

FIFTY-NINTH DAY

St. Paul, Minnesota, Monday, May 13, 1985

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Paul A. Nordstrom.

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

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

The President declared a quorum present.

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Langseth moved that the following members be excused for a Conference Committee on H.F. No. 1639:

Mr. Langseth, Mrs. Lantry, Messrs. Schmitz, Purfeerst and Mehrkens. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of five members of the House, on the amendments adopted by the House to the

following Senate File:

S.F. No. 5: A bill for an act relating to alcoholic beverages; increasing the age for licensing, sale, purchase, consumption, possession, and furnishing of alcoholic beverages; establishing programs for education on avoidable health risks related to alcohol and other drugs; increasing the fee for the reinstatement of drivers licenses revoked for alcohol-related violations; appropriating money; amending Minnesota Statutes 1984, sections 171.29, subdivision 2; 340.02, subdivision 8; 340.035, subdivision 1; 340.039; 340.119, subdivision 2; 340.13, subdivision 12; 340.403, subdivision 3; 340.73, subdivision 1; 340.731; 340.732; 340.79; and 340.80.

There has been appointed as such committee on the part of the House:

Schafer, Gutknecht, McKasy, Valento and Kelly.

Senate File No. 5 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1985

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 118, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 118: A bill for an act relating to public employee labor relations; regulating public employee mediation; regulating mediation and strikes concerning teachers; providing for arbitration awards in principal and assistant principal disputes; providing penalties; amending Minnesota Statutes 1984, sections 179A.14, subdivision 1; 179A.15; 179A.16, subdivision 7; 179A.17, subdivision 1; 179A.18, subdivisions 2 and 3; and 179A.20, subdivision 3.

Senate File No. 118 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1985

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 418:

H.F. No. 418: A bill for an act relating to local government; excluding firefighter and peace officer job classes from certain aspects of pay equity requirements; amending Minnesota Statutes 1984, section 179A.16, by adding a subdivision; 471.992; 471.993, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 471; repealing Minnesota Statutes 1984, section 471.9965.

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

Dempsey, Ozment and Jennings, L. have been appointed as such committee on the part of the House.

House File No. 418 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 May 13, 1985

Mr. Merriam moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 418, 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 that the House refuses to concur in the Senate amendments to House File No. 1641:

H.F. No. 1641: A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government with certain conditions; providing for the transfer of certain money in the state treasury; authorizing land acquisition; providing for the compensation of metropolitan government personnel; fixing and limiting fees; creating, modifying, transferring, and abolishing agencies and functions; amending Minnesota Statutes 1984, sections 2.722, subdivision 1; 3.21; 3.85, subdivision 11; 3.9223, subdivision 1; 11A.07, by adding a subdivision; 11A.20, subdivision 1; 13.68, subdivision 1; 15.50, subdivision 3; 16A.055, subdivision 1; 16A.275; 16A.40; 16A.42, subdivision 2; 16A.45, subdivision 2; 16A.47; 16A.58; 16A.672, subdivisions 1, 2, and 3; 16B.09, by adding a subdivision; 16B.29; 43A.07, subdivision 2; 84B.03, subdivision 4; 85.05, subdivisions 1 and 2; 85.22, subdivision 2a; 85A.01, subdivisions 1 and 2; 85A.02, subdivisions 3, 4, 5, 7, 12, 16, and by adding subdivisions; 85A.04, subdivision 3; 86.72; 86.75; 97.4841, subdivision 3; 97.4842, subdivision 2; 97.50, subdivision 1; 98.45, by adding a subdivision; 98.46, subdivisions 2, 14, and by adding a subdivision; 98.47, subdivision 1; 100.271, subdivision 2; 115.03, by adding a subdivision; 115A.05, subdivision 1; 115A.908, subdivisions 2 and 3; 116J.76; 116M.03, by adding a subdivision; 179A.03, subdivision 17; 179A.04, subdivision 3; 179A.13; 179A.16; 179A.21; 179A.25; 192.51, subdivision 2; 196.051, by adding a subdivision; 268.05, subdivision 2; 268.07, subdivision 2a; 268.38, subdivisions 1, 2, 6, 7, and 8; 270A.07, subdivision 1; 290.50, subdivision 6; 296.421, subdivision 4, and by adding a subdivision; 297.13, subdivision 1; 361.03, subdivision 5; 361.27; 462C.05, subdivision 2, and by adding a subdivision; 462C.07, subdivision 1, and by adding a subdivision; 473.123, subdivision 5; 473.129, subdivision 2; 473.141, subdivisions 7 and 12; 473.605, subdivision 2; 473.606, subdivisions 1 and 5; 473.704, by adding a subdivision; 473.714; 487.01, subdivision 5; 609.101; proposing coding for new law in Minnesota Statutes, chapters 3; 5; 85A; 97; 116; 139; and 270; proposing coding for new law as Minnesota Statutes, chapter 116N; repealing Minnesota Statutes 1984, sections 7.01; 7.013; 7.02; 7.03; 7.04; 7.05; 7.13; 7.14; 7.15; 7.16; 7.17; 7.18; 10.18; 10.19; 10.20; 10.21; 10.22; 10.23; 16A.42, subdivision 3; 46.15; 48.87; 69.031, subdivision 2; 85A.01, subdivision 1a; 85A.03; 85A.04, subdivision 1; 115A.05, subdivision 3; 115A.201, subdivision 2; 115A.22, subdivision 4; 116M.06, subdivision 5; 116M.07, subdivision 3; 124.471;

179A.03, subdivision 3; 179A.05; 296.10; 349.212, subdivision 3, as amended; 360.301; 360.302; 360.304; 360.306; 360.388; 360.389; 403.01, subdivision 1; and Laws 1982, chapter 489, section 11.

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

DenOuden, Piepho, Bishop, Miller and Battaglia have been appointed as such committee on the part of the House.

House File No. 1641 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 May 13, 1985

Mr. Kroening moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1641, and that a Conference Committee of 5 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.

MOTIONS AND RESOLUTIONS

Mr. Spear moved that S.F. No. 693 be taken from the table. The motion prevailed.

S.F. No. 693: A bill for an act relating to crimes; providing for forfeitures of communications devices and proceeds derived from commission of designated offenses; amending Minnesota Statutes 1984, sections 152.19, subdivision 5; and 609.531.

CONCURRENCE AND REPASSAGE

Mr. Spear moved that the Senate concur in the amendments by the House to S.F. No. 693 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 693: A bill for an act relating to crimes; providing for forfeitures of communications devices and proceeds derived from commission of designated offenses; regulating the use, possession and sale of electronic incapacitation devices; imposing penalties; amending Minnesota Statutes 1984, sections 152.19, subdivision 5; 609.531; and 624.731.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Reichgott introduced—

Senate Resolution No. 88: A Senate resolution congratulating the Robbinsdale-Cooper High School team, and particularly Todd Kos, Steve Zahn, and Mary Bouta on their superior performance at the Minnesota State High School Speech Tournament.

Referred to the Committee on Rules and Administration.

Remaining on the Order of Business of Motions and Resolutions, pursuant to Rule 10, Mr. Moe, R.D., Chairman of the Subcommittee on Bill Scheduling, designated the General Orders Calendar a Special Orders Calendar to be heard immediately.

SPECIAL ORDER

H.F. No. 83: A bill for an act relating to courts; eliminating restrictions on the chief judge's ability to make assignments to juvenile court in Hennepin and Ramsey counties; amending Minnesota Statutes 1984, section 260.019, subdivision 3.

Mr. Sieloff moved to amend H.F. No. 83, as amended by the Committee on Judiciary, adopted by the Senate April 24, 1985, as follows:

Delete the amendment to section 1

Page 1, lines 13 and 14 of H.F. No. 83, reinstate the stricken language

Page 1, line 14, after the period insert "A party appearing before the juvenile court may upon request have any matter or proceeding heard before a judge who is not assigned to the juvenile court."

Page 1, after line 14, insert:

"Sec. 2. [DESIGNATION OF JUVENILE COURT JUDGE.]

Notwithstanding the provisions of Minnesota Statutes, section 260.019, subdivision 3, the chief judge in Hennepin and Ramsey counties may designate any judge to hear cases under sections 260.011 to 260.301 as a principal assignment regardless of how long the judge has served on that assignment.

Sec. 3. [REPEALER.]

Section 2 is repealed effective August 1, 1987."

Page 1, line 16, delete "*Section 1 is*" and insert "*Sections 1 to 3 are*"

Amend the title as follows:

Delete the amendment to the title

Page 1, line 2 of H.F. No. 83, after the semicolon, insert "temporarily"

Page 1, line 4, after the semicolon, insert "allowing a party to transfer a proceeding to a judge who is not assigned to the juvenile court;"

Mr. Pogemiller moved to amend the Sieloff amendment to H.F. No. 83 as follows:

Page 1, delete lines 6 to 9

The motion did not prevail. So the amendment to the amendment was not adopted.

The question was taken on the Sieloff amendment.

The roll was called, and there were yeas 33 and nays 21, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|-----------|-----------------|-----------|
| Adkins | Davis | Gustafson | Merriam | Taylor |
| Anderson | Diessner | Isackson | Moe, D. M. | Vega |
| Berg | Dieterich | Jude | Peterson, R. W. | Waldorf |
| Bernhagen | Frank | Knaak | Sieloff | Wegscheid |
| Bertram | Frederick | Laidig | Solon | Willet |
| Brataas | Frederickson | Lantry | Spear | |
| Chmielewski | Freeman | Lessard | Storm | |

Those who voted in the negative were:

| | | | | |
|----------|---------------|------------|----------------|--------|
| Belanger | Johnson, D.E. | McQuaid | Peterson, C.C. | Stumpf |
| Dahl | Kamrath | Mehrkens | Petty | |
| DeCramer | Kroening | Moe, R. D. | Pogemiller | |
| Dicklich | Kronebusch | Novak | Ramstad | |
| Hughes | Luther | Olson | Reichgott | |

The motion prevailed. So the amendment was adopted.

H.F. No. 83 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 49 and nays 5, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|---------------|-----------------|-----------|
| Adkins | DeCramer | Isackson | McQuaid | Solon |
| Anderson | Dicklich | Johnson, D.E. | Mehrkens | Spear |
| Belanger | Diessner | Jude | Moe, D. M. | Storm |
| Berg | Dieterich | Kamrath | Moe, R. D. | Stumpf |
| Bernhagen | Frank | Knaak | Novak | Taylor |
| Bertram | Frederick | Kroening | Olson | Vega |
| Brataas | Frederickson | Kronebusch | Peterson, C.C. | Waldorf |
| Chmielewski | Freeman | Laidig | Peterson, R. W. | Wegscheid |
| Dahl | Gustafson | Lantry | Pogemiller | Willet |
| Davis | Hughes | Lessard | Sieloff | |

Those who voted in the negative were:

Luther

Merriam

Petty

Ramstad

Reichgott

So the bill, as amended, passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Solon moved that the following members be excused for a Conference Committee on S.F. No. 1525 at 3:45 p.m.:

Messrs. Samuelson, Knutson, Solon, Spear and Ms. Berglin. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Nelson moved that the following members be excused for a Conference Committee on H.F. No. 88 at 4:00 p.m.:

Messrs. Nelson; Pehler; Peterson, R.W.; Ms. Peterson, D.C. and Mr. Peterson, D.L. The motion prevailed.

SPECIAL ORDER

S.F. No. 928: A bill for an act relating to occupations and professions; providing for licensure of persons engaged in the sale of hearing instruments; requiring the commissioner of health to reconsider the application of speech language pathologists and audiologists for credentialing; appropriating money; providing a penalty; proposing coding for new law as Minnesota Statutes, chapter 153A.

Mr. Wegscheid moved to amend S.F. No. 928 as follows:

Page 2, line 29, delete "13" and insert "14"

Page 3, delete lines 2 to 8 and insert:

"Persons licensed under chapter 147 are exempt from the requirements of sections 1 to 12. Audiologists who hold the certificate of clinical competence of the American Speech, Language, and Hearing Association are exempt from examination and education requirements under sections 1 to 12, but must obtain a license and pay a fee determined by the commissioner. Sections 1 to 12 do not otherwise preclude or limit the testing of hearing by persons exempt under this section."

The motion prevailed. So the amendment was adopted.

S.F. No. 928 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 50 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|---------------|----------------|------------|
| Adkins | DeCramer | Isackson | Luther | Pogemiller |
| Anderson | Dicklich | Johnson, D.E. | McQuaid | Ramstad |
| Belanger | Diessner | Jude | Mehrkens | Reichgott |
| Benson | Dieterich | Kamrath | Merriam | Storm |
| Berg | Frank | Knaak | Moe, D. M. | Stumpf |
| Bernhagen | Frederick | Kroening | Moe, R. D. | Taylor |
| Bertram | Frederickson | Kronebusch | Novak | Vega |
| Chmielewski | Freeman | Laidig | Olson | Waldorf |
| Dahl | Gustafson | Lantry | Peterson, C.C. | Wegscheid |
| Davis | Hughes | Lessard | Petty | Willet |

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 588: A bill for an act relating to the University of Minnesota; appropriating money for road improvements in the city of Falcon Heights.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|---------------|------------|----------------|---------|
| Anderson | Diessner | Kamrath | Moe, D. M. | Solon |
| Belanger | Dieterich | Knaak | Moe, R. D. | Storm |
| Benson | Frank | Kroening | Novak | Stumpf |
| Berg | Frederick | Kronebusch | Olson | Taylor |
| Bernhagen | Frederickson | Laidig | Peterson, C.C. | Vega |
| Bertram | Freeman | Lantry | Petty | Waldorf |
| Brataas | Gustafson | Lessard | Pogemiller | Willet |
| Chmielewski | Hughes | Luther | Ramstad | |
| Dahl | Isackson | McQuaid | Reichgott | |
| DeCramer | Johnson, D.E. | Mehrkens | Renneke | |
| Dicklich | Jude | Merriam | Sieloff | |

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1014: A bill for an act relating to crimes; clarifying the prosecution for failure to appear in court; prohibiting diversion of corporate property; authorizing criminal trials with petit juries composed of six persons for gross misdemeanor prosecutions; admitting into evidence for impeachment purposes certain convictions of prior driving offenses; amending Minnesota Statutes 1984, sections 169.92, subdivision 1; and 593.01, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 302A and 634.

Mr. Petty moved to amend S.F. No. 1014 as follows:

Page 2, after line 14, insert:

“Sec. 4. Minnesota Statutes 1984, section 611.033, is amended to read:

611.033 [COPY OF CONFESSION OR ADMISSION.]

A statement, confession, or admission in writing shall not be received in evidence in any criminal proceeding against any defendant unless within a reasonable time of the taking thereof the defendant is furnished with a copy thereof and which statement, confession, or admission shall have endorsed thereon or attached thereto the receipt of the accused or certification of a peace officer which shall state that a copy thereof has been received by or made available to the accused. *Nothing in this section shall require that a videotape, audiotape, or transcript thereof, be given to the defendant at the time the statement, confession, or admission is made, or within a reasonable time thereafter, provided the videotape or audiotape is available to the defendant in discovery pursuant to the rules of criminal procedure.*”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the semicolon, insert “clarifying the receipt of a copy

of a confession or admission;"

Page 1, line 10, after the semicolon, insert "611.033;"

The motion prevailed. So the amendment was adopted.

Mr. Petty then moved to amend S.F. No. 1014 as follows:

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. [302A.556] [CRIMINAL LIABILITY.]

Whoever does any of the following with intent to defraud is guilty of a crime and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both:

(1) diverts corporate property to purposes other than those stated in the articles of incorporation or, if no purposes are stated in the articles of incorporation, to purposes other than general business purposes;

(2) authorizes or makes a distribution in violation of section 302A.551; or

(3) deceives the public or individuals in relation to the corporation's means or liabilities."

The motion prevailed. So the amendment was adopted.

Mr. Spear moved to amend S.F. No. 1014 as follows:

Page 1, after line 13, insert:

"Section 1. Minnesota Statutes 1984, section 169.02, subdivision 1, is amended to read:

Subdivision 1. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, and upon highways, streets, private roads, and roadways situated on property owned, leased, or occupied by the regents of the University of Minnesota, or the University of Minnesota, except:

(1) Where a different place is specifically referred to in a given section;

(2) The provisions of sections 169.09 to 169.13 ~~shall apply upon highways and elsewhere throughout the state~~ *to any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state.*

Sec. 2. Minnesota Statutes 1984, section 169.121, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state *or upon the ice of any boundary water of this state:*

(a) When the person is under the influence of alcohol;

(b) When the person is under the influence of a controlled substance;

(c) When the person is under the influence of a combination of any two or more of the elements named in clauses (a) and (b);

(d) When the person's alcohol concentration is 0.10 or more; or

(e) When the person's alcohol concentration as measured within two hours of the time of driving is 0.10 or more.

~~The provisions of this subdivision apply, but are not limited in application, to any person who drives, operates, or is in physical control of any motor vehicle in the manner prohibited by this subdivision upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water.~~

Sec. 3. Minnesota Statutes 1984, section 169.123, subdivision 2, is amended to read:

Subd. 2. [IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.] (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state *or upon the ice of any boundary water of this state* consents, subject to the provisions of this section and section 169.121, to a chemical test of his blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it; or (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled substance;

(2) that if testing is refused, the person's right to drive will be revoked for a minimum period of one year or, if the person is under the age of 18 years, for a period of one year or until he or she reaches the age of 18 years, whichever is greater;

(3) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a minimum period of 90 days or, if the person is under the age of 18 years, for a period of six months or until he or she reaches the age of 18 years, whichever is greater;

(4) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by a person of his own choosing; and

(5) that if he refuses to take a test, the refusal will be offered into evidence against him at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. However, if the officer directs that the test shall be of a person's blood or urine, the person may choose whether the test shall be of his blood or urine.

Sec. 4. Minnesota Statutes 1984, section 169.129, is amended to read:

169.129 [AGGRAVATED VIOLATIONS; PENALTY.]

Any person who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before his driver's license or driver's privilege has been reinstated following its cancellation, suspension or revocation (1) because he drove, operated, or was in physical control of a motor vehicle while under the influence of alcohol or a controlled substance or while he had an alcohol concentration of 0.10 or more or (2) because he refused to take a test which determines the presence of alcohol or a controlled substance when requested to do so by a proper authority, is guilty of a gross misdemeanor. Jurisdiction over prosecutions under this section is in the county court."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing for the application of certain traffic regulations; eliminating redundant and surplus language;"

Page 1, line 9, after "sections" insert "169.02, subdivision 1; 169.121, subdivision 1; 169.123, subdivision 2; 169.129;"

The motion prevailed. So the amendment was adopted.

Mr. Pogemiller moved to amend S.F. No. 1014 as follows:

Page 1, after line 13, insert:

"Section 1. Minnesota Statutes 1984, section 14.02, subdivision 4, is amended to read:

Subd. 4. [RULE.] "Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure. It does not include (a) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; (b) rules of the commissioner of corrections relating to the internal management of institutions under the commissioner's control and those rules governing the inmates thereof prescribed pursuant to section 609.105; (c) rules of the division of game and fish published in accordance with section 97.53; (d) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs; (e) opinions of the attorney general; (f) the systems architecture plan and long range plan of the state education management information system provided by section 121.931; (g) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932; (h) the comprehensive statewide plan of the crime control planning board provided in section 299A.03; (i) special terms and conditions for an interim certificate of confirmation of the Minnesota cable communications board provided in section 238.09; or (j) occupational safety

and health standards provided in section 182.655; or (k) rules of the commissioner of public safety adopted pursuant to section 169.128.

Sec. 2. Minnesota Statutes 1984, section 169.128, is amended to read:

169.128 [RULES OF THE COMMISSIONER OF PUBLIC SAFETY.]

The commissioner of public safety may promulgate *permanent or emergency* rules to carry out the provisions of sections 169.121 and 169.123. The rules may include forms for notice of intention to revoke, which shall describe clearly the right to a hearing, the procedure for requesting a hearing, and the consequences of failure to request a hearing; forms for revocation and notice of reinstatement of driving privileges as provided in section 169.1261; and forms for temporary licenses.

Rules promulgated pursuant to this section are ~~exempt from the administrative procedure act but, to the extent authorized by law to adopt rules, the commissioner may use the provisions of section 14.38, subdivisions 5 to 9 subject to sections 14.01 to 14.20 and 14.29 to 14.69.~~

Sec. 3. [RULES REPEALED.]

Minnesota Rules, chapter 7412 is repealed. The commissioner of public safety may adopt rules to carry out the provisions of sections 169.121 and 169.123 only pursuant to section 2."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "crimes" and insert "public safety; subjecting rules relating to drunk driving to certain provisions of the administrative procedure act; repealing rules"

Page 1, line 9, after "sections" insert "14.02, subdivision 4; 169.128;"

The motion prevailed. So the amendment was adopted.

Mr. Luther moved to amend S.F. No. 1014 as follows:

Page 1, after line 24, insert:

"Sec. 2. Minnesota Statutes 1984, section 171.17, is amended to read:

171.17 [REVOCATION.]

The department shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

- (1) Manslaughter or criminal negligence resulting from the operating of a motor vehicle;
- (2) Any violation of section 169.121;
- (3) Any felony in the commission of which a motor vehicle was used;
- (4) Failure to stop and disclose identity and render aid, as required under the laws of this state, in the event of a motor vehicle accident resulting in the death or personal injury of another;
- (5) Perjury or the making of a false affidavit or statement to the department

under any law relating to the ownership or operation of a motor vehicle;

(6) Except as this section otherwise provides, conviction, plea of guilty, or forfeiture of bail not vacated, upon three charges of violating, within a period of 12 months any of the provisions of chapter 169, or of the rules, regulations, or municipal ordinances enacted in conformance therewith for which the accused may be punished upon conviction by imprisonment;

(7) Conviction of an offense in another state which, if committed in this state, would be grounds for the revocation of the driver's license;

(8) *Fleeing a peace officer by means of a motor vehicle.*

When any judge of a juvenile court, or any of its duly authorized agents, shall determine, formally or informally, that any person under the age of 18 years has committed any offense defined in this section, such judge, or duly authorized agent, shall immediately report such determination to the department; and the commissioner shall immediately revoke the license of that person.

Upon revoking the license of any person, as hereinbefore in this chapter authorized, the department shall immediately notify the licensee, in writing, by depositing in the United States post-office a notice addressed to the licensee at his last known address, with postage prepaid thereon."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "requiring revocation of the drivers license of a person who flees in a motor vehicle from a peace officer;"

Page 1, line 9, before "and" insert "171.17;"

The motion prevailed. So the amendment was adopted.

Mr. Jude moved to amend S.F. No. 1014 as follows:

Page 1, after line 13, insert:

"Section 1. Minnesota Statutes 1984, section 169.121, subdivision 3, is amended to read:

Subd. 3. [CRIMINAL PENALTIES:] 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) A person who violates this section or an ordinance in conformity with it within five years of a prior 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 within ten years of two or more prior 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, 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.

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 prior convictions under this section from a court, the court must furnish the information without charge."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "requiring courts to furnish information relating to prior convictions without charge in gross misdemeanor prosecutions of the driving while under the influence of alcohol law;"

Page 1, line 9, after "sections" insert "169.121, subdivision 3;"

The motion prevailed. So the amendment was adopted.

S.F. No. 1014 was then progressed.

RECONSIDERATION

Mr. Dieterich moved that the vote whereby S.F. No. 1103 failed to pass the Senate on May 10, 1985, be now reconsidered. The motion prevailed.

S.F. No. 1103: A bill for an act relating to intoxicating liquor; permitting counties to issue off-sale licenses and combination licenses in towns; amending Minnesota Statutes 1984, section 340.11, subdivision 10a; repealing Minnesota Statutes 1984, section 340.11, subdivision 10b.

Mr. Dieterich moved that S.F. No. 1103 be placed at the top of General Orders. The motion prevailed.

SPECIAL ORDER

H.F. No. 592: A bill for an act relating to local government; permitting the establishment of special service districts in the city of New Ulm; providing taxing and other financial authority for New Ulm.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 45 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|---------------|------------|-----------|
| Adkins | Dahl | Hughes | Laidig | Reichgott |
| Anderson | Davis | Isackson | Lessard | Renneke |
| Belanger | Dicklich | Johnson, D.E. | McQuaid | Sieloff |
| Benson | Diessner | Johnson, D.J. | Merriam | Storm |
| Berg | Dieterich | Jude | Moe, D.M. | Stumpf |
| Bernhagen | Frank | Kamrath | Moe, R.D. | Vega |
| Bertram | Frederickson | Knaak | Novak | Waldorf |
| Brataas | Freeman | Kroening | Pogemiller | Wegscheid |
| Chmielewski | Gustafson | Kronebusch | Ramstad | Willet |

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 98: A bill for an act relating to retirement; expanding the availability of certain appropriations for actuarial services.

Mr. Moe, D.M. moved to amend H.F. No. 98, the second unofficial engrossment, as follows:

Page 7, line 17, delete "*are appropriated*" and insert "*must be paid*"

Page 7, line 30, before "*for*" insert "*from the general fund*"

The motion prevailed. So the amendment was adopted.

Mr. Peterson, C.C. moved to amend H.F. No. 98, the second unofficial engrossment, as follows:

Pages 6 and 7, delete sections 7 and 8 and insert:

"Sec. 7. [POST RETIREMENT ADJUSTMENT; LUMP SUM PAYMENTS.]

Subdivision 1. [ENTITLEMENT.] Any person who is receiving a retirement annuity, a disability benefit or a surviving spouse's annuity or benefit from a retirement fund specified in subdivision 3, clauses (1) to (5), which was computed under the laws in effect prior to June 1, 1973, if the person is receiving an annuity or benefit from the retirement fund specified in subdivision 3, clause (4), or prior to July 1, 1973, if the person is receiving an annuity or benefit from a retirement fund specified in subdivision 3, clause (1), (2), (3), or (5), and any person who is receiving either an annuity which was computed under the laws in effect prior to March 5, 1974, or a "\$2 bill and annuity" annuity from the retirement fund specified in subdivision 3, clause (6), and any person who is receiving a retirement annuity, a disability benefit or a surviving spouse's annuity or benefit from the retirement fund specified in subdivision 3, clause (5), which was computed under the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on or prior to December 31, 1977, shall be entitled to receive a post-retirement adjustment from the applicable retirement fund in the amount specified in subdivision 2.

Subd. 2. [AMOUNT OF POST RETIREMENT ADJUSTMENT; PAYMENT.] For any person receiving an annuity or benefit on November 30, 1985, or on November 30, 1986, and entitled to receive a post retirement adjustment pursuant to subdivision 1, the post retirement adjustment shall be a lump sum payment in an amount equal to \$18 during 1985 and \$19 during 1986 for each full year of allowable service credited to the person by the respective retirement fund. The post retirement adjustment provided for in this section shall be payable for those persons receiving an annuity or benefit on November 30, 1985, on December 1, 1985, and for those persons receiving an annuity or benefit on November 30, 1986, on December 1, 1986. Nothing in this section shall authorize the payment of a post retirement adjustment to an estate. Notwithstanding Minnesota Statutes, section 356.18, the post retirement adjustment provided for in this section shall be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the post retirement adjustment not be paid.

Subd. 3. [COVERED RETIREMENT FUNDS.] The post retirement ad-

justment provided for in this section shall apply to the following retirement funds:

(1) public employees retirement fund;

(2) public employees police and fire fund;

(3) teachers retirement fund;

(4) state patrol retirement fund;

(5) state employees retirement fund of the Minnesota state retirement system; and

(6) Minneapolis employees retirement fund.

Subd. 4. [TERMINAL AUDIT.] Each covered retirement fund as specified in subdivision 3 shall, as soon as is practical following the payment of the December 1, 1986, post retirement adjustment, calculate the amount of any appropriation apportioned to it which is in excess of the amounts required to pay the post retirement adjustments provided for in this act. The calculations required by this subdivision shall be reported to and verified by the commissioner of finance and amounts equal to these reported excess appropriation amounts shall be returned to the general fund.

Sec. 8. [APPROPRIATION.]

There is hereby appropriated during the 1986-87 biennium, the amount of \$11,429,317 for the purpose of funding the post retirement adjustments provided for in this section. The appropriation shall be apportioned to the retirement funds paying the post retirement adjustment as follows:

| | FY 1986 | FY 1987 |
|---------------------------------------|-------------|-------------|
| public employees retirement fund | \$1,849,896 | \$1,821,454 |
| public employees police and fire fund | 76,338 | 76,551 |
| teachers retirement fund | 1,569,042 | 1,566,075 |
| state patrol retirement fund | 59,328 | 59,489 |
| state employees retirement fund | 1,316,736 | 1,320,386 |

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 33 and nays 20, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|---------------|---------------|----------------|---------|
| Anderson | Dicklich | Johnson, D.J. | McQuaid | Stumpf |
| Belanger | Frederick | Kamrath | Novak | Taylor |
| Benson | Frederickson | Knaak | Peterson, C.C. | Vega |
| Brataas | Freeman | Kronebusch | Purfeerst | Waldorf |
| Chmielewski | Hughes | Langseth | Ramstad | Willet |
| Davis | Isackson | Lantry | Renneke | |
| DeCramer | Johnson, D.E. | Lessard | Sieloff | |

Those who voted in the negative were:

| | | | | |
|-----------|-----------|-----------|-----------|------------|
| Adkins | Dahl | Gustafson | Luther | Petty |
| Berg | Diessner | Jude | Merriam | Pogemiller |
| Bernhagen | Dieterich | Kroening | Moe, D.M. | Spear |
| Bertram | Frank | Laidig | Moe, R.D. | Storm |

The motion prevailed. So the amendment was adopted.

H.F. No. 98 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 440: A bill for an act relating to retirement; making various changes in laws governing public retirement funds; amending Minnesota Statutes 1984, sections 3.85, subdivisions 11 and 12; 353.657, subdivision 2a; 354.44, subdivision 6; 354A.35, subdivision 1; 356.20, subdivision 4; 356.215, subdivision 4; 356.216; and 356.70.

Mr. Moe, D.M. moved to amend H.F. No. 440, the unofficial engrossment, as follows:

Page 6, line 33, after *"but"* insert *"service as determined on a fractional basis"*

Page 12, line 12, after *"fund"* insert *", the teachers retirement fund,"*

Page 14, line 17, after *"fund"* insert *"or the teachers retirement fund, or would have been eligible for coverage under those funds, but for this subdivision,"*

Page 14, line 18, after *"44"* insert *", and are eligible for social security coverage under the agreement between the state and the secretary of health and human services"*

Page 14, line 21, delete *"the fifth and eighth"* and insert *"all"*

Page 14, line 25, after *"except"* insert *"those"* and delete *"of the transit"*

Page 14, line 26, delete *"operating division"* and insert *"covered by an agreement with an exclusive bargaining agent"*

Page 14, line 28, after *"officers"* insert *", except county sheriffs,"*

Page 14, line 36, delete *"and"*

Page 15, line 2, delete the period and insert *", and"*

Page 15, after line 2, insert:

“(9) presidents, vice presidents, chancellors, vice chancellors, directors, deans, assistant vice presidents, assistant deans, associate deans, executive assistants, and associate vice chancellors of the state university system.”

Page 16, line 35, before the period, insert “

An employee in a position with retirement coverage under the basic program in the public employees retirement fund is not entitled to participate in the plan unless the employee leaves the position and begins employment more than 30 days later in a position with retirement coverage under the plan”

Page 17, line 4, after “official” insert “(1)”

Page 17, line 7, after “and” insert “(2)”

Page 18, line 23, delete “and” and after “1” insert “, 354.44, 354.45, 354.48, and 354.60”

Page 18, line 25, delete “or” and insert a comma and after “353.33” insert “, or 354.48”

Page 21, lines 23, 28, and 35, delete “act” and insert “section”

Page 22, lines 1 and 3, delete “act” and insert “section”

Page 22, after line 11, insert:

“Sec. 25. Minnesota Statutes 1984, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] “Allowable service” means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which he later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay which does not exceed one year, and during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on his average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while he was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion thereof, he shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such

employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence to the date payment is made.

(4) Any period during which a member is on an authorized sick leave of absence, without pay limited to one year, or an authorized temporary layoff.

(5) Any period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon his salary at the date of return from military service. After June 30, 1983 payment must be made within five years of the date of discharge from the military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor. Such member shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty.

(6) *For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, Minnesota Statutes 1984, chapter 401, and transferred into county service under Minnesota Statutes 1984, section 401.04, allowable service means combined years of allowable service as defined in Minnesota Statutes 1984, section 352.01, subdivision 11, and Minnesota Statutes 1984, section 353.01, subdivision 16, paragraphs (1) to (5)."*

Page 23, after line 10, insert:

"Sec. 27. Minnesota Statutes 1984, section 353.271, subdivision 2, is amended to read:

Subd. 2. [VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.]

(1) ~~Effective July 1, 1973,~~ For members retiring, the required reserves determined ~~on a five percent~~ using the post-retirement interest assumption specified in section 356.215, subdivision 4d, shall be transferred to the Minnesota post-retirement investment fund as of the date of retirement.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18.

(3) Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made."

Page 24, after line 21, insert:

"Sec. 30. Minnesota Statutes 1984, section 354.05, subdivision 2, is

amended to read:

Subd. 2. [TEACHER.] "Teacher" includes any person who renders service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state located outside of the corporate limits of the cities of the first class as those cities were so classified on January 1, 1979, or in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who is engaged in educational administration in connection with the state public school system, including the state university system and state community college system, but excluding the University of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with the systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association unless the employee is covered by the Minnesota state retirement system by virtue of prior employment by the association, and any nurse, counselor, social worker, therapist or psychologist who renders service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of the combined employment shall be covered by the teachers retirement association. *The term does not include an employee described in section 352D.02, subdivision 1a, clause (9), who is hired after the effective date of this act.* The term does not mean any person who works for a school or institution as an independent contractor. The term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution. The term shall not include any person holding a part time adult supplementary vocational-technical school license who renders part time teaching service in a vocational-technical school if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable vocational-technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year. The term also shall not include a person exempt from licensure pursuant to section 125.031 or any person who was excluded from membership prior to January 1, 1981 pursuant to Laws 1978, chapter 556, section 1 and Laws 1980, chapter 342, section 8, if the person annually certifies on a form prescribed by the executive director that the person has established and is contributing to an individual retirement account which is based on non-teaching employment."

Page 28, line 36, after "6" insert "or any other physical examinations required by the board. Payment of the disability benefit provided in this

subdivision during a period of partial reemployment shall be discontinued if the board finds that the member is no longer totally and permanently disabled"

Page 36, line 13, strike the colon and insert *"the information required in subdivisions 4a to 4k."*

Page 36, line 14, strike "(1)" and insert *"Subd. 4a. [NORMAL COST.]"*

Page 36, lines 16 and 17, strike ", computed" and insert *"must be calculated"*

Page 36, line 21, strike "(2)" and insert *"Subd. 4b. [ACCRUED LIABILITY.]"*

Page 36, line 23, after "costs" insert *"must be"*

Page 36, line 25, strike "(3)" and insert *"Subd. 4c. [DEFINED CONTRIBUTION ACCUMULATIONS.]"*

Page 36, line 28, before the period, insert *"must be calculated"*

Page 36, line 32, strike "(4)" and insert *"Subd. 4d. [INTEREST ASSUMPTIONS.]"*

Page 37, lines 1 and 13, before the period, insert *"must be used"*

Page 37, line 14, strike "(5)" and insert *"Subd. 4e. [OTHER ASSUMPTIONS.]"*

Page 37, line 18, strike "and" and insert *"may be utilized. These other assumptions must be"*

Page 37, line 19, strike "(6)" and insert *"Subd. 4f. [ACTUARIAL BALANCE SHEET.]"* and strike "showing" and insert *"must show"*

Page 39, line 18, strike "(7)" and insert *"Subd. 4g. [AMORTIZATION CONTRIBUTIONS.]"*

Page 39, line 20, before the period, insert *"must be calculated"*

Page 41, line 29, strike "(8)" and insert *"Subd. 4h. [ACTUARIAL GAINS AND LOSSES.]"*

Page 41, line 31, before the period, insert *"must be provided"*

Page 42, line 13, strike "(9)" and insert *"Subd. 4i. [MEMBERSHIP TABULATION.]"*

Page 42, line 14, before the period, insert *"must be provided"*

Page 43, line 14, strike "(10)" and insert *"Subd. 4j. [ADMINISTRATIVE EXPENSES.]"* and after "expenses" insert *"must be provided"*

Page 43, line 16, strike "(11)" and insert *"Subd. 4k. [PLAN SUMMARY.]"*

Page 43, line 17, before the period, insert *"must be included"*

Page 47, delete lines 8 to 17 and insert:

"Any member of the teachers retirement association who has been employed or is presently employed by an organization designated in Minnesota

Statutes 1984, section 354.41, subdivision 4, may purchase up to ten years of allowable service credit in the teachers retirement association for service rendered to the organization. Service credit for the service rendered shall be credited upon payment in accordance with the methods prescribed in Minnesota Statutes 1980, section 354.41, subdivision 6. Payment shall be made before July 1, 1986, or date of retirement, whichever is earlier."

Page 47, line 21, delete "either"

Page 47, line 22, delete "or" and insert a comma and delete "association" and insert "fund, or the teachers retirement fund"

Page 47, line 28, delete "or" and insert a comma

Page 47, line 29, delete "association" and insert "fund, or the teachers retirement fund"

Page 47, lines 31 and 33, delete "90" and insert "180"

Page 48, after line 15, insert:

"Sec. 50. [ST. PAUL BUREAU OF HEALTH.]

Any employee of the St. Paul bureau of health who exercised an option granted to employees by Laws 1973, chapter 767, section 4, to retire with benefits calculated under Minnesota Statutes 1967, chapter 425, as modified by Laws 1969, chapter 1102, and who retired under the provisions of that bureau of health plan shall be entitled to receive from the public employees retirement association the greater of either the benefit received on the effective date of this section or a revised benefit. The revised benefit shall be computed based on the employee's years of service and high five years average salary as of the employee's actual date of retirement reduced by one-half of one percent for each month that the employee was under age 65 at the time of the retirement. The revised benefit shall include the appropriate increases provided from the post-retirement investment fund."

Page 48, after line 19, insert:

"Sec. 52. [INSTRUCTION TO REVISOR.]

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall in each section referred to in column A, strike the reference referred to in column B and insert the reference set forth in column C:

| column A Minnesota Statutes 1984 | column B Minnesota Statutes 1984 | column C |
|---|--|-------------------------------|
| 3.85, subdivision 12 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 3A.11, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 69.77, subdivision 2, clause (2) | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 69.77, subdivision 2, clause (2), paragraph (b) | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 69.773, subdivision 4 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 69.773, subdivision 4, clause (b), paragraphs (ii), | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| | (iv), and (vi) | |

| | | |
|---------------------------|--|--|
| 352.85, subdivision 6 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 352.86, subdivision 4 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 352B.26, subdivision 3 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354.07, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354.532, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354A.34 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354A.41, subdivision 2 | 356.215, subdivision 4, clause (7) | 356.215, subdivision 4g |
| 356.216 | 356.215, subdivision 4, clause (2) | 356.215, subdivision 4g |
| 356.216 | 356.215, subdivision 4, clause (10) | 356.215, subdivision 4j |
| 356.22 | 356.215, subdivision 4, clause (7) | 356.215, subdivision 4g |
| 356.451, subdivision 1 | 356.215, subdivision 4, clauses (1), (2), (6)(a), and 11 | 356.215, subdivisions 4, 4a, 4b, 4f, and 4k |
| 422A.06, subdivision 5 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 423A.02 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 424A.02, subdivision 7 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d" |

Page 48, line 26, after "24" insert ", 25, 27, 28," and delete "26" and insert "30"

Page 48, line 27, delete "30" and insert "33"

Page 48, line 28, after the period, insert "Section 50 is effective June 30, 1985."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 12, delete the first "subdivision" and insert "subdivisions" and after "2a" insert "and 16"

Page 1, line 12, after the second semicolon, insert "353.271, subdivision 2;"

Page 1, line 13, after the second semicolon, insert "354.05, subdivision 2;"

Mr. Frederickson requested division of the amendment as follows:

First Portion:

Page 6, line 33, after "but" insert "service as determined on a fractional basis"

Page 16, line 35, before the period, insert "

An employee in a position with retirement coverage under the basic pro-

gram in the public employees retirement fund is not entitled to participate in the plan unless the employee leaves the position and begins employment more than 30 days later in a position with retirement coverage under the plan"

Page 17, line 4, after "official" insert "(1)"

Page 17, line 7, after "and" insert "(2)"

Page 18, line 23, delete "and" and after "I" insert ", 354.44, 354.45, 354.48, and 354.60"

Page 18, line 25, delete "or" and insert a comma and after "353.33" insert ", or 354.48"

Page 21, lines 23, 28, and 35, delete "act" and insert "section"

Page 22, lines 1 and 3, delete "act" and insert "section"

Page 22, after line 11, insert:

"Sec. 25. Minnesota Statutes 1984, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Service during years of actual membership in the course of which employee contributions were currently made; periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which he later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(2) Any period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(3) Any period of authorized leave of absence without pay which does not exceed one year, and during or for which a member obtained credit by payments to the fund made in lieu of salary deductions, provided that such payments are made in an amount or amounts based on his average salary on which deductions were paid (a) for the last six months of public service, or (b) that portion of the last six months while he was in public service, to apply to the period in either case immediately preceding commencement of such leave of absence; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion thereof, he shall also, as a condition to the exercise of such election, pay to the fund an amount equivalent to both the required employer and additional employer contributions therefor, such payment to be made currently or within one year from the date the leave of absence terminates, unless the employer by appropriate action of its governing body and made a part of its official records, prior to the date of the first payment of such employee contribution, certifies to the association in writing that it will cause to be paid such employer and additional employer contributions from the proceeds of a tax levy made pursuant to section 353.28. Payments under this clause shall include interest at the rate of six percent per annum from the date of the termination of the leave of absence to the date payment is made.

(4) Any period during which a member is on an authorized sick leave of absence, without pay limited to one year, or an authorized temporary layoff.

(5) Any period during which a member is on an authorized leave of ab-

sence to enter military service, provided that the member returns to public service upon discharge from military service pursuant to section 192.262, and pays into the fund employee contributions based upon his salary at the date of return from military service. After June 30, 1983 payment must be made within five years of the date of discharge from the military service. The amount of these contributions shall be in accord with the contribution rates and salary limitations, if any, in effect during such leave, plus interest thereon at six percent per annum compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, shall be paid by the department employing such member upon his return to public service and the governmental subdivision involved is hereby authorized to appropriate money therefor. Such member shall not receive credit for any voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction or call to active duty.

(6) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, Minnesota Statutes 1984, chapter 401, and transferred into county service under Minnesota Statutes 1984, section 401.04, allowable service means combined years of allowable service as defined in Minnesota Statutes 1984, section 352.01, subdivision 11, and Minnesota Statutes 1984, section 353.01, subdivision 16, paragraphs (1) to (5)."

Page 23, after line 10, insert:

"Sec. 27. Minnesota Statutes 1984, section 353.271, subdivision 2, is amended to read:

Subd. 2. [VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS.]

(1) ~~Effective July 1, 1973,~~ For members retiring, the required reserves determined ~~on a five percent~~ using the post-retirement interest assumption specified in section 356.215, subdivision 4d, shall be transferred to the Minnesota post-retirement investment fund as of the date of retirement.

(2) Annuity payments shall be adjusted in accordance with the provisions of section 11A.18.

(3) Notwithstanding section 356.18, increases in payments pursuant to this section will be made automatically unless the intended recipient files written notice with the public employees retirement association requesting that the increase shall not be made."

Page 24, after line 21, insert:

"Sec. 30. Minnesota Statutes 1984, section 354.05, subdivision 2, is amended to read:

Subd. 2. [TEACHER.] "Teacher" includes any person who renders service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state located outside of the corporate limits of the cities of the first class as those cities were so classified on January 1, 1979, or in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who is engaged in educational administration in connection with the state

public school system, including the state university system and state community college system, but excluding the University of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with the systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association unless the employee is covered by the Minnesota state retirement system by virtue of prior employment by the association, and any nurse, counselor, social worker, therapist or psychologist who renders service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of the combined employment shall be covered by the teachers retirement association. *The term does not include an employee described in section 352D.02, subdivision 1a, clause (9), who is hired after the effective date of this act.* The term does not mean any person who works for a school or institution as an independent contractor. The term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution. The term shall not include any person holding a part time adult supplementary vocational-technical school license who renders part time teaching service in a vocational-technical school if (1) the service is incidental to the regular nonteaching occupation of the person; and (2) the applicable vocational-technical school stipulates annually in advance that the part time teaching service will not exceed 300 hours in a fiscal year; and (3) the part time teaching service actually does not exceed 300 hours in a fiscal year. The term also shall not include a person exempt from licensure pursuant to section 125.031 or any person who was excluded from membership prior to January 1, 1981 pursuant to Laws 1978, chapter 556, section 1 and Laws 1980, chapter 342, section 8, if the person annually certifies on a form prescribed by the executive director that the person has established and is contributing to an individual retirement account which is based on non-teaching employment."

Page 28, line 36, after "6" insert "*or any other physical examinations required by the board. Payment of the disability benefit provided in this subdivision during a period of partial reemployment shall be discontinued if the board finds that the member is no longer totally and permanently disabled*"

Page 36, line 13, strike the colon and insert "*the information required in subdivisions 4a to 4k.*"

Page 36, line 14, strike "(1)" and insert "*Subd. 4a. [NORMAL COST.]*"

Page 36, lines 16 and 17, strike “, computed” and insert “*must be calculated*”

Page 36, line 21, strike “(2)” and insert “*Subd. 4b. [ACCRUED LIABILITY.]*”

Page 36, line 23, after “costs” insert “*must be*”

Page 36, line 25, strike “(3)” and insert “*Subd. 4c. [DEFINED CONTRIBUTION ACCUMULATIONS.]*”

Page 36, line 28, before the period, insert “*must be calculated*”

Page 36, line 32, strike “(4)” and insert “*Subd. 4d. [INTEREST ASSUMPTIONS.]*”

Page 37, lines 1 and 13, before the period, insert “*must be used*”

Page 37, line 14, strike “(5)” and insert “*Subd. 4e. [OTHER ASSUMPTIONS.]*”

Page 37, line 18, strike “and” and insert “*may be utilized. These other assumptions must be*”

Page 37, line 19, strike “(6)” and insert “*Subd. 4f. [ACTUARIAL BALANCE SHEET.]*” and strike “showing” and insert “*must show*”

Page 39, line 18, strike “(7)” and insert “*Subd. 4g. [AMORTIZATION CONTRIBUTIONS.]*”

Page 39, line 20, before the period, insert “*must be calculated*”

Page 41, line 29, strike “(8)” and insert “*Subd. 4h. [ACTUARIAL GAINS AND LOSSES.]*”

Page 41, line 31, before the period, insert “*must be provided*”

Page 42, line 13, strike “(9)” and insert “*Subd. 4i. [MEMBERSHIP TABULATION.]*”

Page 42, line 14, before the period, insert “*must be provided*”

Page 43, line 14, strike “(10)” and insert “*Subd. 4j. [ADMINISTRATIVE EXPENSES.]*” and after “expenses” insert “*must be provided*”

Page 43, line 16, strike “(11)” and insert “*Subd. 4k. [PLAN SUMMARY.]*”

Page 43, line 17, before the period, insert “*must be included*”

Page 47, delete lines 8 to 17 and insert:

“Any member of the teachers retirement association who has been employed or is presently employed by an organization designated in Minnesota Statutes 1984, section 354.41, subdivision 4, may purchase up to ten years of allowable service credit in the teachers retirement association for service rendered to the organization. Service credit for the service rendered shall be credited upon payment in accordance with the methods prescribed in Minnesota Statutes 1980, section 354.41, subdivision 6. Payment shall be made before July 1, 1986, or date of retirement, whichever is earlier.”

Page 47, line 21, delete “either”

Page 47, line 22, delete "or" and insert a comma and delete "association" and insert "fund, or the teachers retirement fund"

Page 47, line 28, delete "or" and insert a comma

Page 47, line 29, delete "association" and insert "fund, or the teachers retirement fund"

Page 47, lines 31 and 33, delete "90" and insert "180"

Page 48, after line 15, insert:

"Sec. 50. [ST. PAUL BUREAU OF HEALTH.]

Any employee of the St. Paul bureau of health who exercised an option granted to employees by Laws 1973, chapter 767, section 4, to retire with benefits calculated under Minnesota Statutes 1967, chapter 425, as modified by Laws 1969, chapter 1102, and who retired under the provisions of that bureau of health plan shall be entitled to receive from the public employees retirement association the greater of either the benefit received on the effective date of this section or a revised benefit. The revised benefit shall be computed based on the employee's years of service and high five years average salary as of the employee's actual date of retirement reduced by one-half of one percent for each month that the employee was under age 65 at the time of the retirement. The revised benefit shall include the appropriate increases provided from the post-retirement investment fund."

Page 48, after line 19, insert:

"Sec. 52. [INSTRUCTION TO REVISOR.]

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall in each section referred to in column A, strike the reference referred to in column B and insert the reference set forth in column C:

| column A Minnesota Statutes 1984 | column B Minnesota Statutes 1984 | column C |
|--|--|-------------------------------|
| 3.85, subdivision 12 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 3A.11, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 69.77, subdivision 2, clause (2) | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 69.77, subdivision 2, clause (2), paragraph (b) | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 69.773, subdivision 4 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 69.773, subdivision 4, clause (b), paragraphs (ii), (iv), and (vi) | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 352.85, subdivision 6 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 352.86, subdivision 4 | 356.215, subdivision 4 | 356.215, subdivisions 4 to 4k |
| 352B.26, subdivision 3 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |

| | | |
|---------------------------|--|--|
| 354.07, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354.532, subdivision 1 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354A.34 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 354A.41, subdivision 2 | 356.215, subdivision 4, clause (7) | 356.215, subdivision 4g |
| 356.216 | 356.215, subdivision 4, clause (2) | 356.215, subdivision 4g |
| 356.216 | 356.215, subdivision 4, clause (10) | 356.215, subdivision 4j |
| 356.22 | 356.215, subdivision 4, clause (7) | 356.215, subdivision 4g |
| 356.451, subdivision 1 | 356.215, subdivision 4, clauses (1), (2), (6)(a), and 11 | 356.215, subdivisions 4, 4a, 4b, 4f, and 4k |
| 422A.06, subdivision 5 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 423A.02 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d |
| 424A.02, subdivision 7 | 356.215, subdivision 4, clause (4) | 356.215, subdivision 4d' |

Page 48, line 26, after "24" insert ", 25, 27, 28," and delete "26" and insert "30"

Page 48, line 27, delete "30" and insert "33"

Page 48, line 28, after the period, insert "Section 50 is effective June 30, 1985."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Second Portion:

Page 12, line 12, after "fund" insert ", the teachers retirement fund,"

Page 14, line 17, after "fund" insert "or the teachers retirement fund, or would have been eligible for coverage under those funds but for this subdivision,"

Page 14, line 18, after "44" insert ", and are eligible for social security coverage under the agreement between the state and the secretary of health and human services"

Page 14, line 21, delete "the fifth and eighth" and insert "all"

Page 14, line 25, after "except" insert "those" and delete "of the transit"

Page 14, line 26, delete "operating division" and insert "covered by an agreement with an exclusive bargaining agent"

Page 14, line 28, after "officers" insert ", except county sheriffs,"

Page 14, line 36, delete "and"

Page 15, line 2, delete the period and insert ", and"

Page 15, after line 2, insert:

“(9) presidents, vice presidents, chancellors, vice chancellors, directors, deans, assistant vice presidents, assistant deans, associate deans, executive assistants, and associate vice chancellors of the state university system.”

Amend the title accordingly

The question was taken on the adoption of the first portion of the amendment.

The motion prevailed. So the first portion of the amendment was adopted.

The question was taken on the adoption of the second portion of the amendment.

The roll was called, and there were yeas 22 and nays 32, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|---------------|----------------|----------------|-----------|
| Chmielewski | Johnson, D.J. | Moe, D.M. | Peterson, R.W. | Wegscheid |
| Dahl | Lessard | Moe, R.D. | Petty | Willet |
| DeCramer | Luther | Nelson | Pogemiller | |
| Dieterich | McQuaid | Pehler | Sieloff | |
| Hughes | Merriam | Peterson, D.C. | Stumpf | |

Those who voted in the negative were:

| | | | | |
|-----------|--------------|---------------|----------------|---------|
| Adkins | Brataas | Gustafson | Kronebusch | Renneke |
| Anderson | Davis | Isackson | Laidig | Storm |
| Belanger | Dicklich | Johnson, D.E. | Novak | Taylor |
| Benson | Frank | Jude | Olson | Vega |
| Berg | Frederick | Kamrath | Peterson, C.C. | |
| Bernhagen | Frederickson | Knaak | Peterson, D.L. | |
| Bertram | Freeman | Kroening | Ramstad | |

The motion did not prevail. So the second portion of the amendment was not adopted.

Mr. Frederickson moved to amend H.F. No. 440, the unofficial engrossment, as follows:

Page 14, lines 4 to 7, reinstate the stricken language

Page 14, lines 10 to 14, reinstate the stricken language and delete the new language

Page 14, line 15, delete the new language

Page 14, delete lines 16 to 36

Page 15, delete lines 1 and 2

Page 15, line 3, delete “*Subd. 1b.*”

Page 15, line 23, reinstate the stricken language and delete the new language

CALL OF THE SENATE

Mr. Moe, D.M. imposed a call of the Senate for the balance of the proceedings on H.F. No. 440. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 38 and nays 26, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|---------------|---------------|----------------|-----------|
| Adkins | Davis | Johnson, D.J. | McQuaid | Renneke |
| Anderson | DeCramer | Jude | Mehrkens | Samuelson |
| Belanger | Dicklich | Kamrath | Novak | Sieloff |
| Benson | Frederick | Knaak | Olson | Storm |
| Berg | Frederickson | Knutson | Peterson, C.C. | Taylor |
| Bernhagen | Gustafson | Kroening | Peterson, D.L. | Vega |
| Bertram | Isackson | Kronebusch | Purfeerst | |
| Brataas | Johnson, D.E. | Laidig | Ramstad | |

Those who voted in the negative were:

| | | | | |
|-------------|----------|----------------|------------|-----------|
| Berglin | Hughes | Moe, D.M. | Petty | Wegscheid |
| Chmielewski | Langseth | Moe, R.D. | Pogemiller | Willet |
| Dahl | Lantry | Nelson | Reichgott | |
| Diessner | Lessard | Pehler | Spear | |
| Frank | Luther | Peterson, D.C. | Stumpf | |
| Freeman | Merriam | Peterson, R.W. | Waldorf | |

The motion prevailed. So the amendment was adopted.

Mr. Peterson, C.C. moved to amend H.F. No. 440, the unofficial engrossment, as follows:

Page 16, line 14, reinstate everything after the period

Page 16, lines 15 to 24, reinstate the stricken language

Page 16, lines 24 to 35, delete the new language

Page 17, after line 13, insert:

"Subd. 6. After the effective date of this act an employee who becomes employed in a position enumerated in subdivision 1 within 30 days after leaving employment in a position with retirement coverage in a covered fund enumerated in section 356.32, subdivision 2, shall have the option to participate in the plan or to remain in the covered fund. The employee must notify the executive director of the state retirement system within 30 days after assuming the new position of the employee's election to maintain membership in the covered fund."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 45 and nays 12, as follows:

Those who voted in the affirmative were:

| | | | | |
|-----------|--------------|---------------|----------------|-----------|
| Adkins | Davis | Johnson, D.E. | Moe, R.D. | Ramstad |
| Anderson | DeCramer | Johnson, D.J. | Nelson | Reichgott |
| Belanger | Dicklich | Jude | Novak | Renneke |
| Benson | Diessner | Kamrath | Olson | Storm |
| Berg | Frederick | Kroening | Pehler | Stumpf |
| Bernhagen | Frederickson | Kronebusch | Peterson, C.C. | Taylor |
| Bertram | Freeman | Lessard | Peterson, D.C. | Vega |
| Brataas | Hughes | Luther | Peterson, D.L. | Waldorf |
| Dahl | Isackson | McQuaid | Pogemiller | Willet |

Those who voted in the negative were:

| | | | | |
|-------------|-----------|-----------|----------------|-----------|
| Chmielewski | Gustafson | Merriam | Peterson, R.W. | Sieloff |
| Dieterich | Knaak | Moe, D.M. | Petty | Wegscheid |
| Frank | Laidig | | | |

The motion prevailed. So the amendment was adopted.

Mr. Sieloff moved to amend H.F. No. 440, the unofficial engrossment, as follows:

Page 3, after line 34, insert:

"Sec. 3. Minnesota Statutes 1984, section 3A.01, subdivision 8, is amended to read:

Subd. 8. [NORMAL RETIREMENT AGE.] "Normal retirement age" means the age of 60 years with regard to any member of the legislature *vested prior to 1981* or whose service terminates prior to the beginning of the 1981 legislative session, and the age of 62 years with regard to any member of the legislature whose service terminates after the beginning of the 1981 session."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 440 was then progressed.

Without objection, the Senate reverted to the Orders of Business of Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports read by the Secretary be now adopted. The motion prevailed.

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

H.F. No. 702: A bill for an act relating to human services; requiring notice to the designated agency in certain proceedings pertaining to persons committed as mentally ill and dangerous; authorizing the commissioner to transfer persons committed as mentally ill and dangerous between regional centers under certain circumstances; amending Minnesota Statutes 1984, sections 253B.14; 253B.18, subdivisions 4b, 5, and 6; and 253B.23, subdivision 7.

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

Delete everything after the enacting clause and insert:

"Section 1. [144A.43] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 1 to 4.

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

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

- (1) nursing services, including the services of a home health aide;*
- (2) personal care services not included under sections 148.171 to 148.299;*
- (3) physical therapy;*
- (4) speech therapy;*

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

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

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

Sec. 2. [144A.44] [HOME CARE BILL OF RIGHTS.]

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

- (1) *the right to receive written information about rights, including what to do if rights are violated;*
- (2) *the right to receive care and services according to a suitable and up-to-date plan, subject to accepted medical and nursing standards, and to take an active part in creating and changing the plan and evaluating care and services;*
- (3) *the right to be told, as part of the doctor's treatment plan, about treatment and services that are being provided or suggested, about other choices that are available, and about the consequences of these choices including the consequences of refusing treatment;*
- (4) *the right to refuse services or treatment;*
- (5) *the right to know, in advance, any limits to the services available from an agency and whether the services are covered by health insurance, medical assistance, or other health programs;*
- (6) *the right to know what the charges are for services, no matter who will be paying the bill;*
- (7) *the right to know that there may be other services available in the community, including other home care services, agencies, and case management services, and to know where to go for information about these services;*
- (8) *the right to choose freely among available agencies and to change agencies after services have begun, within the limits of health insurance,*

medical assistance, or other health programs;

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

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

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

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

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

(14) the right to a smooth transition when there will be a change in the agency which provides the services;

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

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

Subd. 2. [INTERPRETATION AND ENFORCEMENT OF RIGHTS.] These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 1, subdivision 3. A home care agency may not require a person to surrender these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist. The commissioner of health shall establish guidelines for interpretation of these rights.

Sec. 3. [144A.45] [REGULATION OF HOME CARE SERVICES.]

Subdivision 1. [AUTHORITY TO REGULATE.] The commissioner may regulate and control the delivery of home care services in order to protect consumers; assure quality of care; improve access to services; prevent fraud, overcharging and other undesirable practices; promote desirable forms of competition; and control health care costs. The commissioner may:

(1) require home care agencies to furnish relevant information and documentation including information requested for purposes of section 4;

(2) inspect the office and records of an agency during regular business hours;

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

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

(5) take other action the commissioner considers appropriate to accomplish the purposes of sections 1 to 4.

In the exercise of the authority granted in sections 1 to 4, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act. When conducting routine office visits or inspections, the commissioner shall provide at least 48 hours advance notice to the home care agency.

Subd. 2. [LICENSURE.] A home care agency may not operate in the state without a current license issued by the commissioner of health. In addition to

the exemptions listed in subdivision 3, the commissioner may by rule exempt other classes of agencies from licensure requirements. When determining whether to exempt a class of agencies, the commissioner shall consider: (1) the extent to which the agencies, or the individuals who provide services through the agencies, are regulated under another law; (2) the risk to the health, safety, and well-being of the client; and (3) other factors the commissioner considers appropriate. The commissioner may establish different classes of licenses for different types of agencies and may impose different standards and requirements for different kinds of home care services.

Subd. 3. [EXEMPTIONS.] The following agencies are exempt from the requirement to obtain a home care agency license:

(1) a person who is licensed under sections 148.171 to 148.299 and who independently provides nursing services in the home without any contractual or employment relationship to a home care agency or other organization;

(2) a personal care attendant authorized by the commissioner of human services to provide services under the medical assistance program as authorized under section 256B.02, subdivision 8, paragraph (17); and

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

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

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

Subd. 5. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 1 to 4, the commissioner shall not duplicate or replace standards and requirements imposed under another state regulatory program. The commissioner shall not impose additional training or education requirements upon members of a licensed or

registered occupation or profession, except as necessary to address or prevent problems that are unique to the delivery of services in the home or to enforce and protect the rights of consumers listed in section 2. For home care agencies certified under the medicare program, the state standards must not be inconsistent with the medicare standards for medicare services.

Subd. 6. [RULES.] *The commissioner shall, in consultation with representatives of home care agencies, community health service agencies, and consumers, adopt rules to implement sections 1 to 4. The rules shall, to the extent possible, assure the health, safety, well-being, and appropriate treatment of persons who receive home care services.*

Sec. 4. [144A.46] [INFORMATION AND REFERRAL SERVICES.]

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

(1) general information about the range of costs of home care services in the state and a summary of the range of prices charged by specific agencies;

(2) summary information about the number and nature of complaints received about individual agencies;

(3) summary information about consumer evaluations of individual agencies;

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

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

Sec. 5. Minnesota Statutes 1984, section 144A.51, is amended by adding a subdivision to read:

Subd. 7. "Home care agency" means a home care agency as defined in section 1.

Sec. 6. Minnesota Statutes 1984, section 144A.52, subdivision 3, is amended to read:

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

Sec. 7. Minnesota Statutes 1984, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set

forth in subdivision 2, the methods by which complaints against health facilities, health care providers, *home care agencies*, or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that he may not charge a fee for filing a complaint;

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

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

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

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

(f) Issue a correction order pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health care facilities or *home care agencies*, or under section 3;

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

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

(i) Work with administrative agencies, health facilities, *home care agencies*, and health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 8. Minnesota Statutes 1984, section 144A.53, subdivision 2, is amended to read:

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

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

Sec. 9. Minnesota Statutes 1984, section 144A.53, subdivision 3, is amended to read:

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

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

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

Sec. 10. Minnesota Statutes 1984, section 144A.53, subdivision 4, is amended to read:

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

Sec. 11. Minnesota Statutes 1984, section 144A.54, subdivision 1, is amended to read:

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

Sec. 12. [TEMPORARY PROCEDURES.]

Beginning December 1, 1985, no home care agency may provide home care services in this state without a license issued by the commissioner. The commissioner shall, in consultation with representatives of home care agencies, community health service agencies, and consumers, establish temporary licensing procedures and standards under sections 14.29 to 14.36. Notwithstanding section 14.35, emergency rules adopted under this section are effective until December 31, 1986, or until permanent rules are adopted, whichever is earlier. The activities of the commissioner under this section are limited to the following:

- (1) requiring providers to obtain a license;
- (2) collecting information from providers;
- (3) collecting licensing fees; and
- (4) requiring providers to disclose, to clients, information about rights and complaint procedures.

Granting of a license under temporary procedures does not exempt a home care agency from requirements later adopted in permanent rules.

Sec. 13. Minnesota Statutes 1984, section 246.04, is amended to read:

246.04 [BOOKS AND ACCOUNTS.]

The commissioner of human services shall keep at his office a proper and complete system of books and accounts with each institution, showing every expenditure authorized and made therefor. Such books shall contain a separate account of each extraordinary or special appropriation made by the legislature, with every item of expenditure therefrom. *The commissioner shall maintain a separate fund for all chemical dependency appropriations that will provide for an ascertainable review of receipts and expenditures under section 246.18, subdivision 2.*

Sec. 14. Minnesota Statutes 1984, section 246.18, is amended to read:

246.18 [DISPOSAL OF FUNDS.]

Subdivision 1. [GENERALLY.] Except as provided in subdivision 2, every officer and employee of the several institutions under the jurisdiction of the commissioner of human services shall pay to the accounting officer thereof any funds in his hands belonging to the institution. Every accounting officer, at the close of each month or oftener, shall forward to the commissioner of human services a statement of the amount and sources of all moneys received. On receipt of such statement, the commissioner shall transmit the same to the commissioner of finance, who shall deliver to the state treasurer a draft upon the accounting officer for the same specifying the funds to which it is to be credited. Upon payment of such draft, the amount shall be so credited.

Subd. 2. [CHEMICAL DEPENDENCY FUND.] Money received by a chemical dependency treatment facility operated by a hospital or nursing home under the jurisdiction of the commissioner of human services must be deposited in the state treasury and credited to a chemical dependency fund. Money in the chemical dependency fund is appropriated to the commissioner to operate chemical dependency programs.

Subd. 3. [CHEMICAL DEPENDENCY ACCOUNTS.] The commissioner of finance shall provide accounting procedures for separate interest bearing chemical dependency accounts within the chemical dependency fund for each state facility providing chemical dependency services that will allow money to be readily available to finance chemical dependency programs. In fiscal years 1986 and 1987, unspent money in department of human services administrative and salary accounts that is not transferable to the following fiscal year must be transferred to the chemical dependency fund, up to a maximum of \$2,800,000. After June 30, 1989, the commissioner must not allocate money to a state facility for chemical dependency programs in ex-

cess of the amount of deposits of money received by the facility and deposited in the facility's chemical dependency account without the approval of the governor after consultation with the legislative advisory commission. Twenty percent of the money in the chemical dependency fund that was reappropriated from the state hospital account must be transferred to the state hospitals' chemical dependency accounts on a pro rata basis as an advance payment for chemical dependency services to be delivered under chapter 254B.

Sec. 15. Minnesota Statutes 1984, section 246.23, is amended to read:

246.23 [PERSONS ADMISSIBLE TO INSTITUTIONS.]

No person who has not a settlement in a county, as defined in section 256D.18, shall be admitted to a hospital for the mentally ill, the school for the deaf, the Minnesota braille and sightsaving school, the schools and hospitals for the mentally retarded and persons having epilepsy, or the Owatonna state school, except that the commissioner of human services may authorize admission thereto when the residence cannot be ascertained, or when the circumstances in his judgment make it advisable. *Except for emergency admissions under sections 253B.05 and 253B.11, or when authorized by the commissioner, a chemical dependency program must not admit a chemically dependent person unless the cost of services will be paid for by private money or nongovernmental third-party payments, the person has been placed by a county that is responsible for payment, or the hospital obtains approval of the admission from the county financially responsible for the person. The commissioner shall maintain and enhance cooperative and effective relationships between counties and state hospitals and between the various state hospital chemical dependency programs. In carrying out this responsibility the commissioner shall maintain a regionally based system of chemical dependency programs.* When application is made to a judge of probate for admission to any of the institutions above named for admission thereto, if he finds that the person for whom application is made has not such residence, or that his residence cannot be ascertained, he shall so report to the commissioner; and he may recommend that such person be admitted notwithstanding, giving his reasons therefor. The commissioner of human services shall thereupon investigate the question of residence and, if he finds that such person has not such residence and has a legal residence in another state or country, he may cause him to be returned thereto at the expense of this state. When the overseer of a county poorhouse believes an inmate thereof not to have a residence in the state, but to have a residence elsewhere, he shall so notify the commissioner of human services who shall thereupon proceed in the manner above provided; except that, if deemed impracticable to return such person to the state of his residence, he may so certify and such person shall thereafter be a charge upon the county, town or city in which he has longest resided within the preceding year.

Sec. 16. Minnesota Statutes 1984, section 246.50, is amended by adding a subdivision to read:

Subd. 9. "Chemical dependency programs" means all planned services for chemically dependent persons provided by the commissioner in a specific state hospital, the chemical dependency unit operated by the Ah-Gwah-Ching nursing home, and diagnostic evaluation, prevention, referral, out-

patient, or aftercare services developed as part of licensed residential or nonresidential chemical dependency treatment programs.

Sec. 17. Minnesota Statutes 1984, section 246.51, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURES.] The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient is able to pay. If the patient is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient or relatives or both shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient or relatives, both, liable for the full ~~per capita~~ cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a state hospital after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, *except for chemical dependency receipts*, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Sec. 18. Minnesota Statutes 1984, section 246.54, is amended to read:

246.54 [LIABILITY OF COUNTY; REIMBURSEMENT.]

Except for chemical dependency services provided under chapter 254B, the patient's county shall pay to the state of Minnesota a portion of the cost of care provided in a state hospital to a patient legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall be paid as follows: payments to the state from the county shall equal ten percent of the per capita rate, as determined by the commissioner, for each day, or the portion thereof, that the patient spends at a state hospital. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the per capita rate, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient, the patient's estate, or from the patient's relatives, except as provided in section 246.53. No such payments shall be made for any patient who was last committed prior to July 1, 1947.

Sec. 19. [246.64] [CHEMICAL DEPENDENCY SERVICE AGREEMENTS.]

Subdivision 1. [CHEMICAL DEPENDENCY RATES.] *Notwithstanding sections 246.50, subdivision 5; 246.511; and 251.011; the commissioner shall establish separate rates for each chemical dependency service operated by the commissioner and may establish separate rates for each service component within the program by establishing fees for services or different per diem rates for each separate chemical dependency unit within the program based on actual costs attributable to the service or unit. The rate must allocate the cost of all anticipated maintenance, treatment, and expenses including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements for chemical dependency programs,*

reimbursement and other indirect costs related to the operation of chemical dependency programs other than that paid from the Minnesota state building fund, and losses due to bad debt. The rate must not include allocations of chaplaincy, patient advocacy, or quality assurance costs that are not required for chemical dependency licensure by the commissioner or certification for chemical dependency by the Joint Commission on Accreditation of Hospitals. Notwithstanding any other law, the commissioner shall treat these costs as nonhospital department expenses.

Subd. 2. [DEPRECIATION COLLECTIONS.] In fiscal year 1987, depreciation and principal and interest on bonded debt must be credited to the medical assistance account. Beginning July 1, 1987, depreciation collected under subdivision 1 must be credited to the general fund and principal and interest on the bonded debt collected under subdivision 1 must be credited to the state bond fund.

Subd. 3. [RESPONSIBILITIES OF COMMISSIONER.] The commissioner shall credit all receipts from billings for rates set in subdivision 1, except those credited according to subdivision 2, to the chemical dependency fund. This money must not be used for a hospital activity that is not a chemical dependency service or an allocation of expenditures that are included in the base for computation of the rates under subdivision 1. The commissioner may expand chemical dependency services so long as expenditures are recovered by patient fees. The commissioner may expand or reduce chemical dependency staff complement as long as expenditures are recovered by patient fees. Notwithstanding chapters 176 and 268, the commissioner shall provide for the self-insurance of state hospital chemical dependency programs for the costs of unemployment compensation and workers' compensation claims. The commissioner shall provide a biennial report to the chairs of the senate finance subcommittee on health and human services, the house of representatives health and human services division of appropriations, and the senate and house of representatives health and human services committees.

Sec. 20. Minnesota Statutes 1984, section 252.291, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] The commissioner of human services in coordination with the commissioner of health may approve a new intermediate care facility for mentally retarded persons only in the following circumstances:

(a) when the facility is developed in accordance with a request for proposal system established pursuant to subdivision 3, clause (b);

(b) when the facility, and is necessary to serve the needs of identifiable mentally retarded persons who are seriously behaviorally disordered or who are physically or sensorily impaired; or

(c) (b) to license beds in new facilities where need was determined by the commissioner prior to June 10, 1983.

Sec. 21. Minnesota Statutes 1984, section 252.291, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF COMMISSIONER OF HUMAN SERVICES.]

The commissioner shall:

(a) establish *and enforce* standard admission criteria for state hospitals and county utilization targets to limit and reduce the number of intermediate care beds in state hospitals and community facilities in accordance with approved waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, 1982, to assure that appropriate services are provided in the least restrictive setting;

(b) provide technical assistance so that county boards may establish a request for proposal system for meeting individual service plan objectives through home and community-based services; alternative community services; or, if no other alternative will meet the needs of identifiable individuals for whom the county is financially responsible, a new intermediate care facility for mentally retarded persons; and

(c) establish a client tracking and evaluation system as required under applicable federal waiver regulations, Code of Federal Regulations, title 42, sections 431, 435, 440, and 441, as amended through December 31, 1982.

(d) develop a state plan for the delivery and funding of residential day and support services to the mentally retarded in Minnesota and submit that plan to the clerk of each house of the Minnesota legislature on or before the 15th of January of each biennium beginning January 15, 1985. The biennial mental retardation plan shall include but not be limited to:

- (1) county by county maximum intermediate care bed utilization quotas;
- (2) plans for the development of the number and types of services alternative to intermediate care beds;
- (3) procedures for the administration and management of the plan;
- (4) procedures for the evaluation of the implementation of the plan; and
- (5) the number, type, and location of intermediate care beds targeted for decertification.

The commissioner shall modify the plan to ensure conformance with the medical assistance home and community-based services waiver.

Sec. 22. Minnesota Statutes 1984, section 252.32, is amended to read:

252.32 [FAMILY SUBSIDY SUPPORT PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED; APPLICATION.] Within the limits of appropriations, the commissioner of human services may provide subsidies to families with mentally retarded children in order to enable those families to continue caring for the children in their own homes. The commissioner may establish criteria for determining eligibility for a subsidy and subsidy amounts and conditions for use of subsidies the commissioner of human services shall establish a program to provide subsidies to families to enable them to care for their dependents with handicaps in their own homes. This program is limited to families with dependents under the age of 22 who have mental retardation or a related condition and otherwise would require or be eligible for placement in a licensed residential facility under section 245.782, subdivision 6. Applications for the subsidy must be made by the county social service agency to the department of human services. The ap-

plication must specify the needs of the family and how the subsidy will be used.

Subd. 2. [INDIVIDUAL SERVICE PLAN.] An individual service plan for the dependent must be developed by the county social service agency and agreed to by the parents. A transitional plan must be developed for the dependent when the dependent turns age 17 in order to assure an orderly transition to other services when the family terminates services under this program.

Subd. 3. [SUBSIDY AMOUNT; USE.] Subsidy amounts must be determined by the commissioner of human services. The subsidy may be used to cover the costs of special equipment, special clothing or diets, related transportation, therapy, medications, respite care, medical care, diagnostic assessments, modifications to a home or vehicle, and other services or items that assist the family and dependent. The maximum monthly amount is \$250, except that a variance may be granted by the commissioner for special or emergency circumstances.

Sec. 23. Minnesota Statutes 1984, section 253B.14, is amended to read:

253B.14 [TRANSFER OF COMMITTED PERSONS.]

The commissioner may transfer any committed person, other than a person committed as mentally ill and dangerous to the public, from one regional center to any other institution under his jurisdiction which is capable of providing proper care and treatment. *A person committed as mentally ill and dangerous may be transferred out of the Minnesota Security Hospital and between treatment facilities under section 253B.18, subdivision 6.* When a committed person is transferred from one treatment facility to another, written notice shall be given to the committing court and to his parent or spouse or, if none is known, to an interested person, and the designated agency.

Sec. 24. Minnesota Statutes 1984, section 253B.18, subdivision 4b, is amended to read:

Subd. 4b. [PASS-ELIGIBLE STATUS; NOTIFICATION.] The following patients committed to the Minnesota security hospital shall not be placed on pass-eligible status unless that status has been approved by the medical director of the Minnesota security hospital:

(a) a patient who has been committed as mentally ill and dangerous and who

(1) was found incompetent to proceed to trial for a felony or was found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

(2) was convicted of a felony immediately prior to or during his commitment as mentally ill and dangerous; or

(3) is subject to a commitment to the commissioner of corrections; and

(b) a patient who has been committed as a psychopathic personality, as defined in section 526.09.

At least ten days prior to a determination on the status, the medical director shall notify *the designated agency*, the committing court, the county attorney

of the county of commitment, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

Sec. 25. Minnesota Statutes 1984, section 253B.18, subdivision 5, is amended to read:

Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.] A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. The special review board shall hold a hearing on each petition prior to making any recommendation. Within 45 days of the filing of the petition, *the designated agency*, the committing court, the county attorney of the county of commitment, an interested person, the petitioner and his counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The commissioner shall issue his order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is issued. No order by the commissioner shall be effective sooner than 15 days after it is issued.

Sec. 26. Minnesota Statutes 1984, section 253B.18, subdivision 6, is amended to read:

Subd. 6. [TRANSFER.] (a) Persons who have been found by the committing court to be mentally ill and dangerous to the public shall not be transferred out of the Minnesota Security Hospital unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to other regional centers under the commissioner's control. In those instances where a commitment also exists to the department of corrections, transfer may be to a facility designated by the commissioner of corrections. *The commissioner, at his or her discretion, may transfer any person committed as mentally ill and dangerous from a regional center to the Minnesota Security Hospital or between regional centers.*

The following factors are to be considered in determining whether a transfer is appropriate:

- (i) the person's clinical progress and present treatment needs;
- (ii) the need for security to accomplish continuing treatment;
- (iii) the need for continued institutionalization;

(iv) which facility can best meet the person's needs; and

(v) whether transfer can be accomplished with a reasonable degree of safety for the public.

Sec. 27. Minnesota Statutes 1984, section 253B.23, subdivision 7, is amended to read:

Subd. 7. [APPEAL.] The commissioner or any other aggrieved party may appeal to the court of appeals from any order entered under this chapter as in other civil cases.

Upon perfection of the appeal, the return shall be filed forthwith. *Except for an appeal heard under section 253B.19*, the court of appeals shall hear the appeal within 45 days after service of the notice of appeal. This appeal shall not suspend the operation of the order appealed from until the appeal is determined, unless otherwise ordered by the court of appeals.

Sec. 28. [254B.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 28 to 36.*

Subd. 2. [AMERICAN INDIAN.] *For purposes of services provided under section 36, subdivision 7, "American Indian" means a person who is a member of an Indian tribe, and the commissioner shall use the definitions of "Indian" and "Indian tribe" and "Indian organization" provided in Public Law Number 93-638. For purposes of services provided under section 36, subdivision 4, "American Indian" means a resident of federally recognized tribal lands who is recognized as an Indian person by the federally recognized tribal governing body.*

Subd. 3. [CHEMICAL DEPENDENCY SERVICES.] *"Chemical dependency services" means a planned program of care for the treatment of chemical dependency or chemical abuse to minimize or prevent further chemical abuse by the person. Diagnostic, evaluation, prevention, referral, detoxification, and aftercare services that are not part of a program of care licensable as a residential or nonresidential chemical dependency treatment program are not chemical dependency services for purposes of this section.*

Subd. 4. [COMMISSIONER.] *Unless otherwise indicated, "commissioner" means the commissioner of human services.*

Subd. 5. [LOCAL AGENCY.] *"Local agency" means the agency designated by a board of county commissioners or a human services board to make placements and submit state invoices according to sections 28 to 36.*

Subd. 6. [LOCAL MONEY.] *"Local money" means county levies, community social services block grants, federal social services money, or other money that may be spent at county discretion to provide chemical dependency services eligible for payment according to sections 28 to 36.*

Sec. 29. [254B.02] [CHEMICAL DEPENDENCY ALLOCATION PROCESS.]

Subdivision 1. [CHEMICAL DEPENDENCY TREATMENT ALLOCATION.] *The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a*

previous allocation. Ten percent of the money must be set aside as a reserve account for county payment under subdivision 3. Twelve percent of the money must be reserved for treatment of American Indians by eligible vendors under section 36. The remainder of the money must be allocated among the counties according to the following formula, using the most recent data available from the state demographer:

(a) The average of the median income of the state for the last three years for which data is available must be divided by the average median income of each county for the last three years for which data is available, to determine the income factor for the county.

(b) The income factor must be multiplied by the population of the county less the population of American Indians in the county, to determine the adjusted population.

(c) The adjusted population of the county must be divided by the sum of all county adjusted populations to determine the allocation rate.

(d) The allocation rate must be multiplied by the remainder of the money after set-asides to determine the allocation to each county.

Subd. 2. [COUNTY ADJUSTMENT; MAXIMUM ALLOCATION.] The commissioner shall determine the state money used by each county in fiscal year 1985, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1987, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county for chemical dependency treatment services eligible for payment under section 32. The allocation maximums must be increased by 25 percent each year. After fiscal year 1991, there must be no allocation maximum. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1985 state money, using the following process:

(a) The allocation is divided by 1985 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure.

(b) The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.

(c) The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.

Subd. 3. [RESERVE ACCOUNT.] The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1987 as the amount of local money used for eligible services in calendar year 1985. In later years, the base level must be increased in the same proportion as state appropriations to implement sections 28 to 36 are increased. The base level must not be decreased if appro-

priations are decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2. A county must not receive more than 30 percent of the total reserve account that is available at the beginning of the fiscal year. The commissioner shall allocate 50 percent of the reserve fund to counties in proportion to the county treatment allocation. The money reserved for a county and other reserve funds under this section may be paid as invoices are received. During the last quarter of the fiscal year, the commissioner may reallocate reserve funds that will otherwise be unused to make payments for invoices from counties that are eligible for payments under this subdivision.

Subd. 4. [ALLOCATION SPENDING LIMITS.] Money allocated according to subdivision 1 and section 36, subdivision 3, is available for payments for up to two years. The commissioner shall deduct payments from the most recent year allocation in which money is available. Allocations under this section that are not used within two years must be reallocated to the reserve account for payments according to subdivision 3. Allocations under section 36, subdivision 3, that are not used within two years must be reallocated for payments under section 36, subdivision 4.

Subd. 5. [ADMINISTRATIVE ADJUSTMENT.] The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 30 and 31. The administrative payment must not exceed three percent of the county allocation and must not be paid if the level of expenditures indicates that the allocation for the year will be exhausted by payments for services from the allocation. The payment must be made under this section at the end of each quarter from any unspent allocation for that year.

Sec. 30. [254B.03] [RESPONSIBILITY TO PROVIDE CHEMICAL DEPENDENCY TREATMENT.]

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical care. A local agency must not provide direct chemical dependency services, as defined in section 28, subdivision 3, as a vendor. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate.

Subd. 2. [CHEMICAL DEPENDENCY SERVICES.] (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of a licensed hospital and federally

recognized tribal lands, would be required to be licensed by the commissioner as a residential or nonresidential treatment program under sections 245.781 to 245.812. Vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made.

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

Subd. 3. [LOCAL AGENCIES TO PAY STATE FOR COUNTY SHARE.] Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner. Local agencies shall pay the state for the county share of the invoiced services.

Subd. 4. [DIVISION OF COSTS.] The county shall out of local money reimburse the state for 15 percent of the cost of chemical dependency services costs paid by the state under this section. Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay must be distributed to the county that paid for the treatment under this section.

Subd. 5. [RULES.] The commissioner shall adopt rules as necessary to implement sections 28 to 36.

Sec. 31. [254B.04] [ELIGIBILITY FOR CHEMICAL DEPENDENCY FUND SERVICES.]

Subdivision 1. [ELIGIBILITY.] Persons eligible for benefits under sections 256D.01 to 256D.21 and persons eligible for federal health care benefits under section 256B.06 are entitled to chemical dependency fund services.

Subd. 2. [AMOUNT OF CONTRIBUTION.] The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income and nonexempt property are greater than the standard of assistance under sections 256B.06 and 256D.01 to 256D.21. The commissioner may adopt an existing fee scale from another assistance program or from the state facilities by publication in the state register. The fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.06 and 256D.01 to 256D.21.

Sec. 32. [254B.05] [VENDOR ELIGIBILITY.]

Programs licensed by the commissioner are eligible vendors. Hospital and American Indian programs that, if located outside of a licensed hospital or outside of federally recognized tribal lands, would be required to be licensed to provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, are eligible vendors. Detoxification programs are not eligible vendors. Programs that, if located outside of a hospital and outside of federally recognized tribal lands, would not be licensed as a chemical dependency residential or nonresidential treatment program under sections 245.781 to 245.812 are not eligible vendors.

Sec. 33. [254B.06] [REIMBURSEMENT; PAYMENT; DENIAL.]

Subdivision 1. [STATE COLLECTIONS.] The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under sections 28 to 36. The commissioner may collect all third-party payments for chemical dependency services provided under sections 28 to 36, including private insurance and federal medicaid and medicare financial participation. The commissioner shall credit to the general fund a percentage of collections to pay for the cost of billing and collections. The remaining receipts must be credited to the chemical dependency fund.

Subd. 2. [ALLOCATION OF COLLECTIONS.] The commissioner shall allocate all federal financial participation collections to counties under section 29, subdivision 1. Section 29, subdivision 2, must not be applied to the quarterly allocation of federal money. The commissioner shall retain 85 percent of patient payments and third-party payments and allocate the collections to the treatment allocation for the county that is financially responsible for the person. Fifteen percent of patient and third-party payments must be paid to the county financially responsible for the patient.

Subd. 3. [PAYMENT; DENIAL.] The commissioner shall pay eligible vendors for placements made by local agencies under section 30, subdivision 1, and placements by tribal designated agencies according to section 36. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner.

Sec. 34. [254B.07] [THIRD-PARTY LIABILITY.]

The state agency provision and payment of, or liability for, chemical dependency medical care is the same as in section 256B.042.

Sec. 35. [254B.08] [FEDERAL WAIVERS.]

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the cost of chemical dependency services that

would have been provided without the waived services.

Sec. 36. [254B.09] [INDIAN RESERVATION ALLOCATION OF CHEMICAL DEPENDENCY FUND.]

Subdivision 1. [AMERICAN INDIAN CHEMICAL DEPENDENCY ACCOUNT.] *The commissioner shall pay eligible vendors for chemical dependency services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body on behalf of a current resident of the reservation under this section.*

Subd. 2. [AMERICAN INDIAN AGREEMENTS.] *The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under sections 28 to 36. The agreements must require the governing body of the tribal unit to fulfill all county responsibilities regarding the form and manner of invoicing, and provide that only invoices for eligible vendors according to section 32 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivision 3 is used.*

Subd. 3. [TRIBAL NONPARTICIPATION.] *If a federally recognized tribal governing body has not entered into an agreement under subdivision 2 or cancels the agreement, money must be reallocated to the account established by subdivision 5.*

Subd. 4. [TRIBAL ALLOCATION.] *42.5 percent of the American Indian chemical dependency account must be allocated to the federally recognized American Indian tribal governing bodies that have entered into an agreement under subdivision 2 as follows: \$10,000 must be allocated to each governing body and the remainder must be allocated in direct proportion to the population of the reservation according to the most recently available estimates from the federal Bureau of Indian Affairs.*

Subd. 5. [TRIBAL RESERVE ACCOUNT.] *The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2. An American Indian tribal governing body may receive not more than 30 percent of the reserve account in a year. Money must be allocated as invoices are received.*

Subd. 6. [AMERICAN INDIAN TRIBAL PLACEMENTS.] *After entering into an agreement under subdivision 2, the governing authority of each reservation may submit invoices to the state for the cost of providing chemical dependency services to residents of the reservation according to the placement regulations governing county placements, except that local match requirements are waived. The governing body may designate an agency to act on its behalf to provide placement services and manage invoices by written notice to the commissioner and evidence of agreement by the agency designated.*

Subd. 7. [NONRESERVATION INDIAN ACCOUNT.] *Fifty percent of the American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must*

be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client.

Sec. 37. Minnesota Statutes 1984, section 256B.02, subdivision 8, is amended to read:

Subd. 8. [MEDICAL ASSISTANCE; MEDICAL CARE.] "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of this cost:

(1) Inpatient hospital services. A second medical opinion is required prior to reimbursement for elective surgeries. The commissioner shall publish in the State Register a proposed list of elective surgeries that require a second medical opinion prior to reimbursement. The list is not subject to the requirements of sections 14.01 to 14.70. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal;

(2) Skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 256B.50, subdivision 1, for mentally retarded individuals residing in intermediate care facilities for the mentally retarded;

(3) Physicians' services;

(4) Outpatient hospital or nonprofit community health clinic services or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, one of whom is on the premises whenever the clinic is open, and all services shall be provided under the direct supervision of the physician who is on the premises. Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section;

(5) Community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2;

(6) Home health care services;

(7) Private duty nursing services;

- (8) Physical therapy and related services;
- (9) Dental services, excluding cast metal restorations;
- (10) Laboratory and xray services;

(11) The following if prescribed by a licensed practitioner: drugs, eye-glasses, dentures, and prosthetic devices. The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The commissioner shall appoint the formulary committee members no later than 30 days following July 1, 1981. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two year terms and shall serve without compensation. The commissioner may establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the formulary committee shall review and comment on the formulary contents. Prior authorization may be required by the commissioner, with the consent of the drug formulary committee, before certain formulary drugs are eligible for payment. The formulary shall not include: drugs or products for which there is no federal funding; over the counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, prenatal vitamins, and vitamins for children under the age of seven; or any other over the counter drug identified by the commissioner, in consultation with the appropriate professional consultants under contract with or employed by the state agency, as necessary, appropriate and cost effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14, the Administrative Procedure Act; nutritional products, except for those products needed for treatment of phenylketonuria, hyperlysinemia, maple syrup urine disease, a combined allergy to human milk, cow milk, and soy formula, or any other childhood or adult diseases, conditions, or disorders identified by the commissioner as requiring a similarly necessary nutritional product; anorectics; and drugs for which medical value has not been established. Separate payment shall not be made for nutritional products for residents of long-term care facilities; payment for dietary requirements is a component of the per diem rate paid to these facilities. Payment to drug vendors shall not be modified before the formulary is established except that the commissioner shall not permit payment for any drugs which may not by law be included in the formulary, and his determination shall not be subject to chapter 14, the Administrative Procedure Act. The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

The basis for determining the amount of payment shall be the actual acquisition costs of the drugs plus a fixed dispensing fee established by the

commissioner. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Establishment of this fee shall not be subject to the requirements of the Administrative Procedure Act. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written" on the prescription as required by section 151.21, subdivision 2.

Notwithstanding the above provisions, implementation of any change in the fixed dispensing fee which has not been subject to the Administrative Procedure Act shall be limited to not more than 180 days, unless, during that time, the commissioner shall have initiated rulemaking through the Administrative Procedure Act;

(12) Diagnostic, screening, and preventive services;

(13) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act;

(14) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion;

(15) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by nonambulatory persons in obtaining emergency or nonemergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory;

(16) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining nonemergency medical care;

(17) Personal care attendant services provided by an individual, not a relative, who is qualified to provide the services, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. Payments to personal care attendants shall be adjusted annually to reflect changes in the cost of living or of providing services by the average annual adjustment granted to vendors such as nursing

homes and home health agencies; and

(18) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law, *except licensed chemical dependency treatment programs or primary treatment or extended care treatment units in hospitals that are covered under sections 28 to 36. The commissioner shall include chemical dependency services in the state medical assistance plan for federal reporting purposes, but payment must be made under sections 28 to 36.*

Sec. 38. Minnesota Statutes 1984, section 256B.091, subdivision 8, is amended to read:

Subd. 8. [ALTERNATIVE CARE GRANTS.] The commissioner shall provide grants to counties participating in the program to pay costs of providing alternative care to individuals screened under subdivision 4. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home admission if alternative care were not available; (2) who are receiving medical assistance ~~or who would be eligible for medical assistance within 180 days of admission to a nursing home~~; and (3) who need services that are not available at that time in the county through other public assistance.

Grants may be used for payment of costs of providing services such as, but not limited to, foster care for elderly persons, day care whether or not offered through a nursing home, nutritional counseling, or medical social services, which services are provided by a licensed health care provider, a home health service eligible for reimbursement under Titles XVIII and XIX of the federal Social Security Act, or by persons employed by or contracted with by the county board or the local welfare agency. The county agency shall ensure that a plan of care is established for each individual in accordance with subdivision 3, clause (e)(2). The plan shall include any services prescribed by the individual's attending physician as necessary and follow up services as necessary. The county agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program and shall provide documentation in each individual's plan of care that the most cost effective alternatives available have been offered to the individual. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The commissioner shall establish a sliding fee schedule for requiring payment for the cost of providing services under this subdivision to persons who are eligible for the services but who are not yet eligible for medical assistance. The sliding fee schedule is not subject to chapter 14 but the commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final form.

The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. The commissioner shall provide grants to counties from the nonfederal share, unless the commissioner obtains a federal waiver for medical assistance payments, of medical assistance appropriations. A county agency may use grant money to supplement but not supplant services available through other public assis-

tance or service programs and shall not use grant money to establish new programs for which public money is available through sources other than grants provided under this subdivision. A county agency shall not use grant money to provide care under this subdivision to an individual if the anticipated cost of providing this care would exceed the average payment, as determined by the commissioner, for the level of nursing home care that the recipient would receive if placed in a nursing home. The nonfederal share may be used to pay up to 90 percent of the start-up and service delivery costs of providing care under this subdivision. Each county agency that receives a grant shall pay ten percent of the costs.

The commissioner shall promulgate emergency rules in accordance with sections 14.29 to 14.36, to establish required documentation and reporting of care delivered.

Sec. 39. Minnesota Statutes 1984, section 256B.092, is amended by adding a subdivision to read:

Subd. 1a. SCREENING.] At the time of the client's annual review, the county shall use a uniform screening tool specified by the commissioner to report the client's social, habilitative, developmental, and medical needs.

Sec. 40. Minnesota Statutes 1984, section 256B.092, subdivision 3, is amended to read:

Subd. 3. [TERMINATION OF SERVICES.] County agency case managers, under rules of the commissioner, shall authorize and terminate services of community and state hospital providers in accordance with individual service plans. Medical assistance services not needed shall not be authorized by county agencies nor funded by the commissioner.

The county agencies shall not authorize, nor shall the commissioner provide medical assistance funding for, services in an intermediate care facility for the mentally retarded unless an individual assessment of service needs documents that:

- (1) the person has mental retardation;*
- (2) the person requires 24-hour supervision and active treatment for medical, behavioral, or habilitation needs; and*
- (3) less restrictive or less costly services appropriate to the client's needs cannot be made available to meet the person's assessed service needs.*

The commissioner may determine whether medical assistance funding should continue to be authorized for services to an individual in an intermediate care facility for the mentally retarded. The determination must be based on the review of the individual service plan and on the findings of the Minnesota department of health quality assurance and review survey and other information that the commissioner may request.

Sec. 41. Minnesota Statutes 1984, section 256B.092, subdivision 7, is amended to read:

Subd. 7. [SCREENING TEAMS ESTABLISHED.] Each county agency shall establish a screening team which, under the direction of the county case manager, shall make an evaluation of need for home and community-based services of persons who ~~are entitled to require~~ the level of care provided by

an intermediate care facility for mentally retarded persons, *an intermediate care facility, or a skilled nursing facility* or for whom there is a reasonable indication that they might need the services in the near future. The screening team shall make an evaluation of need within 15 working days of the request for service after a person's individual service plan indicates that the person is in need of or may be at risk of placement in an intermediate care facility for the mentally retarded, intermediate care facility, or a skilled nursing facility and within five working days of an emergency admission of an individual to an intermediate care facility for mentally retarded persons, intermediate care facility, or a skilled nursing facility. The screening team shall consist of the case manager, the client, a parent or guardian as appropriate to the client's legal status, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, 1982, assigned by the commissioner. A qualified mental retardation professional is not required for persons being discharged from one community intermediate care facility for mentally retarded persons to another if the admitting facility is less restrictive and less costly. The case manager shall consult with the client's physician or other persons as necessary to make this evaluation. Other persons may be invited to attend meetings of the screening team. No member of the screening team shall have any direct or indirect service provider interest in the case.

Sec. 42. [256B.095] [COMMUNITY CARE INCENTIVE GRANTS.]

Subdivision 1. [GRANTS FOR ELDERLY SERVICES.] To the extent of appropriations specifically designated for this purpose, the commissioner shall provide grants to counties for community services for the elderly. Grants must be allocated according to the formula used for alternative care grants under section 256B.091, subdivision 8. Grants must be used to provide services to the elderly as part of the annual plan required under section 393.07, subdivision 2a. The county agency may use grant money to supplement services available through other public assistance or service programs but must not use grant money to replace services available through other programs or to establish new programs for which public money is available through sources other than grants provided under this section. Grant money received under this section must not be used for services for persons who are receiving alternative care grant services under section 256B.091, subdivision 8.

Subd. 2. [SLIDING FEE SCHEDULE; EXEMPT RULES.] The commissioner shall establish a sliding fee schedule for requiring payment of the cost of providing services under this section to persons who are eligible for the services but who are not eligible for medical assistance. For purposes of establishing the sliding fee schedule and later amendments to it, the commissioner is exempt from the rulemaking provisions of chapter 14, except section 14.38, subdivision 7. The commissioner shall publish the sliding fee schedule and any later amendments in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the sliding fee schedule in final form.

Subd. 3. [RULEMAKING.] The commissioner shall adopt permanent rules concerning the grant program.

Sec. 43. Minnesota Statutes 1984, section 256B.19, subdivision 1, is

amended to read:

Subdivision 1. [DIVISION OF COST.] The cost of medical assistance paid by each county of financial responsibility shall be borne as follows: Payments shall be made by the state to the county for that portion of medical assistance paid by the federal government and the state on or before the 20th day of each month for the succeeding month upon requisition from the county showing the amount required for the succeeding month. Ninety percent of the expense of assistance not paid by federal funds available for that purpose shall be paid by the state and ten percent shall be paid by the county of financial responsibility, for the following medical assistance expenses:

(1) medical assistance expenses for all services except skilled nursing facility, intermediate care facility I, and intermediate care facility II care;

(2) medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care for persons who were admitted to a nursing home before July 1, 1985, but did not become eligible for medical assistance until after that date; and

(3) medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care for persons who were admitted to a nursing home in this state as a resident of another state and later became eligible for medical assistance as a Minnesota resident.

For all other medical assistance expenses for skilled nursing facility, intermediate care facility I, and intermediate care facility II care, payments must be made as follows:

(a) Seventy-five percent of the expense of assistance not paid by federal money available for that purpose must be paid by the state and 25 percent must be paid by the county of financial responsibility.

(b) The state shall pay to the county an additional amount equal to 15 percent of the nonfederal share of the average monthly medical assistance expense for skilled nursing facility, intermediate care facility I, and intermediate care facility II care incurred by that county during the fiscal year ending June 30, 1984, adjusted for inflation, as an incentive to the county to use noninstitutional long-term care services. This incentive payment must be made on or before the 20th day of each month for the succeeding month. Incentive payments received by a county under this paragraph must be used for nursing home care or alternative community services for the elderly. As a condition of receiving incentive payments, the county must not decrease county support of services to the elderly below the level of support that existed on January 1, 1985, according to criteria established by the commissioner of human services. The commissioner of human services may establish a separate account or fund to facilitate the payments.

For counties where health maintenance organizations are under contract to the state to provide services to medical assistance recipients, the division of the nonfederal share of medical assistance expenses for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

State contracts with health maintenance organizations shall assure medical

assistance recipients of at least the comprehensive health maintenance services defined in section 62D.02, subdivision 7. The contracts shall require health maintenance organizations to provide information to the commissioner concerning the number of people receiving services, the number of encounters, the type of services received, evidence of an operational quality assurance program pursuant to section 62D.04 and information about utilization.

Persons who become eligible for medical assistance after July 1, 1984, who are not participating in any Medicaid demonstration project as defined under sections 256B.70 and 256B.71, and who choose at the time of application for assistance to receive services from a health maintenance organization, shall be guaranteed six months of coverage by a state contracted health maintenance organization if the recipient remains in the health maintenance organization from the time of initial enrollment. The continued eligibility guarantee shall not be granted when ineligibility for medical assistance is due to death, loss of state or county residency, failure to respond to the county's efforts to contact the recipient, failure to locate the recipient, or when the recipient is eligible for continued eligibility as defined in section 256B.062.

Sec. 44. Minnesota Statutes 1984, section 256B.501, subdivision 8, is amended to read:

Subd. 8. [PAYMENT FOR PERSONS WITH SPECIAL NEEDS.] The commissioner shall establish by December 31, 1983, procedures to be followed by the counties to seek authorization from the commissioner for medical assistance reimbursement for ~~waivered services or~~ training and habilitation services for very dependent persons with special needs in an amount in excess of the rates allowed pursuant to subdivisions 2, 4, 5, and 6, and procedures to be followed for rate limitation exemptions for intermediate care facilities for mentally retarded persons. No excess payment or limitation exemption shall be authorized unless the need for the service is documented in the individual service plan of the person or persons to be served, the type and duration of the services needed are stated, and there is a basis for estimated cost of the services. *Payments made under this subdivision are limited to very dependent persons with special needs who otherwise would be placed or retained in a state hospital. The total payment for residential and day training and habilitation services for a very dependent person with special needs must not exceed the payment for providing services in a state hospital except in cases where the payment for residential services exceeds 85 percent of the payment for state hospital services. In this case, the total payment for residential and day training and habilitation services for a very dependent person with special needs must not exceed 115 percent of the payment for state hospital services, and only day training and habilitation providers are eligible to receive additional funds made available under this exception.*

The commissioner shall evaluate the services provided pursuant to this subdivision through program and fiscal ~~audits~~ reviews.

Sec. 45. Minnesota Statutes 1984, section 256B.70, is amended to read:

256B.70 [DEMONSTRATION PROJECT WAIVER.]

Each hospital that participates as a provider in a demonstration project,

established by the commissioner of human services to deliver medical assistance, or *chemical dependency* services on a prepaid, capitation basis, is exempt from the prospective payment system for inpatient hospital service during the period of its participation in that project.

Sec. 46. Minnesota Statutes 1984, section 256D.03, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE MEDICAL CARE; SERVICES.]

(a) Reimbursement under the general assistance medical care program shall be limited to the following categories of service: inpatient hospital care, outpatient hospital care, services provided by medicare certified rehabilitation agencies, prescription drugs, equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level, eyeglasses and eye examinations provided by a physician or optometrist, hearing aids, prosthetic devices, laboratory and x-ray services, physician's services, medical transportation, and dental care. In addition, payments of state aid shall be made for day treatment services provided by a mental health center established under sections 245.61 to 245.69, subdivision 1, and funded through chapter 256E and for prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select vendors of medical care who can provide the most economical care consistent with high medical standards and may contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall encourage county boards to submit proposals for demonstration projects designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under section 256B.02, subdivision 8, except that where counties enter into prepaid capitation agreements, payments shall be as provided in section 256.966, subdivision 2.

(c) The commissioner of human services may reduce payments provided under sections 256D.01 to 256D.21 and 261.23 in order to remain within the amount appropriated for general assistance medical care, within the following restrictions. For the period July 1, 1983 to June 30, 1984, reductions below the cost per service unit allowable under section 256.966, are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 45 percent; payments for all other inpatient hospital care may be reduced no more than 35 percent. Reductions below the payments allowable under section 256.967 for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than 25 percent. For the period July 1, 1984 to June 30, 1985, reductions below the cost per service unit allowable under section 256.966 are permitted only as follows: payments for inpatient and outpatient hospital care provided in response to a primary diagnosis of chemical dependency or mental illness may be reduced no more than 30 percent; payments for all other inpatient hospital care may be reduced no more than 20 percent. Reductions below the payments allowable under section 256.967

for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent. There shall be no copayment required of any recipient of benefits for any services provided under this subdivision. A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(d) Any county may, from its own resources, provide medical payments for which state payments are not made.

(e) Chemical dependency services that are reimbursed under sections 28 to 36 must not be reimbursed under general assistance medical care.

Sec. 47. Minnesota Statutes 1984, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. *(a) For all applicants for supplemental security income who did not receive aid pursuant to any categorical aid program referred to in section 256D.36 during December, 1973, and who make application individuals who apply to the appropriate local agency for supplemental aid, the local agency shall determine whether the individual meets the eligibility criteria prescribed in subdivision 2. For each individual who meets the relevant eligibility criteria prescribed in subdivision 2, the local agency shall certify to the commissioner the amount of supplemental aid to which the individual is entitled in accordance with all of the standards in effect December 31, 1973, for the appropriate categorical aid program.*

(b) The state standard of assistance for shelter must provide for the recipient's needs for shelter, heating, cooking, electrical, water, sewer, and garbage removal. The monthly state standard of assistance for shelter must be determined as provided in this subdivision. If the recipient does not reside with a spouse who receives Minnesota supplemental aid, the state standard of assistance for shelter is the actual cost for shelter or \$151, whichever is less. If the recipient resides with a spouse who receives Minnesota supplemental aid, the state standard of assistance for shelter for the married couple is the actual cost for shelter or \$227, whichever is less. The actual shelter cost for married and unmarried recipients who share a residence must be determined by dividing the sum of the total monthly shelter cost for the residence by the number of persons who share the residence, unless the recipient can justify a greater or lesser share. The state standard of assistance for basic needs must provide the needs of the recipient for food, clothing and personal needs, reading material, laundry, household supply items, transportation, and other personal needs.

(c) The monthly state standard of assistance for basic needs is \$234 for an individual who does not share a residence with another person, and \$184 for an individual who shares a residence with another person or persons.

(d) When a recipient is a resident of a state hospital or a dwelling with a negotiated rate, the recipient is not eligible for a shelter standard, a basic needs standard, or for special needs payments. The state standard of assistance for those recipients is the clothing and personal needs allowance for medical assistance recipients under section 256B.35. Minnesota supplemental aid may be paid to negotiated rate facilities at the rates in effect on March 1, 1985, for services provided under the supplemental aid program to

residents of the facility, up to the maximum negotiated rate specified in this section. The rate for room and board or a licensed facility must not exceed \$800. The maximum negotiated rate does not apply to a facility described in section 256B.431, subdivision 4, paragraph (b). The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until June 30, 1987:

(1) a facility that only provides services to persons with mental retardation; and

(2) a facility not certified to participate in the medical assistance program that is licensed as a boarding care facility as of March 1, 1985, and only provides care to persons aged 65 or older. Beginning July 1, 1987, these facilities are subject to applicable supplemental aid limits, and mental retardation facilities must meet all applicable licensing and reimbursement requirements for programs for persons with mental retardation. The negotiated rates may be paid for persons who are placed by the local agency or who elect to reside in a room and board facility or a licensed facility for the purpose of receiving physical, mental health, or rehabilitative care, provided the local agency agrees that this care is needed by the person. When Minnesota supplemental aid is used to pay a negotiated rate, the rate payable to the facility must not exceed the rate paid by an individual not receiving Minnesota supplemental aid. To receive payment for a negotiated rate, the dwelling must comply with applicable laws and rules establishing standards necessary for health, safety, and licensure. The negotiated rate must be adjusted by the annual percentage change in the urban consumer price index (CPI-U) for Minneapolis-St. Paul as published by the Bureau of Labor Statistics between the previous two Octobers, new series index (1967-100). In computing the amount of supplemental aid under this section, the local agency shall deduct from the gross amount of the individual's determined needs all income, subject to the criteria for income disregards in effect December 31, 1973, for the appropriate categorical aid program, except that the earned income disregard for disabled persons who are not residents of long term care facilities shall be the same as the earned income disregard available to disabled persons in the supplemental security income program and all actual work expenses shall be deducted when determining the amount of income for the individual. From and after the first of the month in which an effective application is filed, the state and the county shall share responsibility for the payment of the supplemental aid to which the individual is entitled under this section as provided in section 256D.36.

Sec. 48. Minnesota Statutes 1984, section 393.07, is amended by adding a subdivision to read:

Subd. 2a. [LEAD AGENCY FOR SERVICES TO THE ELDERLY.] The county board shall be the lead agency responsible for planning and coordinating services to the elderly including housing, income support, health, and social services. The commissioner of human services shall provide technical assistance to the board in its exercise of the lead agency function. The board shall submit to the commissioner an annual plan for services to the elderly and an annual report concerning services provided and progress toward accomplishing objectives. The commissioner shall adopt rules which establish standards for the annual plan and the annual report.

Sec. 49. Minnesota Statutes 1984, section 626.557, subdivision 2, is

amended to read:

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

(a) "Facility" means a hospital or other entity required to be licensed pursuant to sections 144.50 to 144.58; a nursing home required to be licensed to serve adults pursuant to section 144A.02; an agency, day care facility, or residential facility required to be licensed to serve adults pursuant to sections 245.781 to 245.812; a mental health program receiving funds pursuant to section 245.61; or a home ~~healthcare~~ agency ~~certified for participation in Titles XVIII or XIX of the Social Security Act, United States Code, title 42, sections 1395 et seq~~ licensed by the state under section 3.

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

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

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

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

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

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

(d) "Abuse" means:

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

(2) The intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress.

(e) "Neglect" means:

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

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

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

(g) "Licensing agency" means:

(1) The commissioner of health, for facilities as defined in clause (a)

which are required to be licensed or certified by the department of health;

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

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

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

Sec. 50. [APPROPRIATIONS.]

Subdivision 1. [CHEMICAL DEPENDENCY FUND.] The general fund appropriations for the general assistance, general assistance medical care, and medical assistance programs are reduced by the amount attributable to chemical dependency services covered under chapter 254B and this amount is reappropriated to the commissioner of human services for transfer to the chemical dependency fund.

The general fund appropriation for the state hospital account is reduced by the amount attributable to chemical dependency programs and this amount is reappropriated to the commissioner of human services for transfer to the chemical dependency fund. This amount must be increased by the amount of salary supplement funds allocated for chemical dependency services in fiscal year 1987.

Notwithstanding any other law, \$1,050,000 of the federal alcohol and drug block grant is appropriated to the commissioner of human services for the chemical dependency fund.

Subd. 2. [TRANSFERS.] Seventy percent of the appropriation for alternative care grants under Minnesota Statutes, section 256B.091, subdivision 8, is transferred to the community care incentive fund for purposes of section 42, to be available until June 30, 1987. The funding necessary for section 256B.19, subdivision 1, is available from the appropriation for medical assistance. Savings realized because of limits on payments to negotiated rate facilities under the supplemental aid and general assistance programs are transferred to the adult mental illness residential grants program for grants to facilities affected by the limits to assure continuation of appropriate care and services to residents.

Subd. 3. [COMMISSIONER OF HEALTH.] \$307,600 is appropriated to the commissioner of health for the regulation of home care services, \$107,700 to be available for the fiscal year ending June 30, 1986, and \$199,900 to be available for the fiscal year ending June 30, 1987.

Subd. 4. [AMERICAN INDIAN GRANTS.] The general fund appropriation for chemical dependency services grants for American Indians is reduced by \$695,000 and reappropriated to the commissioner of human services for transfer to the chemical dependency services fund.

Sec. 51. [REPEALER.]

Minnesota Statutes 1984, section 252.27, subdivision 4, is repealed.

Sec. 52. [EFFECTIVE DATES.]

Sections 13, 14, 16 to 18, and 47 are effective January 1, 1986. Sections 15, 19, 28 to 37, and 50 are effective July 1, 1986. Section 51 is effective

August 1, 1985.”

Delete the title and insert:

“A bill for an act relating to health and human services; requiring licensure and regulation of home care agencies; creating a chemical dependency fund to pay for chemical dependency services; modifying the family subsidy program for families with children with mental retardation; requiring notice to the designated agency in certain proceedings pertaining to persons committed as mentally ill and dangerous; authorizing transfer of persons committed as mentally ill and dangerous; establishing requirements for the supplemental aid program; establishing a grant program for community services for the elderly; changing the method of determining and paying the state share of nursing home payments under medical assistance; designating the county board as the lead agency for services to the elderly; requiring a study of rates paid to negotiated rate facilities; appropriating money; amending Minnesota Statutes 1984, sections 144A.51; by adding a subdivision; 144A.52, subdivision 3; 144A.53, subdivisions 1, 2, 3, and 4; 144A.54, subdivision 1; 246.04; 246.18; 246.23; 246.50, by adding a subdivision; 246.51, subdivision 1; 246.54; 252.291, subdivisions 2 and 3; 252.32; 253B.14; 253B.18, subdivisions 4b, 5, and 6; 253B.23, subdivision 7; 256B.02, subdivision 8; 256B.091, subdivision 8; 256B.092, subdivisions 3 and 7, and by adding a subdivision; 256B.19, subdivision 1; 256B.501, subdivision 8; 256B.70; 256D.03, subdivision 4; 256D.37, subdivision 1; 393.07, by adding a subdivision; and 626.557, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 144A; 246; and 256B; proposing coding for new law as Minnesota Statutes, chapter 254B; repealing Minnesota Statutes 1984, section 252.27, subdivision 4.”

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

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

S.F. No. 1125: A bill for an act relating to victims of crime; establishing a crime victim ombudsman; providing the ombudsman with authority to investigate complaints with regard to treatment of victims; proposing coding for new law in Minnesota Statutes, chapter 611A.

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

Page 1, line 10, delete “and 2” and insert “to 3”

Page 1, lines 21 and 22, delete “public defenders and members of their staff;”

Page 2, lines 9 and 10, delete “and must be an attorney licensed to practice in the state of Minnesota”

Page 2, line 14, after “witnesses” insert “provided under chapter 611A”

Page 2, line 15, after “services” insert “by victim assistance programs”

Page 2, line 16, delete “or misconduct of”

Page 3, lines 18 and 19, delete “the time specified by the ombudsman”

and insert "a reasonable time"

Page 3, delete lines 22 to 36 and insert:

"Sec. 4. [611A.75] [REPORT TO LEGISLATURE.]

The crime victim ombudsman shall report to the legislature by February 1 of each odd-numbered year on the implementation and administration of the crime victim ombudsman act.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective January 1, 1986.

The governor shall not appoint a crime victim ombudsman until the commissioner of finance has determined that sufficient money will be available from the federal government to pay all the costs of the crime victim ombudsman's office."

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

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

S.F. No. 988: A bill for an act relating to independent school district No. 347, Willmar; authorizing AVTI construction projects subject to certain conditions.

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

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

S.F. No. 268: A bill for an act relating to Independent School District No. 742, St. Cloud; authorizing AVTI construction projects subject to certain conditions.

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

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

S.F. No. 494: A bill for an act relating to health; regulating community health services; amending Minnesota Statutes 1984, sections 145.912, subdivision 15; 145.917, subdivisions 2 and 3; 145.921; and 145.922; repealing Minnesota Statutes 1984, section 145.912, subdivisions 16, 17, and 18.

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

Page 7, after line 36, insert:

"Sec. 6. [PINE COUNTY COMMUNITY HEALTH SERVICES.]

Subdivision 1. [REQUIREMENTS.] Notwithstanding the population requirement of section 145.917, subdivision 1, paragraph (a), Pine county is eligible for a subsidy under section 145.921, effective July 1, 1985, provided:

(1) the county meets all other requirements of sections 145.913 and

145.917;

(2) the county meets the population requirement of section 145.917, subdivision 1, paragraph (a), on or before January 1, 1986; and

(3) sufficient funds are appropriated for this purpose.

Subd. 2. [PAYMENT.] Payment of the subsidy authorized by this special law must begin on the last day of the month following the month in which the county complies with subdivision 1. The subsidy for the period July 1, 1985, through December 31, 1985, must be provided in a single payment. Subsequent payments must be made as prescribed in section 145.921."

Page 8, line 1, delete "6" and insert "7"

Page 8, line 3, after the period, insert "Section 6 is repealed effective January 2, 1986."

Sec. 8. [EFFECTIVE DATE.]

Section 6 is effective without local approval the day following final enactment."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "permitting Pine county to participate separately in the community health services system;"

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

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

S.F. No. 1094: A bill for an act relating to human services; revising methods for determining state payments to counties for administrative costs of public assistance programs; revising the community social services act; requiring the commissioner to develop standards; establishing minimum funding levels; amending Minnesota Statutes 1984, sections 256D.22; 256E.05, subdivision 3; 256E.06, subdivisions 2, 2a, 5, 6, and by adding subdivisions; and 256E.09, subdivisions 1, 2, and 3; repealing Minnesota Statutes 1984, section 256E.06, subdivision 7.

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

Page 2, line 22, delete "40" and insert "50"

Page 2, line 28, delete "one-fourth" and insert "one-half"

Page 2, line 33, after the semicolon, insert "and"

Page 2, delete lines 34 to 36

Page 3, line 1, delete "(3) one-fourth" and insert "(2) one-half"

Page 3, line 4, delete " ; and" and insert a period

Page 3, delete lines 5 to 8

Page 8, after line 10, insert:

"Sec. 9. Minnesota Statutes 1984, section 256E.08, subdivision 1, is

amended to read:

Subdivision 1. [RESPONSIBILITIES.] The county board of each county shall be responsible for administration, planning and funding of community social services. Each county board shall singly or in combination with other county boards as provided in section 256E.09 prepare a social services plan and shall update the plan biennially. Upon final approval of the plan by the county board or boards, the plan shall be submitted to the commissioner. The county board shall distribute money available pursuant to sections 256E.06 and 256E.07 for community social services.

The authority and responsibilities of county boards for social services for groups of persons identified in section 256E.03, subdivision 2, shall include contracting for or directly providing:

(1) *information about the symptoms and characteristics of specific problems of the identified groups in order to increase understanding and acceptance by the general public, to help alleviate fears of seeking help, and to enable access to appropriate assistance;*

(2) *an assessment of the needs of each person applying for services assistance which estimates the nature and extent of the problem to be addressed and identifies the means available to meet the person's needs for services. These diagnostic and evaluation activities shall evaluate the functioning of each person with regard to an illness or disability, screen for placement, and determine what services are needed;*

~~(2)~~ (3) *protection for safety, health or well-being by providing services directed at the goal of attaining the highest level of independent functioning appropriate to the individual preferably without removing those persons from their homes aimed at alleviating urgent needs of each person by the determination of urgent need, shielding persons in hazardous conditions when individuals are unable to care for themselves, and provision of urgently needed assistance;*

(4) *supportive and rehabilitative activities which assist each person to function at the highest possible level of independence appropriate to the individual preferably without removing those persons from their homes; these activities include both increasing the client level of functioning and maintaining current levels of functioning;*

~~(3)~~ (5) *a means of facilitating access of physically handicapped or impaired persons to services activities appropriate to their needs; and*

(6) *administrative activities which coordinate and facilitate the effective use of formal and informal helping systems in order to best address client needs and goals. This includes assisting the client in making informed decisions about opportunities and services, assuring timely access to needed assistance, providing opportunities and encouragement for self-help activities, and coordinating all services to meet the client's needs and goals. County case management shall be responsible for determining appropriate care and activities.*

If after appropriate notice a county does not fulfill its responsibilities or is not in compliance with the applicable department rule, the commissioner shall certify a reduction of up to 20 percent of the county's annual community

social services act funding, or an equivalent amount from state administrative aids, and the state shall provide the responsibilities in this subdivision. When a county is so notified, it may appeal according to the provisions in section 256E.06, subdivision 10."

Page 10, after line 8, insert:

"Sec. 13. [STUDY.]

The commissioner of human services and representatives of counties shall study the planning and reporting requirements under the community social services act, including the required contents of the biennial plan, and provide a report and recommendations to the legislature by January 1, 1986, on methods of minimizing the administrative burdens imposed on counties under the act."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "requiring a study;"

Page 1, line 10, after the first semicolon, insert "256E.08, subdivision 1;"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1125, 988, 268, 494 and 1094 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 702 was read the second time.

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Ms. Berglin introduced—

S.F. No. 1534: A bill for an act relating to human services; requiring the commissioner to develop a process for quality of care evaluation of facilities for adult mentally ill persons; requiring a report; amending Minnesota Statutes 1984, section 245.783.

Referred to the Committee on Health and Human Services.

Mr. Renneke introduced—

S.F. No. 1535: A bill for an act relating to consumer protection; providing alternative security requirements for health and social referral clubs; amending Minnesota Statutes 1984, section 325G.27, subdivision 2.

Referred to the Committee on Economic Development and Commerce.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 418: Mr. Merriam, Ms. Berglin and Mrs. Brataas.

H.F. No. 1641: Messrs. Kroening, Dahl, Luther, Willet and Frederickson.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m., Tuesday, May 14, 1985. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate