivision 4. Before filling a prescription written on an official prescription blank, the pharmacist shall request identification from the person presenting the prescription. If the identification provided reasonably satisfies the pharmacist that the person is the patient for whom the prescription was written or is the legitimate representative of the patient, the pharmacist shall record identifying numbers and a brief description of the identification provided. If no satisfactory identification is available, the pharmacist shall contact the prescriber for information verifying the authenticity of the prescription and generally identifying the person presenting the prescription. The pharmacist must not deny a person medication solely because no identification is provided, but only if circumstances create a reasonable question regarding the legitimacy of the prescription or the authority of the person presenting the prescription to receive the substance. A pharmacist who dispenses a prescription recorded on an official prescription blank shall enter on copies one and two of the blank, in the spaces provided,

(1) the date the prescription is filled;

(2) identifying numbers and a brief description of the identification provided by the person presenting the prescription or, if no form of identification was provided, the method used to authenticate the prescription and establish the authority of the person to receive it;

(3) the name, address, and federal drug enforcement administration number of the dispensing pharmacy;

(4) the name and state professional license number of the pharmacist who fills the prescription; and

(5) the national drug code product identification number. The dispensing pharmacist shall sign the first copy and send it to the commissioner of public safety within 30 days from the date the prescription is filled. The dispensing

pharmacist shall retain the second copy for a period of not less than two years in conformity with section 152.101.

Subd. 4. [EMERGENCY ORAL PRESCRIPTIONS.] A schedule II substance may be dispensed without an official prescription blank pursuant to an emergency oral prescription as authorized by federal law. A substance dispensed pursuant to an emergency oral prescription must not be dispensed later than 24 hours after the oral authorization was received and the amount of the substance dispensed must not exceed a three-day supply if taken according to the directions for its use. At the time the oral prescription is given, the prescriber shall provide the pharmacist with the information required to be entered upon an official blank by the prescriber under subdivision 2. The pharmacist shall promptly record the information provided by the prescriber and the information required to be entered on an official blank by the dispensing pharmacist under subdivision 3. Within 72 hours after authorizing an emergency oral prescription, the prescribing practitioner shall record the information required under subdivision 2 upon an official prescription blank and deliver to the pharmacist the original and one copy upon which has been written the words "authorization for emergency dispensing." The pharmacist shall enter the required information upon the official form, file a copy with the commissioner of public safety as required under subdivision 3, and retain a copy in conformity with subdivision 3 and section 152.101. If the pharmacist does not receive the prescription within 72 hours after dispensing the substance, the pharmacist shall notify the commissioner of public safety no later than seven days after the substance was dispensed.

Subd. 5. [USE AND RELEASE OF INFORMATION.] Information submitted to the commissioner of public safety under this section is confidential data on individuals, as defined in section 13.02, subdivision 3, and must be used only for bona fide drug-related criminal investigations or prosecutions; by one or more of the state boards responsible for regulating persons authorized to write or dispense prescriptions, for investigations or disciplinary actions; or by the commissioner of human services. The commissioner of public safety shall not release or permit access to information received under this section except to authorized officers of the department of public safety and authorized representatives or investigators of the commissioner of human services or the boards of medical examiners, podiatry, dentistry, veterinary medicine, or pharmacy. Prescription blanks and information concerning specific prescribers, patients, or pharmacists must be destroyed after two years unless related to an active investigation or pending civil, criminal, or disciplinary proceeding. The system for retrieving information submitted to the commissioner of public safety under this section must be designed to preclude improper access to information through the use of automated information security techniques and devices. The commissioner of public safety shall consult the commissioner of human services, the board of pharmacy and each of the state boards responsible for regulating persons authorized to write or dispense prescriptions during the process of developing the information system and the standards and criteria for evaluating data, and shall submit the proposed design to the boards and the commissioner of human services for final review and comment before implementation.

Subd. 6. [IMPLEMENTATION.] The commissioner of public safety, with the assistance of the commissioner of human services and the boards of

pharmacy, medical examiners, veterinary medicine, podiatry, and dentistry, shall provide information to all affected practitioners, in a timely manner, to assist them in complying with this act.

Subd. 7. [RULEMAKING.] The commissioner of public safety may adopt permanent rules to implement this section.

Sec. 5. Minnesota Statutes 1984, section 152.15, subdivision 3, is amended to read:

Subd. 3. Any person who violates section 152.09, subdivision 2 or 3, is guilty of a crime and upon conviction may be imprisoned for not more than four years, or fined not more than \$45,000, or both.

Sec. 6. [REPORT.]

Before January 1, 1989, the commissioner of public safety, with the cooperation and assistance of the commissioner of human services and the boards of pharmacy, medical examiners, veterinary medicine, podiatry, and dentistry, shall report to the legislature on the implementation and effectiveness of the multiple prescription system including:

- (1) the number of official prescription blanks issued;*
- (2) the number of lost or stolen blanks;*
- (3) the number of indictments, convictions, and disciplinary actions attributable to the program;*
- (4) the cost of administering the program;*
- (5) information about changes in the consumption and diversion of controlled substances in the state as a result of the program;*
- (6) a cost-benefit analysis of the program comparing the benefits of the program in terms of drugs confiscated; channels of diversion closed; perpetrators identified, indicted, or convicted; statewide or regional decreases in consumption and diversion of controlled drugs; reduced overprescribing by practitioners; identification and prevention of fraud and recoupment of overpayments in public medical care programs; referral of chemical abusers to treatment; and other benefits of the program in comparison to the costs of the program to state agencies, prescribers, patients, pharmacists, and other affected persons, and the other undesirable consequences of the program;*
- (7) recommendations for program changes;*
- (8) recommendations regarding the appropriateness of extending the program to include prescriptions for substances in schedules III, IV, and V; and*
- (9) other relevant information pertaining to the program.*

Prior to implementation of the project a study group of all involved parties shall be established and shall report to the legislature regarding the anticipated benefits and costs of the project.

Sec. 7. [APPROPRIATION.]

\$_____ is appropriated from the general fund to the commissioner of public safety for purposes of sections 4 and 6.

Sec. 8. [EFFECTIVE DATES.]

Sections 1 to 3; section 4, subdivision 5; and sections 5 and 7 are effective July 1, 1986. Section 4, subdivisions 1 to 4, 6, and 7; and section 6 are effective July 1, 1987."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was re-referred.

S.F. No. 1616: A bill for an act relating to agriculture; increasing the amount of an agricultural or business loan subject to usury limits; modifying exemptions; requiring notices; providing remedies for failing to notify; exempting family farm corporations from usurious defense prohibitions; extending program to provide a mechanism to aid restructuring of existing farm loans and to provide for partial payment of interest on loans to farmers; amending Minnesota Statutes 1984, sections 48.195; 334.01, subdivision 2; and 334.011; Minnesota Statutes 1985 Supplement, sections 53.04, subdivision 3a; 56.131, subdivision 1; 334.021; Laws 1985, chapter 4, sections 2; 6, subdivisions 2, 3, and 4, as amended; 8; 10; and 11.

Reports the same back with the recommendation that the bill be amended as follows:

Page 8, line 36, delete "*operated for profit or*" and insert "*which is carried on for the purpose of*"

Page 8, line 36, before the period, insert "*or profit*"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was re-referred

S.F. No. 1703: A bill for an act relating to commerce; regulating those who package soft drinks and other nonalcoholic beverages; increasing certain vending machine inspection fees; clarifying authority to inspect vending machines; clarifying rulemaking authority of commissioner of agriculture; amending Minnesota Statutes 1984, sections 28A.05; 28A.09, subdivision 1; 34.03; and 34.09; repealing Minnesota Statutes 1984, section 34.05.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

H.F. No. 1806: A bill for an act relating to financial institutions; permitting state banks and credit unions to offer self-directed individual retirement accounts; amending Minnesota Statutes 1984, section 48.15, by adding a subdivision; and Minnesota Statutes 1985 Supplement, section 52.04, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 7, lines 5 and 12, after "*deposit*" insert a comma

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 1732: A bill for an act relating to marriage dissolution; allowing for a presumption of joint custody; requiring mediation services in contested custody matters; establishing a trust account in certain child support matters; amending Minnesota Statutes 1984, sections 518.17, subdivision 2; 518.551, subdivision 5; 518.57; 518.61; and 518.64, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 1984, section 518.641.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 518.17, subdivision 2, is amended to read:

Subd. 2. [FACTORS WHEN JOINT CUSTODY IS SOUGHT.] In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

(a) The ability of parents to cooperate in the rearing of their children;

(b) Methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods; and

(c) Whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing.

The court shall use a rebuttable presumption that joint legal custody is in the best interests of the child.

Sec. 2. Minnesota Statutes 1984, section 518.17, subdivision 5, is amended to read:

Subd. 5. [DEVIATION FROM GUIDELINES.] The court may order the noncustodial parent to pay support in an amount ~~below~~ *deviating from* the appropriate amount determined from the guidelines in section 518.551, subdivision 5 for use in public assistance cases, only after considering the factors in subdivision 4 of this section and making express findings of fact as to the reason for the ~~lower~~ order. An order for support in an amount ~~below~~ *deviating from* the guidelines must include findings of fact regarding the financial resources and needs of the child.

Sec. 3. Minnesota Statutes 1984, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] The petitioner shall notify the public authority of all proceedings for dissolution,

legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$401 - 500	14%	17%	20%	22%	24%	26%	28%
\$501 - 550	15%	18%	21%	24%	26%	28%	30%
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001 - 6000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of \$6001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of \$6000.

Net Income defined as:

Total monthly
income less

- *(1) Federal Income Tax
- *(2) State Income Tax
- (3) Social Security Deductions
- (4) Mandatory Pension Deductions
- (5) Union Dues
- (6) Cost of Dependent Health Insurance Coverage
- (7) Cost of Individual Health/Hospitalization Coverage or an Equivalent Amount for Actual Medical Expenses.

*Standard
Deductions apply-
use of tax tables
recommended

(a) The child support payment guidelines take into consideration the following criteria:

(1) all earnings, income, and resources of the obligor including real and personal property;

- (2) the basic living needs of the obligor;
 - (3) the financial needs of the child or children to be supported; and
 - (4) the amount of the aid to families with dependent children grant for the child or children.
- (b) In establishing a support obligation, the court may consider debts owed to private creditors, but only if:

- (1) the right to support has not been assigned under section 256.74;
- (2) the debt was reasonably incurred for necessary support of the child or obligee or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income;
- (3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid; and
- (4) the court determines that the debt was legitimately incurred for the necessary support of the child or obligee or for the necessary generation of income.

Any schedule prepared under paragraph (b), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

The court shall order child support in accordance with the guidelines and any departure therefrom. Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

Where payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(c) Previous support orders and maintenance orders may be considered if the obligor is paying them.

(d) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure ~~below from the guidelines in that case in which the court orders support that so deviates from the guidelines. It may also increase the amount of child support by more than the guidelines without making express findings by agreement of the parties or by making further findings. The court, in addition to other factors, may deviate from the guidelines after considering the factors in section 518.17, subdivision 4.~~

SERVICES.]

Subdivision 1. [MEDIATION PROCEEDING.] If it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody is contested, as provided in sections 518.155 to 518.185, the matter shall be set for mediation of the contested issue prior to or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use best efforts to effect a settlement of the custody dispute.

Subd. 2. [MEDIATOR APPOINTMENT.] Each family court shall make available a mediator. The mediator must be a member of the professional staff of a family court, probation department, or mental health services agency, unless such a person is not available. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 3. [PROCEEDINGS PRIVATE.] Mediation proceedings shall be held in private and shall be confidential.

Subd. 4. [MEDIATOR AUTHORITY.] The mediator shall have the authority to exclude counsel from participation in the mediation proceedings if the mediator believes that exclusion of counsel is appropriate or necessary. The mediator shall assess the needs and interests of the child involved in the controversy and may interview the child if the mediator finds an interview appropriate or necessary.

Subd. 5. [MEDIATOR RECOMMENDATIONS.] The mediator may, consistent with local court rules, make a recommendation to the court as to the custody of the child. When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 6. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation shall be filed with the court and served on the attorneys for the parties by the mediator on the day the mediation is finished, or any time after as designated by the court.

Subd. 7. [RULES.] Each court shall adopt rules to implement this section, and shall compile and maintain a list of mediators.

Sec. 5. Minnesota Statutes 1985 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost-of-living for either party as measured by the federal bureau of statistics, any of which

makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and *shall not consider* the financial circumstances of each party's spouse, if any. A modification which decreases support or maintenance may be made retroactive only upon a showing that any failure to pay in accord with the terms of the original order was not willful. A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24."

Delete the title and insert:

"A bill for an act relating to marriage dissolution; providing a presumption for joint legal custody; providing for custody mediation; regulating support determinations; amending Minnesota Statutes 1984, sections 518.17, subdivisions 2 and 5; 518.551, subdivision 5; Minnesota Statutes 1985 Supplement, section 518.64, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 1817: A bill for an act relating to insurance; authorizing the commissioner to adopt an assigned risk plan for licensed day care providers; regulating the creation and operation of the plan; amending Minnesota Statutes 1984, section 70A.09.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, after line 30, insert:

"Sec. 2. Minnesota Statutes 1984, section 245.814, is amended to read:

245.814 [LIABILITY INSURANCE FOR FOSTER PARENTS
LICENSED PROVIDERS.]

Subdivision 1. [INSURANCE FOR FOSTER PARENTS.] The commissioner of human services shall within the appropriation provided purchase and provide insurance to foster parents to cover their liability for:

(1) injuries or property damage caused or sustained by foster children in their home; and

(2) actions arising out of alienation of affections sustained by the natural parents of a foster child.

Coverage shall apply to all foster boarding homes licensed by the department of human services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260.185, subdivision 1, clause (c) (5), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover property owned by the foster parents, damage caused intentionally by a child over 12 years of age, or property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

Subd. 2. [LIABILITY INSURANCE.] If the commissioner determines that commercial liability insurance is not available for licensed foster homes, group homes, developmental achievement centers, or day care providers, the state will pay compensation for otherwise-uncompensated injury to or loss of property or personal injury or death caused by an act or omission of any licensee or the licensee's employee or agent, while acting within the scope of the licensed activity. If the commissioner determines that commercial insurance is not available, the total liability of the state and the licensed provider acting within the scope of the licensed activity is subject to the limits in section 3.736, subdivision 4, and does not exceed the scope and minimum liability limits of insurance coverage the commissioner by rule requires to be maintained by licensed providers. The procedures, requirements, and applicable exclusions of section 3.736, for claims against state employees, apply to claims against the provider or the state under this subdivision."

Page 3, line 31, delete "2" and insert "3"

Page 3, line 32, delete "Section 1 is" and insert "Sections 1 and 2 are"

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "providing for state indemnification of foster parents;"

Page 1, line 5, delete "section" and insert "sections"

Page 1, line 6, after "70A.09" insert "; and 245.814"

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

S.F. No. 1642: A bill for an act relating to commerce; regulating electricians; amending Minnesota Statutes 1984, sections 326.01, by adding a subdivision; 326.245; 326.248; Minnesota Statutes 1985 Supplement, sections 326.01, subdivision 5; 326.242, subdivisions 1, 2, 6, and 12; 326.244, subdivisions 2 and 5; and 326.246.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, after line 12, insert:

"Sec. 7. Minnesota Statutes 1985 Supplement, section 326.2421, subdivision 3, is amended to read:

Subd. 3. [ALARM AND COMMUNICATION CONTRACTOR'S LICENSES.] No person may lay out, install, maintain, or repair alarm and communication systems, unless the person is licensed as an alarm and communication contractor under this subdivision, *or is a licensed electrical contractor under section 326.242, subdivision 6*, or is an employee of the contractor. The board of electricity shall issue an alarm and communication contractor's license to any individual, corporation, partnership, sole proprietorship, or other business entity that provides adequate proof that a bond and insurance in the amounts required by section 326.242, subdivision 6, have been obtained by the applicant. The board may initially set license fees without rulemaking, pursuant to section 16A.128. Installation of alarm and communication systems are subject to inspection and inspection fees as provided in section 326.244, subdivision 1a."

Page 10, line 1, delete "11" and insert "12"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after "12," insert "326.2421, subdivision 3;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 1685: A bill for an act relating to child support; clarifying determination of support under the child support guidelines; amending Minnesota Statutes 1984, sections 518.17, subdivision 5; and 518.551, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1984, section 484.73, is amended to read:

484.73 [JUDICIAL ARBITRATION COURT-ANNEXED ALTERNATIVE DISPUTE RESOLUTION.]

Subdivision 1. [AUTHORIZATION.] A majority of the judges of a judicial district may authorize the establishment of a system of ~~mandatory, non-binding arbitration~~ *court-annexed alternative dispute resolution* within the district to assist the court in disposing of any controversy existing ~~between two~~ among parties, which is the subject of a civil action.

Subd. 1a. [ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.] *Alternative dispute resolution mechanisms may include voluntary mediation; voluntary binding arbitration; mandatory, nonbinding arbitration; and voluntary mediation-arbitration. The district judges shall establish separate panels of qualified third-party neutrals for each alternative dispute resolution mechanism used in the district.*

Subd. 2. [EXCLUSIONS.] *Judicial arbitration or mediation may not be*

used to dispose of matters relating to guardianship, conservatorship, or civil commitment, matters within the juvenile court jurisdiction involving neglect, dependency, or delinquency, matters involving termination of parental rights under sections 260.221 to 260.245, or matters arising under sections 518B.01, 626.557, or 144.651 to 144.652.

Subd. 3. [RULES.] Rules governing pleadings, practice, procedure, jurisdiction, and forms for judicial arbitration or mediation shall be promulgated by a majority of the judges in the district, subject to the approval of the supreme court. The uniform arbitration act shall not be construed to apply to arbitration under this section except as otherwise provided in the rules of the judicial district.

Sec. 2. Minnesota Statutes 1984, section 518.17, subdivision 3, is amended to read:

Subd. 3. [CUSTODY ORDER.] (a) Upon adjudging the nullity of a marriage, or a dissolution or separation, or a child custody proceeding, the court shall make ~~such~~ a further order as it deems just and proper concerning: ~~(a)~~ (1) the legal custody of the minor children of the parties which shall be sole or joint; ~~(b)~~ (2) their physical custody and residence; and ~~(c)~~ (3) their support. *The court shall order custody in accordance with the agreement of the parties unless it makes express findings of fact as to why it is not in the best interests of the child.* In determining custody, the court shall consider the best interests of the child and shall not prefer one parent over the other solely on the basis of the sex of the parent.

(b) *The custody order must include the following notice to the parties:*

NOTICE IS HEREBY GIVEN TO THE PARTIES:

(1) *That noncustodial parents have the same right of access to the school, medical, and other important records of the child not in their custody that the custodial parents have.*

(2) *That each party has the right to inspect and receive the child's medical and dental records.*

(3) *That the custodial parent shall keep the noncustodial parent informed as to the name and address of the school that the minor child attends at any given time. If requested, the custodial parent shall promptly send to the noncustodial parent a copy of all report cards of the minor child in that parent's custody. Further, the custodial parent shall promptly inform the noncustodial parent of all parent-teacher conferences and school programs and events that directly affect the parties' child. Each party has the right to be informed by school officials regarding the child's welfare and educational status, and to attend any school and parent-teacher conferences.*

(4) *That, in the case of serious illness or accident of either party or of the minor child in a party's custody, the then noncustodial parent shall be notified immediately of the illness or accident, and shall be told the name of the treating physician or physicians and the place of treatment if the injury is to the minor child.*

(5) *That the noncustodial parent has the right to reasonable access and telephone contact with the child.*

(6) *That the custodial parent has an affirmative duty to keep the noncus-*

todial parent informed of significant events in the child's life.

(c) *The court may waive all or part of the notice under paragraph (b) if it finds that it is necessary to protect the welfare of a party or child.*"

Page 1, after line 20, insert:

"Sec. 4. Minnesota Statutes 1984, section 518.175, subdivision 4, is amended to read:

Subd. 4. Proof of an unwarranted denial of or interference with duly established visitation may constitute contempt of court and may be sufficient cause for reversal of custody. *After finding that there has been interference with or denial of visitation, the court shall order visitation according to a specific and defined visitation schedule.*"

Page 4, after line 33, insert:

"Sec. 6. Minnesota Statutes 1984, section 518.57, is amended to read:

518.57 [MINOR CHILDREN, SUPPORT.]

Subdivision 1. [ORDER.] Upon a decree of dissolution, legal separation or annulment, the court may make a further order which is just and proper concerning the maintenance of the minor children as is provided by section 518.17, and for the maintenance of any child of the parties as defined in section 518.54, as support money, and may make the same a lien or charge upon the property of the parties to the proceeding, or either of them, either at the time of the entry of the judgment or by subsequent order upon proper application therefor.

Subd. 2. [SEASONAL INCOME.] The court shall establish the annual support of an obligor with a seasonal income so that the obligor makes either the same monthly payments throughout the year or monthly payments that reflect variations in income.

Subd. 3. [DETERMINATION OF INCOME.] Where the obligor receives income that is not reflected on a W-2 income tax withholding statement, such as income from a corporation, partnership, sole proprietorship, agricultural operation, or other self-employment, the court may base its determination of income upon the prior years' income tax returns. In determining the obligor's income for establishing child support, the court may consider amounts excluded from income that reflect noncash deductions and similar tax preference items.

Sec. 7. Minnesota Statutes 1984, section 518.611, is amended by adding a subdivision to read:

Subd. 10. [ORDER TERMINATING INCOME WITHHOLDING.] Whenever an obligation for support of a child or maintenance of a spouse, or both, terminates under the terms of the order or decree establishing the obligation, and where the obligation is enforced by an order for income withholding from the obligor, the court shall enter an order terminating income withholding directed to the obligor's employer or other payer of funds. The order terminating income withholding must specify the effective date of the order, referencing the initial order or decree establishing the support obligation. The order must be entered once the following conditions have been met:

(1) the obligor serves written notice of the application for termination of

income withholding by mail upon the obligee at the obligee's last known mailing address; and a duplicate copy of the application is served upon the public authority responsible for the processing of support collection services;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation;

(3) the application includes the complete name of the obligor's employer or other payer of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known; and

(4) after receipt of the application for termination of income withholding, the obligee or the public authority fails within 20 days to request a hearing on the issue of whether income withholding of support should continue clearly specifying the basis for the continued support obligation and, ex parte, to stay the service of the order terminating income withholding upon the obligor's employer or other payer of funds, pending the outcome of the hearing.

Sec. 8. Minnesota Statutes 1985 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] The terms of a decree respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost-of-living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair. On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court shall take into consideration the needs of the children and the financial circumstances of each ~~party's spouse, if any party~~. A modification which decreases support or maintenance may be made retroactive only upon a showing that any failure to pay in accord with the terms of the original order was not willful. A modification which increases support or maintenance shall not be made retroactive if the obligor has substantially complied with the previous order. Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before the semicolon and insert "provid-

ing for court-annexed alternative dispute resolution mechanisms; providing for custody and support of children; modifying provisions relating to joint custody, child support, and visitation"

Page 1, line 4, after "sections" insert "484.73;" and delete "subdivision" and insert "subdivisions"

Page 1, delete line 5 and insert "3 and 5; 518.175, subdivision 4; 518.551, subdivision 5; 518.57; and 518.611, by adding a subdivision; and Minnesota Statutes 1985 Supplement, section 518.64, subdivision 2."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1794 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		1794	1579		

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1664 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1664	1547				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1664 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1664 and insert the language after the enacting clause of S.F. No. 1547, the first engrossment; further, delete the title of H.F. No. 1664 and insert the title of S.F. No. 1547, the first engrossment.

And when so amended H.F. No. 1664 will be identical to S.F. No. 1547, and further recommends that H.F. No. 1664 be given its second reading and substituted for S.F. No. 1547, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration.

Amendments adopted. Report adopted.

Mr. Merriam from the Committee on Agriculture and Natural Resources, to which was referred

S.F. No. 1559: A bill for an act relating to agriculture; making changes related to agricultural credit and agricultural collateral; changing priority of security interests related to agricultural products; amending Minnesota Statutes 1984, sections 336.9-307; 336.9-312; 336.9-315; 336.9-402; and 336.9-403; proposing coding for new law in Minnesota Statutes, chapter 514.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1984, section 336.9-312, is amended to read:

336.9-312 [PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN THE SAME COLLATERAL.]

(1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: section 336.4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; section 336.9-103 on security interests related to other jurisdictions; section 336.9-114 on consignments.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(2) (a) A production money security interest in farm products and proceeds of the farm products takes priority over a conflicting security interest in the farm products or proceeds of the farm products, if the production money security interest in the farm products and proceeds of the farm products is perfected by 20 days after the debtor receives the goods or services acquired with the value secured by the production money security interest. Priority among conflicting production money security interests in the same farm products or proceeds shall be on a pro rata basis.

(b) A production money security interest is a security interest in farm products for new value given to enable the debtor to acquire goods or services used in producing or raising the farm products if the value is in fact so used. The new value given may be by loan of money by a lender or other financier or by extension of credit by a seller or other supplier. A security interest in farm products taken or retained by the seller, lessor, or any other supplier or financier of machinery, farm implements, or other goods that do not directly add value to the farm products, to secure a debt owed with respect to the machinery, farm implements, or other goods is not a production money

security interest.

(c) The creating or perfecting of a production money security interest shall not operate under any circumstances as a default on, an accelerating event under, or otherwise as a breach of: any note or other instrument or agreement of any kind or nature to pay debt; any loan or credit agreement; or any security arrangement of any kind or nature whether the collateral is real or personal property.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory; and

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21 day period where the purchase money security interest is temporarily perfected without filing or possession (subsection (5) of section 336.9-304); and

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) so long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subsection (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under section 336.8-321 on securities, the security interest has the same priority for the purposes of subsection (5) with

respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

Sec. 2. Minnesota Statutes 1985 Supplement, section 514.952, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF RESPONSE.] (a) If a lender responds by *ten calendar days after receiving the lien-notification statement* with a letter of commitment for part or all of the amount in the lien-notification statement, the supplier may not obtain a lien for the amount stated in the letter of commitment.

(b) If a lender responds with a refusal to provide a letter of commitment the rights of the lender and the supplier are not affected.

Sec. 3. Minnesota Statutes 1984, section 514.952, subdivision 6, is amended to read:

Subd. 6. [LIEN PRIORITY.] (a) *For conflicting liens or security interests in the same collateral an agricultural production input lien does not have priority over liens that arise under chapter 395 or 514, or over perfected liens or security interests for unpaid rent for the land where the crops were grown.*

(b) *Except as provided in paragraph (a), agricultural production input liens are a security interest and have priority according to chapter 336, the uniform commercial code, except as provided in subdivision 5 over conflicting liens or security interests in crops, livestock, and their products or proceeds if the lien or security interest does not secure new value given to enable the debtor to acquire goods or services in producing or raising the crops, livestock, or their products and the value was in fact used for that purpose.*

(c) *Priority among conflicting agricultural production input liens and production money security interests under section 336.9-312(2) in the same crops, livestock, or their products or proceeds shall be on a pro rata basis.*

(d) *The creating or perfecting of an agricultural production input lien shall not operate under any circumstances as a default on, an accelerating event under, or otherwise as a breach of: any note or other instrument or agreement of any kind or nature to pay debt; any loan or credit agreement; or any security arrangement of any kind or nature whether the collateral is real or personal property.*

Sec. 4. [514.960] [LANDLORD LIEN.]

Subdivision 1. [LIEN; ATTACHMENT.] *A person or entity that leases property for agricultural production has a lien for unpaid rent on the crops produced on the property in the crop year, and the crop products and their proceeds.*

Subd. 2. [PERFECTION.] (a) *To perfect a landlord lien, the lien must attach and the person or entity entitled to the lien must file a lien statement with the appropriate filing office under section 336.9-401 by 30 days after the crops become growing crops.*

(b) *A landlord lien that is not perfected has the priority of an unperfected*

security interest under section 336.9-312.

Subd. 3. [DUTIES OF FILING OFFICER.] The filing officer shall enter on the lien statement the time of day and date of filing. The filing officer shall file, amend, terminate, note the filing of a lien statement, and charge the fee for filing under this section in the manner provided by section 336.9-403 for a financing statement. A lien statement is void and may be removed from the filing system 18 months after the date of filing. The lien statement may be physically destroyed after 30 months from the date of filing.

Subd. 4. [PRIORITY.] A landlord lien has priority over all other liens or security interests in crops grown or produced on the property that was leased and the crop products and proceeds.

Subd. 5. [ENFORCEMENT OF LIEN.] The holder of a landlord lien may enforce the lien in the manner provided in sections 336.9-501 to 336.9-508 subject to section 550.17. For enforcement of the lien, the lienholder is the secured party and the person leasing the property is the debtor, and each has the respective rights and duties of a secured party and a debtor under sections 336.9-501 to 336.9-508. If a right or duty under sections 336.9-501 to 336.9-508 is contingent upon the existence of express language in a security agreement or may be waived by express language in a security agreement, the requisite language does not exist.

Subd. 6. [ENFORCEMENT ACTIONS; LIEN EXTINGUISHED.] An action to enforce a landlord lien may be brought in district court in a county where the property is located after the lien is perfected. A lien statement may be amended, except the amount demanded, by leave of the court in the furtherance of justice. A landlord lien is extinguished if an action to enforce the lien is not brought within 18 months after the date the lien statement is filed.

Sec. 3. [REPEALER.]

Minnesota Statutes 1985 Supplement, section 514.952, subdivision 5, is repealed.

Sec. 4. [EFFECTIVE DATE.]

This act is effective July 1, 1986."

Delete the title and insert:

"A bill for an act relating to agriculture; providing security interests in goods that become part of crops and livestock; establishing priority of interests and liens in agricultural collateral; amending Minnesota Statutes 1984, sections 336.9-312; and 514.952, subdivision 6; Minnesota Statutes 1985 Supplement, section 514.952, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 514; repealing Minnesota Statutes 1985 Supplement, section 514.952, subdivision 5."

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1619, 1963, 1780, 1659, 871, 1065, 1950, 1962, 1801, 1735, 1714, 51, 1641, 1690, 1910, 1853, 1613, 1752, 1793, 1643, 1682, 1794,

1710 and 1642 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1035, 1806, 1794 and 1664 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Merriam moved that the name of Mr. Benson be added as a co-author to S.F. No. 985. The motion prevailed.

Mr. Schmitz moved that the name of Mr. DeCramer be added as a co-author to S.F. No. 1582. The motion prevailed.

Ms. Berglin moved that her name be stricken as chief author, shown as co-author, and the name of Ms. Reichgott be added as chief author to S.F. No. 1685. The motion prevailed.

Mr. Dicklich moved that the name of Mr. Merriam be added as a co-author to S.F. No. 2083. The motion prevailed.

Mr. Jude moved that the name of Mr. Ramstad be added as a co-author to S.F. No. 2098. The motion prevailed.

Mr. Gustafson moved that the name of Mr. Chmielewski be added as a co-author to S.F. No. 2101. The motion prevailed.

Mr. Lessard introduced—

Senate Concurrent Resolution No. 19: A Senate concurrent resolution designating the "Red Ribbon" to commemorate Minnesota citizens who are still missing in action or are being held against their will in Asian countries.

Referred to the Committee on Rules and Administration.

Mr. Jude moved that H.F. No. 1844 be taken from the table.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 41 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kamrath	Olson	Stumpf
Anderson	Frederick	Knaak	Pehler	Taylor
Belanger	Frederickson	Knutson	Peterson, D.L.	Waldorf
Benson	Freeman	Kroening	Purfeerst	Wegscheid
Berg	Gustafson	Kronebusch	Renneke	Willet
Bernhagen	Hughes	Langseth	Samuelson	
Bertram	Isackson	Lessard	Schmitz	
Dahl	Johnson, D.E.	McQuaid	Sieloff	
Davis	Jude	Mehrkens	Storm	

Those who voted in the negative were:

Berglin	Dieterich	Moe, R.D.	Peterson, R.W.	Ramstad
Brataas	Luther	Novak	Petty	Spear
Dicklich	Moe, D.M.	Peterson, D.C.	Pogemiller	Vega

The motion prevailed.

H.F. No. 1844: A bill for an act relating to crimes; creating certain crimes

against an unborn child; prohibiting acts which cause the death of or injury to an unborn child; imposing penalties; amending Minnesota Statutes 1984, sections 609.035; 609.18; and 609.21, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 609.

Mr. Jude moved that H.F. No. 1844 be given its second reading and placed at the top of General Orders.

Mr. Dieterich moved that H.F. No. 1844 be laid on the table. The motion did not prevail.

The question recurred on the motion of Mr. Jude.

Mr. Moe, R.D. moved to amend the Jude motion to place H.F. No. 1844 at the end of General Orders. The motion prevailed. So the Jude motion was amended.

The question was taken on the adoption of the motion of Mr. Jude, as amended.

The roll was called, and there were yeas 46 and nays 20, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kamrath	Mehrkens	Storm
Anderson	Dieterich	Knaak	Olson	Stumpf
Belanger	Frank	Knutson	Pehler	Taylor
Benson	Frederick	Kroening	Peterson, C.C.	Waldorf
Berg	Frederickson	Kronebusch	Peterson, D.L.	Wegscheid
Bernhagen	Gustafson	Laidig	Purfeerst	Willet
Bertram	Hughes	Langseth	Renneke	
Chmielewski	Isackson	Lantry	Samuelson	
Dahl	Johnson, D.E.	Lessard	Schmitz	
Davis	Jude	McQuaid	Sieloff	

Those who voted in the negative were:

Berglin	Johnson, D.J.	Moe, R.D.	Peterson, R.W.	Reichgott
Brataas	Luther	Nelson	Petty	Solon
Dicklich	Merriam	Novak	Pogemiller	Spear
Freeman	Moe, D.M.	Peterson, D.C.	Ramstad	Vega

The motion prevailed.

H.F. No. 1844 was read the second time.

Having voted on the prevailing side, Mr. Dieterich gave notice of intent to reconsider the vote on the Jude motion to give H.F. No. 1844 its second reading and place it at the end of General Orders.

MEMBERS EXCUSED

Mr. Johnson, D.J. was excused from the Session of today from 2:00 to 2:20 p.m. Ms. Reichgott was excused from the Session of today from 2:00 to 2:20 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 3:00 p.m., Wednesday, February 26, 1986. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate