

TWENTY-SEVENTH DAY

St. Paul, Minnesota, Monday, April 3, 1989

The Senate met at 2:00 p.m. and was called to order by the President.
Prayer was offered by the Chaplain, Rabbi Stacy Offner.

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

Adkins	Dahl	Knaak	Merriam	Purfeerst
Anderson	Davis	Knutson	Metzen	Ramstad
Beckman	Decker	Kroening	Moe, D.M.	Reichgott
Belanger	DeCramer	Laidig	Moe, R.D.	Renneke
Benson	Diessner	Langseth	Morse	Samuelson
Berg	Frank	Lantry	Novak	Schmitz
Berglin	Frederick	Larson	Olson	Solon
Bernhagen	Frederickson, D.J.	Lessard	Pariseau	Spear
Bertram	Frederickson, D.R.	Luther	Pehler	Storm
Brandl	Freeman	Marty	Peterson, D.C.	Stumpf
Brataas	Gustafson	McGowan	Peterson, R.W.	Taylor
Chmielewski	Hughes	McQuaid	Piper	Vickerman
Cohen	Johnson, D.J.	Mehrkens	Pogemiller	Waldorf

The President declared a quorum present.

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

MEMBERS EXCUSED

Messrs. Dicklich and Johnson, D.E. were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

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

March 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

The following appointment to the Minnesota Racing Commission is hereby respectfully submitted to the Senate for confirmation as required by law:

Marilyn Rose, 2500 Fernwood, Roseville, Ramsey County, has been

appointed by me, effective March 12, 1989, for a term expiring June 30, 1989.

(Referred to the Committee on General Legislation and Public Gaming.)

Sincerely,
Rudy Perpich, Governor

March 30, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1989	Date Filed 1989
	148	13	0917 hours March 29	March 29
121		14	1344 hours March 29	March 29
149		15	0918 hours March 29	March 29
	512	16	1345 hours March 29	March 29
	387	17	1342 hours March 29	March 29
	509	18	1344 hours March 29	March 29

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 286 and 686.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 30, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 95:

H.F. No. 95: A bill for an act relating to crime victims; clarifying certain criminal fine provisions; authorizing the deposit of unclaimed and abandoned restitution payments in the crime victim and witness account; increasing the maximum amount of reparations payable for funeral, burial, or cremation expenses; authorizing the payment of reparations under certain circumstances to Minnesota residents injured by crimes committed elsewhere; clarifying the authority of the reparations board to deny reparations on the basis of claimant's contributory misconduct; amending Minnesota

Statutes 1988, sections 345.48, subdivision 1; 609.101, subdivision 2; 611A.52, subdivision 8; 611A.53, by adding a subdivision; and 611A.54.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Bishop, Kelly and Vellenga have been appointed as such committee on the part of the House.

House File No. 95 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 30, 1989

Ms. Peterson, D.C. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 95, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 436, 774, 804, 943, 630 and 931.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 30, 1989

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 436: A bill for an act relating to education; requiring the state board of education to prepare a rule on preparation time for teachers; requiring the rule to be enacted into law before becoming effective.

Referred to the Committee on Education.

H.F. No. 774: A bill for an act relating to agriculture; changing voting rights in certain cooperative associations; amending Minnesota Statutes 1988, section 308.07, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 676.

H.F. No. 804: A bill for an act relating to Chisago county; permitting the cancellation of certain ditch assessments and providing for the allocation of others.

Referred to the Committee on Taxes and Tax Laws.

H.F. No. 943: A bill for an act relating to health; requiring post-secondary students to submit a statement of immunization; providing exemptions; amending Minnesota Statutes 1988, section 123.70, subdivisions 1, 2, 4,

8, 9, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 135A.

Referred to the Committee on Education.

H.F. No. 630: A bill for an act relating to elections; changing or clarifying provisions governing absentee voting, mail elections, election day activities, ballots, canvassing, municipal elections, school district elections, voting systems, election contests, and financial reporting; amending Minnesota Statutes 1988, sections 10A.02, subdivision 8; 204B.27, by adding a subdivision; 204B.40; 204B.46; 204C.06, subdivision 1; 204C.31, by adding a subdivision; 204C.36; 204C.361; 204D.08, subdivision 1; 204D.23, by adding a subdivision; 204D.27, subdivision 9; 205.16, by adding a subdivision; 205A.07, by adding a subdivision; 206.57, subdivision 1; 206.66; 206.90, subdivision 3; 209.021, subdivision 1; 211A.02, subdivision 1; 211A.05, subdivision 1; and 211B.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 202A; 203B; and 206; repealing Minnesota Statutes 1988, section 211B.11, subdivision 2.

Referred to the Committee on Elections and Ethics.

H.F. No. 931: A bill for an act relating to motor vehicles; requiring owner to retain certificate of title, rather than secured party; requiring buyer to deliver certificate of title to department of public safety; allowing commissioner of public safety to suspend or revoke certificate of title if owner does not surrender it and vehicle is involuntarily transferred; amending Minnesota Statutes 1988, sections 168A.02, subdivision 1; 168A.04, subdivision 2; 168A.05, subdivision 5; 168A.06; 168A.09; 168A.10; 168A.11, subdivision 1; 168A.12, subdivision 2; 168A.14; 168A.18; 168A.20, subdivision 1, and by adding subdivisions; 168A.23, subdivision 1; repealing Minnesota Statutes 1988, sections 168A.26; 168A.27; and 168A.28.

Referred to the Committee on Transportation.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1018. The motion prevailed.

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

S.F. No. 503: A bill for an act relating to community development; providing for a community resources program for cities of the first class; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 466A.

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

Delete everything after the enacting clause and insert:

“Section 1. [466A.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *The definitions in this section apply to sections 1 to 9.*

Subd. 2. [ASSISTED HOUSING.] *“Assisted housing” means any property used for residential housing that is:*

(1) either owned or is under the direct management and control of a housing agency, and is used in a manner authorized and contemplated by sections 469.001 to 469.047;

(2) defined as emergency shelter under section 272.02, subdivision 1, clause (12);

(3) transitional housing as defined in section 272.02, subdivision 1, clause (19);

(4) classified as class 4c property under section 273.13, subdivision 25, paragraph (c), clause (4);

(5) a qualified low income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1987; or (ii) meets the requirements of that section and construction or rehabilitation of which began prior to May 1, 1988; or

(6) otherwise owned or operated by a governmental unit or nonprofit organization.

Subd. 3. [CITY.] "City" means a city of the first class as defined in section 410.01.

Subd. 4. [CITY COUNCIL.] "City council" means the city council of a city as defined in subdivision 3.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of state planning.

Subd. 6. [COMMUNITY.] "Community" means all or part of a targeted neighborhood.

Subd. 7. [COMMUNITY RESOURCE MONEY.] "Community resource money" means the money designated in the community resources program to be used to implement the community resources program.

Subd. 8. [COMMUNITY RESOURCES PROGRAM.] "Community resources program" or "program" means a community resources program adopted according to section 3.

Subd. 9. [COMMUNITY RESOURCES SERVICES.] "Community resources services" means programs, activities, and services intended to meet the objectives stated in section 3, subdivision 2. Programs, activities, and services may include:

(1) community planning and organizing efforts;

(2) employment and training services programs defined in section 256.736, subdivision 1a, clause (d);

(3) assisted housing;

(4) services to stabilize neighborhoods;

(5) services to families and individuals intended to stabilize families and individuals or provide assistance for family needs including services to improve the educational achievement and development of minor family members;

(6) child care services;

(7) housing assistance;

- (8) *personal and family counseling;*
- (9) *health services;*
- (10) *parenting skills;*
- (11) *chemical dependency, counseling and treatment services;*
- (12) *crime prevention services;*
- (13) *services for victims of crime;*
- (14) *security services for assisted housing;*
- (15) *independent living services;*
- (16) *residential safe houses for teenage youth; and*
- (17) *recreational alternatives for youth.*

Subd. 10. [COUNTY BOARD.] "County board" means the board of county commissioners of a county containing a city.

Subd. 11. [SCHOOL BOARD.] "School board" means the school board of an independent school district or special school district having a student enrollment of 10,500 or more located wholly or partially within a city.

Subd. 12. [TARGETED NEIGHBORHOOD.] "Targeted neighborhood" means an area including one or more census tracts as determined and measured by the Bureau of Census of the United States Department of Commerce that a city council determines by resolution meets the criteria of section 2, subdivision 2, and any additional area designated under section 2.

Sec. 2. [466A.02] [DESIGNATION OF TARGETED NEIGHBORHOODS.]

Subdivision 1. [CITY AUTHORITY.] A city may by resolution designate targeted neighborhoods within its borders after adopting detailed findings that the designated neighborhoods meet the eligibility requirements in subdivision 2 or 3.

Subd. 2. [ELIGIBILITY REQUIREMENTS FOR TARGETED NEIGHBORHOODS.] An area within a city is eligible for designation as a targeted neighborhood if the area meets at least two of the following three criteria:

(a) The area had an unemployment rate that was twice the unemployment rate for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 1980 federal decennial census.

(b) The median household income in the area was no more than half the median household income for the Minneapolis and Saint Paul standard metropolitan statistical area as determined by the 1980 federal decennial census.

(c) The area is characterized by residential dwelling units in need of substantial rehabilitation. An area qualifies under this clause if 25 percent or more of the residential dwelling units are in substandard condition as determined by the city or 70 percent or more of the residential dwelling units in the area were built before 1940 as determined by the 1980 federal decennial census.

Subd. 3. [ADDITIONAL AREA ELIGIBLE FOR INCLUSION IN TARGETED NEIGHBORHOOD.] (a) The city may add to the area designated as a targeted neighborhood under subdivision 2 additional area extending

up to four contiguous city blocks in all directions from the designated targeted neighborhood. For the purpose of this subdivision, "city block" has the meaning determined by the city.

(b) The city may add to the area designated as a targeted neighborhood under subdivision 2 an additional area in a contiguous census tract to the targeted neighborhood provided that the city council first finds that the additional area meets at least two of the three criteria of subdivision 2.

Sec. 3. [466A.03] [COMMUNITY RESOURCES PROGRAM.]

Subdivision 1. [COMMUNITY RESOURCES PROGRAM; REQUIREMENT.] A city must prepare an annual comprehensive community resources program that is consistent with the recommendations of targeted neighborhood residents and organizations serving or representing these residents. The program must describe the specific community resource services and means by which the community intends to pursue and implement the program objectives outlined in subdivision 2 for each targeted neighborhood served under the program.

Subd. 2. [COMMUNITY RESOURCES PROGRAM OBJECTIVES.] A community resources program must address the following objectives:

(1) establish means for stabilizing families so family members can become more functional as a family unit and as members of the community. This objective addresses family stabilization by ensuring that children attend and adequately participate in schools providing elementary and secondary education, strengthening the family unit through counseling and other services, and increasing the family unit's health through nutrition, parenting skills, health assessment, drug abuse programs, and other services;

(2) provide opportunities for families and individuals that lead to greater self-sufficiency through improved housing, health, environment, education, employment, and independent living;

(3) establish the community as a safer environment by finding the means to reduce crime and the fear of crime in the community and other parts of the city; and

(4) establish means to stabilize the neighborhood or community by building the capacity of the community's neighborhood-based organizations and institutions to build cohesiveness through planning and organizing residents, to provide or ensure the provision of necessary services, and to meet the other program objectives.

Subd. 3. [COMMUNITY RESOURCES PROGRAM; CONTENTS.] (a) The community resources program must include the following information:

(1) the means to identify families and individuals who need community resources services so that the program objectives identified in subdivision 2 can be met;

(2) the specific activities, programs, or means by which the city intends to pursue and implement the objectives in subdivision 2;

(3) a statement of the intended outcomes to be achieved by implementing the community resources program;

(4) the method to measure the outcomes to be achieved by implementing the community resources program, how the outcomes will be measured both qualitatively and quantitatively, and the estimated time over which

they will occur;

(5) identification of the targeted neighborhoods, assisted housing, and other parts of the city that will receive community resources services;

(6) a detailed statement of how the community resources services will be coordinated with similar services being offered by the city, county, school district, state, and other providers;

(7) a description of the process used and the staff services provided to ensure the required community or neighborhood participation in the preparation of the program; and

(8) a budget that identifies the financial resources necessary to implement the community resources program. The budget must include the following items: (i) the estimated total cost to implement the community resources program; (ii) the estimated cost to implement each activity in the community resources program identified in clause (2); and (iii) the estimated amount of financial resources that will be available from all sources other than from the appropriation available under section 8 to implement the community resources program, including the amount of private funding to be made available to assist in funding the community resources program.

(b) The information required to be in the program under this subdivision must be specific to a targeted neighborhood to the greatest extent possible. If information is not specific to a targeted neighborhood that is to receive assistance under the program, the program must include a statement explaining the reason.

Subd. 4. [COMMUNITY PARTICIPATION.] Each city must adopt a process to involve the residents in targeted neighborhoods and assisted housing in planning, developing, and implementing the program. As part of this process, the city must ensure that this community-based process has sufficient resources to assist in the development of the program. A description of the process must be included in the community resources program.

Subd. 5. [COMMUNITY RESOURCES PROGRAM ADVISORY BOARD.] Each city must establish a community resources program advisory board to assist the city in developing and implementing the community resources program. The advisory board must consist of at least two representatives of the city council appointed by the city council, one or more representatives of the county board appointed by the county board, one or more representatives of the school board appointed by the school board, and representatives of the targeted neighborhoods. The representatives of the targeted neighborhoods must reflect the geographic, cultural, racial, and ethnic diversity of the targeted neighborhoods. The city may determine the size of the advisory board and may designate an existing entity as the advisory board if the entity meets the membership requirements outlined in this subdivision.

Subd. 6. [DEVELOPMENT OF COMMUNITY RESOURCES PROGRAM.] (a) The advisory board must work closely with city staff in developing and drafting the community resources program. The advisory board must be involved in assessing needs, prioritizing funds, and developing criteria for evaluating program proposals. In developing the program, the advisory board must give priority to the recommendations made by the targeted neighborhood strategic planning groups.

(b) The advisory board must conduct a public hearing and secure input from residents of targeted neighborhoods, governmental units affected by the program, and other organizations and persons.

(c) The advisory board may make any changes to the program resulting from testimony given at the public hearing. The advisory board must formally recommend to the city council a proposed community resources program.

Subd. 7. [REVIEW BY AFFECTED GOVERNMENTAL UNITS.] The city must develop a process to consult with affected governmental units including the state, county, and school districts. These affected governmental units may provide technical and informational assistance to the city and advisory board to ensure that the community resources services that are included in the program are coordinated with services provided by other governmental units and do not unnecessarily duplicate any existing services. The process must also include a comment period for the county board, school board, and commissioner to review a draft program and to provide comments to the city. If the county board, school board, or commissioner have comments, they must respond to the city in writing within 30 days. The city must respond to comments received from the county board and school board in writing before the city adopts the program.

Subd. 8. [CITY APPROVAL.] The city council must hold a public hearing before submitting the program to the commissioner for approval. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the targeted neighborhood not less than ten days nor more than 30 days before the date of the hearing. In addition, to the maximum extent possible, notice shall be published in the most widely circulated community newspaper in the targeted neighborhoods.

Subd. 9. [REVIEW AND APPROVAL BY COMMISSIONER.] (a) Before the city adopts a community resources program, the commissioner must approve the program.

(b) The commissioner must establish an advisory panel to assist the commissioner in reviewing the programs. The panel must consist of the commissioner; the commissioners of human services, jobs and training, Minnesota housing finance agency, and public safety; one representative of each of the cities that have submitted a program appointed by the appropriate city council; and two members of the public appointed by the commissioner.

(c) The advisory panel must review each city's community resources program to determine if the process, including any information required to be in the program objectives, meets the requirements of subdivisions 4 to 8. The panel will also review the program to ensure that there is not unnecessary duplication of services already provided in the targeted neighborhood.

(d) The commissioner must notify the city in writing within 30 days after receiving the program of a preliminary decision on the approval of the program and any recommendations of the commissioner for modification of the program. The commissioner must specify in writing the reasons for each recommendation for modification of the program. If the commissioner has no recommendations for the program's modification, the commissioner must approve the program. The commissioner may not disapprove any part of the program unless the commissioner determines that (1) the process,

including any information required to be in the program, by which that part of the program was developed, does not meet the requirements of subdivisions 4 to 8, (2) the program is inconsistent with program objectives, or (3) the program results in unnecessary duplication of services already provided in the targeted neighborhood. If modifications to the program are recommended by the commissioner, the city must modify the program and resubmit it to the commissioner within 30 days for approval.

(e) If the city does not accept all of the commissioner's recommendations, the city must notify the commissioner in writing within 15 days after receiving the commissioner's recommendations. The city must specify in writing the reasons for not accepting the commissioner's recommendations.

(f) The commissioner must notify the city, within ten days after receiving the city's decision, of the commissioner's approval or disapproval of specific programs, projects, or elements of the program. State funding may only be released to the city for those programs, projects, or elements given final approval by the commissioner.

Subd. 10. [PROGRAM CERTIFICATION.] The city council may only adopt those programs, projects, or elements of the community resources program that the commissioner has approved. A certification by the city that a community resources program has been approved by the city council must be provided to the commissioner together with a copy of the program. A copy of the program must also be provided to the county board and school board.

Subd. 11. [COMMUNITY RESOURCES PROGRAM MODIFICATION.] The community resources program may be modified at any time by the city council after review by the community resources advisory board and a public hearing. Notice of the public hearing must be published in a newspaper of general circulation in the city not less than ten days nor more than 30 days before the date of the hearing. In addition, to the maximum extent possible, notice shall be published in the most widely circulated community newspaper in the targeted neighborhoods. If the city council or advisory board determines that the proposed modification is a significant modification to the program originally certified under subdivision 10, it must implement the community resources program approval and certification process of subdivisions 5 to 10 for the proposed modification.

Sec. 4. [466A.04] [CITY POWERS.]

Subdivision 1. [GENERAL POWERS.] A city may exercise any of its corporate powers in implementing the community resources program.

Subd. 2. [COMMUNITY INITIATIVES PROGRAM.] A city may establish a community initiatives program as part of the community resources program. A community initiatives program, in addition to the authority granted by other law, authorizes a city to set aside funds and to develop a process to request proposals for the purpose of making grants, loans, and other forms of assistance to, or entering into service contracts with, nonprofit organizations, including neighborhood organizations, representing community residents. The organizations may also represent residents from a contiguous neighborhood. State money used for the community initiatives program must be used for implementing activities included in the community resources program. The contracts entered into by the city with a nonprofit organization under this subdivision must contain terms concerning use of money and other conditions the city deems proper to

implement a community initiatives program.

Subd. 3. [GRANTS AND LOANS.] In addition to the authority granted by other law, a city may make grants, loans, and other forms of assistance to, and enter into service contracts with, individuals, for profit and non-profit corporations, and other organizations to implement a community resources program. The contracts entered into by the city under this subdivision must contain terms concerning use of money, repayment, and other conditions the city deems proper to implement a community resources program.

Subd. 4. [ELIGIBLE USES FOR COMMUNITY RESOURCE MONEY.] The city may spend community resource money for any purpose authorized by subdivisions 1 to 3 except that an amount equal to at least 90 percent of the state payment according to section 5 made available to the city must be spent in or for residents in targeted neighborhoods or assisted housing. Use of community resource money must be authorized in a community resources program. If a resident of a targeted neighborhood or assisted housing is a recipient of community resources services and moves to a residence in another part of the city, eligibility continues for the community resources services.

Sec. 5. [466A.05] [PAYMENT; DRAWDOWN; USES OF STATE MONEY.]

Subdivision 1. [PAYMENT OF STATE MONEY.] Upon receiving from a city the certification that a community resources program has been adopted or modified, the commissioner shall, within 30 days after receiving the certification, pay to the city the amount of state money identified as necessary to implement the community resources program or program modification. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded. Once the state money has been paid to the city, it becomes community resource money for use by the city according to an adopted community resources program and subject to the restrictions on its use in sections 1 to 7.

Subd. 2. [ALLOCATION.] A city may receive a part of the appropriations made available that is the proportion that the population of the city bears to the combined population of the cities. A city may agree to reduce its entitlement amount and to make it available to another city. The population of each city for the purposes of this subdivision is determined according to the most recent estimates available to the commissioner. Interest earned by a city from money paid to the city must be repaid to the commissioner annually unless the community resources program identifies the interest as necessary to implement the community resources program.

Subd. 3. [RESTRICTION ON USE OF STATE MONEY.] A city must keep the state money in a segregated fund for accounting purposes.

Sec. 6. [466A.06] [ANNUAL AUDIT AND REPORT.]

Subdivision 1. [ANNUAL FINANCIAL AUDIT.] In 1989 and subsequent years, at the end of each calendar year, the legislative auditor shall conduct a financial audit to review the spending of state money under sections 1 to 7. Before spending state money to implement a community resources program, the city must consult with the legislative auditor to determine appropriate accounting methods and principles to assist the legislative auditor in conducting its financial audit. The results of the financial audit must be submitted to the legislative audit commission and

the commissioner.

Subd. 2. [ANNUAL REPORT.] A city that begins to implement a community resources program in a calendar year must, by March 1 of the succeeding calendar year, provide a detailed report to the commissioner and legislature on the community resources program or programs being implemented in the city. The report must describe the status of the program implementation and analyze whether the intended outcomes identified in section 3, subdivision 3, paragraph (a), clause (3), are being achieved.

Sec. 7. [466A.07] [WAIVER OF STATE RULES AND REGULATIONS.]

Subdivision 1. [CITY REQUEST.] As part of the community resources program, the city may identify and request a waiver from rules and regulations adopted by state agencies that could impede implementation of the program. In requesting a waiver the city must specify its reasons for the waiver and define the benefits to be obtained for the waiver.

Subd. 2. [COMMISSIONER'S DUTIES.] The commissioner shall, in consultation with the city, establish a process to review the waiver request. The process shall at a minimum include consultation with the commissioner of the agency promulgating the rule, consideration of the impact of the waiver on the delivery of the community resources service or activity, the time frame to rule on the waiver, the method to evaluate the budget of the waiver, and the effective date and termination date of the waiver. The commissioner shall determine if the waiver will be approved.

Sec. 8. [APPROPRIATION; DISTRIBUTION.]

\$ is appropriated from the general fund for the biennium ending June 30, 1991, to the commissioner of state planning for payment to the cities as provided in section 5. \$ is for fiscal year 1990 and \$ is for fiscal year 1991.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day after final enactment."

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

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

S.F. No. 922: A bill for an act relating to education; permitting one levy referendum each year by a school board; requiring special school district canvassing boards in certain elections; amending Minnesota Statutes 1988, sections 124A.03, subdivision 2; and 205A.10, subdivision 3, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 204C.

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

Pages 3 to 5, delete sections 2 to 4

Page 5, line 21, delete "Sections 1 to 4 are" and insert "Section 1 is"

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to education; permitting one levy referendum each year by a school board; amending Minnesota Statutes 1988, section 124A.03, subdivision 2."

And when so amended the bill be re-referred to the Committee on Education without recommendation. Amendments adopted. Report adopted.

Mr. Hughes from the Committee on Elections and Ethics, to which was referred

S.F. No. 556: A bill for an act relating to elections; providing for handicap access to precinct caucuses and party conventions; providing for sign interpreters at precinct caucuses and party conventions; amending Minnesota Statutes 1988, sections 202A.13; and 202A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 202A.

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

Page 1, lines 23 and 26, delete "individual" and insert "delegate or alternate"

Page 1, line 27, after "given" insert "by certified mail"

Page 2, after line 7, insert:

"A visually impaired delegate or alternate to a county, legislative district, or congressional district convention may notify the executive committee of the major political party unit that the delegate or alternate requires convention materials in audio tape, Braille, or large print format. Upon receiving the request, the executive committee shall provide all official written convention materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format, prior to the convention."

Page 3, line 13, delete "SIGN" and after "SERVICES" insert "; CAUCUS MATERIALS"

Page 3, line 17, after "given" insert "by certified mail"

Page 3, after line 24, insert:

"A visually impaired individual may notify the county or legislative district committee of the major political party whose precinct caucus the individual plans to attend, that the individual requires caucus materials in audio tape, Braille, or large type format. Upon receiving the request, the county or legislative district committee shall provide all official written caucus materials as soon as they are available, so that the visually impaired individual may have them converted to audio tape, Braille, or large print format prior to the precinct caucus."

Sec. 4. [202A.156] [INTERPRETER SERVICES AND ACCESSIBLE PRECINCT CAUCUS EXEMPTIONS.]

A major political party is not required to:

(1) provide an interpreter for a convention or precinct caucus if it has made documented good faith efforts to locate and assign an interpreter, including contacting an interpreter referral center or regional service center for the hearing impaired, and no interpreters are available; or

(2) hold a precinct caucus at a place that meets the accessibility standards for precinct polling places specified in section 204B.16, subdivision 5, if it has made documented good faith efforts to locate and secure an available accessible site within a reasonable distance of the precinct, and no accessible site is available.

Sec. 5. [APPROPRIATION.]

§ is appropriated from the general fund to the secretary of state to reimburse major political parties for the costs of providing interpreter services to communicatively impaired persons.”

Amend the title as follows:

Page 1, line 4, delete “sign”

Page 1, line 5, after the semicolon, insert “making convention and caucus materials available to the visually impaired; appropriating money;”

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

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

S.F. No. 1051: A resolution memorializing the Congress of the United States to reject pending legislation that would authorize the use of Minnesota waters for the transportation of coal and would grant the right of eminent domain of coal slurry pipelines.

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

Page 2, line 6, after “the” insert “President of the United States,”

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

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

S.F. No. 911: A bill for an act relating to counties; making explicit that the laws and rules that pertain to deputy registrars of motor vehicles also apply to county license bureaus; amending Minnesota Statutes 1988, section 373.35, subdivision 1.

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

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

S.F. No. 1018: A bill for an act relating to traffic regulations; dedicating seat belt violation fines to emergency medical services relief account; amending Minnesota Statutes 1988, section 169.686, subdivision 3.

Reports the same back with the recommendation that the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 786: A bill for an act relating to sheriffs; allowing county boards to set sheriffs' fees; amending Minnesota Statutes 1988, section 357.09.

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. 764: A bill for an act relating to local government; changing conditions for the establishment and operation of special service districts in Sartell, Sauk Rapids, St. Cloud, Isle, Mora, Becker, and Waite Park; amending Laws 1985, chapter 301, sections 5, subdivision 5; 7, subdivision 1; 9; 12; and 13, subdivision 2; repealing Laws 1985, chapter 301, section 7, subdivision 4.

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

Page 3, line 14, before "No" insert "*Subdivision 1. [CERTAIN CITIES.] This subdivision applies in the cities of Sartell, Sauk Rapids, Isle, Mora, Becker, and Waite Park.*"

Page 3, line 16, reinstate the stricken "and" and delete the comma

Page 3, line 17, delete ", or"

Page 3, lines 18 to 23, delete the new language and reinstate the stricken language

Page 3, line 24, reinstate the stricken "more of the" and after the stricken "value" insert "*net tax capacity*" and reinstate the stricken "subject to a proposed tax" and delete "*the class*"

Page 3, lines 25 to 31, delete the new language and reinstate the stricken language

Page 4, after line 4, insert:

"Subd. 2. [ST. CLOUD.] This subdivision applies in the city of St. Cloud. No action may be taken pursuant to section 6 unless owners of 15 percent or more of the land area of the proposed special service district, owners of 15 percent or more of the net tax capacity of the proposed district, or either 15 percent of the individuals resident or business organizations located in the proposed area file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken pursuant to section 7 to impose an ad valorem tax unless the class of persons who petitioned for establishment of the district file a petition requesting a public hearing on the proposed action with the city clerk. No action may be taken pursuant to section 7 to impose a service charge unless the class of persons who petitioned for establishment of the district file a petition requesting a public hearing on the proposed action with the city clerk. If the boundaries of a proposed district are changed or the land area or net tax capacity subject to a tax or the individuals or business organizations subject to a service charge are changed after the public hearing, a petition meeting the requirements of this section must be filed with the city clerk before the ordinance establishing the district or resolution imposing the tax or service

charge may become effective."

Page 4, line 7, after "VETO" insert "; CERTAIN CITIES" and before "If" insert "*This subdivision applies in the cities of Sartell, Sauk Rapids, Isle, Mora, Becker, and Waite Park.*" and reinstate the stricken "35" and delete "50"

Page 4, line 8, reinstate the stricken language and delete the new language

Page 4, lines 13, 14, and 18, reinstate the stricken "35" and delete "50"

Page 4, after line 23, insert:

"Sec. 6. Laws 1985, chapter 301, section 13, is amended by adding a subdivision to read:

Subd. 3. [REQUIREMENT FOR VETO; ST. CLOUD.] This subdivision applies in the city of St. Cloud. If owners of 50 percent of the land area in the district or owners of 50 percent of the net tax capacity in the district file an objection to the ordinance adopted by the city pursuant to section 6 with the city clerk before the effective date of the ordinance, the ordinance shall not become effective. If owners of 50 percent of the land area subject to a tax or owners of 50 percent of the net tax capacity subject to a tax file an objection to the resolution adopted levying an ad valorem tax pursuant to section 7 with the city clerk before the effective date of the resolution, the resolution shall not become effective. If 50 percent of individuals and business organizations subject to a service charge file an objection to the resolution adopted imposing a service charge pursuant to section 7 with the city clerk before the effective date of the resolution, the resolution shall not become effective."

Page 4, line 29, delete "cities" and insert "city of"

Page 4, delete line 30 and insert "St. Cloud"

Page 4, line 31, delete "Waite Park"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "Sartell, Sauk Rapids," and delete ", Isle,"

Page 1, line 5, delete "Mora, Becker, and Waite Park"

Page 1, line 7, after "2" insert ", and by adding a subdivision"

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

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

S.F. No. 342: A bill for an act relating to health; requiring the commissioner of health to conduct radon research and engage in educational activities; requiring amendments to the state plumbing code and building code to minimize exposure to radon; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 326.

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

Page 1, line 11, delete "326.83 to 326.89" and insert "1 to 8"

Page 1, lines 14 and 15, delete "326.83 to 326.89" and insert "1 to 8"

Page 3, after line 32, insert:

"Sec. 8. [326.90] [REGISTRATION.]

Subdivision 1. [REGISTRATION REQUIRED.] No person may conduct radon testing or radon mitigation work in Minnesota after October 1, 1989, unless the person is registered with the department of administration. Registration is not required for:

(1) a person who performs radon testing or radon work involving property owned by the person; or

(2) a person performing preventive or safeguarding measures during new construction or remodeling.

Subd. 2. [PENALTY.] An unregistered person who conducts radon testing or radon mitigation work may be fined up to \$5,000 per violation and may be enjoined from conducting radon testing or radon mitigation work in an action brought by the attorney general.

Subd. 3. [REVOCAION OF REGISTRATION.] The commissioner of administration may revoke the registration of a radon tester or radon mitigator for violation of state law involving fraud, false statement, or false, misleading, or deceptive business practices. The commissioner of administration must notify the registrant of the proposed revocation of a registration. The registration shall be revoked unless the registrant requests a hearing in writing within 20 days of the receipt of the notice.

Subd. 4. [CONDUCTING RADON TESTING OR MITIGATION.] A person shall be deemed to be conducting radon testing or radon mitigation work if the person, by oral or written representation, claims to be able to determine the presence of or the level of radon in a building or claims that repairs or changes made to a building will, or are likely to, lower radon levels in a building.

Subd. 5. [REQUEST FOR INFORMATION.] Whenever the commissioner of administration has reason to believe a violation of this section may be occurring, the commissioner may require a person to produce copies of any books, records, papers, memoranda, or other documents related to radon testing or radon mitigation work. Information requested under this subdivision must be provided to the commissioner of administration within 20 days after receipt of the request. If a person does not provide the information, the department may seek a court order requiring the person to provide the requested information. Any person who fails to comply with a court order may be fined up to \$1,000 per day of violation."

Page 5, line 12, delete "8" and insert "9"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the first semicolon, insert "requiring persons performing radon testing to be registered by the commissioner of administration;"

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

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

S.F. No. 1071: A bill for an act relating to trade practices; providing for payment to farm implement retailer by the manufacturer, wholesaler, or distributor who repurchases stock and inventory; amending Minnesota Statutes 1988, section 325E.06, subdivisions 1, 4, and 5.

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

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

S.F. No. 829: A bill for an act relating to insurance; prohibiting insurers from maintaining subrogation actions against insureds; proposing coding for new law in Minnesota Statutes, chapter 60A.

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

Page 1, delete lines 9 to 14 and insert:

“(a) An insurance company or a company providing reinsurance for the coverage may not proceed against its insured in a subrogation action where the loss was caused by the nonintentional acts of the insured.

“(b) An insurance company or a company providing reinsurance for the coverage may not subrogate itself to the rights of its insured to proceed against another person insured by the same company to recover a loss caused by the nonintentional acts of that insured.”

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

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

S.F. No. 986: A bill for an act relating to weights and measures; simplifying definition of a firewood “cord”; requiring sale of firewood by volume; specifying firewood advertising and delivery ticket terminology; requiring a written firewood sales invoice; removing exemption from delivery ticket requirement; amending Minnesota Statutes 1988, sections 239.33; and 325E.01.

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

Page 1, line 24, delete “four” and insert “eight”

Page 2, line 34, strike the second “or”

Page 2, line 35, after “feet” insert “, or cords”

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

Mr. Pehler from the Committee on Education, to which was referred

S.F. No. 471: A bill for an act relating to education; changing the definitions of teachers and of supervisory and support personnel for the purpose of licensure; changing the kinds of personnel licensed by the board of teaching and the state board of education; changing the composition of the board of teaching; providing for teacher performance effectiveness plan;

amending Minnesota Statutes 1988, sections 125.03, subdivisions 1 and 4; 125.05, subdivisions 1 and 2; 125.08; and 125.183, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 125.

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 1988, section 125.03, subdivision 1, is amended to read:

Subdivision 1. The term “teachers” for the purpose of licensure, means ~~and includes any and all persons employed in a public school as members of the instructional and, supervisory, and support staff such as including~~ superintendents, principals, supervisors, ~~classroom~~ secondary vocational and other teachers, and librarians, counselors, athletic coaches, school psychologists, school nurses, school social workers, audio-visual directors and coordinators, recreation personnel, media generalists, media supervisors, and speech therapists.

Sec. 2. Minnesota Statutes 1988, section 125.03, subdivision 4, is amended to read:

Subd. 4. “Supervisory and support personnel” for the purpose of licensure means: superintendents; principals; and professional employees who devote 50 percent or more of their time to administrative or supervisory duties over other personnel; ~~counselors; school nurses; athletic coaches; and other professional employees who engage primarily in nonclassroom activities. The term does not include: librarians; school psychologists; school social workers; audio-visual directors and coordinators; recreation personnel; media generalists; media supervisors; or speech therapists.~~

Sec. 3. Minnesota Statutes 1988, section 125.03, subdivision 5, is amended to read:

Subd. 5. [TEACHERS; EXAMS.] “Teachers” for the purpose of examination means persons applying for initial teaching licenses to provide direct instruction to pupils in prekindergarten, elementary, secondary, and special education programs. *At the discretion of the board of teaching, it may also mean a person applying to the board for an initial license in one of the support personnel fields.* It does not mean persons applying for licenses as supervisory or support personnel nor does it mean librarians, school social workers, school psychologists, audio-visual directors or coordinators, or media generalists or supervisors.

Sec. 4. Minnesota Statutes 1988, section 125.05, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATIONS.] The authority to license teachers as defined in section 125.03, subdivision 1, is vested in the board of teaching ~~except that~~. The authority to license supervisory and support personnel as defined in section 125.03, subdivision 4, is vested in the state board of education. *The authority to license post-secondary vocational and adult vocational teachers, support personnel, and supervisory personnel in technical institutes is vested in the state board of vocational technical education according to section 136C.04, subdivision 9.* Licenses shall be issued to such persons as the board of teaching or the state board of education finds to be competent for their respective positions. For teachers, as defined in section 125.03, subdivision 5, competency includes

successful completion of an examination of skills in reading, writing, and mathematics for persons applying for initial licenses. Qualifications of teachers and other professional employees except supervisory ~~and support~~ personnel shall be determined by the board of teaching under the rules it promulgates. Licenses under the jurisdiction of the board of teaching shall be issued through the licensing section of the department of education. Licenses under the jurisdiction of the state board of education shall be issued through the licensing section of the department of education.

Sec. 5. Minnesota Statutes 1988, section 125.05, subdivision 2, is amended to read:

Subd. 2. [EXPIRATION AND RENEWAL.] Each license issued through the licensing section of the department of education shall bear the date of issue. Licenses shall expire and be renewed in accordance with the respective rules promulgated by the board of teaching or the state board of education. ~~Renewal~~ Requirements for the renewal of a license shall include the production of satisfactory evidence of successful teaching experience for at least one school year during the period covered by the license in grades or subjects for which the license is valid or the completion of such additional preparation as the board of teaching shall prescribe. Requirements for the renewal of the licenses of supervisory ~~and support~~ personnel shall be established by the state board of education.

Sec. 6. Minnesota Statutes 1988, section 125.05, is amended by adding a subdivision to read:

Subd. 7. [LIMIT ON FIELDS OF LICENSURE.] Unless the action of the board of teaching is approved by specific legislative act, the board may not, after July 1, 1989:

- (1) develop additional fields of licensure;*
- (2) divide existing fields of licensure; or*
- (3) extend any licensure requirements to any duties that could be performed on March 15, 1989, without a license.*

The board may establish fields for provisional licensure, but shall submit each field to the legislature for approval. If approval by specific legislative act is not obtained within one year after the provisional license is established, the board shall discontinue the field of provisional licensure.

Sec. 7. Minnesota Statutes 1988, section 125.08, is amended to read:

125.08 [TEACHERS' AND ADMINISTRATORS' LICENSES, FEES.]

Each application for the issuance, renewal, or extension of a license to teach shall be accompanied by a processing fee in an amount set by the board of teaching by rule. Each application for the issuance, renewal or extension of a license as supervisory ~~or support~~ personnel shall be accompanied by a processing fee in an amount set by the state board of education by rule. The processing fee for a teacher's license shall be paid to the executive secretary of the board of teaching. The processing fee for the licenses of supervisory ~~and support~~ personnel shall be paid to the commissioner. The executive secretary of the board of teaching and the commissioner shall deposit the fees with the state treasurer, as provided by law, and report each month to the commissioner of finance the amount of fees collected. The fees as set by the boards shall be nonrefundable for applicants not qualifying for a license, ~~provided~~. However, ~~that~~ a fee shall be refunded

by the state treasurer in any case in which the applicant already holds a valid unexpired license. The boards may waive or reduce fees for applicants who apply at the same time for more than one license, even if the licenses are under the jurisdiction of different boards.

Sec. 8. Minnesota Statutes 1988, section 125.183, subdivision 1, is amended to read:

Subdivision 1. A board of teaching consisting of ~~15~~ 17 members appointed by the governor is hereby established. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. No member shall be reappointed for more than one additional term.

Sec. 9. Minnesota Statutes 1988, section 125.183, subdivision 3, is amended to read:

Subd. 3. Except for the representatives of higher education and the public, to be eligible for appointment to the board of teaching, a person must be fully licensed for the position held and have at least five years teaching experience in Minnesota, including the two years immediately preceding nomination and appointment. *Each nominee, other than a public nominee, shall be selected on the basis of professional experience and knowledge of teacher education, accreditation, and licensure.* The board shall be composed of:

(1) one special education teacher ~~whose responsibilities;~~

(2) two teachers who are ~~those either~~ licensed as any of a the following: school counselor, school nurse, school social worker, audio-visual director or coordinator, recreation personnel, media generalist or supervisor, librarian, school psychologist, remedial or developmental reading teacher, speech therapist correction, or secondary vocational teacher;

(3) three elementary school classroom teachers;

(4) three secondary classroom teachers; ~~one;~~

(5) two higher education ~~representative~~ representatives, ~~from one of whom must be a higher education faculty preparing member, directly involved in the preparation of teachers;~~

(6) one school administrator; and ~~six~~

(7) five members of the public, two of whom shall be present or former members of local school boards. ~~Each nominee other than a public nominee shall be selected on the basis of professional experience, and knowledge of teacher education; accreditation and licensure.~~

Sec. 10. [TIME OF EFFECT.]

The changes in the composition of the board of teaching required by section 9 must be made as soon as possible after the effective date of section 9 as vacancies occur or terms of members expire."

Amend the title as follows:

Page 1, line 7, delete "providing for teacher"

Page 1, line 8, delete "performance effectiveness plan" and insert "placing certain limitations on teaching licenses"

Page 1, line 9, delete "and 4" and insert ", 4, and 5"

Page 1, line 10, delete "and 2" and insert ", 2, and by adding a subdivision"

Page 1, line 11, delete everything after "3" and insert a period

Page 1, delete line 12

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

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

S.F. No. 694: A bill for an act relating to judgments; providing a reasonable exemption for employee benefits; amending Minnesota Statutes 1988, section 550.37, subdivision 24.

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

Page 1, lines 14 and 15, delete the new language and insert ":

(1) to the extent the plan or contract is an employee pension benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, United States Code, title 29, sections 1001 to 1461, as amended, and the plan or contract is qualified under section 401(a), 403, 408, or 457 of the Internal Revenue Code of 1986, as amended; or

(2) to the extent of the debtor's aggregate interest under all plans and contracts not to exceed a value of \$30,000 at age 65 using a discount rate of eight percent per annum"

Page 1, after line 15, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and applies to proceedings pending on or commencing on or after the effective date."

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. 321: A bill for an act relating to public nuisances; expanding the nuisance law to include prior convictions for certain drug and liquor offenses; amending Minnesota Statutes 1988, section 617.81, subdivision 2.

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 1988, section 617.81, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING A NUISANCE.] For purposes of sections 617.80 to 617.87 a public nuisance exists upon proof of ~~any of the following~~:

(+) three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for:

(1) acts of prostitution or prostitution-related offenses committed within the building;

(2) ~~three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for acts of gambling or gambling-related offenses committed within the building; or~~

(3) ~~two or more convictions within the previous two years for keeping or permitting a disorderly house within the building;~~

(4) *unlawful sales of controlled substances committed within the building; or*

(5) *unlawful sales of intoxicating liquor or nonintoxicating malt liquor committed within the building.*"

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. 624: A bill for an act relating to civil actions; removing certain limitations on parental liability for thefts by minors; amending Minnesota Statutes 1988, section 332.51, subdivision 3.

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. 869: A bill for an act relating to courts; increasing certain fees collected by the court administrator; amending Minnesota Statutes 1988, sections 171.06, subdivisions 2 and 4; 357.021, subdivision 2; and 525.22.

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

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

S.F. No. 682: A bill for an act relating to crime; including controlled substance offenses in the evidentiary provision of the disorderly house crime; amending Minnesota Statutes 1988, section 609.33, 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. 535: A bill for an act relating to real property; abolishing certain residual marital interests in real property; providing for 40-year limitation on action based on an option to repurchase or other restrictions on a surface estate; providing for certain certifications; amending Minnesota Statutes 1988, sections 541.023, subdivision 6; and 548.181; proposing coding for new law in Minnesota Statutes, chapter 519.

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

Page 1, delete lines 13 to 23 and insert:

“Subdivision 1. [INTEREST ABOLISHED.] The marital property interest in real property, as defined in section 518.54, subdivision 5, that was owned by a person’s former spouse is abolished effective July 1, 1990, as against the interest of a third person that is of record before January 1, 1989.

Subd. 2. [EXCEPTIONS.] Subdivision 1 does not apply if:

(1) the marital property interest is determined under a decree of dissolution, legal separation, or annulment; or

(2) an action claiming the marital property interest is begun before July 1, 1990, and a notice is filed for record within that period in the office of the county recorder or registrar of titles in the county where the property is located.”

Pages 1 to 3, delete section 2 and insert:

“Sec. 2. Minnesota Statutes 1988, section 541.023, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] (a) This section shall apply to every right, claim, interest, incumbrance or lien founded by any instrument, event or transaction 40 years old at the date hereof, or which will be 40 years old prior to January 1, 1948, except those under which the claimant thereunder shall file a notice as herein provided prior to January 1, 1948.

(b) This section applies to repurchase options or other rights of repurchase that encumber an interest in land based upon an instrument other than a deed of conveyance granted by a governmental body, agency, or subdivision, unless within 40 years of the recording or filing of the instrument a notice is recorded or filed under subdivision 1. This paragraph does not revive repurchase options or rights of repurchase barred by subdivision 1.”

Page 3, line 5, after the second comma, insert “subdivision 1,”

Page 3, delete lines 7 and 8

Page 3, delete lines 16 to 30 and insert:

“Sec. 4. Minnesota Statutes 1988, section 548.181, subdivision 3, is amended to read:”

Page 4, delete lines 3 to 16 and insert:

“Sec. 5. Minnesota Statutes 1988, section 548.181, is amended by adding a subdivision to read:

Subd. 3a. [CERTIFICATION OF DISCHARGE.] Upon receipt of a filing fee of \$5, the court administrator shall certify to the judgment debtor or other interested party the judgments against a person that have been discharged by the administrator.

Sec. 6. Minnesota Statutes 1988, section 582.27, is amended to read:

582.27 [EFFECTIVE DATES.]

Subdivision 1. The following schedule specifies the dates to be applied to the provisions of section 582.25:

(A) As to the general provision of section 582.25, May 1, ~~1984~~ 1988;

(B) As to clause (1), ~~May 10, 1985~~ the day following final enactment

of this act;

(C) As to clause (2), January 1, ~~1974~~ 1978;

(D) As to clause (5), ~~May 10, 1985~~ the day following final enactment of this act;

(E) As to clause (8), ~~May 10, 1985~~ the day following final enactment of this act;

(F) As to clause (10) (a), ~~May 10, 1985~~ the day following final enactment of this act.

Subd. 2. The date of the report of sale to which section 582.26 applies is ~~May 10, 1985~~ the day following final enactment of this act.

Subd. 3. The provisions of sections 582.25 to 582.27 shall not affect any action or proceeding pending on August 1, ~~1985~~ 1989, or which shall be commenced before February 1, ~~1986~~ 1990, in any of the courts of the state, involving the validity of such foreclosure.

Sec. 7. [EFFECTIVE DATE; APPLICATION.]

Section 2 is effective January 1, 1990, and applies to actions commenced on or after that date.

Section 6 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 3, delete "providing for" and insert "clarifying that the"

Page 1, line 4, before "action" insert "actions affecting title to real estate applies to an"

Page 1, line 6, after the semicolon, insert "changing effective dates for provisions relating to validation of foreclosure sales;"

Page 1, line 8, delete "6" and insert "2" and delete "and" and after "548.181" insert ", subdivisions 1, 3, and by adding a subdivision; and 582.27"

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. 851: A bill for an act relating to driving while intoxicated; making it a crime for certain repeat offenders to refuse to submit to chemical testing under the implied consent law; imposing penalties; amending Minnesota Statutes 1988, sections 169.121, subdivisions 1, 1a, 3, and 3b; and 169.123, subdivision 2.

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

Page 2, line 10, delete everything after "revoked"

Page 2, line 11, delete "section 169.123"

Page 2, line 12, before the period, insert ", under any of the following: this section, or section 169.123, 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), or 609.21, subdivision 3, clause (2) or (3)"

Pages 2 and 3, delete section 3 and insert:

"Sec. 3. Minnesota Statutes 1988, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES.] (a) A person who violates this section or an ordinance in conformity with it is guilty of a misdemeanor.

~~The following persons are guilty of a gross misdemeanor:~~

~~(a) (b) A person is guilty of a gross misdemeanor who violates this section or an ordinance in conformity with it within five years of a prior impaired driving conviction under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them; and~~

~~(b) A person who violates this section or an ordinance in conformity with it, or within ten years of two or more prior impaired driving convictions under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them. For purposes of this subdivision paragraph, a prior impaired driving conviction is a prior conviction under this section, section 169.129, or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is a prior conviction that would have been a prior impaired driving conviction if committed by an adult.~~

~~(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.~~

~~(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.~~

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to previous convictions under this section from a court, the court must furnish the information without charge."

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. 735: A bill for an act relating to traffic safety; increasing penalties for persons convicted of DWI after a previous conviction for criminal vehicular operation; amending Minnesota Statutes 1988, section 169.121, subdivision 3.

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

Page 1, line 13, after the stricken "(a)" insert "(b)"

Page 1, line 25, delete everything before "For" and strike "subdivision" and insert "*paragraph*"

Page 2, line 2, delete "169.29" and insert "169.129"

Page 2, line 3, after the second semicolon, insert "*361.12, subdivision 1;*"

Page 2, line 19, strike "previous" and insert "*prior impaired driving*" and strike "under this section"

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

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

S.F. No. 676: A bill for an act relating to agriculture; changing voting rights in certain cooperative associations; amending Minnesota Statutes 1988, section 308.07, subdivision 4.

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

Mrs. Lantry from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 1037: A bill for an act relating to animals; regulating using animals for certain purposes; providing a penalty; amending Minnesota Statutes 1988, sections 343.33; and 343.34.

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

Page 1, line 17, delete "*person*" and insert "*for-profit itinerant carnival, street show, street fair, sideshow, circus, or similar enterprise*"

Page 1, delete lines 24 and 25

Page 2, delete lines 1 to 6

Page 2, delete section 2

Amend the title as follows:

Page 1, line 4, delete "sections" and insert "section" and delete "; and 343.34"

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

Mrs. Lantry from the Committee on General Legislation and Public Gaming, to which was referred

S.F. No. 1016: A bill for an act relating to Beltrami county; authorizing the Beltrami county board to regulate dogs and cats within the county by ordinance.

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

Page 1, line 6, after the first period, insert "[347.081]" and delete "BELTRAMI COUNTY;"

Page 1, line 7, delete everything after "*Notwithstanding*" and insert "*section 347.09,*"

Page 1, line 8, delete "*Beltrami*" and insert "a"

Page 1, line 18, delete "*An administrative*" and insert "*The procedure must allow for notice to the owner if the owner can be determined. A*"

Page 1, line 22, delete "*Beltrami*"

Page 2, delete section 2

Amend the title as follows:

Page 1, line 2, delete "*Beltrami county*" and insert "*animals*" and delete "*the Beltrami*" and insert "*a*"

Page 1, line 4, delete "*by ordinance*" and insert "*without adopting a system of licensure; proposing coding for new law in Minnesota Statutes, chapter 347*"

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. 637: A bill for an act relating to human services; allowing rate review for nursing homes in involuntary receivership; eliminating the exemption of certain allowable employee pension contributions from care-related cost limits and other operating cost limits; clarifying historical cost of capital assets and issuance costs; providing payment rate adjustments for nursing homes; allowing a one-time adjustment to comply with OBRA; amending Minnesota Statutes 1988, sections 144.50, by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144A.01, by adding subdivisions; 144A.04, subdivision 7, and by adding a subdivision; 144A.073, subdivision 1; 144A.10, by adding subdivisions; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.611; 256B.091, subdivision 3; 256B.25, by adding a subdivision; 256B.431, subdivisions 2c, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; and 256B.48, subdivision 6; Laws 1988, chapter 689, article 2, section 269, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; and 256B; repealing Minnesota Statutes 1988, section 144A.10, subdivision 4a.

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

Delete everything after the enacting clause and insert:

"Section 1. [144.0723] [CLIENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.]

Subdivision 1. [CLIENT REIMBURSEMENT CLASSIFICATIONS.] The commissioner of health shall establish reimbursement classifications based upon the assessment of each client in intermediate care facilities for the mentally retarded conducted after December 31, 1988, under section 256B.501, subdivision 3g, or under rules established by the commissioner of human services under section 256B.501, subdivision 3j. The reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services to set payment rates for intermediate care facilities for the mentally retarded beginning on or after October 1, 1990.

Subd. 2. [NOTICE OF CLIENT REIMBURSEMENT CLASSIFICATION.] The commissioner of health shall notify each client and intermediate care facility for the mentally retarded in which the client resides of the reimbursement classification established under subdivision 1. The notice must inform the client of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification. The notice of classification must be sent by first-class mail. The individual client notices may be sent to the client's intermediate care facility for the mentally retarded for distribution to the client. The facility must distribute the notice to the client's case manager and to the client or to the client's representative. This notice must be distributed within three working days after the facility receives the notices from the department. For the purposes of this section, "representative" includes the client's legal representative as defined in Minnesota Rules, part 9525.0015, subpart 18, the person authorized to pay the client's facility expenses, or any other individual designated by the client.

Subd. 3. [REQUEST FOR RECONSIDERATION.] The client, client's representative, or the intermediate care facility for the mentally retarded may request that the commissioner reconsider the assigned classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days after the receipt of the notice of client classification. The request for reconsideration must include the name of the client, the name and address of the facility in which the client resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the client at the time of the assessment resulting in the disputed classification justify a change of classification.

Subd. 4. [ACCESS TO INFORMATION.] Upon written request, the intermediate care facility for the mentally retarded must give the client's case manager, the client, or the client's representative a copy of the assessment form and the other documentation that was given to the department to support the assessment findings. The facility shall also provide access to and a copy of other information from the client's record that has been requested by or on behalf of the client to support a client's reconsideration request. A copy of any requested material must be provided within three working days after the facility receives a written request for the information. If the facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment. Notwithstanding this section, any order issued by the commissioner under this subdivision must require that the facility immediately comply with the request for information and that as of the date the order is issued, the facility shall forfeit to the state a \$100 fine the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

Subd. 5. [FACILITY'S REQUEST FOR RECONSIDERATION.] (a) In addition to the information required in subdivision 3, a reconsideration request from an intermediate care facility for the mentally retarded must contain the following information:

(1) the date the reimbursement classification notices were received by the facility;

(2) the date the classification notices were distributed to the client's case manager and to the client or to the client's representative; and

(3) a copy of a notice sent to the client's case manager, and to the client or to the client's representative that tells the client or the client's representative (i) that a reconsideration of the client's reimbursement classification is being requested; (ii) the reason for the request; (iii) that the client's rate may change if the request is approved by the department; (iv) that copies of the facility's request and supporting documentation are available for review; and (v) that the client also has the right to request a reconsideration.

(b) If the facility fails to provide this information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

Subd. 6. [RECONSIDERATION.] The commissioner's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under subdivisions 3 and 5. If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. At the commissioner's discretion, the commissioner may review the reimbursement classifications assigned to all clients in the facility. Within 15 working days after receiving the request for reconsideration, the commissioner shall affirm or modify the original client classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the status of the client at the time of the assessment. The client and the intermediate care facility for the mentally retarded shall be notified within five working days after the decision is made. The commissioner's decision under this subdivision is the final administrative decision of the agency.

Subd. 7. [AUDIT AUTHORITY.] The department of health may audit assessments of clients in intermediate care facilities for the mentally retarded. The audits may be conducted at the facility, and the department may conduct the audits on an unannounced basis.

Subd. 8. [RULEMAKING.] The commissioner of health shall adopt rules necessary to implement these provisions.

Sec. 2. Minnesota Statutes 1988, section 144.50, is amended by adding a subdivision to read:

Subd. 7. [RESIDENTS WITH AIDS OR HEPATITIS.] Boarding care homes and supervised living facilities licensed by the commissioner of health must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot meet the needs of the person under Minnesota Rules, part 4665.0200, subpart 5, or part 4655.1500, subpart 2, or the person is otherwise not eligible for admission to the facility under state laws or rules.

Sec. 3. Minnesota Statutes 1988, section 144.562, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR LICENSE CONDITION.] A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~

482.66, or it has a licensed bed capacity of 50 beds or more and has swing beds that were approved for medicare reimbursement before May 1, 1985; (2) it is located in a rural area as defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ 482.66; and (3) it agrees to utilize no more than four hospital beds as swing beds at any one time, except that the commissioner may approve the utilization of up to three additional beds at the request of a hospital if no medicare certified skilled nursing facility beds are available within 25 miles of that hospital.

Sec. 4. Minnesota Statutes 1988, section 144.562, subdivision 3, is amended to read:

Subd. 3. [APPROVAL OF LICENSE CONDITION.] The commissioner of health shall approve a license condition for swing beds if the hospital meets all of the criteria of this subdivision:

(a) The hospital must meet the eligibility criteria in subdivision 2.

(b) The hospital must be in compliance with the medicare conditions of participation for swing beds under Code of Federal Regulations, title 42, section ~~405.1041~~ 482.66.

(c) The hospital must agree, in writing, to limit the length of stay of a patient receiving services in a swing bed to not more than 40 days, or the duration of medicare eligibility, unless the commissioner of health approves a greater length of stay in an emergency situation. To determine whether an emergency situation exists, the commissioner shall require the hospital to provide documentation that continued services in the swing bed are required by the patient; that no skilled nursing facility beds are available within 25 miles from the patient's home, or in some more remote facility of the resident's choice, that can provide the appropriate level of services required by the patient; and that other alternative services are not available to meet the needs of the patient. If the commissioner approves a greater length of stay, the hospital shall develop a plan providing for the discharge of the patient upon the availability of a nursing home bed or other services that meet the needs of the patient. Permission to extend a patient's length of stay must be requested by the hospital at least ten days prior to the end of the maximum length of stay.

(d) The hospital must agree, in writing, to limit admission to a swing bed only to (1) patients who have been hospitalized and not yet discharged from the facility, or (2) patients who are transferred directly from an acute care hospital.

(e) The hospital must agree, in writing, to report to the commissioner of health by December 1, 1985, and annually thereafter, in a manner required by the commissioner (1) the number of patients readmitted to a swing bed within 60 days of a patient's discharge from the facility, (2) the hospital's charges for care in a swing bed during the reporting period with a description of the care provided for the rate charged, and (3) the number of beds used by the hospital for transitional care and similar subacute inpatient care.

(f) The hospital must agree, in writing, to report statistical data on the utilization of the swing beds on forms supplied by the commissioner. The data must include the number of swing beds, the number of admissions to and discharges from swing beds, medicare reimbursed patient days, total patient days, and other information required by the commissioner to assess the utilization of swing beds.

Sec. 5. Minnesota Statutes 1988, section 144.651, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Patient" also means a minor who is admitted to a residential program as defined in section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and ~~board and~~ ~~and~~ boarding care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

Sec. 6. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

Subd. 3a. "Certified" means certified for participation as a provider in the Medicare or Medicaid programs under title XVIII or XIX of the Social Security Act.

Sec. 7. Minnesota Statutes 1988, section 144A.01, is amended by adding a subdivision to read:

Subd. 4a. "Emergency" means a situation or physical condition that creates or probably will create an immediate and serious threat to a resident's health or safety.

Sec. 8. Minnesota Statutes 1988, section 144A.04, subdivision 7, is amended to read:

Subd. 7. [MINIMUM NURSING STAFF REQUIREMENT.] Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel in *certified* nursing homes is as follows:

(a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or ~~0.95 hours~~ *one hour* per standardized resident day. *This requirement is satisfied if the weekly calendar average of nursing hours per standardized resident day is one hour and the per day nursing hours are the greater of two hours per resident day or 0.95 hours per standardized resident day.*

(b) For purposes of this subdivision, "hours of nursing personnel" means the paid, on-duty, productive nursing hours of all nurses and nursing assistants, calculated on the basis of any given 24-hour period. "Productive nursing hours" means all on-duty hours during which nurses and nursing assistants are engaged in nursing duties. Examples of nursing duties may be found in Minnesota Rules, parts 4655.5900, 4655.6100, and 4655.6400. Not included are vacations, holidays, sick leave, in-service classroom training, or lunches. Also not included are the nonproductive nursing hours of the in-service training director. In homes with more than 60 licensed beds, the hours of the director of nursing are excluded. "Standardized resident day" means the sum of the number of residents in each case mix class multiplied by the case mix weight for that resident class, as found in Minnesota Rules, part 9549.0059, subpart 2, calculated on the basis of a

facility's census for any given day.

(c) Calculation of nursing hours per standardized resident day is performed by dividing total hours of nursing personnel for a given period by the total of standardized resident days for that same period.

(d) A nursing home that is issued a notice of noncompliance under section 144A.10, subdivision 5, for a violation of this subdivision, shall be assessed a civil fine of \$300 for each day of noncompliance, subject to section 144A.10, subdivisions 7 and 8.

Sec. 9. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

Subd. 8. [RESIDENTS WITH AIDS OR HEPATITIS.] A nursing home must accept as a resident a person who is infected with the human immunodeficiency virus or the hepatitis B virus unless the facility cannot provide appropriate care for the person under Minnesota Rules, part 4655.1500, subpart 2, or the person is otherwise not eligible for admission under state laws and rules.

Sec. 10. Minnesota Statutes 1988, section 144A.04, is amended by adding a subdivision to read:

Subd. 9. [CARDIOPULMONARY RESUSCITATION TRAINING.] Effective October 1, 1989, a nursing home must have on duty at all times at least one staff member who is trained in single rescuer adult cardiopulmonary resuscitation and who has completed the initial training or a refresher course within the previous two years.

Sec. 11. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

(a) to replace a bed decertified after May 23, 1983, or to address an extreme hardship situation, in a particular county that, together with all contiguous Minnesota counties, has fewer nursing home beds per 1,000 elderly than the number that is ten percent higher than the national average of nursing home beds per 1,000 elderly individuals. For the purposes of this section, the national average of nursing home beds shall be the most recent figure that can be supplied by the federal health care financing administration and the number of elderly in the county or the nation shall be determined by the most recent federal census or the most recent estimate of the state demographer as of July 1, of each year of persons age 65 and older, whichever is the most recent at the time of the request for replacement. In allowing replacement of a decertified bed, the commissioners shall ensure that the number of added or recertified beds does not exceed the total number of decertified beds in the state in that level of care. An extreme hardship situation can only be found after the county documents the existence of unmet medical needs that cannot be addressed by any other alternatives;

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health;

the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

(c) to certify beds in a new nursing home that is needed in order to meet the special dietary needs of its residents, if: the nursing home proves to the commissioner's satisfaction that the needs of its residents cannot otherwise be met; elements of the special diet are not available through most food distributors; and proper preparation of the special diet requires incurring various operating expenses, including extra food preparation or serving items, not incurred to a similar extent by most nursing homes;

(d) to license a new nursing home bed in a facility that meets one of the exceptions contained in clauses (a) to (c);

(e) to license nursing home beds in a facility that has submitted either a completed licensure application or a written request for licensure to the commissioner before March 1, 1985, and has either commenced any required construction as defined in clause (b) before May 1, 1985, or has, before May 1, 1985, received from the commissioner approval of plans for phased-in construction and written authorization to begin construction on a phased-in basis. For the purpose of this clause, "construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules;

(f) to certify or license new beds in a new facility that is to be operated by the commissioner of veterans' affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans' affairs or the United States Veterans Administration;

(g) to license or certify beds in a new facility constructed to replace a facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

(1) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(2) at the time the facility was destroyed the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(3) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility;

(4) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5; and

(5) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility;

(h) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, or to license or certify beds in a facility for which the total costs of remodeling or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, if the facility makes a written commitment to the commissioner of human services that it will not seek

to receive an increase in its property-related payment rate by reason of the remodeling or renovation;

(i) to license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner within 120 days after delicensure or decertification;

(j) to license or certify beds in a project recommended for approval by the interagency board for quality assurance under section 144A.073;

(k) to license nursing home beds in a hospital facility that are relocated from a different hospital facility under common ownership or affiliation, provided: (1) the hospital in which the nursing home beds were originally located ceases to function as an acute care facility, or necessary support services for nursing homes as required for licensure under sections 144A.02 to 144A.10, such as dietary service, physical plant, housekeeping, physical therapy, occupational therapy, and administration, are no longer available from the original hospital site; and (2) the nursing home beds are not certified for participation in the medical assistance program;

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

(m) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(n) to license new nursing home beds in a continuing care retirement community affiliated with a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its residents from outside the state for the purpose of meeting contractual obligations to residents of the retirement community, provided the facility makes a written commitment to the commissioner of human services that it will not seek medical assistance certification for the new beds;

(o) to certify or license new beds in a new facility on the Red Lake Indian reservation for which payments will be made under the Indian Health Care Improvement Act, Public Law Number 94-437, at the rates specified in United States Code, title 42, section 1396d(b);

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or \$200,000,

whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements:
 or

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of Saint Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this clause:
 or

(r) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek or receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements.

Sec. 12. Minnesota Statutes 1988, section 144A.073, subdivision 1, is amended to read:

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

(a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.

(b) "Renovation" means extensive remodeling of, or construction of an addition to, a facility on an existing site with a total cost exceeding ten percent of the appraised value of the facility or \$200,000, whichever is less.

(c) "Replacement" means the demolition ~~and~~ or reconstruction of all or part of an existing facility.

(d) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.

Sec. 13. Minnesota Statutes 1988, section 144A.10, subdivision 5, is

amended to read:

Subd. 5. [REINSPECTIONS.] A nursing home issued a correction order under this section ~~shall must~~ be reinspected ~~at the end of the period allowed for correction no later than ten working days after the time period for correction has elapsed. The reinspection may be made in conjunction with the next annual inspection or any other scheduled inspection.~~ If upon reinspection the representative of the commissioner of health determines that the facility has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order shall be mailed by certified mail to the nursing home. The notice shall specify the violations not corrected and the fines assessed in accordance with subdivision 6.

Sec. 14. Minnesota Statutes 1988, section 144A.10, subdivision 6a, is amended to read:

Subd. 6a. [SCHEDULE OF FINES.] (a) The commissioner of health shall propose for adoption the schedule of fines by publishing it in the State Register and allowing a period of 60 days from the publication date for interested persons to submit written comments on the schedule. Within 60 days after the close of the comment period, and after considering any comments received, the commissioner shall adopt the schedule in final form. *By September 1, 1990, the commissioner shall amend the schedule of fines adopted under this subdivision to increase to \$250 the fines for violations of section 144.651, subdivisions 18, 20, 21, 22, 27, and 30, and for repeated violations.*

(b) The schedule of fines is exempt from the definition of "rule" in section 14.02, subdivision 4, and has the force and effect of law upon compliance with section 14.38, subdivision 7. The effective date of the schedule of fines is five days after publication, as provided in section 14.38, subdivision 8. The provisions of any rule establishing a schedule of fines for noncompliance with correction orders issued to nursing homes remain effective with respect to nursing homes until repealed, modified, or superseded by ~~the~~ a schedule established in accordance with this subdivision.

Sec. 15. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6b. [FINES FOR FEDERAL CERTIFICATION DEFICIENCIES.] *If the commissioner determines that a nursing home or certified boarding care home does not meet a requirement of section 1919(b), (c), or (d), of the Social Security Act, or any regulation adopted under that section of the Social Security Act, the nursing home or certified boarding care home may be assessed a civil fine for each day of noncompliance and until a notice of correction is received by the commissioner under subdivision 7. Money collected because of these fines must be applied to the protection of the health or property of residents of nursing facilities the commissioner finds deficient. A fine for a specific deficiency may not exceed \$500 for each day of noncompliance. The commissioner shall adopt rules establishing a schedule of fines.*

Sec. 16. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6c. [OVERLAP OF FINES.] *If a nursing home is subject to fines under both subdivisions 6 and 6b for the same requirement, condition, situation, or practice, the commissioner shall assess either the fine provided by subdivision 6 or the fine provided by subdivision 6b.*

Sec. 17. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6d. [SCHEDULE OF FINES.] The commissioner shall adopt rules establishing the schedule of fines for deficiencies in the requirements of section 1919(b), (c), and (d), of the Social Security Act, or regulations adopted under that section of the Social Security Act.

Sec. 18. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 8a. [FINE FOR MISALLOCATION OF NURSING STAFF] Upon issuing a correction order to a nursing home under subdivision 4 for a violation of Minnesota Rules, part 4655.5600, because of nursing staff performing duties such as washing wheelchairs or beds of discharged residents, or other housekeeping or laundry duties not related to the direct nursing care of residents, the commissioner shall impose a civil fine of \$500 per day. A fine under this subdivision accrues in accordance with subdivision 6 and is subject to subdivision 8 for purposes of recovery and hearings.

Sec. 19. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 8b. [RESIDENT ADVISORY COUNCIL.] Each nursing home or boarding care home shall establish a resident advisory council and a family council, unless fewer than three persons express an interest in participating. If one or both councils do not function, the nursing home or boarding care home shall document its attempts to establish the council or councils at least once each calendar year. This subdivision does not alter the rights of residents and families provided by section 144.651, subdivision 27. A nursing home or boarding care home that is issued a notice of noncompliance with a correction order for violation of this subdivision shall be assessed a civil fine of \$100 for each day of noncompliance.

Sec. 20. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 11. [AUTHORITY TO IMPLEMENT OMNIBUS BUDGET RECONCILIATION ACT.] The commissioner of health, the commissioner of human services, or both, may adopt rules needed to comply with the nursing home reform provisions of title C of the Omnibus Budget Reconciliation Act of 1987, Public Law Number 100-203. If the Secretary of the United States Department of Health and Human Services determines that provisions of state law conflict with the requirements of federal law, the commissioners may adjust provisions of state law in chapters 144, 144A, and 256B as necessary to conform with the federal law and to avoid or minimize financial sanctions against the state. If state law provisions are adjusted, the commissioners shall notify the chair of the senate health and human services committee and the chair of the house of representatives health and human services committee. An adjustment to state law made under this subdivision is effective 15 days after the proposed adjustment is published in the State Register. The adjustment is repealed effective July 1 following the next final adjournment of a regular session of the legislature that occurs after the effective date of the adjustment. If the Secretary of the United States Department of Health and Human Services designates a specific state agency to be responsible for implementing provisions of the federal law, and the designation conflicts with provisions of state law, the

federally designated agency shall assume these responsibilities.

Sec. 21. [144A.103] [PENALTY FOR DEATH OF A RESIDENT.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, "abuse" and "neglect" have the meanings given in section 626.557, subdivision 2, paragraphs (d) and (e).

Subd. 2. [PENALTY.] Whenever the commissioner substantiates that a situation existed that constituted abuse or neglect by a nursing home and that could foreseeably result in death or injury to a resident, and the abuse or neglect contributed to the resident's death, the nursing home must be assessed a civil fine of \$1,000. The assessment of a fine under this section does not preclude the use of any other remedy.

Subd. 3. [RECOVERY OF FINES; HEARING.] A nursing home that is assessed a fine under this section must pay the fine no later than 15 days after receipt of the notice of assessment. The assessment shall be stayed if the nursing home makes a written request for a hearing on the assessment within 15 days after receipt of the notice of assessment. After submission of a timely request, a hearing must be conducted as a contested case hearing under chapter 14 no later than 30 days after the request. If a nursing home does not pay the fine as required by this section, the commissioner of health shall notify the commissioner of human services, who shall deduct the amount of the fine from reimbursement payments due or to be due the nursing home under chapter 256B.

Sec. 22. [144A.105] [SUSPENSION OF ADMISSIONS.]

Subdivision 1. [CIRCUMSTANCES FOR SUSPENSIONS.] The commissioner of health may suspend admissions to a nursing home or certified boarding care home when:

(1) the commissioner has issued a penalty assessment or the nursing home has a repeated violation for noncompliance with section 144A.04, subdivision 7, or the portion of Minnesota Rules, part 4655.5600, subpart 2, that establishes minimum nursing personnel requirements;

(2) the commissioner has issued a penalty assessment or the nursing home or certified boarding care home has repeated violations for not maintaining a sufficient number or type of nursing personnel to meet the needs of the residents, as required by Minnesota Rules, parts 4655.5100 to 4655.6200;

(3) the commissioner has determined that an emergency exists;

(4) the commissioner has initiated proceedings to suspend, revoke, or not renew the license of the nursing home or certified boarding care home; or

(5) the commissioner determines that the remedy of denial of payment, as provided by subparagraph 1919(h)(2)(A)(i) of the Social Security Act, is to be imposed under section 1919(h) of the Social Security Act, or regulations adopted under that section of the Social Security Act.

Subd. 2. [ORDER.] If the commissioner suspends admissions under subdivision 1, the commissioner shall notify the nursing home or certified boarding care home, by written order, that admissions to the nursing home or certified boarding care home will be suspended beginning at a time specified in the order. The suspension is effective no earlier than 48 hours after the nursing home or certified boarding care home receives the order.

unless the order is due to an emergency under subdivision 1, clause (3). The order may be served on the administrator of the nursing home or certified boarding care home, or the designated agent in charge of the home, by personal service or by certified or registered mail with a return receipt of delivery. The order shall specify the reasons for the suspension, the corrective action required to be taken by the nursing home or certified boarding care home, and the length of time the suspension will be in effect. The nursing home or certified boarding care home shall not admit any residents after the effective time of the order. In determining the length of time for the suspension, the commissioner shall consider the reasons for the suspension, the performance history of the nursing home, and the needs of the residents.

Subd. 3. [CONFERENCE.] After receiving the order for suspension, the nursing home or certified boarding care home may request a conference with the commissioner to present reasons why the suspension should be modified or should not go into effect. The request need not be in writing. If a conference is requested within 24 hours after receipt of the order, the commissioner shall hold the conference before the effective time of the suspension, unless the order for suspension is due to an emergency under subdivision 1, clause (3). If a conference is not requested within 24 hours after receipt of the order, the nursing home or certified boarding care home may request a conference and the commissioner shall schedule the conference as soon as practicable. The conference may be held in person or by telephone. After a conference, the commissioner may affirm, rescind, or modify the order.

Subd. 4. [CORRECTION.] The nursing home or certified boarding care home shall notify the commissioner, in writing, when any required corrective action has been completed. The commissioner may verify the corrective action by inspection under section 144A.10. The commissioner may extend the initial suspension period by written notice to the nursing home or certified boarding care home.

Subd. 5. [NOTIFICATION OF COMMISSIONER OF HUMAN SERVICES.] Whenever the commissioner suspends admissions to a nursing home or certified boarding care home, the commissioner shall notify the commissioner of human services of the order and of any modifications to the order.

Subd. 6. [HEARING.] A nursing home or certified boarding care home may appeal from an order for suspension of admissions issued under subdivision 1. To appeal, the nursing home or certified boarding care home shall file with the commissioner a written notice of appeal. The appeal must be received by the commissioner within ten days after the date of receipt of the order for suspension by the nursing home or certified boarding care home. Within 15 calendar days after receiving an appeal, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement of the parties. Regardless of any appeal, the order for suspension of admissions remains in effect until final resolution of the appeal.

Sec. 23. Minnesota Statutes 1988, section 144A.11, is amended by adding a subdivision to read:

Subd. 2a. [NOTICE TO RESIDENTS.] Within five working days after proceedings are initiated by the commissioner to revoke, suspend, or not

renew a nursing home license, the controlling person of the nursing home or a designee must provide to the commissioner and the ombudsman for older Minnesotans the names of residents and the names and addresses of the residents' guardians, representatives, and designated family contacts. The controlling person or designees must provide updated information each month until the proceeding is concluded. If the controlling person or designee fails to provide the information within this time, the nursing home is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues. Information provided under this subdivision may be used by the commissioner or the ombudsman only for the purpose of providing affected consumers information about the status of the proceedings. Within ten working days after the commissioner initiates proceedings to revoke, suspend, or not renew a nursing home license, the commissioner of health shall send a written notice of the action and the process involved to each resident of the nursing home and the resident's legal guardian, representative, or designated family contact. The commissioner shall provide the ombudsman with monthly information on the department's actions and the status of the proceedings.

Sec. 24. Minnesota Statutes 1988, section 144A.11, subdivision 3, is amended to read:

Subd. 3. [HEARING.] No nursing home license may be suspended or revoked, and renewal may not be denied, without a hearing held as a contested case in accordance with chapter 14. *The hearing must commence within 60 days after the proceedings are initiated.* If the controlling person designated under section 144A.03, subdivision 2, as an agent to accept service on behalf of all of the controlling persons of the nursing home has been notified by the commissioner of health that the facility will not receive an initial license or that a license renewal has been denied, the controlling person or a legal representative on behalf of the nursing home may request and receive a hearing on the denial. This hearing shall be held as a contested case in accordance with chapter 14.

Sec. 25. Minnesota Statutes 1988, section 144A.12, subdivision 1, is amended to read:

Subdivision 1. [INJUNCTIVE RELIEF] In addition to any other remedy provided by law, the commissioner of health may bring an action in the district court in ~~Ramsey~~ Hennepin county or in the district in which a nursing home is located to enjoin a controlling person or an employee of the nursing home from illegally engaging in activities regulated by sections 144A.01 to 144A.16. A temporary restraining order may be granted by the court in the proceeding if continued activity by the controlling person or employee would create an imminent risk of harm to a resident of the facility.

Sec. 26. Minnesota Statutes 1988, section 144A.15, subdivision 1, is amended to read:

Subdivision 1. [PETITION, NOTICE.] In addition to any other remedy provided by law, the commissioner of health may petition the district court

in Ramsey Hennepin county or in the district in which a nursing home or certified boarding care home is located for an order directing the controlling persons of the nursing home or certified boarding care home to show cause why the commissioner of health or a designee should not be appointed receiver to operate the facility. The petition to the district court shall contain proof by affidavit that the commissioner of health has either commenced license suspension or revocation proceedings, suspended or revoked a license, or decided not to renew the nursing home license, or that violations of section 1919(b), (c), or (d), of the Social Security Act, or the regulations adopted under that section, or violations of state law or rules, create an emergency. The order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy to the nursing home administrator and to the persons designated as agents by the controlling persons to accept service on their behalf pursuant to section 144A.03, subdivision 2.

Sec. 27. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

Subd. 2a. [EMERGENCY PROCEDURE.] If it appears from the petition filed under subdivision 1, or from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath when the court determines that this is necessary, that there is probable cause to believe that an emergency exists in a nursing home or certified boarding care home, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition shall be served personally on the nursing home administrator and on the persons designated as agents by the controlling persons to accept service on their behalf according to section 144A.03, subdivision 2. A hearing on the petition shall be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.

Sec. 28. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

Subd. 6. [RATE RECOMMENDATION.] The commissioner may recommend to the commissioner of human services a review of the rates for a nursing home or boarding care home that participates in the medical assistance program that is in involuntary receivership, and that has needs or deficiencies documented by the department of health. If the commissioner of health determines that a review of the rate under section 256B.431 is needed, the commissioner shall provide the commissioner of human services with:

(1) a copy of the order or determination that cites the deficiency or need; and

(2) the commissioner's recommendation for additional staff and additional annual hours by type of employee and additional consultants, services, supplies, equipment, or repairs necessary to satisfy the need or deficiency.

Sec. 29. [144A.135] [TRANSFER AND DISCHARGE APPEALS.]

The commissioner shall establish a mechanism for hearing appeals on transfers and discharges of residents by nursing homes or boarding care homes licensed by the commissioner. The commissioner may adopt permanent rules to implement this section.

Sec. 30. [144A.155] [PLACEMENT OF MONITOR.]

Subdivision 1. [AUTHORITY.] The commissioner may place a person to act as a monitor in a nursing home or certified boarding care home in any of the circumstances listed in clause (1) or (2):

(1) in any situation for which a receiver may be appointed under section 144A.15; or

(2) when the commissioner determines that violations of sections 144.651, 144A.01 to 144A.16, 626.557, or section 1919(b), (c), or (d), of the Social Security Act, or rules or regulations adopted under those provisions, require extended surveillance to enforce compliance or protect the health, safety, or welfare of the residents.

Subd. 2. [DUTIES OF MONITOR.] The monitor shall observe the operation of the home, provide advice to the home on methods of complying with state and federal rules and regulations, where documented deficiencies from the regulations exist, and periodically shall submit a written report to the commissioner on the ways in which the home meets or fails to meet state and federal rules and regulations.

Subd. 3. [SELECTION OF MONITOR.] The commissioner may select as monitor an employee of the department or may contract with any other individual to serve as a monitor. The commissioner shall publish a notice in the State Register that requests proposals from individuals who wish to be considered for placement as monitors, and that sets forth the criteria for selecting individuals as monitors. The commissioner shall maintain a list of individuals who are not employees of the department who are interested in serving as monitors. The commissioner may contract with those individuals determined to be qualified.

Subd. 4. [PAYMENT OF MONITOR.] A nursing home or certified boarding care home in which a monitor is placed shall pay to the department the actual costs associated with the placement, unless payment would create an undue hardship for the home.

**Sec. 31. Minnesota Statutes 1988, section 144A.61, is amended to read:
144A.61 [NURSING ASSISTANT TRAINING.]**

Subdivision 1. [PURPOSE AUTHORITY.] ~~The purpose of this section and section 144A.61 is to improve the quality of care provided to patients of nursing homes by assuring that approved programs for the training of nursing assistants are established as necessary throughout the state. The commissioner of health, in consultation with the commissioner of human services, shall implement the provisions of Public Law Number 100-203, the Omnibus Budget Reconciliation Act of 1987, that relate to training and competency evaluation programs, testing, and the establishment of a registry for nursing assistants in nursing homes and boarding care homes certified for participation in the medical assistance or Medicare programs. The commissioner of health may adopt permanent rules that may be necessary to implement Public Law Number 100-203 and provisions of this section. The commissioner of health may contract with outside parties for the purpose of implementing the provisions of this section. At the request of the commissioner, the board of nursing may establish training and competency evaluation standards; review, evaluate, and approve curricula; review and approve training programs; and establish a registry of nursing assistants.~~

Subd. 2. [NURSING ASSISTANTS.] For the purposes of this section and section 144A.611 "nursing assistant" means a nursing home or certified boarding care home employee, including a nurse's aide or an orderly, who is assigned by the director of nursing to provide or assist in the provision of ~~direct patient care nursing or nursing-related~~ services under the supervision of a registered nurse, but does not include a licensed health professional. The commissioner of ~~education~~ health may, by rule, establish categories of nursing assistants who are not required to comply with the educational requirements of this section and section 144A.611.

Subd. 3. [CURRICULA; TEST.] The ~~commissioner of~~ state director of vocational technical education shall develop curricula and a test to be used for nursing assistant training programs for employees of nursing homes and boarding care homes. The curricula, as reviewed, approved, and evaluated by the board of nursing, shall be utilized by all facilities, institutions, or programs offering nursing assistant training programs. ~~The test may be given by any technical institute or community college in accordance with instructions from the commissioner of education. The commissioner of education may prescribe a fee for the administration of the test not to exceed \$30.~~

Subd. 3a. [COMPETENCY EVALUATION PROGRAM.] *The commissioner of health shall approve the competency evaluation program. A test must be administered to nursing assistants who complete an approved training program and desire to be listed in the nursing assistant registry. The tests may only be administered by technical institutes and community colleges.*

Subd. 4. [TECHNICAL ASSISTANCE.] The ~~commissioner of~~ state director of vocational education shall, upon request, provide necessary and appropriate technical assistance in the development of nursing assistant training programs.

Subd. 6. [TRAINING PROGRAM.] Each nursing assistant hired to work in a nursing home on or after January 1, 1979, ~~shall but before January 1, 1990, must~~ have successfully completed an approved nursing assistant training program or shall be enrolled in the first available approved training program which is scheduled to commence within 60 days of the date of the assistant's employment. Approved training programs shall be offered at the location most reasonably accessible to the enrollees in each class.

Subd. 6a. [NURSING ASSISTANTS HIRED IN 1990 AND AFTER.] *Each nursing assistant hired to work in a nursing home on or after January 1, 1990, or in a certified boarding care home on or after October 1, 1990, must have successfully completed an approved nursing assistant training program and competency evaluation.*

Subd. 7. [VIOLATION, PENALTY.] Violation of this section and ~~section 144A.611~~ by a nursing home or certified boarding care home shall be grounds for the issuance of a correction order to the ~~nursing home by the state commissioner of health. Under the provisions of section 144.653 or 144A.10,~~ the failure of the nursing home or certified boarding care home to ~~correct the deficiency or deficiencies specified in~~ comply with the correction order shall result in the assessment of a fine in accordance with the schedule of fines promulgated by rule of the state commissioner of health the amount of \$300.

Subd. 8. [EXCEPTIONS.] Employees of nursing homes conducted in

accordance with the teachings of the body known as the Church of Christ, Scientist, shall be exempt from the requirements of this section and section 144A.611.

Sec. 32. Minnesota Statutes 1988, section 144A.611, is amended to read:

144A.611 [REIMBURSABLE EXPENSES PAYABLE TO NURSING ASSISTANTS.]

Subdivision 1. [NURSING HOMES AND CERTIFIED BOARDING CARE HOMES.] The actual costs of tuition and reasonable expenses for ~~that approved program deemed by the commissioner of education to be minimally necessary to protect the health and welfare of nursing home residents the nursing assistant training program approved under section 144A.61,~~ which are paid to nursing ~~home~~ assistants pursuant to subdivision 2, ~~shall be~~ are a reimbursable expense for nursing homes and certified boarding care homes under the provisions of chapter 256B and the rules promulgated thereunder.

Subd. 2. [NURSING ASSISTANTS.] A nursing assistant who has completed an approved training program shall be reimbursed by the nursing home or certified boarding care home for actual costs of tuition and reasonable expenses for the training program 90 days after the date of employment, or upon completion of the approved training program, whichever is later.

Subd. 3. [RULES.] The commissioner of human services shall promulgate any rules necessary to implement the provisions of this section. The rules shall include, but not be limited to:

(a) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to a nursing home, *certified boarding care home*, or a nursing assistant for the assistant's *simultaneous* training in more than one approved program;

(b) Provisions designed to prevent reimbursement by the commissioner under this section and section 144A.61 to more than one nursing home or *certified boarding care home* for the training of any individual nursing assistant; and

(c) Provisions permitting the reimbursement by the commissioner to nursing homes, *certified boarding care homes*, and nursing assistants for the retraining of a nursing assistant after an absence from the labor market of not less than ~~five years~~ *24 months*.

Sec. 33. Minnesota Statutes 1988, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. [SKILLED AND INTERMEDIATE NURSING CARE.] Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562; ~~unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute~~

care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided in section 256B.091; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year.

Sec. 34. Minnesota Statutes 1988, section 256B.091, subdivision 3, is amended to read:

Subd. 3. [SCREENING TEAM; DUTIES.] Local screening teams shall seek cooperation from other public and private agencies in the community which offer services to the disabled and elderly. The responsibilities of the agency responsible for screening shall include:

(a) Provision of information and education to the general public regarding availability of the screening program;

(b) Acceptance of referrals from individuals, families, human service professionals and nursing home personnel of the community agencies;

(c) Assessment of health and social needs of referred individuals and identification of services needed to maintain these persons in the least restrictive environments;

(d) Identification of available noninstitutional services to meet the needs of individuals referred;

(e) Recommendations for individuals screened regarding:

(1) Nursing home or boarding care home admission; and

(2) Maintenance in the community with specific service plans and referrals and designation of a lead agency to implement each individual's plan of care;

(f) *Assessment of active treatment needs:*

(1) *in cooperation with a qualified mental health professional for persons with a primary or secondary diagnosis of mental illness; and*

(2) *in cooperation with a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions.*

For purposes of this subdivision, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;

(g) Provision of follow up services as needed; and

~~(g)~~ (h) Preparation of reports which may be required by the commissioner of human services.

Sec. 35. Minnesota Statutes 1988, section 256B.25, is amended by adding a subdivision to read:

Subd. 4. [PAYMENT DURING SUSPENDED ADMISSIONS.] *A nursing home or boarding care home that has received a notice to suspend admissions under section 144A.10, subdivision 4a, shall be ineligible to receive*

payment for admissions that occur during the effective dates of the suspension. Upon termination of the suspension by the commissioner of health, payments may be made for eligible persons, beginning with the day after the suspension ends.

Sec. 36. Minnesota Statutes 1988, section 256B.421, subdivision 14, is amended to read:

Subd. 14. [FRINGE BENEFITS.] "Fringe benefits" means ~~workers' compensation insurance~~, group health or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances.

Sec. 37. Minnesota Statutes 1988, section 256B.431, subdivision 2b, is amended to read:

Subd. 2b. [OPERATING COSTS, AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner shall establish procedures for determining per diem reimbursement for operating costs.

(b) The commissioner shall contract with an econometric firm with recognized expertise in and access to national economic change indices that can be applied to the appropriate cost categories when determining the operating cost payment rate.

(c) The commissioner shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

(d) The commissioner shall establish limits on actual allowable historical operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining

allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

(1) allow nursing homes that have an average length of stay of 180 days or less in their skilled nursing level of care, 125 percent of the care related limit and 105 percent of the other operating cost limit established by rule; and

(2) exempt nursing homes licensed on July 1, 1983, by the commissioner to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3600, from the care related limits and allow 105 percent of the other operating cost limit established by rule.

For the purpose of calculating the other operating cost efficiency incentive for nursing homes referred to in clause (1) or (2), the commissioner shall use the other operating cost limit established by rule before application of the 105 percent.

(e) The commissioner shall establish a composite index or indices by determining the appropriate economic change indicators to be applied to specific operating cost categories or combination of operating cost categories.

(f) Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category shall be the lesser of the nursing home's historical operating cost in the category increased by the appropriate index established in paragraph (e) for the operating cost category plus an efficiency incentive established pursuant to paragraph (d) or the limit for the operating cost category increased by the same index. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there shall be no retroactive cost settle-up. In establishing payment rates for one or more operating cost categories, the commissioner may establish separate rates for different classes of residents based on their relative care needs.

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing home as an operating cost of that nursing home. Allowable costs under this subdivision for payments made by a nonprofit nursing home that are in lieu of real estate taxes shall not exceed the amount which the nursing home would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior

year. The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home, and for rate years beginning July 1, 1989, and July 1, 1990, workers' compensation insurance, provided the nursing home submits by April 5 a copy of its actual invoice for workers' compensation insurance for coverage which most nearly approximates the nursing home's rate year. The commissioner shall substitute the amount of the annual actual workers' compensation insurance premium for the amount of workers' compensation insurance reported on the cost report at an amount that is the lesser of the actual workers' compensation insurance premium submitted or 120 percent of workers' compensation insurance reported on the cost report. If the actual invoice for workers' compensation insurance is not provided by April 5, the commissioner shall disallow the nursing home's workers' compensation insurance. The disallowance shall remain in effect until the nursing home provides the actual invoice for workers' compensation insurance and amends its cost report as provided in Minnesota Rules, part 9549.0041, subpart 14. Upon receipt of that invoice, the commissioner shall adjust the nursing home's payment rate accordingly. Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, workers' compensation insurance increases, and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the 60th percentile care-related operating cost limits or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e).

(h) For rate years beginning on or after July 1, 1987, the commissioner shall adjust the rates of a nursing home that meets the criteria for the special dietary needs of its residents as specified in section 144A.071, subdivision 3, clause (c), and the requirements in section 31.651. The adjustment for raw food cost shall be the difference between the nursing home's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

The rate adjustment shall be reduced by the applicable phase-in percentage as provided under subdivision 2h.

Sec. 38. Minnesota Statutes 1988, section 256B.431, subdivision 2c, is amended to read:

Subd. 2c. [OPERATING COSTS AFTER JULY 1, 1986; ONETIME ADJUSTMENTS.] (a) For rate years beginning on or after July 1, 1986, the commissioner may allow a ~~one time~~ onetime adjustment to historical operating costs of a nursing home that has been found by the commissioner of health to be significantly below ~~care related~~ care-related minimum standards appropriate to the mix of resident needs in that nursing home when it is determined by the commissioners of health and human services that the nursing home is unable to meet minimum standards through reallocation of nursing home costs and efficiency incentives or allowances. In developing procedures to allow adjustments, the commissioner shall specify the terms and conditions governing any additional payments made to a nursing home as a result of the adjustment. The commissioner shall establish procedures to recover amounts paid under this subdivision, in whole or in part, and to

adjust current and future rates, for nursing homes that fail to use the adjustment to satisfy ~~care related~~ care-related minimum standards.

(b) For rate years beginning on or after July 1, 1989, the commissioner may allow a onetime adjustment to historical operating costs of a nursing home that the commissioner of health finds is significantly below care-related minimum standards appropriate to the mix of resident needs in that nursing home as a result of an action of the legislature to increase the minimum number of nursing hours required under section 144A.04, subdivision 7, paragraph (a). A nursing home that satisfies the criteria for an adjustment under this paragraph is eligible for the adjustment even if the nursing home previously received a onetime adjustment under paragraph (a). The requirements, procedures, and rules that apply to a onetime adjustment under paragraph (a) also apply to an adjustment under this paragraph, except that:

(1) the time period upon which the onetime adjustment is based is October 1, 1987, to September 30, 1988;

(2) the time period over which the onetime adjustment is to be reimbursed is October 1, 1989, to September 30, 1990;

(3) the nursing home may not have received an interim or settle-up payment rate during the reporting period ending September 30, 1988;

(4) the documentation requirements apply to the reporting years ending September 30, 1987, and September 30, 1988;

(5) the commissioner may only adjust a nursing home's care-related operating cost payment rates for the number of productive nursing hours per standardized day that the nursing home is below the care-related minimum standard of 1.0 in section 144A.04, subdivision 7, paragraph (a), and above .95, multiplied by 1.50;

(6) the nursing home's efficiency incentive may not be used to offset the onetime adjustment; and

(7) the commissioner's fiscal and compliance review must relate to the care-related minimum standard in section 144A.04, subdivision 7, paragraph (a), the reporting period ending September 30, 1990, and the implementation provisions shall relate to the rate year beginning July 1, 1991, or the nine-month period following the reporting year ending September 30, 1990.

Sec. 39. Minnesota Statutes 1988, section 256B.431, subdivision 2e, is amended to read:

Subd. 2e. [CONTRACTS FOR SERVICES FOR VENTILATOR DEPENDENT PERSONS.] The commissioner may contract with a nursing home eligible to receive medical assistance payments to provide services to a ventilator dependent person identified by the commissioner according to criteria developed by the commissioner, including:

(1) nursing home care has been recommended for the person by a preadmission screening team;

(2) the person has been assessed at case mix classification K;

(3) the person has been hospitalized for at least six months and no longer requires inpatient acute care hospital services; and

(4) the commissioner has determined that necessary services for the

person cannot be provided under existing nursing home rates.

The commissioner may issue a request for proposals to provide services to a ventilator dependent person to nursing homes eligible to receive medical assistance payments and shall select nursing homes from among respondents according to criteria developed by the commissioner, including:

- (1) the cost effectiveness and appropriateness of services;
- (2) the nursing home's compliance with federal and state licensing and certification standards; and
- (3) the proximity of the nursing home to a ventilator dependent person identified by the commissioner who requires nursing home placement.

The commissioner may negotiate an adjustment to the operating cost payment rate for a nursing home selected by the commissioner from among respondents to the request for proposals. The negotiated adjustment must reflect only the actual additional cost of meeting the specialized care needs of a ventilator dependent person identified by the commissioner for whom necessary services cannot be provided under existing nursing home rates and which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or 9505.0170 to 9505.0475. *The negotiated payment rate must not exceed 200 percent of the highest multiple bedroom payment rate for a Minnesota nursing home, as initially established by the commissioner for the rate year for case mix classification K.* The negotiated adjustment shall not affect the payment rate charged to private paying residents under the provisions of section 256B.48, subdivision 1. The negotiated adjustment paid pursuant to this paragraph is specifically exempt from the definition of "rule" and the rulemaking procedures required by chapter 14 and section 256B.502.

Sec. 40. Minnesota Statutes 1988, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. [OPERATING COSTS AFTER JULY 1, 1988.] (a) [OTHER OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

(b) [CARE-RELATED OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the care-related operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, items A and B, to 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems and the allowable historical other care-related operating cost per diems and index those limits as in Minnesota Rules, part 9549.0056, subparts 1 and 2. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted care-related limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 1 and 2.

(c) [SALARY ADJUSTMENT PER DIEM.]

[1988-1990.] For the rate period October 1, 1988, to June 30, 1990, the commissioner shall add the appropriate salary adjustment per diem calculated in clause (1) or (2) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:

(1) for each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.5 percent and then dividing the resulting amount by the nursing home's actual resident days; and

(2) for each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (1).

Each nursing home that receives a salary adjustment per diem pursuant to this ~~subdivision~~ paragraph shall adjust nursing home employee salaries by a minimum of the amount determined in clause (1) or (2). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1989, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1990.

[WAGE DISPARITY ADJUSTMENT PER DIEM; 1988-1990.] *For the rate period October 1, 1989, to June 30, 1991, the commissioner shall add the appropriate salary adjustment per diem calculated under clauses (1) to (3) to the total operating cost payment rate of each nursing home. The salary adjustment per diem for each nursing home must be determined as follows:*

(1) All nursing homes must be grouped according to Minnesota hospital association districts as indicated in the Minnesota salary survey of hospitals and nursing homes for 1988 as published by the department of jobs and training. The percentage adjustment is determined according to the percentage disparity that exists between the care-related salaries of hospital employees and nursing home employees in each district. For this purpose the disparity is determined as follows:

(i) The median hourly wage for staff nurses, licensed practical nurses, and nurse assistants employed in nursing homes in each district is combined on a district basis. A corresponding value is determined for hospitals in each district.

(ii) The value determined in subclause (i) for hospital employees is divided by the corresponding value for the nursing home wages determined in subclause (i). The resulting value is the wage disparity for each district.

(iii) Nursing homes with disparity values of greater than one but less than or equal to 1.1 will receive a one percent adjustment. Nursing homes with a disparity value of greater than 1.1 but less than or equal to 1.2 will receive a two percent adjustment. Nursing homes with a disparity value of greater than 1.2 will receive a three percent adjustment.

(2) For each nursing home that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the commissioner shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by the appropriate percentage determined under clause (1) and then dividing the resulting amount by the nursing home's actual resident days.

(3) For each nursing home that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under clause (2) for the district in which the nursing home is located.

Each nursing home that receives a salary adjustment per diem pursuant to this clause must adjust nursing home employee salaries by a minimum of the amount determined under clauses (1) to (3). The commissioner shall review allowable salary costs, including payroll taxes and fringe benefits, for the reporting year ending September 30, 1990, to determine whether or not each nursing home complied with this requirement. The commissioner shall report the extent to which each nursing home complied with the legislative commission on long-term care by August 1, 1991.

(d) ~~[PENSION CONTRIBUTIONS.]~~ For rate years beginning on or after July 1, 1989, the commissioner shall exempt allowable employee pension contributions separately reported by a nursing home on its annual cost report from the care-related operating cost limits and the other operating cost limits. Hospital-attached homes that provide allowable employee pension contributions may report the costs that are allocated to nursing home operations independently for verification by the commissioner. For rate years beginning on or after July 1, 1989, amounts verified as allowable employee pension contributions are exempt from care-related operating cost limits and other operating cost limits. For purposes of this paragraph, "employee pension contributions" means contributions required under the Public Employee Retirement Act and contributions to other employee pension plans if the pension plan existed on March 1, 1988.

(e) ~~[NEW BASE YEAR.]~~ The commissioner shall establish the reporting year ending September 30, 1989, as a new base year. The commissioner shall establish new base years for both the reporting year ending September 30, 1989, and the reporting year ending September 30, 1990. In establishing new base years, the commissioner must take into account:

- (1) statutory changes made in geographic groups;
- (2) redefinitions of cost categories; and
- (3) reclassification, pass-through, or exemption of certain costs such as workers' compensation and employee pension contributions.

Sec. 41. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2j. [HOSPITAL-ATTACHED NURSING HOME STATUS.] (a) For the purpose of setting rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for rate years beginning after June 30, 1989, a hospital-attached nursing home means a nursing home recognized by the federal Medicare program to be a hospital-based nursing facility for purposes of

being subject to higher cost limits accorded hospital-based nursing facilities under the Medicare program, provided that the nursing home's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program.

(b) For rate years beginning after June 30, 1989, a nursing home and hospital, which have applied for hospital-based nursing facility status under the federal Medicare program during the reporting year or the nine-month period following the nursing home's reporting year, shall be considered a hospital-attached nursing home for purposes of setting payment rates under Minnesota Rules, parts 9549.0010 to 9549.0080, for the rate year following the reporting year or the nine-month period in which the facility made its Medicare application. The nursing home must file its cost report or an amended cost report for that reporting year before the following rate year using Medicare principles and Medicare's recommended cost allocation methods had the Medicare program's hospital-based nursing facility status been granted to the nursing home. For each subsequent rate year, the nursing home must meet the definition requirements in paragraph (a). If the nursing home is denied hospital-based nursing facility status under the Medicare program, the nursing home's payment rates for the rate years the nursing home was considered to be a hospital-attached nursing home pursuant to this paragraph shall be recalculated treating the nursing home as a non-hospital-attached nursing home.

Sec. 42. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2k. [CASE MIX COST ALLOCATION ADJUSTMENT.] For rate years beginning after June 30, 1989, the commissioner shall adjust a nursing home's total payment rate established in Minnesota Rules, part 9549.0070, subpart 1, according to paragraphs (a) to (h):

(a) A nursing home whose nursing facility beds are not 100 percent certified for Medicare by the end of the reporting year ending September 30, 1988, and each full reporting year thereafter, is not eligible for a case mix cost allocation adjustment per diem.

(b) The commissioner shall calculate each nursing home's Medicare case mix score by dividing each home's standardized Medicare resident days by its actual Medicare resident days for the reporting year.

(c) The commissioner shall calculate each nursing home's total case mix score by dividing each home's standardized resident days by its actual resident days for the reporting year.

(d) The commissioner shall subtract the nursing home's total case mix score from the home's Medicare case mix score and multiply the difference by the allowable historical case mix operating cost standardized per diem, as established in Minnesota Rules, part 9549.0054, subpart 3.

(e) The commissioner shall calculate the case mix cost allocation adjustment factor by multiplying the amount calculated in paragraph (c) by the number of actual Medicare resident days in the reporting year.

(f) The commissioner shall calculate the case mix cost allocation adjustment per diem by multiplying the case mix cost allocation adjustment factor by the care-related annual adjustment factor, as established in Minnesota Rules, part 9549.0055, subpart 1, item A, and dividing the product by the

sum of the number of actual medical assistance resident days and private pay resident days in the reporting year.

(g) The commissioner shall add the case mix cost allocation adjustment per diem calculated in paragraph (e) to the nursing home's total payment rate.

(h) A case mix cost allocation adjustment paid under this subdivision is subject to retroactive recovery if the Health Care Financing Administration disapproves the commissioner's state plan amendment.

Sec. 43. Minnesota Statutes 1988, section 256B.431, subdivision 3a, is amended to read:

Subd. 3a. [PROPERTY-RELATED COSTS AFTER JULY 1, 1985.] (a) For rate years beginning on or after July 1, 1985, the commissioner, by permanent rule, shall reimburse nursing home providers that are vendors in the medical assistance program for the rental use of real estate and depreciable equipment. "Real estate" means land improvements, buildings, and attached fixtures used directly for resident care. "Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.

(b) In developing the method for determining payment rates for the rental use of nursing homes, the commissioner shall consider factors designed to:

(1) simplify the administrative procedures for determining payment rates for property-related costs:

(2) minimize discretionary or appealable decisions;

(3) eliminate any incentives to sell nursing homes;

(4) recognize legitimate costs of preserving and replacing property;

(5) recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on May 1, 1983;

(6) address the current value of, if used directly for patient care, land improvements, buildings, attached fixtures, and equipment;

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

(11) phase-in implementation of the rental reimbursement method.

(c) No later than January 1, 1984, the commissioner shall report to the legislature on any further action necessary or desirable in order to implement the purposes and provisions of this subdivision.

(d) For rate years beginning on or after July 1, 1987, a nursing home which has reduced licensed bed capacity after January 1, 1986, shall be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed prior to the reduction; and

(2) establish capacity days for each rate year following the licensure reduction based on the number of beds licensed on the previous April 1 if the commissioner is notified of the change by April 4. The notification

must include a copy of the delicensure request that has been submitted to the commissioner of health.

(e) Until the rental reimbursement method is fully phased in, a nursing home whose final property-related payment rate is the rental rate shall continue to have its property-related payment rates established based on the rental reimbursement method.

(f) For rate years beginning on or after July 1, 1989, the interest expense that results from a refinancing of a nursing home's demand call loan, when the loan that must be refinanced was incurred before May 22, 1983, is an allowable interest expense if:

(1) the demand call loan or any part of it was in the form of a loan that was callable at the demand of the lender;

(2) the demand call loan or any part of it was called by the lender through no fault of the nursing home;

(3) the demand call loan or any part of it was made by a government agency operating under a statutory or regulatory loan program;

(4) the refinanced debt does not exceed the sum of the allowable remaining balance of the demand call loan at the time of payment on the demand call loan and refinancing costs;

(5) the term of the refinanced debt does not exceed the remaining term of the demand call loan, had the debt not been subject to an on-call payment demand; and

(6) the refinanced debt is not a debt between related organizations as defined in Minnesota Rules, part 9549.0020, subpart 38.

Sec. 44. Minnesota Statutes 1988, section 256B.431, subdivision 3f, is amended to read:

Subd. 3f. [PROPERTY COSTS AFTER JULY 1, 1988.] (a) [INVESTMENT PER BED LIMIT.] For the rate year beginning July 1, 1988, the replacement-cost-new per bed limit must be \$32,571 per licensed bed in multiple bedrooms and \$48,857 per licensed bed in a single bedroom. *For the rate year beginning July 1, 1989, the replacement-cost-new per bed limit for a single bedroom must be \$49,907 adjusted according to Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).* Beginning January 1, ~~1989~~ 1990, the replacement-cost-new per bed limits must be adjusted annually as specified in Minnesota Rules, part 9549.0060, subpart 4, item A, subitem (1).

(b) [RENTAL FACTOR.] For the rate year beginning July 1, 1988, the commissioner shall increase the rental factor as established in Minnesota Rules, part 9549.0060, subpart 8, item A, by 6.2 percent rounded to the nearest 100th percent for the purpose of reimbursing nursing homes for soft costs and entrepreneurial profits not included in the cost valuation services used by the state's contracted appraisers. For rate years beginning on or after July 1, 1989, the rental factor is the amount determined under this paragraph for the rate year beginning July 1, 1988.

(c) [OCCUPANCY FACTOR.] For rate years beginning on or after July 1, 1988, in order to determine property-related payment rates under Minnesota Rules, part 9549.0060, for all nursing homes except those whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use 95 94 percent of capacity

days. For a nursing home whose average length of stay in a skilled level of care within a nursing home is 180 days or less, the commissioner shall use the greater of resident days or 80 percent of capacity days but in no event shall the divisor exceed ~~95~~ 94 percent of capacity days.

(d) [EQUIPMENT ALLOWANCE.] For rate years beginning on July 1, 1988, and July 1, 1989, the commissioner shall add ten cents per resident per day to each nursing home's property-related payment rate. The ten-cent property-related payment rate increase is not cumulative from rate year to rate year. For the rate year beginning July 1, 1990, the commissioner shall increase each nursing home's equipment allowance as established in Minnesota Rules, part 9549.0060, subpart 10, by ten cents per resident per day. For rate years beginning on or after July 1, 1991, the adjusted equipment allowance must be adjusted annually for inflation as in Minnesota Rules, part 9549.0060, subpart 10, item E.

~~(e) [REFINANCING.] If a nursing home is refinanced, the commissioner shall adjust the nursing home's property-related payment rate for the savings that result from refinancing. The adjustment to the property-related payment rate must be as follows:~~

~~(1) The commissioner shall recalculate the nursing home's rental per diem by substituting the new allowable annual principle and interest payments for those of the refinanced debt.~~

~~(2) The nursing home's property-related payment rate must be decreased by the difference between the nursing home's current rental per diem and the rental per diem determined under clause (1).~~

~~If a nursing home payment rate is adjusted according to this paragraph, the adjusted payment rate is effective the first of the month following the date of the refinancing for both medical assistance and private paying residents. The nursing home's adjusted property-related payment rate is effective until June 30, 1990.~~

(e) [POST-CHAPTER 199 RELATED-ORGANIZATION DEBTS AND INTEREST EXPENSE.] For rate years beginning on or after July 1, 1990, Minnesota Rules, part 9549.0060, subpart 5, item E, do not apply to outstanding related-organization debt incurred prior to May 23, 1983, provided that the debt was an allowable debt under Minnesota Rules, parts 9510.0010 to 9510.0480, the debt is subject to repayment through annual principle payments, and the nursing home demonstrates to the commissioner's satisfaction that the interest rate on the debt was less than market interest rates for similar arms-length transactions at the time the debt was incurred. If the debt was incurred due to a sale between family members, the nursing home must also demonstrate that the seller no longer participates in the management or operation of the nursing home from the date of the sale. Debts meeting the conditions of this paragraph are subject to all other provisions of Minnesota Rules, parts 9549.0010 to 9549.0080.

(f) [CAPITAL ASSET REPLACEMENT FUND.] For rate years beginning on or after July 1, 1990, the commissioner shall establish a capital asset replacement fund per diem for each nursing home. The capital asset replacement fund per diem equals the nursing home's allowable appraised value multiplied by .03, divided by the home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by paragraph (c) for the preceding reporting year. The nursing home must establish, manage, and use the capital asset replacement fund as provided in

clauses 1 to 7.

(1) *The nursing home must annually deposit to the capital asset replacement fund, within 30 days after the end of the reporting year, an amount equal to the capital asset replacement fund per diems multiplied by the nursing home's proportion of resident days appropriate to the capital asset replacement fund per diem established for that reporting year. For the reporting year ending September 30, 1989, the nursing home's resident days must be multiplied by .25.*

(2) *Capital asset replacement funds must be invested in liquid marketable investments such as savings or money market accounts, certificates of deposit and United States treasury bills. A separate capital asset replacement fund account must be maintained for each nursing home.*

(3) *Capital asset replacement funds and the interest income earned on the capital asset replacement funds may only be used for the cost of capitalized repair, renovation, or replacement of the nursing home's buildings, attached fixtures, or land improvements that were incurred after June 30, 1990.*

(4) *Capital asset replacement funds and the interest income earned on the capital asset replacement funds attach to the nursing home, and shall remain the property of the nursing home regardless of a sale, change of ownership, or reorganization of provider entity. If the nursing home is decertified or delicensed, and the nursing home's beds are not replaced as certified nursing home beds under the medical assistance program, the commissioner shall recapture all remaining capital asset replacement funds, including any interest income earned thereon.*

(5) *Capital asset replacement funds managed or used contrary to any of the provisions of this paragraph must be recaptured by the commissioner through desk audit or field audit adjustments.*

(6) *The terms "renovation" and "replacement" have the meanings given them in section 144A.073, subdivision 1.*

(7) *The terms "reporting year," "rate year," "buildings," "attached fixtures," "land improvements," "repairs," and "resident days," have the meanings given them in Minnesota Rules, parts 9549.0010 to 9549.0080.*

(g) [BUILDING CAPITAL ALLOWANCE FOR NURSING HOMES WITH OPERATING LEASES.] *For rate years beginning on or after July 1, 1990, a nursing home with operating lease costs incurred for the nursing home's buildings shall receive its building capital allowance computed in accordance with Minnesota Rules, part 9549.0060, subpart 8.*

Sec. 45. Minnesota Statutes 1988, section 256B.431, subdivision 3g, is amended to read:

Subd. 3g. [PROPERTY COSTS AFTER JULY 1, 1990, FOR CERTAIN FACILITIES.] *For rate years beginning on or after July 1, 1990, non-hospital attached nursing homes that, on or after January 1, 1976, but prior to ~~December 31, 1985~~ January 1, 1987, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement-cost-new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property-related payment rate*

equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement-cost-new per bed limit *divided by their capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), from the preceding reporting year*; plus their equipment allowance. A nursing home that is eligible for a property-related payment rate under this subdivision and whose property-related payment rate in a subsequent rate year is its rental per diem must continue to have its property-related payment rates established for all future rate years based on the rental reimbursement method in Minnesota Rules, part 9549.0060.

The commissioner may require the nursing home to apply for refinancing as a condition of receiving special rate treatment under this subdivision.

Sec. 46. Minnesota Statutes 1988, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

(b) For the rate years beginning on or after July 1, 1985, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property related costs, operating costs, and real estate taxes and special assessments calculated under rules promulgated by the commissioner.

(c) For rate years beginning on or after July 1, 1983, the commissioner may exclude from a provision of 12 MCAR S 2.050 any facility that is licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, is licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690, and has less than five percent of its licensed boarding care capacity reimbursed by the medical assistance program. Until a permanent rule to establish the payment rates for facilities meeting these

criteria is promulgated, the commissioner shall establish the medical assistance payment rate as follows:

(1) The desk audited payment rate in effect on June 30, 1983, remains in effect until the end of the facility's fiscal year. The commissioner shall not allow any amendments to the cost report on which this desk audited payment rate is based.

(2) For each fiscal year beginning between July 1, 1983, and June 30, 1985, the facility's payment rate shall be established by increasing the desk audited operating cost payment rate determined in clause (1) at an annual rate of five percent.

(3) For fiscal years beginning on or after July 1, 1985, but before January 1, 1988, the facility's payment rate shall be established by increasing the facility's payment rate in the facility's prior fiscal year by the increase indicated by the consumer price index for Minneapolis and St. Paul.

(4) For the fiscal year beginning on January 1, 1988, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted prior year's payment rate plus the real estate tax and special assessment per diem.

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

(6) For the purpose of establishing payment rates under this paragraph, the facility's rate and reporting years coincide with the facility's fiscal year.

(d) A facility that meets the criteria of paragraph (c) shall submit annual cost reports on forms prescribed by the commissioner.

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1,

1985, but must not retroactively adjust the operating cost payment rate.

(f) For the purposes of Minnesota Rules, part 9549.0060, subpart 13, item F, the following types of transactions shall not be considered a sale or reorganization of a provider entity:

- (1) the sale or transfer of a nursing home upon death of an owner;
- (2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;
- (3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;
- (4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;
- (5) a sale and leaseback to the same licensee which does not constitute a change in facility license;
- (6) a transfer of an interest to a trust;
- (7) gifts or other transfers for no consideration;
- (8) a merger of two or more related organizations;
- (9) a transfer of interest in a facility held in receivership;
- (10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;
- (11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or
- (12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

Any increase in allowable debt or allowable interest expense or other cost incurred as a result of the foregoing transactions shall be a nonallowable cost for purposes of reimbursement under Minnesota Rules, parts 9549.0010 to 9549.0080.

(g) Upon receiving a recommendation from the commissioner of health for a review of rates under section 144A.15, subdivision 6, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report to determine whether or not the deficiency or need can be corrected or met by reallocating nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report. The payment rate adjustment must meet the conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets.

Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under

this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

(h) For rate years beginning on or after July 1, 1986, the commissioner may exclude from a provision of Minnesota Rules, parts 9549.0010 to 9549.0080, any facility that is certified by the commissioner of health as an intermediate care facility, licensed by the commissioner of human services as a chemical dependency treatment program, and enrolled in the medical assistance program as an institution for mental disease. The commissioner of human services shall establish a medical assistance payment rate for these facilities. Chapter 14 does not apply to the procedures and criteria used to establish the ratesetting structure. The ratesetting method is not appealable.

Sec. 47. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 7. [ONETIME ADJUSTMENT TO NURSING HOME PAYMENT RATES TO COMPLY WITH OMNIBUS BUDGET RECONCILIATION ACT.] The commissioner shall determine a onetime nursing staff adjustment to the payment rate to adjust payment rates to upgrade certain nursing homes' professional nursing staff complement to meet the minimum standards of 1987 Public Law Number 100-203. The adjustments to the payment rates determined under this subdivision cover cost increases to meet minimum standards for professional nursing staff. For a nursing home to be eligible for the payment rate adjustment, a nursing home must have all of its current licensed beds certified solely for the intermediate level of care. When the commissioner establishes that it is not cost effective to upgrade an eligible nursing home to the new minimum staff standards, the commissioner may exclude the nursing home if it is either an institution for mental disease or a nursing home that would have been determined to be an institution for mental disease, but for the fact that it has 16 or fewer licensed beds.

(a) The increased cost of professional nursing for an eligible nursing home shall be determined according to clauses (1) to (4):

(1) subtract from the number 8760 the compensated hours for professional nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by \$4.55;

(2) subtract from the number 2920 the compensated hours for registered nurses, both employed and contracted, and, if the result is greater than zero, then multiply the result by \$9.30;

(3) if an eligible nursing home has less than 61 licensed beds, the director of nurses' compensated hours must be included in the compensated hours for professional nurses in clause (1). If the director of nurses is also a registered nurse, the director of nurses' hours must be included in the compensated hours for registered nurses in clause (2); and

(4) the onetime nursing staff adjustment to the payment rate shall be the sum of clauses (1) and (2) as adjusted by clause (3), if appropriate, and then divided by the nursing home's actual resident days for the reporting year ending September 30, 1988.

(b) The onetime nursing staff adjustment to the payment rate is effective from October 1, 1989, to June 30, 1991.

(c) If a nursing home is granted a waiver to the minimum professional nursing staff standards under Public Law Number 100-203 for either the professional nurse adjustment referred to in clause (1), or the registered nurse adjustment in clause (2), the commissioner must recover the portion of the nursing home's payment rate that relates to a onetime nursing staff adjustment granted under this subdivision. The amount to be recovered must be based on the type and extent of the waiver granted.

Sec. 48. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 8. [ONETIME PER DIEM RATE ADJUSTMENT FOR INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT.] For the rate years beginning July 1, 1989, and July 1, 1990, the commissioner shall add 35 cents per resident per day to the nursing home's payment rate. The adjustment may not be paid to freestanding boarding care homes.

Sec. 49. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 9. [ONETIME ADJUSTMENT FOR FREESTANDING BOARDING CARE HOMES TO COVER INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT.] (a) The commissioner shall determine a onetime adjustment to the payment rate of a freestanding boarding care home necessary for that home to comply with the provisions of Public Law Number 100-203 except those requirements outlined in subdivision 7. The adjustment to the payment rate determined under this subdivision covers increased costs for a medical director, nurse aide training for newly hired aides, ongoing in-service training for nurses aides, and other requirements identified by the commissioner that are required because of the Omnibus Budget Reconciliation Act of 1987. These costs will only be reimbursed if they are required in the final regulations pertaining to Public Law Number 100-203.

(b) Each facility eligible for this adjustment shall submit to the commissioner a detailed estimate of the cost increases the facility will incur for these costs.

(c) The costs that are determined by the commissioner to be reasonable and necessary for a freestanding boarding care home to comply with Public Law Number 100-203, except those costs outlined in subdivision 7, must be included in the calculation of the adjustment.

(d) The maximum allowable annual adjustment per bed is \$400.

(e) The onetime adjustment is the cost allowed in paragraph (b), subject to the limits in paragraph (c), divided by the nursing home's actual resident days for the reporting year that ended September 30, 1988.

(f) The onetime adjustment determined is effective from October 1, 1989, to June 30, 1991.

Sec. 50. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 10. [APPRAISAL SAMPLE STABILIZATION AND SPECIAL REAPPRAISALS.] (a) The percentage change in appraised values for

nursing homes in the sample used for routine updating of appraised values under Minnesota Rules, part 9549.0060, subpart 2, shall be stabilized by eliminating from the sample of nursing home appraisals that represent the five highest and the five lowest deviations from those nursing home's previously established appraised values.

(b) A special reappraisal request must be submitted to the commissioner within 60 days after the project's completion date to be considered eligible for a special reappraisal. If a project has multiple completion dates or involves multiple projects, only projects or parts of projects with completion dates within one year of the completion date associated with a special reappraisal request can be included for the purpose of establishing the nursing home's eligibility for a special reappraisal. A facility which is eligible to request, has requested, or has received a special reappraisal during the calendar year must not be included in the random sample process used to determine the average percentage change in appraised value of nursing homes in the sample.

Sec. 51. Minnesota Statutes 1988, section 256B.47, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION OF COSTS.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing residents of nursing homes that are not hospital attached with therapy services that are billed separately from the nursing home payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report as follows:

(a) The costs of wages and salaries for employees providing or participating in providing and consultants providing services shall be allocated to the therapy service based on direct identification.

(b) The costs of fringe benefits and payroll taxes relating to the costs in paragraph (a) must be allocated to the therapy service based on direct identification or the ratio of total costs in paragraph (a) to the sum of total allowable salaries and the costs in paragraph (a).

(c) The costs of housekeeping, plant operations and maintenance, real estate taxes, special assessments, ~~property~~ and insurance, other than the amounts classified as a fringe benefit, must be allocated to the therapy service based on the ratio of service area square footage to total facility square footage.

(d) The costs of bookkeeping and medical records must be allocated to the therapy service either by the method in paragraph (e) or based on direct identification. Direct identification may be used if adequate documentation is provided to, and accepted by, the commissioner.

(e) The costs of administrators, bookkeeping, and medical records salaries, except as provided in paragraph (d), must be allocated to the therapy service based on the ratio of the total costs in paragraphs (a) to (d) to the sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

(f) The cost of property must be allocated to the therapy service and removed from the rental per diem, based on the ratio of service area square footage to total facility square footage multiplied by the building capital allowance.

Sec. 52. Minnesota Statutes 1988, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be ~~offered~~ *available* to all residents *in all areas of the nursing home* and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance *or refusal to purchase*

special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately *or an applicant's refusal to pay for a special service*.

The collection and use by a nursing home of financial information of any applicant pursuant to the preadmission screening program established by section 256B.091 shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment or purchasing support services from the nursing home as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care

home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation, and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 53. Minnesota Statutes 1988, section 256B.48, subdivision 6, is amended to read:

Subd. 6. [MEDICARE CERTIFICATION.] All nursing homes certified as skilled nursing facilities under the medical assistance program shall *fully* participate in medicare part A and part B unless, after submitting an application, medicare certification is denied by the federal health care financing administration. "*Fully participate*" means all the nursing home's beds certified as skilled under the medical assistance program are Medicare certified. Medicare review shall be conducted at the time of the annual medical assistance review. Charges for medicare-covered services provided to residents who are simultaneously eligible for medical assistance and medicare must be billed to medicare part A or part B before billing medical assistance. Medical assistance may be billed only for charges not reimbursed by medicare.

Until September 30, 1987, the commissioner of health may grant exceptions from this requirement when a nursing home submits a written request for exception and it is determined that there is sufficient participation in the medicare program to meet the needs of medicare beneficiaries in that region of the state. For the purposes of this section, the relevant region is the county in which the nursing home is located together with contiguous Minnesota counties. There is sufficient participation in the medicare program in a particular region when the proportion of skilled resident days paid by the medicare program is at least equal to the national average based on the most recent figure that can be supplied by the federal health care financing administration. A nursing home that is granted an exception under this subdivision must give appropriate notice to all applicants for admission that medicare coverage is not available in the nursing home and publish this fact in all literature and advertisement related to the nursing home.

Sec. 54. Minnesota Statutes 1988, section 256B.48, subdivision 8, is amended to read:

Subd. 8. [NOTIFICATION TO A SPOUSE.] When a private pay resident

who has not yet been screened by the preadmission screening team is admitted to a nursing home or boarding care facility, the nursing home or boarding care facility must notify the resident and the resident's spouse of the following:

(1) their right to retain certain resources under sections 256B.14, subdivision 2, and 256B.17; and

(2) that the federal Medicare hospital insurance benefits program covers posthospital extended care services in a qualified skilled nursing facility for up to ~~400~~ 150 days and that there are several limitations on this benefit. The resident and the resident's family must be informed about all mechanisms to appeal limitations imposed under this federal benefit program.

This notice may be included in the nursing home's or boarding care facility's admission agreement and must clearly explain what resources the resident and spouse may retain if the resident applies for medical assistance. The department of human services must notify nursing homes and boarding care facilities of changes in the determination of medical assistance eligibility that relate to resources retained by a resident and the resident's spouse.

The preadmission screening team has primary responsibility for informing all private pay applicants to a nursing home or boarding care facility of the resources the resident and spouse may retain.

Sec. 55. [256B.495] [LONG-TERM CARE RECEIVERSHIP FEES.]

Subdivision 1. [PAYMENT OF RECEIVERSHIP FEES.] The commissioner in consultation with the commissioner of health may establish a receivership fee payment that exceeds a long-term care facility payment rate when the commissioner of health determines a long-term care facility is subject to the receivership provisions under section 144A.14 or 144A.15 or the commissioner of human services determines that a facility is subject to the receivership under section 245A.12 or 245A.13. In establishing the receivership fee payment, the commissioner must reduce the receiver's requested receivership fee by amounts that the commissioner determines are included in the long-term care facility's payment rate and that can be used to cover part or all of the receivership fee. Amounts that can be used to reduce the receivership fee shall be determined by reallocating facility staff or costs that were formerly paid by the long-term care facility before the receivership and are no longer required to be paid. The amounts may include any efficiency incentive, allowance, and other amounts not specifically required to be paid for expenditures of the long-term care facility.

If the receivership fee cannot be covered by amounts in the long-term care facility's payment rate, a receivership fee payment shall be set according to paragraphs (a) and (b) and payment shall be according to paragraphs (c) to (e).

(a) The receivership fee per diem shall be determined by dividing the annual receivership fee payment by the long-term care facility's resident days from the most recent cost report for which the commissioner has established a payment rate or the estimated resident days in the projected receivership fee period.

(b) The receivership fee per diem shall be added to the long-term care facility's payment rate.

(c) Notification of the payment rate increase must meet the requirements

of section 256B.47, subdivision 2.

(d) *The payment rate in paragraph (b) for a nursing home shall be effective the first day of the month following the receiver's compliance with the notice conditions in paragraph (c). The payment rate in paragraph (b) for an intermediate care facility for the mentally retarded shall be effective on the first day of the rate year in which the receivership fee per diem is determined.*

(e) *The commissioner may elect to make a lump sum payment of a portion of the receivership fee to the receiver. In this case, the commissioner and the receiver shall agree to a repayment plan. Regardless of whether the commissioner makes a lump sum payment under this paragraph, the provisions of paragraphs (a) to (d) and subdivision 2 also apply.*

Subd. 2. [DEDUCTION OF RECEIVERSHIP FEE PAYMENTS UPON TERMINATION OF RECEIVERSHIP.] *If the commissioner has established a receivership fee per diem for a long-term care facility in receivership, the commissioner must deduct the receivership fee payments according to paragraphs (a) to (c).*

(a) *The total receivership fee payments shall be the receivership fee per diem multiplied by the number of resident days for the period of the receivership fee payments. If actual resident days for the receivership fee payment period are not made available within two weeks of the commissioner's written request, the commissioner shall compute the resident days by prorating the facility's resident days based on the number of calendar days from each portion of the long-term care facility's reporting years covered by the receivership period.*

(b) *The amount determined in paragraph (a) must be divided by the long-term care facility's resident days for the reporting year in which the receivership period ends.*

(c) *The per diem amount in paragraph (b) shall be subtracted from the long-term care facility's operating cost payment rate for the rate year following the reporting year in which the receivership period ends.*

Subd. 3. [REESTABLISHMENT OF RECEIVERSHIP FEE PAYMENT.] *The commissioner of health may request the commissioner to reestablish the receivership fee payment when the original terms of the receivership fee payment have significantly changed with regard to the cost or duration of the receivership agreement. The commissioner, in consultation with the commissioner of health, may reestablish the receivership fee payment when the commissioner determines the cost or duration of the receivership agreement has significantly changed. The provisions of developing a receivership fee payment in subdivisions 1 and 2 apply to the reestablishment process.*

Sec. 56. [STUDY OF NURSING HOME WORKERS' COMPENSATION COSTS.]

The commissioner of human services, in consultation with an advisory committee, shall study workers' compensation costs of nursing homes and make recommendations to the legislature by January 1, 1990, regarding changes to the nursing home rate system that will ensure adequate reimbursement to cover workers' compensation costs without reducing incentives for nursing homes to control costs by taking action to reduce the risk of work-related injuries to employees.

Sec. 57. [STUDY AND REPORT OF QUALITY INDICATORS.]

(a) The interagency board for quality assurance shall study the following issues and report to the legislature by November 1, 1990, on its findings and recommendations:

(1) identifying indicators of high quality long-term care service provided in Minnesota nursing homes and boarding care homes; and

(2) establishing a program of incentive payments to reward nursing facilities that provide the highest quality care to residents.

(b) A study advisory committee consisting of nursing home consumers and representatives of the nursing home industry must be appointed by the executive director of the interagency board for quality assurance to participate in the study process.

Sec. 58. [APPROPRIATION.]

\$500,000 is appropriated from the general fund to the commissioner of human services for the fiscal year ending June 30, 1991, for the increased costs of exceptions to the moratorium on licensure and certification of long-term care beds. The commissioner of health may license or certify beds through the exception review process, provided the projected total annual increased state medical assistance costs of all licenses or certifications granted during the biennium under any exception to the moratorium do not exceed an annual amount of \$500,000.

Sec. 59. [REPEALER.]

Minnesota Statutes 1988, section 144A.10, subdivision 4a, is repealed. Laws 1988, chapter 689, article 2, section 269, subdivision 4, is repealed. Minnesota Statutes 1988, section 144A.61, subdivision 6, is repealed effective January 1, 1990.

Sec. 60. [EFFECTIVE DATE.]

The change in section 8 involving Minnesota Statutes 1988, section 144A.04, subdivision 7, paragraph (a), is effective October 1, 1989. Sections 32 and 33 are effective July 1, 1990."

Delete the title and insert:

"A bill for an act relating to health and human services; revising methods of regulating and determining payment rates for nursing homes; amending Minnesota Statutes 1988, sections 144.50, by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144A.01, by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, subdivisions 5, 6a, and by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.61; 144A.611; 256B.0625, subdivision 2; 256B.091, subdivision 3; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2c, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; and 256B.48, subdivisions 1, 6, and 8; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; and 256B; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 144A.61, subdivision 6; and Laws 1988, chapter 689, article 2, section 269, subdivision 4."

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

H.F. No. 508: A bill for an act relating to local government; permitting statutory cities to have seven member councils; amending Minnesota Statutes 1988, sections 412.02, subdivision 1, and by adding a subdivision; 412.021, subdivision 2; 412.191, subdivisions 1 and 2; 412.541, subdivision 4; 412.571, subdivisions 1 and 4; 412.581; and 412.631.

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

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

H.F. No. 937: A bill for an act relating to commerce; uniform commercial code; providing a 20-day notice period for certain fixture filings; amending Minnesota Statutes 1988, section 336.9-313.

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1051, 911, 786, 1071, 829, 986, 694, 321, 624, 682, 535, 851, 735, 676, 1037 and 1016 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 508 and 937 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Dahl moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 27. The motion prevailed.

Mr. Cohen moved that the name of Mr. Marty be added as a co-author to S.F. No. 70. The motion prevailed.

Mr. Dahl moved that the name of Mr. Marty be added as a co-author to S.F. No. 641. The motion prevailed.

Mr. Frank moved that the name of Mr. Stumpf be added as a co-author to S.F. No. 694. The motion prevailed.

Mr. Marty moved that the name of Mr. Dahl be added as a co-author to S.F. No. 970. The motion prevailed.

Mr. Frank moved that the name of Mr. Diessner be added as a co-author to S.F. No. 1144. The motion prevailed.

Mr. Diessner moved that the names of Mrs. Lantry and Mr. Berg be added as co-authors to S.F. No. 1269. The motion prevailed.

Mr. Frank moved that the name of Ms. Piper be added as a co-author to S.F. No. 1270. The motion prevailed.

Mr. Metzen moved that the name of Ms. Peterson, D.C. be added as a co-author to S.F. No. 1295. The motion prevailed.

Mr. DeCramer moved that the name of Mr. Frederick be added as a co-author to S.F. No. 1303. The motion prevailed.

Ms. Peterson, D.C. moved that the name of Mrs. Lantry be added as a co-author to S.F. No. 1322. The motion prevailed.

Mr. Pehler moved that the name of Mr. Bertram be added as a co-author to Senate Resolution No. 84. The motion prevailed.

Messrs. Bertram and Berg introduced—

Senate Resolution No. 85: A Senate resolution commending Arnold Atchison for over 40 years of dedicated service to the Veterans of Foreign Wars of the United States, Mel Simonson Post No. 1403.

Referred to the Committee on Rules and Administration.

Mr. Ramstad introduced—

Senate Resolution No. 86: A Senate resolution congratulating the Trojets Danceline of Wayzata High School for winning First Place in the 1989 State High School Class AAA Danceline Competition.

Referred to the Committee on Rules and Administration.

Messrs. Ramstad and McGowan introduced—

Senate Resolution No. 87: A Senate resolution congratulating the Wayzata High School Boys Basketball Team for winning the Lake Blue Conference Championship.

Referred to the Committee on Rules and Administration.

Ms. Reichgott, Messrs. Ramstad and McGowan introduced—

Senate Resolution No. 88: A Senate resolution congratulating the Robbinsdale Armstrong High School Boys Basketball Team for their second-place finish in the 1989 Class AA State High School Boys Basketball Championship.

Referred to the Committee on Rules and Administration.

Ms. Reichgott and Mr. Ramstad introduced—

Senate Resolution No. 89: A Senate resolution congratulating Plymouth resident Jill ReNee Scheffert for being named first runner-up at the 1989 Miss USA pageant.

Referred to the Committee on Rules and Administration.

Mr. DeCramer introduced—

Senate Resolution No. 90: A Senate resolution congratulating the Russell-Tyler-Ruthon Boys Basketball Team for winning Second Place in the 1989 State High School Class A Boys Basketball Tournament.

Referred to the Committee on Rules and Administration.

Mr. Diessner introduced—

Senate Resolution No. 91: A Senate resolution congratulating the Parkers Hockey Club for winning their tenth State Senior "A" Hockey Championship.

Referred to the Committee on Rules and Administration.

Mr. Diessner introduced—

Senate Resolution No. 92: A Senate resolution congratulating the St. Paul Park VFW Post 4450 Women's Volleyball Team for winning the State Class "C" Volleyball Championship.

Referred to the Committee on Rules and Administration.

Mr. Diessner introduced—

Senate Resolution No. 93: A Senate resolution congratulating the Cottage Grove "A" Pee Wee Hockey Team for winning the 1988-1989 State "A" Pee Wee Championship.

Referred to the Committee on Rules and Administration.

Mr. Frederick introduced—

Senate Resolution No. 94: A Senate resolution congratulating Nicole (Nickie) Miller, of Owatonna, for winning the 1989 State High School Girls Class AA Gymnastics Individual Floor Exercise Championship.

Referred to the Committee on Rules and Administration.

Ms. Berglin moved that her name be stricken as chief author, shown as a co-author and the name of Mrs. Lantry be added as chief author to S.F. No. 727. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Hughes in the chair.

After some time spent therein, the committee arose, and Mr. Hughes reported that the committee had considered the following:

S.F. No. 717 and H.F. No. 106, which the committee recommends to pass.

S.F. No. 69, which the committee recommends to pass, subject to the following motions:

Mr. Knaak moved to amend S.F. No. 69 as follows:

Page 1, line 9, delete "*Subdivision 1. [CURRICULAR ACTIVITY.]*" and insert "*Reasonable efforts must be made by*" and delete "*public*" and after "*school*" insert "*district to accommodate any*"

Page 1, line 10, delete the comma

Page 1, line 11, delete everything before "*for*" and delete "*must be*" and insert a period

Page 1, delete lines 12 to 23 and insert:

"Sec. 2. [SCHOOL DISTRICT POLICIES.]

School districts shall develop policies in conformity with section 1 by September 1, 1989."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "requiring a school district to make reasonable efforts to accommodate a pupil who

wishes to be”

Mr. Peterson, R.W. moved to amend the Knaak amendment to S.F. No. 69 as follows:

Page 1, line 9, delete “and insert:”

Page 1, delete lines 10 to 12

The motion prevailed. So the amendment to the Knaak amendment was adopted.

The question recurred on the Knaak amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Mr. Knaak, Mrs. Adkins, Mr. Laidig and Mrs. Pariseau introduced—

S.F. No. 1330: A bill for an act relating to marriage dissolution; regulating child support, maintenance and property settlements; providing for mediation; amending Minnesota Statutes 1988, sections 518.175, subdivision 3, and by adding subdivisions; 518.18; 518.55, by adding a subdivision; 518.551, subdivisions 5 and 6; 518.552, by adding a subdivision; 518.57, by adding a subdivision; 518.619, by adding a subdivision; 518.62; 518.64, subdivision 2, and by adding a subdivision; repealing Minnesota Statutes 1988, sections 518.17, subdivisions 2 and 6; and 518.552, subdivision 3.

Referred to the Committee on Health and Human Services.

Mr. Lessard introduced—

S.F. No. 1331: A bill for an act relating to Itasca county; authorizing a petition to annex unorganized territory to the town of Spang to be signed by residents of the town.

Referred to the Committee on Local and Urban Government.

Messrs. Stumpf, Davis, Berg and Lessard introduced—

S.F. No. 1332: A bill for an act relating to agriculture; increasing the value for destroyed livestock; amending Minnesota Statutes 1988, section 3.737, subdivision 1.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Novak, Frank and Dahl introduced—

S.F. No. 1333: A bill for an act relating to intoxicating liquor; authorizing the city of Blaine to issue one additional on-sale license.

Referred to the Committee on Commerce.

Mr. Frank introduced—

S.F. No. 1334: A bill for an act relating to housing; requiring that proceeds from the sale of abandoned and escheated property be allocated to the housing trust fund account; amending Minnesota Statutes 1988, sections 11A.10, subdivision 2; 94.16, by adding a subdivision; 290.067, subdivision 4; 345.48, subdivision 1; 345.49, subdivision 2; 462A.201, subdivision 1; 525.161; and 525.841.

Referred to the Committee on Economic Development and Housing.

Messrs. Davis, Morse, Benson, Bertram and Stumpf introduced—

S.F. No. 1335: A bill for an act relating to taxation; property taxation; modifying the method of determining certain adjusted assessed value; modifying the method of determining agricultural market value for property tax purposes; amending Minnesota Statutes 1988, sections 124.2131, subdivision 1; and 273.11, subdivision 1, and by adding a subdivision; repealing Minnesota Statutes 1988, section 273.11, subdivision 10.

Referred to the Committee on Taxes and Tax Laws.

Mr. Kroening introduced—

S.F. No. 1336: A bill for an act relating to public employment; modifying the prohibition against bargaining certain retirement contributions; amending Minnesota Statutes 1988, sections 179A.03, subdivision 19, and by adding a subdivision; and 356.24.

Referred to the Committee on Governmental Operations.

Mr. Knutson introduced—

S.F. No. 1337: A bill for an act relating to consumer protection; prohibiting certain solicitations to enter into loan arrangements; proposing coding for new law in Minnesota Statutes, chapter 325G.

Referred to the Committee on Commerce.

Mr. Purfeerst, Mrs. Lantry, Messrs. Frederick and Schmitz introduced—

S.F. No. 1338: A bill for an act relating to highways; authorizing the commissioner of transportation to establish the speed limit on marked interstate highway 35E; amending Minnesota Statutes 1988, section 161.1245, subdivision 1.

Referred to the Committee on Transportation.

Messrs. Schmitz and Metzen introduced—

S.F. No. 1339: A bill for an act relating to drivers' licenses; appropriating money to the commissioner of public safety to improve driver license security and legibility.

Referred to the Committee on Finance. Mr. Knaak questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Bertram introduced—

S.F. No. 1340: A bill for an act relating to state lands; authorizing private conveyance of certain tax-forfeited land in Benton county.

Referred to the Committee on Environment and Natural Resources.

Mr. Mehrkens introduced—

S.F. No. 1341: A bill for an act relating to Goodhue county; permitting the county to establish certain payment procedures.

Referred to the Committee on Local and Urban Government.

Messrs. Bertram, Chmielewski and Waldorf introduced—

S.F. No. 1342: A bill for an act relating to health; appropriating money for a grant for pregnancy assistance services.

Referred to the Committee on Health and Human Services.

Messrs. Decker, Pehler, Ms. Olson and Mrs. Brataas introduced—

S.F. No. 1343: A bill for an act relating to education; providing a temporary funding adjustment to the state university board.

Referred to the Committee on Education.

Messrs. Dicklich; Johnson, D.J.; Kroening and Ms. Piper introduced—

S.F. No. 1344: A bill for an act relating to utilities; including wholesale electric cooperative associations under the definition of public utility for purposes of regulation by the state; amending Minnesota Statutes 1988, section 216B.02, subdivision 4.

Referred to the Committee on Public Utilities and Energy.

Mrs. McQuaid and Mr. Metzen introduced—

S.F. No. 1345: A bill for an act relating to motor vehicles; allowing special veterans license plates to be issued for self-propelled recreational equipment; amending Minnesota Statutes 1988, section 168.123, subdivision 1.

Referred to the Committee on Transportation.

Ms. Olson, Mrs. McQuaid and Mr. Ramstad introduced—

S.F. No. 1346: A bill for an act relating to retirement; Minnetonka volunteer firefighters relief association; authorizing a greater nonforfeitable percentage of accrued service pension with less than 20 years of service.

Referred to the Committee on Governmental Operations.

Messrs. Brandl and Ramstad introduced—

S.F. No. 1347: A bill for an act relating to Hennepin county; providing for a chief administrative deputy sheriff in the unclassified service; amending Minnesota Statutes 1988, section 383B.32, subdivision 2.

Referred to the Committee on Local and Urban Government.

Messrs. Benson, Decker, Mrs. Brataas, Messrs. Vickerman and Solon introduced—

S.F. No. 1348: A bill for an act relating to human services; establishing requirements for insurance and medical assistance payments for ambulance services; proposing coding for new law in Minnesota Statutes, chapter 62A.

Referred to the Committee on Health and Human Services.

Mr. Larson introduced—

S.F. No. 1349: A bill for an act relating to state lands; authorizing conveyance of certain real property to the town of Round Lake.

Referred to the Committee on Environment and Natural Resources.

Messrs. Hughes, Pehler, Stumpf and Ms. Olson introduced—

S.F. No. 1350: A bill for an act relating to education; changing education district laws; making education districts eligible to levy and receive aid for general education, community education, early childhood family education, limited English proficiency programs, secondary vocational handicapped programs, and special education; providing for a variance from education district formation requirements; adjusting education district revenue if a member district withdraws; changing requirements for education district board members; allowing member districts to discontinue grades; requiring a common calendar; requiring a five-year plan; specifying minimum community education revenue and early childhood family education revenue for qualifying education districts; prohibiting member school districts and qualifying education districts from receiving revenue for the same programs except special education; allowing qualifying education districts to increase general education levy through a referendum; allowing intermediate districts to levy for special education; capping the interdistrict cooperation levy; amending Minnesota Statutes 1988, sections 121.88; 121.882; 122.91; 122.92; 122.93, by adding subdivisions; 122.94, subdivision 1, and by adding a subdivision; 122.95, by adding a subdivision; 123.34, subdivision 9; 124.17, subdivision 1b; 124.26; 124.271, subdivisions 3, 4, 7, and by adding subdivisions; 124.2711; 124.2721; 124.273; 124.32; 124.574; 124A.22; 124A.23; 124A.24; 124A.26; 124A.27; 124A.28, subdivisions 2 and 3; 124A.29; 275.125, subdivisions 8, 8b, 8c, and 8e; proposing coding for new law in Minnesota Statutes, chapters 122; 124A; and 275; repealing Minnesota Statutes 1988, section 124.271, subdivision 2b; and 124A.22, subdivision 7.

Referred to the Committee on Education.

Mr. Ramstad, Ms. Peterson, D.C. and Mr. Pogemiller introduced—

S.F. No. 1351: A bill for an act relating to traffic regulations; defining a handicapped person for purposes of parking privileges; amending Minnesota Statutes 1988, section 169.345, subdivision 2.

Referred to the Committee on Transportation.

Messrs. Bertram; Benson; Berg; Frederickson, D.J. and Frederickson, D.R. introduced—

S.F. No. 1352: A bill for an act relating to the state patrol; appointment powers of the chief supervisor; amending Minnesota Statutes 1988, sections 299D.01, subdivisions 2 and 3; and 299D.03, subdivision 12.

Referred to the Committee on Governmental Operations.

Mrs. Adkins and Mr. Davis introduced—

S.F. No. 1353: A bill for an act relating to education; modifying transportation formula provisions; amending Minnesota Statutes 1988, sections 124.225; and 275.125, subdivisions 5, 5b, and 5c.

Referred to the Committee on Education.

Messrs. Dicklich; DeCramer; Johnson, D.J. and Davis introduced—

S.F. No. 1354: A bill for an act relating to education; making state revenue available to American Indian controlled contract schools on reservations; proposing coding for new law in Minnesota Statutes, chapter 124.

Referred to the Committee on Education.

Mr. Peterson, R.W.; Mrs. McQuaid, Messrs. Anderson and Metzen introduced—

S.F. No. 1355: A bill for an act relating to financial institutions; regulating charges and fees on loans and extensions of credit by financial institutions and others; making various internal reference changes; amending Minnesota Statutes 1988, sections 47.20, subdivision 2; 51A.02, subdivision 14; 51A.38, subdivision 3; 51A.385, subdivisions 4, 5, 6, 7, 8, 9, 12, and 13; 51A.50; 51A.51, subdivision 4; 51A.53; 51A.55, subdivisions 1 and 2; 51A.56; 51A.57; 56.131, subdivision 1; 168.72, subdivision 1; 168.73; and 507.45, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 47.

Referred to the Committee on Commerce.

Messrs. Chmielewski, Berg, Langseth, Mrs. Adkins and Mr. Gustafson introduced—

S.F. No. 1356: A bill for an act relating to workers' compensation; regulating compensation benefits; charging administrative costs of the workers' compensation system to the state's general fund; regulating vendors; regulating the workers' compensation court of appeals; regulating insurers; establishing a legal assistance pilot project program; appropriating money; amending Minnesota Statutes 1988, sections 15A.083, subdivision 7; 79.58, by adding a subdivision; 175A.01; 175A.02; 175A.05; 175A.07, subdivision 2; 176.011, subdivision 18, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 4; 176.061, subdivision 10; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; 176.131, subdivisions 1, 1a, 2, 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.135, subdivision 5; 176.136, subdivisions 1 and 5; 176.179; 176.221, subdivision 6a; 176.645, subdivisions 1 and 2;

176.66, subdivision 11; and 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1988, sections 176.011, subdivision 26; 176.101, subdivisions 3a to 3u, and 6; and 176.111, subdivision 8a.

Referred to the Committee on Employment.

Mr. Novak introduced—

S.F. No. 1357: A bill for an act relating to education; imposing educational conditions on juveniles to enroll in driver's education courses and to receive driver's permits and licenses; amending Minnesota Statutes 1988, sections 171.04; 171.05, by adding a subdivision; and 171.18; proposing coding for new law in Minnesota Statutes, chapters 126 and 171.

Referred to the Committee on Education.

Messrs. Moe, R.D.; Purfeerst and Frederickson, D.J. introduced—

S.F. No. 1358: A bill for an act relating to metropolitan airport planning; requiring various actions, plans, and reports by the metropolitan council and the metropolitan airports commission; establishing a state advisory council on metropolitan airport planning; proposing coding for new law in Minnesota Statutes, chapter 473.

Referred to the Committee on Local and Urban Government.

Messrs. Solon, Metzen, Samuelson, Freeman and Anderson introduced—

S.F. No. 1359: A bill for an act relating to commerce; regulating certain rentals of real property, membership camping practices, and subdivided land sales; amending Minnesota Statutes 1988, sections 82.18; 82.20, subdivision 13; 82A.02, subdivision 6; 83.20, by adding a subdivision; 83.30, subdivision 1; and 83.38, subdivisions 1 and 3.

Referred to the Committee on Commerce.

Messrs. Anderson, Laidig, McGowan, Storm and Mehrkens introduced—

S.F. No. 1360: A bill for an act relating to taxation; income; providing an exclusion for certain military pay; amending Minnesota Statutes 1988, section 290.01, subdivision 19b.

Referred to the Committee on Taxes and Tax Laws.

Mr. Samuelson introduced—

S.F. No. 1361: A bill for an act relating to appropriations; appropriating money to the historical society for a grant.

Referred to the Committee on Finance.

Messrs. Marty, Pogemiller, Ms. Reichgott and Mr. DeCramer introduced—

S.F. No. 1362: A bill for an act relating to education; providing for model programs in adult vocational occupational literacy training; appropriating

money; proposing coding for new law in Minnesota Statutes, chapter 136C.

Referred to the Committee on Education.

Mr. Vickerman introduced—

S.F. No. 1363: A bill for an act relating to state parks; regulating the use of metal detectors in state parks; proposing coding for new law in Minnesota Statutes, chapter 85.

Referred to the Committee on Environment and Natural Resources.

Messrs. Marty, Spear, Mses. Peterson, D.C. and Berglin introduced—

S.F. No. 1364: A bill for an act relating to human rights; requiring bias crime investigations; proposing coding for new law in Minnesota Statutes, chapter 363.

Referred to the Committee on Judiciary.

Messrs. Marty, Spear, Mses. Peterson, D.C. and Berglin introduced—

S.F. No. 1365: A bill for an act relating to human rights; requiring bias crime curriculum; proposing coding for new law in Minnesota Statutes, chapter 363.

Referred to the Committee on Judiciary.

Messrs. Marty, Spear, Mses. Peterson, D.C. and Berglin introduced—

S.F. No. 1366: A bill for an act relating to human rights; making harassment in certain cases an unfair discriminatory practice; amending Minnesota Statutes 1988, section 363.03, by adding a subdivision.

Referred to the Committee on Judiciary.

Messrs. Pehler, Dicklich, Frank and Mehrkens introduced—

S.F. No. 1367: A bill for an act relating to education; allowing school districts to consolidate on July 1 of any year; establishing aid for districts that consolidate; appropriating money; amending Minnesota Statutes 1988, section 122.23, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 124.

Referred to the Committee on Education.

Mr. Dahl introduced—

S.F. No. 1368: A bill for an act relating to education; vocational; clarifying powers and duties of the state board and state director of vocational technical education; making technical corrections; amending Minnesota Statutes 1988, sections 136C.04, subdivisions 1, 2, 6, 9, 10, 18, and by adding subdivisions; 136C.042, subdivision 2; 136C.05, by adding subdivisions; 136C.07, subdivision 4; 136C.08, subdivision 1; 136C.42, subdivision 1; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; and 355.46, subdivision 3; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136C.21; 136C.211; 136C.212; 136.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, and

7; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29, subdivisions 3, 4, and 5; and 136C.33, subdivisions 1 and 2.

Referred to the Committee on Education.

Mr. Metzen introduced—

S.F. No. 1369: A bill for an act relating to state parks; special permits for handicapped users; amending Minnesota Statutes 1988, section 85.053, subdivision 7.

Referred to the Committee on Environment and Natural Resources.

Mr. Pogemiller introduced—

S.F. No. 1370: A bill for an act relating to information management; clarifying authority of the office of information systems management over purchases of computers and related products by the state university board and the state board for community colleges; amending Minnesota Statutes 1988, sections 136.24, subdivision 1; and 136.622, subdivision 1.

Referred to the Committee on Governmental Operations.

Ms. Berglin and Mr. Samuelson introduced—

S.F. No. 1371: A bill for an act relating to human services; providing salary adjustments for semi-independent living services, day training and habilitation services, waived services, and intermediate care facilities for persons with mental retardation or related conditions; appropriating money; amending Minnesota Statutes 1988, sections 252.275, by adding a subdivision; 252.46, by adding a subdivision; and 256B.501, by adding subdivisions.

Referred to the Committee on Health and Human Services.

Messrs. Belanger, Schmitz and Mrs. McQuaid introduced—

S.F. No. 1372: A bill for an act relating to appropriations; appropriating money to upgrade a segment of county state-aid highway 18 in Hennepin county.

Referred to the Committee on Finance.

Mrs. McQuaid introduced—

S.F. No. 1373: A bill for an act relating to local government; authorizing the city of St. Louis Park to change the name of the housing and redevelopment authority; permitting the recording of certain deeds.

Referred to the Committee on Local and Urban Government.

Mr. Pogemiller and Ms. Peterson, D.C. introduced—

S.F. No. 1374: A bill for an act relating to education; requiring teachers to report unfair discriminatory practices by other teachers; providing that commission of an unfair discriminatory practice or failure to report may be grounds for discharge or demotion; amending Minnesota Statutes 1988, sections 125.12, subdivision 8; and 125.17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 125.

Referred to the Committee on Employment.

Mr. Spear introduced—

S.F. No. 1375: A bill for an act relating to public safety; alcohol assessment and treatment; allowing courts as a sentencing option to order criminal defendants into treatment upon certification to the local agency and the commissioner of human services; amending Minnesota Statutes 1988, section 169.126, by adding a subdivision; 254B.03, subdivision 1; 609.10; and 609.115, subdivision 1.

Referred to the Committee on Judiciary.

Mr. Cohen introduced—

S.F. No. 1376: A bill for an act relating to commerce; securities regulation; exempting certain over-the-counter securities from registration requirements; amending Minnesota Statutes 1988, section 80A.15, subdivision 1.

Referred to the Committee on Commerce.

Messrs. Chmielewski, Lessard, Davis, Merriam and Frederickson, D.R. introduced—

S.F. No. 1377: A bill for an act relating to wild rice; clarifying requirements on packaging and labeling; requiring disclosure of origin; authorizing the construction of a greenhouse facility for the study of wild rice; providing technical assistance for marketing; appropriating money; amending Minnesota Statutes 1988, section 30.49.

Referred to the Committee on Agriculture and Rural Development.

Mr. Berg introduced—

S.F. No. 1378: A bill for an act relating to animals; regulating use of certain prescription veterinary drugs; changing certain procedures for licensing veterinarians; amending Minnesota Statutes 1988, section 156.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 156.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Beckman; Decker; Frederickson, D.J. and Morse introduced—

S.F. No. 1379: A bill for an act relating to state government; authorizing the use of certain mechanical lifting devices in public buildings; amending Minnesota Statutes 1988, section 16B.61, subdivision 5.

Referred to the Committee on Governmental Operations.

Mr. Pogemiller introduced—

S.F. No. 1380: A bill for an act relating to taxation; making technical corrections to provisions relating to hazardous substance sites and subdistricts; amending Minnesota Statutes 1988, sections 469.174, subdivisions 7 and 16; and 469.175, subdivision 7.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Pogemiller, Freeman and Samuelson introduced—

S.F. No. 1381: A bill for an act relating to jobs and training and human services; creating a coordinating committee to oversee implementation of the inventory, referral, and intake system; authorizing the committee to enter into contracts and commit department resources; requiring a report; appropriating money.

Referred to the Committee on Finance.

Mr. Luther and Ms. Peterson, D.C. introduced—

S.F. No. 1382: A bill for an act relating to controlled substances; requiring the development of guidelines for county pilot programs in urine testing of drug offenders during probation; establishing an office of drug policy in the department of public safety; providing for a director and other employees; requiring the director to develop a state drug strategy; providing for the coordination of drug enforcement, prevention, education, treatment, and rehabilitation programs; establishing an assistance program for school drug resistance education programs; requiring a chemical use assessment of persons convicted of controlled substance felonies; establishing an inter-jurisdictional task force on incarceration; establishing a drug prevention council; appropriating money; amending Minnesota Statutes 1988, section 609.115, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 241 and 299A.

Referred to the Committee on Judiciary.

Mr. Moe, D.M. introduced—

S.F. No. 1383: A bill for an act relating to state government; creating a small business procurements commission to study recent United States Supreme Court decisions and their effect on certain programs; suspending certain requirements relating to procurements from socially and economically disadvantaged businesses during the study; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19, subdivisions 2, 4, 5, and 6; 16B.21, subdivision 2; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivision 3; 161.321, subdivisions 2, 3, and 6; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 473.406, subdivisions 1, 2, 4, 5, and 6; and 645.445, subdivision 5.

Referred to the Committee on Governmental Operations.

Without objection, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 214, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 214 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 3, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 214

A bill for an act relating to taxation; making technical corrections and clarifications to individual income and corporate franchise taxes; updating references to the Internal Revenue Code; imposing a tax and providing for withholding of certain payments to nonresidents; requiring surety payment by out-of-state contractors; amending Minnesota Statutes 1988, sections 290.01, subdivisions 4, 7, 19, 19a, 19b, 19c, 19d, 19e, and 19f; 290.06, subdivision 22; 290.067, subdivision 1; 290.0802, subdivisions 1 and 2; 290.095, subdivision 9; 290.17, subdivisions 1 and 2; 290.311, subdivision 1; 290.92, by adding subdivisions; and 291.005, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 290; repealing Minnesota Statutes 1988, section 290.01, subdivision 6a.

March 29, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 214, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 214 be further amended as follows:

Page 4, line 36, reinstate the stricken "and"

Page 5, lines 3 to 12, delete the new language and reinstate the stricken language

Page 15, after line 23, insert:

"Sec. 10. Minnesota Statutes 1988, section 290.06, subdivision 2c. is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code of 1986 as amended through December 31, 1987, must be computed by applying to their taxable net income the following schedule of rates:

if taxable income is:	the tax is:
not over \$19,000	6 percent
over \$19,000	\$1,140 plus 8 percent of the excess over \$19,000

plus an amount computed using the following schedule of rates:

if taxable income is:	the tax is:
over \$75,500, but not over \$165,000	0.5 percent of the excess over \$75,500
over \$165,000	\$447.50.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income.

except that the income brackets will be one-half of the above amounts. *In the case of married individuals filing separately, the additional 0.5 percent tax provided in this subdivision shall be applied to taxable income over \$37,750, but not over \$127,500.*

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

if taxable income is:	the tax is:
not over \$13,000	6 percent
over \$13,000	\$780 plus 8 percent of the excess over \$13,000

plus an amount computed using the following schedule of rates:

if taxable income is:	the tax is:
over \$42,700, but not over \$93,000	0.5 percent of the excess over \$42,700
over \$93,000	\$251.50.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code of 1986, as amended through December 31, 1987, must be computed by applying to taxable net income the following schedule of rates:

if taxable income is:	the tax is:
not over \$16,000	6 percent
over \$16,000	\$960 plus 8 percent of the excess over \$16,000

plus an amount computed using the following schedule of rates:

if taxable income is:	the tax is:
over \$64,300, but not over \$135,000	0.5 percent of the excess over \$64,300
over \$135,000	\$353.50.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) The numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1987, after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1987, increased by the addition required for interest income from non-Minnesota state and municipal bonds under section 290.01, subdivision 19a, clause (1).

(f) Any individual who has income which is included in the computation of federal adjusted gross income but is not subject to tax by Minnesota other than income specifically allowed as a subtraction under section 290.01, subdivision 19b, shall compute the tax in the same manner described in paragraph (e). The numerator of the fraction under paragraph (e) is the individual's Minnesota source federal adjusted gross income reduced by the income not subject to Minnesota tax and the denominator is the federal adjusted gross income."

Page 25, line 2, after "tax" insert "*withheld under this subdivision*"

Page 27, line 35, delete "or" and insert a comma and after "3," insert "or 28,"

Page 29, line 21, delete the second "in" and insert "*at any time during*"

Page 32, line 14, delete "17" and insert "18"

Page 32, line 16, delete "18 to 20" and insert "19 to 21" and delete "21" and insert "22"

Page 32, line 18, delete "22" and insert "23"

Page 32, line 20, delete "16" and insert "17"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, delete the first "subdivision" and insert "subdivisions 2c and"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Dee Long, Alan W. Welle, William H. Schreiber

Senate Conferees: (Signed) Douglas J. Johnson, Lawrence J. Pogemiller, William V. Belanger

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 214 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 214 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Merriam	Ramstad
Anderson	Decker	Knutson	Metzen	Reichgott
Beckman	DeCramer	Laidig	Moe, R. D.	Renneke
Belanger	Diessner	Langseth	Morse	Schmitz
Benson	Frank	Lantry	Novak	Spear
Berg	Frederick	Lessard	Oison	Storm
Bernhagen	Frederickson, D.J.	Luther	Pariseau	Stumpf
Bertram	Frederickson, D.R.	Marty	Pehler	Taylor
Brandl	Freeman	McGowan	Peterson, R.W.	Vickerman
Cohen	Hughes	McQuaid	Piper	Waldorf
Dahl	Johnson, D.J.	Mehrkens	Pogemiller	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Thursday, April 6, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate