FIFTY-SEVENTH DAY

St. Paul, Minnesota, Saturday, May 20, 1989

The Senate met at 12:00 noon 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 Senator Dean E. Johnson.

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

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

The President declared a quorum present.

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

REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed by the Secretary of the Senate: Department of Finance, Report on Fees, 1988; Department of Agriculture, Farmers' Market WIC Coupon Program, 1988; Department of Finance, Prompt Payment Report, 1989; Department of Agriculture, Biennial Report, 1986-88; Department of Human Services, Progress Report on Special Project to Reduce AFDC Dependence Grant Program; Department of Natural Resources, Future Use of State-Owned Land Within the Gordy Yeager Wildlife Management Area, Rochester and Olmsted County, 1988; Department of Corrections, Biennial Report, 1987-88; Department of Trade and Economic Development, Feasibility of Designating Regional Parks as State Parks, 1988; Higher Education Coordinating Board, 1989; Higher Educa-

tion Coordinating Board, Technical Report, 1989; Department of Health, Minnesota Institute for Addiction and Stress Research, Progress Report and Operations Plan, 1989; Governor Rudy Perpich to the 76th Legislature, Proposed Biennial Budget, 1990-91; Department of Administration, Soybean Oil-based Ink Feasibility Study; State Board of Vocational Technical Education, Faculty Exchanges of the Minnesota Technical Institute System, 1989; Department of Administration, Veterans' Home Siting Study, 1989; Department of Administration, Management Analysis Division, Potential Sites for a Minnesota Veterans Home, Southwest Minnesota and Fergus Falls, 1989; Minnesota Housing Finance Agency, Biennial Report and Appendix, 1988-89; Department of Jobs and Training, Temporary Emergency Food Assistance Program, 1989; Department of Trade and Economic Development, Study of Tourism for Northern Minnesota, 1989; State Board of Investment, Annual Report, 1988; University of Minnesota, Management and Accountability, 1989; Department of Human Services, Status of the Consolidated Chemical Dependency Treatment Fund, 1989; Department of Administration, Management Analysis Division, Task Force on Occupancy Standards for Family and Group Family Day Care Homes, 1988; Department of Health, Renewal Fee Structure of Health Maintenance Organizations, 1989; Minnesota Public Utilities Commission, Minnesota Telephone Assistance Plan, 1988; Minnesota Crime Victims Reparations Board, Thirteenth Annual Report, 1988; Crime Victims Ombudsman, Second Biennial Report, 1988; Minnesota Crime Victim and Witness Advisory Council, Second Biennial Report, 1988; Department of Trade and Economic Development, Invention and Innovation Support in Minnesota, An Interim Report, 1989; State Board of Investment, External Money Manager Report, 1989; Department of Employee Relations, Minnesota State Government Employment, 1989; Department of Commerce, Minnesota Comprehensive Health Association; Minnesota Technical Institute System, American Indian Education, 1989; Council on Black Minnesotans, Biennial Report, 1987-88; Board of Governors, Big Island Veterans Camp, Annual Report, 1988; Department of Revenue, Compliance of the Property Tax Refund Program, 1989; Hazardous Substance Injury Compensation Board, Annual Report, 1988; Department of Human Services, Hospital-Attached Nursing Home Property Payments, 1989; Minnesota Racing Commission, Annual Report, 1988; Department of Human Services, Progress Report on Establishment of Systems, 1989; Capitol Area Architectural and Planning Board, Biennial Report, 1988-89; Department of Finance, Actions Taken By the Legislative Advisory Commission, 1987-89; Department of Human Services, Proposed Rate System for Payments to Intermediate Care Facilities for Persons with Mental Retardation, 1989; State Planning Agency, Youth Employment and Training Planning Grants, 1989; Pollution Control Agency, Regulating Chlorofluorocarbons and Halons in Minnesota, 1989; Department of Health, Health Facility Complaints, Annual Report, Fiscal Year Ending June 30, 1988; Regional Transit Board, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Transit Commission, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Airports Commission, Procurement and Contract Awards to Socially or Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Council, Procurement and Contract Awards to Socially and Economically Disadvantaged (SED) Businesses, 1988; Metropolitan Waste Control Commission, Procurement and Contract Awards to Socially and Economically Disadvantaged

(SED) Businesses, 1988; Department of Agriculture, By-Product Lime Materials, Soil Buffering Demonstration/Research Project, 1989; Department of Agriculture, Horticulture Work Group, 1989; Department of Human Services, Reasonable Efforts, 1989; Departments of Natural Resources and Transportation, Feasibility Study: Connecting Saint Croix State Park and the Munger State Trail-Hinckley Fire Segment via a Department of Transportation Right-Of-Way, 1989; Zoological Garden, Annual Report, 1988; Department of Health, Medical Screening for Asbestos-Related Lung Disease Among Conwed Corporation (Cloquet) Workers and Their Spouses, Preliminary Report, 1989; Department of Health, Monitoring of Boarding Care Homes and Board and Lodging Houses, 1989; Department of Health, Establishment of a Statewide Population-Based Cancer Surveillance System, 1989; Department of Health, Access to Hospital Services in Rural Minnesota, 1989; Department of Health, Subacute Care in Minnesota Hospitals, 1987; Department of Health, Laboratory Quality Related to HIV Antibody Testing in Minnesota, 1989; Minnesota Technical Institute System, Community Service Activities, 1989; Department of Human Services, General Assistance and Work Readiness, Annual Report, 1988; Environmental Quality Board, Task Force on Genetically Engineered Organisms, 1989; State Auditor, Revenues, Expenditures and Debt of the Towns in Minnesota, 1988; Office of Administrative Hearings, Attorney Fees and Expenses Awarded, 1989; Environmental Quality Board, Hazardous Waste Stabilization and Containment Facility, Public Ownership, 1989; Metropolitan Council, Regional Parks Operation and Maintenace Grants, 1988 and 1989; Iron Range Resources and Rehabilitation Board, Biennial Report, 1987-88; Workers' Compensation Advisory Council, Report to the Governor and Legislature and Workers' Compensation, 1989; Board on Judicial Standards, Annual Report, 1988; State Auditor, Revenues, Expenditures and Debt of Minnesota Counties, Annual Report, 1987.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 18, 1989

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

The Honorable Jerome M. Hughes
President of the Senate

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

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1989	Date Filed 1989
	1061	136	1800 hours May 17	May 18
	1115	143	1755 hours May 17	May 18
1417		150	1520 hours May 17	May 18
184		151	1750 hours May 17	May 18

1374		152	1525 hours May 17	May 18
206		155	1802 hours May 17	May 18
	101	157	1804 hours May 17	May 18
	647	159	1530 hours May 17	May 18
	1282	160	1817 hours May 17	May 18
	1104	162	1705 hours May 17	May 18
	1151	163	1818 hours May 17	May 18
	1323	166	1820 hours May 17	May 18
	169	168	1710 hours May 17	May 18
	966	169	1720 hours May 17	May 18
	1354	170	1830 hours May 17	May 18
	1581	173	1832 hours May 17	May 18
	1447	174	1833 hours May 17	May 18
	1207	176	1712 hours May 17	May 18
	731	177	1834 hours May 17	May 18
	578	179	1835 hours May 17	May 18
	33	180	1836 hours May 17	May 18
	278	181	1837 hours May 17	May 18
	243	184	1840 hours May 17	May 18
1191		185	1843 hours May 17	May 18

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 481, 613, 499, 564 and 1394.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 536: A bill for an act relating to consumer protection; providing for enhanced civil penalties for deceptive acts targeted at senior citizens or handicapped persons; providing factors a court may consider in determining to impose an enhanced civil penalty; providing that sums collected must be credited to the account of the state board on aging; amending Minnesota Statutes 1988, section 256.975, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

Senate File No. 536 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. Moe, R.D. moved that S.F. No. 536 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 809: A bill for an act relating to juveniles; including emotionally abused children among children in need of protection or services; amending Minnesota Statutes 1988, section 260.015, subdivision 2a, and by adding a subdivision.

Senate File No. 809 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. Spear moved that S.F. No. 809 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 470: A bill for an act relating to environment; regulating municipal wastewater treatment funding; amending Minnesota Statutes 1988, sections 116.18, subdivisions 3a and 3b; 446A.02, subdivision 4; 446A.07, subdivision 8; and 446A.12, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115.

Senate File No. 470 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1989

Mr. DeCramer moved that the Senate do not concur in the amendments by the House to S.F. No. 470, 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 to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the return of the following bill to the Conference Committee as formerly constituted for further consideration:

H.F. No. 162: A bill for an act relating to insurance; regulating insurance information collection, use, disclosure, access, and correction practices; requiring reasons for adverse underwriting decisions; amending Minnesota Statutes 1988, section 72A.20, subdivision 11; proposing coding for new law in Minnesota Statutes, chapter 72A.

Edward A. Burdick, Chief Clerk, House of Representatives

May 19, 1989

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the return of the following bill to the Conference Committee as formerly constituted for further consideration:

H.F. No. 166: A bill for an act relating to state agencies; providing that certain information submitted to department of transportation is public data; providing for development of internal auditing standards; classifying certain internal auditing data as other than public; defining terms; providing for limousine registration; exempting certain special transportation service providers holding current certificate of compliance from motor carrier regulations; delineating requirements of carriers to display certain information; providing for permits of special passenger carriers and household goods carriers; providing for operation under motor carrier permit on death of holder; providing for amount of insurance, bond, or other security required of motor carriers; giving commissioner of transportation subpoena power for certain enforcement purposes; providing for suspension of registration of interstate authority for failure to maintain insurance; amending Minnesota Statutes 1988, sections 13.72, by adding subdivisions; 16A.055, subdivision 1; 168.011, subdivision 35; 168.128, subdivision 2; 174.30, subdivision 6; 221.011, subdivisions 16, 20, and by adding a subdivision; 221.031, subdivision 6; 221.111; 221.121, subdivision 6a; 221.141, subdivision 1b, and by adding a subdivision; and 221.60, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13; 65B; and 221.

Edward A. Burdick, Chief Clerk, House of Representatives

May 19, 1989

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 962 and 1443.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1989

FIRST READING OF HOUSE BILLS

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

H.F. No. 962: A bill for an act relating to health; requiring the physician to make a determination of viability; prohibiting an abortion except if necessary to preserve the life or health of the mother; regulating the method of abortion of the viable fetus; requiring the presence of a second physician at the abortion of a viable unborn child; regulating the standard of care for the viable unborn child; according protection of law to the child born alive as a result of abortion; creating a commission on crisis pregnancies and abortion prevention; providing a penalty; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Human Services.

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

Mr. Moe, R.D. moved that H.F. No. 1443 be laid on the table. The motion prevailed.

REPORTS OF COMMITTEES

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

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

H.F. No. 417 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
417	95				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 417 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 417 and insert the language after the enacting clause of S.F. No. 95, the fourth engrossment; further, delete the title of H.F. No. 417 and insert the title of S.F. No. 95, the fourth engrossment.

And when so amended H.F. No. 417 will be identical to S.F. No. 95, and further recommends that H.F. No. 417 be given its second reading and substituted for S.F. No. 95, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 1194 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1194	1044				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1194 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1194 and insert the language after the enacting clause of S.F. No. 1044, the second engrossment; further, delete the title of H.F. No. 1194 and insert the title of S.F. No. 1044, the second engrossment.

And when so amended H.F. No. 1194 will be identical to S.F. No. 1044, and further recommends that H.F. No. 1194 be given its second reading and substituted for S.F. No. 1044, and that the Senate File be indefinitely postponed.

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

SECOND READING OF HOUSE BILLS

H.F. Nos. 417 and 1194 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Novak moved that the name of Mr. Dahl be added as a co-author to S.F. No. 1647. The motion prevailed.

Ms. Reichgott introduced—

Senate Resolution No. 135: A Senate resolution congratulating Schuler Shoes on its 100th anniversary.

Referred to the Committee on Rules and Administration.

Ms. Reichgott and Mr. Ramstad introduced—

Senate Resolution No. 136: A Senate resolution congratulating the Courage Rolling Gophers on winning their third straight national basketball championship.

Referred to the Committee on Rules and Administration.

Mrs. Pariseau introduced—

Senate Resolution No. 137: A Senate resolution commending the achievements of the Hastings Senior High School Concert Choir.

Referred to the Committee on Rules and Administration.

Mr. Beckman introduced—

Senate Resolution No. 138: A Senate resolution congratulating Stella Dahl, of Elmore, Minnesota, for serving 34 years as an Elementary School Teacher.

Referred to the Committee on Rules and Administration.

Messrs. Frederickson, D.R.; Renneke; Moe, R.D.; Benson and Davis introduced—

Senate Resolution No. 139: A Senate resolution commemorating the life and work of Merlyn Lokensgard.

Referred to the Committee on Rules and Administration.

Mr. Langseth moved that H.F. No. 723 be taken from the table. The motion prevailed.

H.F. No. 723: A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 198.

SUSPENSION OF RULES

Mr. Langseth moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 723 and that the rules of the Senate be so far suspended as to give H.F. No. 723 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 723 was read the second time.

Mr. Langseth then moved to amend H.F. No. 723 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 723, and insert the language after the enacting clause, and the title, of S.F. No. 272, the fourth engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Langseth then moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 3, line 20, delete "*$200,000*" and insert "*$290,000*"

The motion prevailed. So the amendment was adopted.

Mr. Frederick moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] The commissioner of health, in coordination with the commissioner of human services, may approve the addition of a

new certified bed or the addition of a new licensed nursing home bed, under the following conditions:

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

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

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

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

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

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

(g) to license or certify beds in a new facility constructed to replace a

facility that was destroyed after June 30, 1987, by fire, lightning, or other hazard provided:

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

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

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

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

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

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

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

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

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

(l) to license or certify beds that are moved from one location to another within an existing identifiable complex of hospital buildings, from a hospital-attached nursing home to the hospital building, or from a separate nursing home to a building formerly used as a hospital, provided the original nursing home building will no longer be operated as a nursing home and the building to which the beds are moved will no longer be operated as a hospital. As a condition of receiving a license or certification under this

clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the relocation. At the time of the licensure and certification of the nursing home beds, the commissioner of health shall delicense the same number of acute care beds within the existing complex of hospital buildings or building. Relocation of nursing home beds under this clause is subject to the limitations in section 144A.073, subdivision 5;

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

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

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

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; ~~or~~

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

(r) to license and certify skilled nursing beds in a nursing home if the nursing home demonstrates that during the preceding 12 months the occupancy rate for all nursing homes within a ten mile radius of the nursing home was 96 percent or greater and that alternatives to long-term care in a nursing home are being utilized to the extent they are available within

the community. Notwithstanding contrary provisions of chapter 256B, the commissioner of human services shall allow an immediate medical assistance property rate adjustment to reflect the costs associated with the new beds."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "authorizing an exception to the nursing home moratorium;"

Page 1, line 8, delete "section" and insert "sections 144A.071, subdivision 3; and"

Ms. Berglin questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Frederick then moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1988, section 144A.071, subdivision 3, is amended to read:

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

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

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(p)~~ *(o)* to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing

home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; or

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

Page 3, line 13, after the period, insert "*For purposes of the study, the commissioner may not assume the existence of a veterans nursing home in Silver Bay, but must treat the proposed Silver Bay nursing home in the same manner as other proposals for new nursing homes.*"

Page 3, line 22, delete "2" and insert "*3*"

Page 3, after line 22, insert:

"Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "removing the exception to the nursing home moratorium for veterans nursing homes;"

Page 1, line 8, delete "section" and insert "sections 144A.071, subdivision 3; and"

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

Mr. Benson moved to amend H.F. No. 723, as amended by the Senate May 20, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 272.)

Page 1, after line 10, insert:

"Section 1. [198.345] [VETERANS HOMES; LUVERNE, FERGUS FALLS.]

Subdivision 1. [ESTABLISHMENT.] *The board shall establish veterans homes in Luverne and Fergus Falls to provide at least 60 beds at each*

home for skilled nursing care in conformance with licensing rules of the department of health.

Subd. 2. [FUNDING.] *The homes must be purchased or built with funds, 65 percent of which must be provided by the federal government, and 35 percent by other nonstate sources, including local units of government, veterans' organizations, and corporations or other business entities. Contracts made by the board for the purposes of this section are subject to chapter 16B."*

Page 3, after line 22, insert:

"Sec. 5. [REPEALER.]

Section 1 is repealed September 1, 1990, unless the United States Veterans Administration has approved the separate requests to establish veterans nursing homes in Luverne and Fergus Falls."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Johnson, D.E.	McGowan	Pariseau
Belanger	Decker	Knaak	McQuaid	Ramstad
Benson	Frederick	Knutson	Mehrkens	Renneke
Berg	Frederickson, D.R.	Laidig	Metzen	Storm
Bertram	Gustafson	Larson	Olson	Taylor

Those who voted in the negative were:

Adkins	Diessner	Lessard	Peterson, D.C.	Spear
Beckman	Frederickson, D.J.	Luther	Peterson, R.W.	Stumpf
Berglin	Freeman	Marty	Piper	Vickerman
Brandl	Hughes	Merriam	Purfeerst	Waldorf
Chmielewski	Johnson, D.J.	Moe, D.M.	Reichgott	
Cohen	Kroening	Moe, R.D.	Samuelson	
DeCramer	Langseth	Novak	Schmitz	
Dicklich	Lantry	Pehler	Solon	

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

H.F. No. 723 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 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

Mr. Langseth moved that S.F. No. 272, No. 32 on General Orders, be stricken and laid on the table. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Peterson, R.W. moved that the following members be excused for a Conference Committee on H.F. No. 654 at 1:30 p.m.:

Messrs. Peterson, R.W.; Pehler; DeCramer; Hughes and Ms. Peterson, D.C. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Mr. Benson moved that the Senate take up the Calendar and that the rules of the Senate be so far suspended as to waive Joint Rule 2.03. The motion prevailed.

CALENDAR

H.F. No. 1181: A bill for an act relating to metropolitan government; regulating budgets; clarifying the valuation of certain agriculture land; amending Minnesota Statutes 1988, sections 273.111, subdivision 4; 473.145; 473.1623, subdivision 4, and by adding subdivisions; 473.167, subdivisions 2, 3, and 5; 473.173, subdivisions 3 and 4; 473.249, subdivision 1; repealing Minnesota Statutes 1988, section 473.249, subdivision 3.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 661: A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 354: A bill for an act relating to elections; providing for handicap access to precinct caucuses and party conventions; providing for interpreters at precinct caucuses and party conventions; making convention and caucus materials available to the visually impaired; appropriating money; amending Minnesota Statutes 1988, sections 202A.13; and 202A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 202A.

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 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 180 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 180

A bill for an act relating to the office of the secretary of state; establishing a procedure for contesting the registration of a corporation, limited part-

nership, or assumed name, or a trade or service mark with the secretary of state; providing that the office of the secretary of state is not liable for registrations; amending Minnesota Statutes 1988, sections 300.025; 302A.115, by adding a subdivision; 303.05, by adding a subdivision; 308.06, by adding a subdivision; 317.09, by adding a subdivision; 322A.02; 322A.72; 1989 S.F. No. 525, section 12, by adding a subdivision; S.F. No. 848, article 1, section 8, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5.

May 19, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 180, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 180 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [5.22] [CONTEST OF REGISTRATION OF NAME.]

Subdivision 1. [NOTICE OF CONTEST; DEPOSIT.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state by filing an acknowledged notice of contest with the secretary of state and sending a copy of the notice of contest to the person who subsequently registered the contested name. The notice to the secretary of state must be accompanied by a $100 deposit, which the secretary of state shall award to the prevailing party in the contest.*

Subd. 2. [PROCEDURE.] *(a) Upon receipt of a notice of contest, the secretary of state shall ask each party to the contest to submit within 30 days an affidavit setting forth the facts, opinions, and arguments for or against the retention of the contested name on the records of the secretary of state. The secretary of state shall review the affidavits and shall make a decision or order a hearing to be held within 30 days.*

(b) If a hearing is ordered, the parties shall meet with the secretary of state before the hearing and attempt to settle the contest.

(c) If a settlement is not reached, the secretary of state shall hold a hearing. At the hearing, the secretary of state may consider evidence presented by the parties relating to the factual or legal issues raised by the contest. A record of the hearing is not required. The hearing is not a contested case hearing under chapter 14.

Subd. 3. [STANDARD OF REVIEW.] *The secretary of state may order that the contested name be changed on the records of the secretary of state if it is likely that the use of the names will cause confusion, mistake, or deception among the public when applied to the goods or services provided by the businesses. In determining whether confusion, mistake, or deception is likely, the secretary of state shall consider:*

(1) the strength or unique nature of the names;

(2) the similarity of sound, appearance, or meaning of the names;

(3) the intent of the parties;

(4) the type of businesses engaged in or to be engaged in by the parties;

(5) the geographic market areas served by each party and the manner of distribution and marketing used in those areas;

(6) the nature and quality of goods or services provided by the parties;

(7) the level of sophistication of potential purchasers of goods or services offered by the parties;

(8) whether the party contesting the subsequent registration of a name failed to make a timely objection or acquiesced to the use of the name so that it would be inequitable to prohibit its registration; and

(9) whether the names in question are in fair use, have been abandoned, or are parodies of other names.

Subd. 4. [DECISION; ENFORCEMENT.] *The secretary of state shall make a decision for one of the parties within ten days of the hearing and may order that the contested name be changed on the records of the office of the secretary of state and the relevant documents be amended by the secretary of state in a manner that results in a new name that is not the same as or deceptively similar to another name registered with the office of the secretary of state.*

Subd. 5. [APPEAL.] *A party may appeal the decision of the secretary of state to the district court within 20 days. The district court shall consider the factual and legal issues without reference to the decision of the secretary of state.*

Subd. 6. [LIABILITY.] *The office of the secretary of state is not liable for damages incurred as a result of the registration of a name found to be the same or deceptively similar to another name already registered with the office of the secretary of state. The office of the secretary of state is not liable for damages that arise from the decision of the secretary of state in a contest under this section.*

Sec. 2. Minnesota Statutes 1988, section 300.025, is amended to read:

300.025 [ORGANIZATION OF FINANCIAL CORPORATIONS.]

(a) Three or more persons may form a corporation for any of the purposes specified in section 47.12 by applying to the department of commerce and complying with all applicable organizational requirements and the conditions set out in clauses (1) to (7). However, no corporation may be formed under this section if it may be formed under the Minnesota business corporation act. The incorporators must subscribe a certificate specifying:

(1) the corporation's name, which must distinguish it from all other corporations authorized to do business in this state, and must contain the word "company," "corporation," "bank," "association," or "incorporated";

(2) the general nature of the corporation's business and its principal place of business;

(3) the period of its duration, if limited;

(4) the names and places of residence of the incorporators;

(5) the board in which the management of the corporation will be vested, the date of the annual meeting at which it will be elected, and the names and addresses of the board members until the first election, a majority of whom must always be residents of this state;

(6) the amount of capital stock, if any, how the capital stock is to be paid in, the number of shares into which it is to be divided, and the par value of each share; and, if there is to be more than one class, a description and the terms of issue of each class, and the method of voting on each class; and

(7) the highest amount of indebtedness or liability to which the corporation will at any time be subject.

The certificate may contain any other lawful provision defining and regulating the powers and business of the corporation, its officers, directors, trustees, members, and stockholders. However, a corporation subject to sections 48.27 and 51A.22, subdivision 2, may show its highest amount of indebtedness to be 30 times the amount of its capital and actual surplus.

(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.

Sec. 3. Minnesota Statutes 1988, section 302A.115, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS; PROHIBITIONS.] The corporate name:

(a) Shall be in the English language or in any other language expressed in English letters or characters;

(b) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&";

(c) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;

(d) Shall ~~not~~ be ~~the same as, or deceptively similar to,~~ *distinguishable upon the records in the office of the secretary of state from* the name of a domestic corporation or limited partnership, *whether profit or nonprofit,* or a foreign corporation or limited partnership authorized or registered to do business in this state, *whether profit or nonprofit,* or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the articles one of the following:

(1) The written consent of the domestic corporation or limited partnership or foreign corporation or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to

333.54 having ~~the same or a deceptively similar~~ *a* name *that is not distinguishable*;

(2) A certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) The applicant's affidavit that the corporation or limited partnership with the ~~same or deceptively similar~~ name *that is not distinguishable* has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit, and has not during the three-year period filed any document with the secretary of state; that the applicant has mailed written notice to the corporation or limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the corporation or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, that the applicant intends to use ~~the same or deceptively similar~~ *a* name *that is not distinguishable* and the notice has been returned to the applicant as undeliverable to the addressee corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the corporation or limited partnership with the ~~same or deceptively similar~~ name *that is not distinguishable* in the county in which is located the registered office of the corporation shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the corporation or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

Sec. 4. Minnesota Statutes 1988, section 302A.115, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION.] The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *"distinguishable" from* another name for purposes of this section and section 302A.117.

Sec. 5. Minnesota Statutes 1988, section 302A.115, is amended by adding a subdivision to read:

Subd. 8. [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 6. Minnesota Statutes 1988, section 302A.117, subdivision 1, is amended to read:

Subdivision 1. [WHO MAY RESERVE.] The exclusive right to the use

of a corporate name otherwise permitted by section 302A.115 may be reserved by:

(a) A person doing business in this state under that name ~~or a name deceptively similar to that name~~;

(b) A person intending to incorporate under this chapter;

(c) A domestic corporation intending to change its name;

(d) A foreign corporation intending to make application for a certificate of authority to transact business in this state;

(e) A foreign corporation authorized to transact business in this state and intending to change its name;

(f) A person intending to incorporate a foreign corporation and intending to have the foreign corporation make application for a certificate of authority to transact business in this state; or

(g) A foreign corporation doing business under that name or a name deceptively similar to that name in one or more states other than this state and not described in clauses (d), (e), or (f).

Sec. 7. Minnesota Statutes 1988, section 303.05, is amended by adding a subdivision to read:

Subd. 4. [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 8. Laws 1989, chapter 144, article 1, section 8, subdivision 1, is amended to read:

Subdivision 1. [NAME.] The name of a cooperative must distinguish the cooperative ~~from other entities doing business in the state as domestic or foreign corporations or limited partnerships, or under assumed names, trade or service marks, or reserved corporate or limited partnership names, as provided in section 302A.115~~ *upon the records in the office of the secretary of state from the name of a domestic corporation, whether profit or nonprofit, or a limited partnership, or a foreign corporation or a limited partnership authorized or registered to do business in this state, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 317A.117, 322A.03, or 333.001 to 333.54.*

Sec. 9. Laws 1989, chapter 144, article 1, section 8, is amended by adding a subdivision to read:

Subd. 3. [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 10. Minnesota Statutes 1988, section 317.09, subdivision 2, is amended to read:

Subd. 2. [USE OF SIMILAR NAME FORBIDDEN.] The corporate name shall ~~not~~ be ~~the same as, nor deceptively similar to,~~ *distinguishable from* the name of any assumed name, trade or service mark, or limited partnership, or domestic corporation, whether profit or nonprofit, or of any

foreign corporation or foreign limited partnership, whether profit or nonprofit, authorized or registered to do business in this state or to any name reserved under section 302A.117 or 322A.03, unless there is filed with the articles a written consent, court decree of prior right, or affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d).

The secretary of state shall determine whether a name is ~~"deceptively similar"~~ *"distinguishable" from* to another name for purposes of this section. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

Sec. 11. Minnesota Statutes 1988, section 317.09, is amended by adding a subdivision to read:

Subd. 4. [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 12. If H.F. No. 1203 is enacted in the 1989 legislative session, Minnesota Statutes, section 317.09, subdivision 4, as added by section 11 of this act, is repealed and H.F. No. 1203, section 12, is amended by adding a subdivision to read:

Subd. 6. [CONTEST OF REGISTRATION OF NAME.] *A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.*

Sec. 13. If H.F. No. 1203 is enacted in the 1989 legislative session, H.F. No. 1203, section 12, subdivision 2, is amended to read:

Subd. 2. [USE OF DECEPTIVELY SIMILAR NAME.] (a) A corporate name ~~may not be the same as, or deceptively similar to,~~ *must be distinguishable upon the records in the office of the secretary of state from* the name of a domestic corporation or limited partnership, a foreign corporation or limited partnership authorized or registered to do business in this state, whether profit or nonprofit, or a name the right to which is, at the time of incorporation, reserved, registered, or provided for in section 13, 302A.117, 322A.03, or sections 333.001 to 333.54, unless one of the following is filed with the articles:

(1) the written consent of the organization having the ~~same or a deceptively similar~~ name *that is not distinguishable*;

(2) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to use its corporate name in this state; or

(3) an affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d), clause (3).

(b) The secretary of state shall determine whether a name is ~~deceptively similar~~ *distinguishable from another name* for purposes of this section and section 13.

(c) This subdivision does not affect the right of a corporation existing

on January 1, 1991, or a foreign corporation authorized to do business in this state on that date, to use its corporate name.

Sec. 14. If H.F. No. 1203 is enacted in the 1989 legislative session, H.F. No. 1203, section 13, subdivision 1, is amended to read:

Subdivision 1. [WHO MAY RESERVE.] A corporate name permitted by section 12 may be reserved in the records of the secretary of state by:

(1) a person doing business in this state under that name ~~or a name deceptively similar to that name~~;

(2) a person intending to incorporate under this chapter;

(3) a domestic corporation intending to change its name;

(4) a foreign corporation intending to make application for a certificate of authority to transact business in this state;

(5) a foreign corporation authorized to transact business in this state and intending to change its name;

(6) a person intending to incorporate a foreign corporation and intending to have the foreign corporation make application for a certificate of authority to transact business in this state; or

(7) a foreign corporation doing business under that name or a name deceptively similar to that name in a state other than this state and not described in clauses (4) to (6).

Sec. 15. Minnesota Statutes 1988, section 322A.02, is amended to read:

322A.02 [NAME.]

(a) The name of each limited partnership as set forth in its certificate of limited partnership:

(1) shall contain without abbreviation the words "limited partnership";

(2) may not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) ~~may not~~ *must* be ~~the same as, or deceptively similar to,~~ *distinguishable from* the name of a domestic corporation or limited partnership, *whether profit or nonprofit,* or a foreign corporation or limited partnership authorized or registered to do business in this state, *whether profit or nonprofit,* or a name the right to which is reserved or provided for in the manner provided for in sections 302A.117, 322A.03, or 333.001 to 333.54, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuse, of the kind required by section 302A.115, subdivision 1, paragraph (d); and

(4) may not contain the following words: corporation, incorporated.

The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *"distinguishable" from* another name for purposes of this section and section 322A.03. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and

protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.

Sec. 16. Minnesota Statutes 1988, section 322A.72, is amended to read:

322A.72 [NAME.]

(a) A foreign limited partnership may register with the secretary of state under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership.

(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 1.

Sec. 17. Minnesota Statutes 1988, section 333.055, subdivision 4, is amended to read:

Subd. 4. The secretary of state shall accept for filing all certificates and renewals thereof which comply with the provisions of sections 333.001 to 333.06 and which are accompanied by the prescribed fees, notwithstanding the fact that the assumed name disclosed therein may ~~be the same as, or similar to,~~ *not be distinguishable from* one or more other assumed names already filed with the secretary of state. In the event of duplication or similarity, the secretary of state shall, within 20 days after the filing, notify in writing each previously filed business holding a certificate for the assumed name or a similar assumed name, of the duplication or similarity, including in the notice the name and last known address of the person so filing. The secretary of state shall not accept for filing a certificate that discloses an assumed name that is ~~the same as, or deceptively similar to,~~ *not distinguishable from* a corporate, or limited partnership name in use or reserved in this state by another or a trade or service mark registered with the secretary of state, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuser of the kind required by section 302A.115, subdivision 1, clause (d). The secretary of state shall determine whether a name is ~~"deceptively similar" to~~ *distinguishable from* another name for purposes of this subdivision.

Sec. 18. [EFFECTIVE DATE.]

Sections 3, 4, 6, 8, 10, 13 to 15, and 17 are effective January 1, 1990."

Delete the title and insert:

"A bill for an act relating to commerce; regulating the use of names for certain business entities; providing a procedure for contesting the registration of a name; amending Minnesota Statutes 1988, sections 300.025; 302A.115, subdivisions 1, 3, and by adding a subdivision; 302A.117, subdivision 1; 303.05, by adding a subdivision; 317.09, subdivision 2, and by adding a subdivision; 322A.02; 322A.72; and 333.055, subdivision 4;

amending Laws 1989, chapter 144, article 1, section 8, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Tracy L. Beckman, David J. Frederickson, Pat Piper

House Conferees: (Signed) Gene Hugoson, John J. Sarna, Jim Heap

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 180 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 180 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Reichgott voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1285, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1285 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1285

A bill for an act relating to health insurance; changing coverage and administrative procedures relating to the comprehensive health insurance plan; requiring a report; amending Minnesota Statutes 1988, sections 62E.10, subdivisions 2a, 7, and 9; and 62E.12.

May 17, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1285, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1285 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 13.71, is amended by adding a subdivision to read:

Subd. 6. [DATA ON ENROLLEES OF MCHA.] *The names and addresses of enrollees of the comprehensive health association maintained by or submitted to the department of commerce are private data.*

Sec. 2. Minnesota Statutes 1988, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. [CREATION; *DUTIES;* TAX EXEMPTION.] *(a)* There is established a comprehensive health association.

(b) The comprehensive health association shall:

(1) oversee the operation and management of the state plan;

(2) ensure that costs associated with the delivery of health care services to persons covered under the state plan, including both the costs of claims and the direct and indirect expenses of administration, and the costs arising out of the association's performance of its functions and obligations, are effectively and responsibly controlled;

(3) establish, through innovative cost and quality control programs including, to the extent feasible, programs providing for the use of health care outcomes and other data in the choice and regulation of health care services, mechanisms to ensure that cost controls do not have a significant negative impact on the access to services or the quality or effectiveness of health care services actually provided to enrollees; and

(4) ~~to~~ promote the public health and welfare of the state of Minnesota ~~with~~.

(c) The membership ~~consisting~~ of ~~all~~ *the comprehensive health association consists of* insurers, self-insurers, fraternals, and health maintenance organizations licensed or authorized to do business in this state.

(d) The comprehensive health association shall be exempt from taxation

under the laws of this state and all property owned by the association shall be exempt from taxation.

Sec. 3. Minnesota Statutes 1988, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] *(a)* The board of directors of the association shall be made up of nine members as follows: five insurer directors selected by participating members, subject to approval by the commissioner; four public directors selected by the commissioner. Public members may include licensed insurance agents.

(b) The public members of the board shall be compensated at the rate of at least $35 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner of employee relations' plan adopted under section 43A.18, subdivision 2. Compensation under this subdivision must be paid by the association.

(c) In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, or health maintenance contract payment derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the commissioner.

(d) In approving directors of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. Insurer directors may be reimbursed from the money of the association for expenses incurred by them as directors, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

Sec. 4. Minnesota Statutes 1988, section 62E.10, subdivision 2a, is amended to read:

Subd. 2a. [APPEALS.] A person may appeal to the commissioner within 30 days after notice of an action, ruling, or decision by the board. *If the appeal relates to an action taken by the writing carrier, the person must first exhaust the writing carrier's internal grievance process before appealing to the commissioner, except in emergency or life-threatening situations. If the internal grievance process is not concluded within 45 days after it is commenced, the person may appeal to the commissioner before the internal process has been exhausted.*

A final action or order of the commissioner under this subdivision is subject to judicial review in the manner provided by chapter 14.

In lieu of the appeal to the commissioner, a person may seek judicial review of the board's action.

Sec. 5. Minnesota Statutes 1988, section 62E.10, subdivision 7, is amended to read:

Subd. 7. [GENERAL POWERS.] The association may:

(a) Exercise the powers granted to insurers under the laws of this state;

(b) Sue or be sued;

(c) Enter into contracts with insurers, similar associations in other states

or with other persons for the performance of administrative functions including the functions provided for in clauses (e) and (f);

(d) Establish administrative and accounting procedures for the operation of the association;

(e) Provide for the reinsuring of risks incurred as a result of issuing the coverages required by sections 62E.04 and 62E.16 by members of the association. Each member which elects to reinsure its required risks shall determine the categories of coverage it elects to reinsure in the association. The categories of coverage are:

(1) Individual qualified plans, excluding group conversions;

(2) Group conversions;

(3) Group qualified plans with fewer than 50 employees or members; and

(4) Major medical coverage.

A separate election may be made for each category of coverage. If a member elects to reinsure the risks of a category of coverage, it must reinsure the risk of the coverage of every life covered under every policy issued in that category. A member electing to reinsure risks of a category of coverage shall enter into a contract with the association establishing a reinsurance plan for the risks. This contract may include provision for the pooling of members' risks reinsured through the association and it may provide for assessment of each member reinsuring risks for losses and operating and administrative expenses incurred, or estimated to be incurred in the operation of the reinsurance plan. This reinsurance plan shall be approved by the commissioner before it is effective. Members electing to administer the risks which are reinsured in the association shall comply with the benefit determination guidelines and accounting procedures established by the association. The fee charged by the association for the reinsurance of risks shall not be less than 110 percent of the total anticipated expenses incurred by the association for the reinsurance; ~~and~~

(f) Provide for the administration by the association of policies which are reinsured pursuant to clause (e). Each member electing to reinsure one or more categories of coverage in the association may elect to have the association administer the categories of coverage on the member's behalf. If a member elects to have the association administer the categories of coverage, it must do so for every life covered under every policy issued in that category. The fee for the administration shall not be less than 110 percent of the total anticipated expenses incurred by the association for the administration;

(g) Notwithstanding the usual and customary charge requirement under section 62E.06, subdivision 1, establish a fee schedule for payments for services covered by the comprehensive health insurance plan according to section 7;

(h) Provide for the assignment of benefits on the terms and subject to the conditions the association determines are appropriate; and

(i) Provide for the development of new methods to allow the enrollee to participate in the choice and regulation of the enrollee's own health care in accordance with the principle that participation by the health care consumer in decisions affecting care is an effective means of ensuring that

the health care services actually rendered are necessary, low in cost, and reasonably effective.

Sec. 6. Minnesota Statutes 1988, section 62E.10, subdivision 9, is amended to read:

Subd. 9. [*STUDIES, DEMONSTRATION PROJECTS, AND* EXPERIMENTAL DELIVERY ~~METHOD~~ *SYSTEMS.*] ~~The association may petition the commissioner of commerce for a waiver to allow the experimental use of alternative means of health care delivery. The commissioner may approve the use of the alternative means the commissioner considers appropriate. The commissioner may waive any of the requirements of this chapter and chapters 60A, 62A, and 62D in granting the waiver. The commissioner may also grant to the association any additional powers as are necessary to facilitate the specific waiver, including the power to implement a provider payment schedule.~~

~~This subdivision is effective until August 1, 1990.~~

~~The commissioner of commerce in consultation with the governor's commission on health plan regulatory reform shall study and report to the legislature by January 15, 1989, on the current means utilized to finance the annual operating deficits incurred under the association. In conducting the study, the commissioner shall analyze any negative financial impacts which the current deficits are having on the contributing members of the association and recommend alternative sources of funding or other approaches which could be utilized to finance the operating deficit. The study shall also address the current association funding inequities between employers which self-insure for employee health benefit coverage and those employers which have health coverage subject to state regulation.~~ *The association shall conduct studies, demonstration projects, and experimental delivery systems the association considers appropriate to give effect to the principles in section 62E.10, subdivisions 1, paragraph (b), and 7, paragraph (i). The studies, demonstration projects, and experimental delivery systems may be administered by the writing carrier or by third parties the association in its discretion considers most likely to achieve its purposes. The writing carrier, as a condition of its acceptance of a contract to provide comprehensive health insurance, shall agree to provide data and information for studies and demonstration projects and other experimental delivery systems the association considers appropriate in discharging its obligations under this section. The association may petition the commissioner of commerce for, and the commissioner may grant, a waiver of any of the requirements of this chapter and chapters 60A, 62A, and 62D, to allow the experimental use of alternative health delivery systems.*

Sec. 7. Minnesota Statutes 1988, section 62E.10, is amended by adding a subdivision to read:

Subd. 10. [FEE SCHEDULE.] *(a) The association shall establish a fee schedule for payments for services and articles covered by the comprehensive health insurance plan, subject to applicable copayments and deductibles. The fee schedule must be designed to reduce the amount paid for services rendered under the plan without substantially reducing the access to services or quality of services. The fee schedule must be established no later than January 1, 1990. In determining the fee schedule, the association must consider, in addition to other relevant factors, a weighted average of the following payments made to providers in the seven-county Minneapolis-St. Paul metropolitan area:*

(1) payments made under the medical assistance program;

(2) payments made under the Medicare program;

(3) payments made by the two largest contributing members of the association;

(4) workers' compensation payments; and

(5) payments by commercial insurers according to the most recent compilation of data regarding prevailing hospital, surgical, and dental charges conducted by the Health Insurance Association of America.

(b) A proposed fee schedule established under paragraph (a) must be published in the State Register along with notice of a public hearing on the fee schedule and solicitation of public comment on the fee schedule. Following the public hearing and comment period, the final fee schedule must be published in the State Register and is effective 30 days after publication.

(c) The association and the writing carrier must not reduce payments for services below approved plan benefit provisions prior to the establishment of a fee schedule under this section.

(d) Information provided for purposes of establishing a fee schedule under paragraph (a) is nonpublic, trade secret information as defined in section 13.37, subdivision 1, paragraph (b), and shall be provided directly to an agent selected by the association for the purposes of determining the fee schedule required under paragraph (a). The detailed payment information used in developing the fee schedule shall not be disclosed by the agent unless directed by a unanimous vote of the association board of directors. When the fee schedule has been determined by the association, the payment information shall be destroyed or returned to the entity which provided the information, if so requested. The association or its agent may not disclose any information, formulas, or calculations relating to the fee schedule that would result in the direct or indirect release of the information described in paragraph (a), clause (3).

(e) As a condition of receiving a payment from the association or enrollee for services or articles covered by the plan, a provider shall be deemed to have agreed not to charge to or collect from the enrollee any amount in excess of the fee schedule.

Sec. 8. Minnesota Statutes 1988, section 62E.12, is amended to read:

62E.12 [MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN.]

The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan, a number two qualified plan and a qualified medicare supplement plan. They shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier. Notwithstanding the provisions of section 62E.06 the state plan shall exclude coverage of:

(1) services of a private duty nurse other than on an inpatient basis ~~and~~*;*

(2) any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental

or nervous disorder, unless similar treatment for the mental or nervous disorder is medically necessary, unavailable in Minnesota and provided upon referral by a licensed Minnesota medical practitioner; *and*

(3) services or articles that are determined by the writing carrier to be not medically necessary, experimental, or investigative, as defined in the policy.

Sec. 9. [RESEARCH AND DATA COLLECTION; REPORT.]

Subdivision 1. [SPECIAL PROJECTS.] *To the extent possible under the terms of existing contracts with the writing carrier, the board shall conduct studies, demonstration projects, and experimental delivery systems under section 6.*

Subd. 2. [DATA COLLECTION.] *The board of directors of the comprehensive health association shall collect and analyze information and data concerning:*

(1) the characteristics of the persons enrolled in the comprehensive health insurance plan;

(2) the types and locations of providers who serve enrollees;

(3) the amounts of payments made to providers for covered services; and

(4) other related information.

Subd. 3. [REPORT.] *The board shall review the data collected under subdivision 2 and other relevant data and research relating to the delivery of health care, and report to the legislature by November 1, 1990, with recommendations for administrative and legislative changes to improve the efficiency and effectiveness of the comprehensive health insurance plan. The board shall propose specific language for legislation to accompany any recommendation for legislative change. The report must include at least the following:*

(1) an analysis of the feasibility of an assumption of risk by the writing carrier;

(2) an analysis of the risk factors in the population served by the plan;

(3) a discussion of the feasibility of developing and implementing outcome measurements;

(4) a description of the types and locations of medical providers who serve enrollees and a comparison of provider payments to payments made by other payers;

(5) a description and analysis of the demographics of the enrollee population;

(6) a description and evaluation of studies, demonstration projects, and experimental delivery systems conducted under section 6;

(7) an analysis of potential cost-containment activities and alternative health care delivery methods; and

(8) other information and recommendations the board considers appropriate.

Sec. 10. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment. Sections 2, 4, 5, 7, and 8 are effective July 1, 1989, and apply to policies issued or renewed after July 1, 1989. Sections 3, 6, and 9 are effective July 1, 1989."

Delete the title and insert:

"A bill for an act relating to health insurance; changing coverage and administrative procedures relating to the comprehensive health insurance plan; requiring a report; amending Minnesota Statutes 1988, sections 13.71, by adding a subdivision; 62E.10, subdivisions 1, 2, 2a, 7, 9, and by adding a subdivision; and 62E.12."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wesley J. Skoglund, John Burger, Phil Carruthers

Senate Conferees: (Signed) John E. Brandl, William P. Luther, Donald A. Storm

Mr. Brandl moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1285 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Benson moved that the recommendations and Conference Committee Report on H.F. No. 1285 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

CALL OF THE SENATE

Mr. Brandl imposed a call of the Senate for the balance of the proceedings on H.F. No. 1285. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Mr. Benson.

The roll was called, and there were yeas 20 and nays 36, as follows:

Those who voted in the affirmative were:

Benson	Dicklich	Knaak	McQuaid	Pariseau
Brataas	Frederick	Laidig	Merriam	Renneke
Chmielewski	Frederickson, D.J.	Larson	Metzen	Samuelson
Decker	Johnson, D.E.	McGowan	Novak	Schmitz

Those who voted in the negative were:

Adkins	Brandl	Knutson	Pehler	Storm
Anderson	Cohen	Kroening	Peterson, R.W.	Stumpf
Beckman	Davis	Langseth	Piper	Vickerman
Belanger	DeCramer	Lantry	Purfeerst	Waldorf
Berg	Frederickson, D.R.	Lessard	Ramstad	
Berglin	Freeman	Luther	Reichgott	
Bernhagen	Gustafson	Mehrkens	Solon	
Bertram	Hughes	Olson	Spear	

The motion did not prevail.

The question recurred on the adoption of the motion of Mr. Brandl.

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1285 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 47 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.J.	Mehrkens	Schmitz
Anderson	Davis	Knutson	Moe, R.D.	Solon
Beckman	Decker	Kroening	Pariseau	Spear
Belanger	DeCramer	Laidig	Pehler	Storm
Benson	Dicklich	Langseth	Peterson, R.W.	Stumpf
Berg	Diessner	Lantry	Piper	Taylor
Berglin	Frederick	Lessard	Purfeerst	Vickerman
Bernhagen	Frederickson, D.J.	Luther	Ramstad	
Bertram	Gustafson	McGowan	Reichgott	
Brandl	Johnson, D.E.	McQuaid	Samuelson	

Those who voted in the negative were:

Brataas	Frederickson, D.R.	Larson	Metzen	Olson
Chmielewski	Knaak	Marty	Novak	Renneke
Dahl				

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1137, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1137 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1137

A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a, and by adding subdivisions.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1137, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1137 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 473.39, subdivision 1a, is amended to read:

Subd. 1a. [OBLIGATIONS.] (a) *After August 1, 1989,* the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~$17,000,000~~ *$26,000,000* for financial assistance to the commission, as prescribed in the implementation ~~plan~~ *and capital plans* of the board and the capital program of the commission.

(b) *After August 1, 1989,* the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding ~~$1,500,000~~ *$4,700,000* for ~~land acquisition and capital improvements for park and ride lots and transit transfer stations planned for the interstate highway described in section 161.123, clause (2), commonly known as I-394. These facilities may be constructed and maintained by the metropolitan transit commission~~ *other capital expenditures as prescribed in the implementation and capital plans of the board.*

(c) The board shall require, as a condition of financial assistance to the commission, that the commission make facilities it constructs, acquires, or improves for I-394 with funds provided under this ~~provision~~ *section* available to all transit providers on a nondiscriminatory basis, as the board defines these terms.

(d) The limitation contained in this subdivision does not apply to refunding bonds issued by the council.

Sec. 2. [APPLICATION.]

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

Delete the title and insert:

"A bill for an act relating to metropolitan government; regulating the borrowing authority of the regional transit board; amending Minnesota Statutes 1988, section 473.39, subdivision 1a."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Alice M. Johnson, Peter McLaughlin, Sally Olsen

Senate Conferees: (Signed) Marilyn M. Lantry, Gene Merriam, Gen Olson

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1137 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1137 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1425:

H.F. No. 1425: A bill for an act relating to privacy of communications; modifying standards for disclosure of communications by electronic communications services; limiting use of contract personnel; modifying reporting requirements; modifying procedures for the use of pen registers and trap and trace devices; requiring orders for the use of mobile tracking devices; providing for a civil cause of action; removing the sunset on the privacy of communications act; authorizing the attorney general and county attorneys to issue administrative subpoenas; creating crimes that prohibit warning subjects of investigations, electronic surveillance, or search warrants; imposing penalties; amending Minnesota Statutes 1988, sections 626A.02, subdivision 3; 626A.04; 626A.06, subdivisions 1 and 4a; 626A.11, subdivisions 1 and 2; 626A.12, subdivision 1; 626A.17; 626A.35; 626A.36; 626A.37; 626A.38, subdivision 1; 626A.39, by adding a subdivision; and 626A.40; Laws 1988, chapter 577, section 63; proposing coding for new law in Minnesota Statutes, chapters 8, 388, 609, and 626A; repealing Minnesota Statutes 1988, sections 626A.12, subdivision 1a; 626A.22; 626A.23; 626A.24; and 626A.38, subdivision 5; Laws 1988, chapter 577, section 62.

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

Pugh, Kelly and Carruthers have been appointed as such committee on the part of the House.

House File No. 1425 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 20, 1989

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1425, 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.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 299 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 299

A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

May 19, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 299, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 299 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 97A.065, is amended by adding a subdivision to read:

Subd. 5. [RESTITUTION FOR WILD ANIMALS.] *Money collected from restitution under section 2 for wild animals killed, injured, or possessed in violation of the game and fish laws must be used by the commissioner for replacement, propagation, or protection of wild animals.*

Sec. 2. [97A.341] [RESTITUTION FOR WILD ANIMALS ILLEGALLY TAKEN.]

Subdivision 1. [LIABILITY FOR RESTITUTION.] *A person who kills, injures, or possesses a wild animal in violation of the game and fish laws is liable to the state for the value of the wild animal as provided in this section. Species afforded protection include members of the following groups as defined by statute or rule: game fish, game birds, big game, small game, fur-bearing animals, minnows, and threatened and endangered animal species. Other animal species may be added by order of the commissioner as determined after public meetings and notification of the chairs of the environment and natural resources committees in the senate and house of representatives.*

Subd. 2. [ARREST AND CHARGING PROCEDURE.] *(a) An enforcement officer who arrests a person for killing, injuring, or possessing a wild animal in violation of the game and fish laws must describe the number, species, and restitution value of wild animals illegally killed, injured, or possessed on the warrant or the notice to appear in court.*

(b) As part of the charge against a person arrested for killing, injuring,

or possessing a wild animal in violation of the game and fish laws, the prosecuting attorney must include a demand that restitution be made to the state for the value of the wild animal killed, injured, or possessed. The demand for restitution is in addition to the criminal penalties otherwise provided for the violation.

Subd. 3. [SENTENCING PROCEDURE.] *If a person is convicted of or pleads guilty to killing, injuring, or possessing a wild animal in violation of the game and fish laws, the court must require the person to pay restitution to the state for replacement of the wild animal as part of the sentence or state in writing why restitution was not imposed. The court may consider the economic circumstances of the person and, in lieu of monetary restitution, order the person to perform conservation work representing the amount of restitution that will aid the propagation of wild animals. If the court does not order a person to pay restitution, the court administrator must send a copy of the court order to the commissioner.*

Subd. 4. [AMOUNT OF RESTITUTION.] *The amount of restitution shall be determined by the court by a preponderance of the evidence. In determining the amount of restitution, the court must consider the value of the wild animal under section 3.*

Subd. 5. [RESTITUTION CREDITED TO GAME AND FISH FUND.] *The court administrator shall forward restitution collected under this section to the commissioner of finance and the commissioner shall credit all money forwarded to the game and fish fund in the state treasury.*

Sec. 3. [97A.345] [RESTITUTION VALUE OF WILD ANIMALS.]

(a) The commissioner may, by rules adopted under chapter 14, prescribe the dollar value to the state of species of wild animals. The value may reflect the value to other persons to legally take the wild animal, the replacement cost, or the intrinsic value to the state of the wild animals. Species of wild animals with similar values may be grouped together.

(b) The value of a wild animal under the rules adopted by the commissioner is prima facie evidence of a wild animal's value under section 2.

(c) The commissioner shall report annually to the legislature the amount of restitution collected under section 2 and the manner in which the funds were expended.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective November 1, 1989, and apply to game and fish law violations committed on or after that date. Section 3 is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Gene Merriam, John Bernhagen, Charles A. Berg

House Conferees: (Signed) Tom Rukavina, Doug Carlson, Willard Munger

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 299 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 299 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate proceed to the Order of Business of Introduction and First Reading of Senate Bills. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Luther, Ms. Berglin, Messrs. Knutson, Storm and Moe, R.D. introduced—

S.F. No. 1659: A bill for an act relating to health care; establishing the Minnesota board on biomedical ethics; setting its membership; assigning its duties and powers; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

Referred to the Committee on Health and Human Services.

Mr. Metzen introduced—

S.F. No. 1660: A bill for an act relating to education; providing for prepaid tuition; proposing coding for new law as Minnesota Statutes, chapter 135B.

Referred to the Committee on Education.

Mrs. Pariseau and Mr. Renneke introduced—

S.F. No. 1661: A bill for an act relating to the environment; repealing the motor vehicle inspection program; repealing Minnesota Statutes 1988, sections 116.60 to 116.65.

Referred to the Committee on Environment and Natural Resources.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 738: A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

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

Olson, E.; Tunheim and Lieder.

Senate File No. 738 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 491: A bill for an act relating to health care; creating a health care access commission; requiring a health care access study; appropriating money.

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

Ogren, Boo and Rodosovich.

Senate File No. 491 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 530: A bill for an act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivisions 1a and 4; 473.823, subdivisions 3 and 6; 473.831, subdivision 2; 473.833, subdivision 2a; 473.840, subdivision 2; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapters 115A and 473; repealing Minnesota Statutes 1988, sections 115A.98; 115B.29, subdivision 2; 473.149, subdivision 2b; 473.803, subdivision 1a; and 473.806.

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

Long; Anderson, R.; Munger; Ozment and Wagenius

Senate File No. 530 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 1358, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1358: A bill for an act relating to metropolitan airport planning; requiring various actions, plans, and reports by the metropolitan council and the metropolitan airports commission; establishing a state advisory council on metropolitan airport planning; providing for a study on the effects of a runway expansion at Airlake airport and the use of certain airports to relieve congestion at Minneapolis-St. Paul international airport; amending Minnesota Statutes 1988, sections 473.604, subdivision 1; 473.608, subdivision 1; and 473.621, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 473.

Senate File No. 1358 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 761, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 761 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 761

A bill for an act relating to judgments; providing a reasonable exemption for employee benefits; amending Minnesota Statutes 1988, section 550.37, subdivision 24.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 761, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 761 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 550.37, subdivision 24, is amended to read:

Subd. 24. [EMPLOYEE BENEFITS.] The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service:

(1) to the extent the plan or contract is described in section 401(a), 403, 408, or 457 of the Internal Revenue Code of 1986, as amended, or payments under the plan or contract are or will be rolled over as provided in section 402(a)(5), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986, as amended; or

(2) to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of $30,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and applies retroactively to April 12, 1988."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wayne Simoneau, Howard Orenstein, Terry Dempsey

Senate Conferees: (Signed) Don Frank, LeRoy A. Stumpf, William P. Luther

Mr. Frank moved that the foregoing recommendations and Conference Committee Report on H.F. No. 761 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 761 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1423, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1423 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1423

A bill for an act relating to nursing home admission agreements; prohibiting use of blanket waivers of liability by continuing care facilities and nursing homes; requiring nursing home admission agreements to be available to the public and clarifying that such agreements are consumer contracts; prohibiting nursing homes from requiring third party guarantors; requiring nursing homes to identify their status as public benefits providers; prohibiting use of blanket consents for treatment; requiring written acknowledgment that residents have received a copy of the patients' bill of rights; providing penalties; requiring a facility fee payment to enrolled hospitals for certain emergency room or clinic visits; amending Minnesota Statutes 1988, section 80D.04, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 144; and 256B.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1423, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F. No. 1423 be further amended as follows:

Page 6, after line 30, insert:

"Sec. 5. Minnesota Statutes 1988, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2) has been a victim of physical or sexual abuse or resides with a victim of domestic child abuse as defined in subdivision 24, *or is a victim of emotional maltreatment as defined in section 260.015, subdivision 5a*;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's

parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose occupation, behavior, condition, environment, or associations are such as to be injurious or dangerous to the child or others;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway; or

(12) is an habitual truant.

Sec. 6. Minnesota Statutes 1988, section 260.015, is amended by adding a subdivision to read:

Subd. 5a. [EMOTIONAL MALTREATMENT.] *"Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person."*

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 13, after the first semicolon insert "providing requirements

for registration of dental assistants; including emotionally abused children among children in need of protection or services;"

Page 1, line 15, after the semicolon insert "and 260.015, subdivision 2a, and by adding a subdivision;"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Paul Anders Ogren, Tony Onnen, Don Ostrom

Senate Conferees: (Signed) Marilyn M. Lantry, Linda Berglin, Nancy Brataas

Mrs. Lantry moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1423 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1423 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

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

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 306:

H.F. No. 306: A bill for an act relating to trusts; providing for their creation, validity, administration, and supervision; providing for the sale of real property; relating to legal estates in real and personal property; relating to estates; amending Minnesota Statutes 1988, sections 500.17, subdivision 2; and 502.73; proposing coding for new law as Minnesota Statutes, chapter 501B; proposing coding for new law in Minnesota Statutes, chapter 525; repealing Minnesota Statutes 1988, sections 500.13; 501.01; 501.02; 501.03; 501.04; 501.05; 501.06; 501.07; 501.08; 501.09; 501.10; 501.11; 501.115; 501.12; 501.125; 501.13; 501.14; 501.15; 501.155; 501.16; 501.17; 501.18; 501.19; 501.195; 501.20; 501.21; 501.211; 501.22; 501.23; 501.24; 501.25; 501.26; 501.27; 501.28; 501.29; 501.30; 501.31; 501.32; 501.33; 501.34; 501.35; 501.351; 501.36; 501.37; 501.38; 501.39; 501.40; 501.41; 501.42; 501.43; 501.44; 501.45; 501.46; 501.461; 501.48; 501.49;

501.50; 501.51; 501.52; 501.53; 501.54; 501.55; 501.56; 501.57; 501.58; 501.59; 501.60; 501.61; 501.62; 501.63; 501.64; 501.65; 501.66; 501.67; 501.71; 501.72; 501.73; 501.74; 501.75; 501.76; 501.77; 501.78; 501.79; 501.80; 501.805; 501.81; 501A.01; 501A.02; 501A.03; 501A.04; 501A.05; 501A.06; and 501A.07.

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

Pugh, Quinn and Bishop have been appointed as such committee on the part of the House.

House File No. 306 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 20, 1989

Mr. Peterson, R.W. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 306, 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 has adopted the recommendation and report of the Conference Committee on House File No. 837, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 837 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 837

A bill for an act relating to crimes; prohibiting the concealing of criminal proceeds; prohibiting racketeering; providing civil and criminal penalties for engaging in narcotics and violent offenses as part of an enterprise; authorizing the dissolution of a corporate charter, revocation of a license, and injunctive relief to prevent criminal activity by an enterprise; authorizing fines of three times the profit gained through racketeering; authorizing criminal forfeiture; amending Minnesota Statutes 1988, section 541.07; proposing coding for new law in Minnesota Statutes, chapters 541 and 609.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 837, report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendment and that H.F. No. 837, the unofficial engrossment (UEH0837-1), be further amended as follows:

Page 4, line 1, before the period, insert ", *or of an offense committed in another jurisdiction that would be a felony under this chapter or chapter 152 if committed in Minnesota*"

Page 4, after line 4, insert:

"Sec. 5. [609.901] [CONSTRUCTION OF RACKETEERING PROVISIONS.]

Sections 6 to 15 shall be liberally construed to achieve their remedial purposes of curtailing racketeering activity and controlled substance crime and lessening their economic and political power in Minnesota."

Page 4, line 6, delete "*14*" and insert "*15*"

Page 4, line 9, delete "*6*" and insert "*7*"

Page 4, line 23, after "*(e)*" insert "*or (f)*" and after "*609.562;*" insert "*609.582, subdivision 1 or 2;*"

Page 4, line 29, delete the colon and insert "*two of the acts constitute felonies other than conspiracy.*"

Page 4, delete lines 30 to 32

Page 10, line 29, delete "*five*" and insert "*ten*"

Page 12, line 17, after "*dismissed*" insert "*after jeopardy attached*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Phil Carruthers, Marcus Marsh, Jean Wagenius

Senate Conferees: (Signed) Michael O. Freeman, Donna C. Peterson, William V. Belanger, Jr.

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 837 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 837 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dicklich	Knaak	Mehrkens	Ramstad
Beckman	Diessner	Knutson	Metzen	Reichgott
Belanger	Frank	Kroening	Moe, D.M.	Renneke
Benson	Frederick	Laidig	Moe, R.D.	Schmitz
Berglin	Frederickson, D.J.	Langseth	Olson	Solon
Bertram	Frederickson, D.R.	Lantry	Pariseau	Spear
Brataas	Freeman	Larson	Pehler	Storm
Chmielewski	Gustafson	Lessard	Peterson, D.C.	Stumpf
Cohen	Hughes	Marty	Piper	Taylor
Decker	Johnson, D.E.	McGowan	Pogemiller	Vickerman
DeCramer	Johnson, D.J.	McQuaid	Purfeerst	

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

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Knaak moved that Joint Rule 2.03 be suspended. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 631 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 631: A bill for an act relating to electric utilities; service areas; establishing a task force to study issues relating to service area boundary changes; authorizing the public utilities commission to assess costs associated with the study; appropriating money.

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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Novak	Renneke
Anderson	Diessner	Kroening	Olson	Solon
Beckman	Frank	Lantry	Pariseau	Spear
Belanger	Frederick	Larson	Pehler	Storm
Benson	Frederickson, D.J.	Luther	Peterson, D.C.	Stumpf
Berglin	Freeman	Marty	Peterson, R.W.	Taylor
Bertram	Gustafson	McGowan	Piper	Vickerman
Chmielewski	Hughes	McQuaid	Pogemiller	Waldorf
Decker	Johnson, D.E.	Mehrkens	Purfeerst	
DeCramer	Knaak	Moe, D.M.	Ramstad	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 827, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 827 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 827

A bill for an act relating to game and fish; authorizing the taking of certain muskrats that are causing damage; providing that license applications need not be notarized; regulating the purchase of raw furs; amending Minnesota Statutes 1988, sections 97A.481; 97B.655, subdivision 1; and 97B.905, subdivision 1.

May 18, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 827, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 827 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [97A.037] [HUNTER, TRAPPER, AND ANGLER HARASSMENT PROHIBITED.]

Subdivision 1. [INTERFERENCE WITH TAKING WILD ANIMALS PROHIBITED.] *A person who has the intent to prevent, disrupt, or dissuade the taking of a wild animal or enjoyment of the out-of-doors may not disturb or interfere with another person who is lawfully taking a wild animal or preparing to take a wild animal. "Preparing to take a wild animal" includes travel, camping, and other acts that occur on land or water where the affected person has the right or privilege to take lawfully a wild animal.*

Subd. 2. [DISTURBING WILD ANIMALS PROHIBITED.] *A person who has the intent to prevent or disrupt a person from lawfully taking the animals may not disturb or engage in an activity that will tend to disturb wild animals.*

Subd. 3. [PERSONS INTENDING TO HARASS HUNTERS, TRAPPERS, AND ANGLERS MAY NOT REMAIN ON LAND.] *A person who has intent to violate subdivision 1 or 2 may not enter or remain on public lands, or on private lands without permission of the owner.*

Subd. 4. [PEACE OFFICER ORDER; PENALTY.] *A person must obey*

the order of a peace officer to stop the harassing conduct that violates this section if the officer observes the conduct. For purposes of this subdivision, "harassing conduct" does not include a landowner's or lessee's action to enforce the trespass law. Violation of this subdivision is a misdemeanor.

Sec. 2. Minnesota Statutes 1988, section 97A.401, subdivision 4, is amended to read:

Subd. 4. [TAKING WILD ANIMALS FROM GAME REFUGES ~~AND~~, WILDLIFE MANAGEMENT, *AND OTHER* AREAS.] Special permits may be issued, with or without a fee, to take a wild animal from game refuges, wildlife management areas, ~~and~~ state parks, *and other areas of the state that the commissioner may open for the taking of a wild animal during a special season. In addition, an application fee may be charged for a special permit. Fees to be collected shall be based upon the estimated cost of conducting the special season.*

Sec. 3. Minnesota Statutes 1988, section 97A.481, is amended to read:

97A.481 [LICENSE APPLICATIONS ~~UNDER OATH~~; *PENALTY.*]

All information required on a license application form must be furnished. The application must be made in writing and ~~under oath~~ *is subject to the penalty prescribed in section 97A.301, subdivision 1, clause (5).*

Sec. 4. Minnesota Statutes 1988, section 97A.485, subdivision 6, is amended to read:

Subd. 6. [LICENSES TO BE SOLD AND ISSUING FEES.] (a) Persons authorized to sell licenses under this section must sell the following licenses for the license fee and the following issuing fees:

(1) to take deer or bear with firearms and by archery, the issuing fee is $1;

(2) Minnesota sporting, the issuing fee is $1; and

(3) to take small game, for a person under age 65 to take fish by angling or for a person of any age to take fish by spearing, and to trap fur-bearing animals, the issuing fee is $1;

(4) for a trout and salmon stamp that is not issued simultaneously with an angling or sporting license, an issuing fee of 50 cents may be charged at the discretion of the authorized seller; and

(5) for stamps other than a trout and salmon stamp, there is no fee.

(b) An issuing fee may not be collected for issuance of a trout and salmon stamp if a stamp is issued simultaneously with the related angling or sporting license. Only one issuing fee may be collected when selling more than one trout and salmon stamp in the same transaction after the end of the season for which the stamp was issued.

(c) The auditor or subagent shall keep the issuing fee as a commission for selling the licenses.

(d) The commissioner shall collect the issuing fee on licenses sold by the commissioner.

(e) A license, except stamps, must state the amount of the issuing fee and that the issuing fee is kept by the seller as a commission for selling the licenses.

(f) The fee for an angling license paid by a resident 65 years of age or over must be refunded to the licensee upon request to the commissioner, if the request is made within 30 days of the sale. The commissioner shall design a system on the license for this purpose. *An auditor or subagent may not provide postage stamps or pre-addressed envelopes for obtaining the refund. An auditor or subagent must provide information on the purposes for which license receipts are spent and the effects of applying for a refund.*

Sec. 5. Minnesota Statutes 1988, section 97B.655, subdivision 1, is amended to read:

Subdivision 1. [OWNERS AND OCCUPANTS MAY TAKE CERTAIN ANIMALS.] A person may take mink, squirrel, rabbit, hare, raccoon, lynx, bobcat, fox, *muskrat,* or beaver on land owned or occupied by the person where the animal is causing damage. The person may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this subdivision with artificial lights during open season. A person that kills mink, raccoon, lynx, bobcat, fox, *muskrat,* or beaver under this subdivision must bring the entire animal to a conservation officer or employee of the division within 24 hours after the animal is killed.

Sec. 6. Minnesota Statutes 1988, section 97B.905, subdivision 1, is amended to read:

Subdivision 1. [~~RESIDENT~~ LICENSE *REQUIREMENT.*]

(a) A ~~resident that has a license to buy and sell raw furs~~ *person* may *not* buy ~~and~~ *or* sell raw furs ~~in the state including:~~

~~(1) selling raw furs to a manufacturer, representing nonresidents;~~

~~(2) selling raw furs to a broker or agent, representing a nonresident; and~~

~~(3) conducting a fur auction that makes sales to resident manufacturers and nonresidents~~ *without a fur buying and selling license, except a taxidermist licensed under section 97A.475, subdivision 19, and a fur manufacturer are not required to have a license to buy raw furs from a person with fur buying and selling licenses.*

(b) An employee, partner, or officer buying or selling only for a raw fur dealer licensee at an established place of business licensed under section 97A.475, subdivision 21, clause (a), may obtain a supplemental license under section 97A.475, subdivision 21, clause (b).

Sec. 7. Laws 1989, chapter 153, section 1, if enacted, is amended to read:

Section 1. Minnesota Statutes 1988, section 97B.031, subdivision 1, is amended to read:

Subdivision 1. [FIREARMS AND AMMUNITION THAT MAY BE USED TO TAKE BIG GAME.] (a) A person may take big game with a firearm only if:

(1) the rifle, shotgun, and handgun used is a caliber of at least .23 inches;

(2) the firearm is loaded only with single projectile ammunition;

(3) a projectile used is a caliber of at least .23 inches and has a soft point or is an expanding bullet type;

(4) the ammunition has a case length of at least 1.285 inches;

(5) the muzzle-loader used is incapable of being loaded at the breech;

(6) the smooth-bore muzzle-loader used is a caliber of at least .45 inches; and

(7) the rifled muzzle-loader used is a caliber of at least .40 inches.

(b) A person may not take big game with a .30 caliber M-1 carbine cartridge.

(c) *Notwithstanding paragraph (a), clause (4),* a person may take big game with a ten millimeter cartridge *that is at least 0.95 inches in length.*

Sec. 8. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to game and fish; prohibiting interference with or disturbance of a person taking wild animals under certain conditions; authorizing application fees for special permits to take game from certain areas during special seasons; clarifying the penalty for false or incomplete license applications; prohibiting certain actions related to license fee refunds; authorizing the taking of certain muskrat that are causing damage; creating an exception to fur buying and selling license requirements; permitting use of certain ammunition; amending Minnesota Statutes 1988, sections 97A.401, subdivision 4; 97A.481; 97A.485, subdivision 6; 97B.655, subdivision 1; 97B.905, subdivision 1; and Laws 1989, chapter 153, section 1; proposing coding for new law in Minnesota Statutes, chapter 97A."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Brad Stanius, Willard Munger, Bob Johnson, Tom Rukavina, Marcus Marsh

Senate Conferees: (Signed) John Bernhagen, Charles A. Berg, LeRoy A. Stumpf, Gene Merriam, Dennis R. Frederickson

Mr. Bernhagen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 827 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 827 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 46 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Knutson	Merriam	Samuelson
Anderson	Decker	Kroening	Moe, D.M.	Schmitz
Beckman	Diessner	Laidig	Olson	Spear
Belanger	Frank	Langseth	Pariseau	Storm
Benson	Frederick	Lantry	Piper	Stumpf
Berg	Frederickson, D.J.	Larson	Pogemiller	Vickerman
Berglin	Frederickson, D.R.	Luther	Purfeerst	
Bernhagen	Gustafson	Marty	Ramstad	
Bertram	Hughes	McGowan	Reichgott	
Brandl	Johnson, D.E.	Mehrkens	Renneke	

Mr. Knaak voted in the negative.

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on H.F. No. 1408 at 3:00 p.m.:

Messrs. Novak, Metzen and Mrs. McQuaid. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, D.M. moved that H.F. No. 1443 be taken from the table. The motion prevailed.

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

SUSPENSION OF RULES

Mr. Moe, D.M. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1443 and that the rules of the Senate be so far suspended as to give H.F. No. 1443 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 1443 was read the second time.

Mr. Moe, D.M. then moved to amend H.F. No. 1443 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1443, and insert the language after the enacting clause, and the title, of S.F. No. 1383, the second engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 1443 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 42 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Johnson, D.E.	Moe, D.M.	Solon
Anderson	Cohen	Knaak	Olson	Spear
Beckman	Decker	Laidig	Pariseau	Storm
Belanger	Dicklich	Langseth	Piper	Stumpf
Berg	Diessner	Lantry	Pogemiller	Taylor
Berglin	Frank	Larson	Ramstad	Vickerman
Bernhagen	Frederick	Luther	Reichgott	
Bertram	Frederickson, D.J.	Marty	Renneke	
Brataas	Frederickson, D.R.	McGowan	Schmitz	

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

Mr. Moe, D.M. moved that S.F. No. 1383, No. 38 on General Orders, be stricken and laid on the table. The motion prevailed.

SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that S.F. No. 575, No. 37 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

SPECIAL ORDER

S.F. No. 575: A bill for an act relating to resource development; establishing a legislative task force on minerals; appropriating money.

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 39 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Chmielewski	Johnson, D.E.	McGowan	Reichgott
Beckman	Cohen	Knaak	Moe, D.M.	Renneke
Belanger	Decker	Knutson	Olson	Solon
Benson	Dicklich	Laidig	Pariseau	Spear
Berglin	Diessner	Lantry	Piper	Storm
Bernhagen	Frank	Larson	Pogemiller	Taylor
Bertram	Frederick	Luther	Purfeerst	Vickerman
Brandl	Frederickson, D.R.	Marty	Ramstad	

So the bill passed and its title was agreed to.

SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that H.F. No. 1146, No. 41 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

SPECIAL ORDER

H.F. No. 1146: A bill for an act relating to traffic regulations; dedicating seat belt violation fines to emergency medical services relief account; amending Minnesota Statutes 1988, section 169.686, subdivision 3.

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 36 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Knaak	Moe, D.M.	Solon
Beckman	Decker	Knutson	Moe, R.D.	Spear
Belanger	Dicklich	Kroening	Olson	Taylor
Benson	Diessner	Laidig	Pariseau	Vickerman
Berglin	Frank	Lantry	Piper	
Bertram	Frederickson, D.R.	Luther	Purfeerst	
Brataas	Hughes	Marty	Renneke	
Chmielewski	Johnson, D.E.	McGowan	Schmitz	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Luther moved that the rules of the Senate be so far suspended that H.F. No. 391, No. 35 on General Orders, be made a Special Order for immmediate consideration. The motion prevailed.

SPECIAL ORDER

H.F. No. 391: A bill for an act relating to peace officers; providing eligibility for death benefits for certain fire and rescue unit members and other first responders; amending Minnesota Statutes 1988, section 176B.01, subdivision 2.

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 39 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Knaak	Moe, R.D.	Samuelson
Anderson	Cohen	Knutson	Olson	Schmitz
Beckman	Diessner	Laidig	Pariseau	Solon
Belanger	Frank	Lantry	Pehler	Spear
Benson	Frederick	Larson	Piper	Storm
Berglin	Frederickson, D.R.	Luther	Purfeerst	Taylor
Bertram	Hughes	Marty	Ramstad	Vickerman
Brataas	Johnson, D.E.	Moe, D.M.	Renneke	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1759, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1759 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1759

A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, veterans nursing homes, and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 2; 43A.27, subdivision 2; 62A.045; 62A.046; 62D.041, subdivision 1, and by adding a subdivision; 62D.042, subdivision 1; 62D.05, subdivision 6; 144.50, subdivision 6, and by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144.698, subdivision 1; 144.701; 144.702, subdivision 2, and by adding subdivisions; 144A.01, subdivision 5, and by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, subdivisions 5, 6a, and by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.45, subdivision 2; 144A.46; 144A.61; 144A.611; 145.38, subdivision 1; 145.39, subdivision 1; 145.61, subdivision 5; 145.63; 145.882, subdivisions 1 and 7; 146.13; 147.02, subdivision 1; 148B.23, subdivision 1; 148B.27, subdivision 2; 148B.32, subdivision 2; 148B.40, subdivision 3; 148B.42, by adding a subdivision; 149.02; 149.06; 150A.06, subdivision 2a; 153A.13, subdivision 4; 153A.15, subdivision 3; 153A.16; 176.136, subdivisions 1 and 5; 214.04, subdivision 3; 214.06, subdivision 1; 237.70, subdivision 7; 237.701, subdivision 1; 245.461; 245.462; 245.463, subdivision 2, and by adding subdivisions; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1, 3, and by adding subdivisions; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivision 3; 245.696, subdivision 2; 245.697, subdivisions 1, 2, and 2a; 245.713, subdivision 2; 245.73, subdivisions 1, 2, and 4; 245.771, subdivision 3; 245.91, by adding a subdivision; 245.94, subdivision 1, and by adding a subdivision; 245A.02, subdivisions 3, 9, 10, 14, and by adding a subdivision; 245A.03, subdivisions 1, 2, and 3; 245A.04, subdivisions 1, 3, 5, 6, 7, and by adding subdivisions; 245A.06, subdivisions 1, 5, and by adding a subdivision; 245A.07, subdivision 2; 245A.08, subdivision 5; 245A.095; 245A.12; 245A.13; 245A.14, subdivision 3, and by adding subdivisions; 245A.16, subdivision 1; 246.015; 246.18, subdivision 4; 246.36; 246.50, subdivisions 3, 4, and 5; 246.54; 246.57, subdivision 1; 251.011, subdivision 4, and by adding a subdivision; 252.27, subdivision 1; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.46, subdivisions 1, 2, 3, 4, 6, and 12; 252.47; 252.50; 253.015; 254A.08, subdivision 2; 254B.02, subdivision 1; 254B.03, subdivisions 1 and 4; 254B.04, subdivision 2; 254B.06, subdivision 1; 254B.09, subdivisions 1, 4, and 5; 256.01, subdivision 2, and by adding a subdivision; 256.014, subdivision 1; 256.045, subdivisions 1, 3, 4, 4a, 5, 6, 7, 10, and by adding a subdivision; 256.12, subdivision 14; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 11, 14, 16, and by adding subdivisions; 256.737; 256.74, subdivisions 1, 1a, and by adding a subdivision; 256.85; 256.87, subdivision 1a; 256.936, subdivisions 1, 2, and 4; 256.969; 256.974; 256.9741, subdivisions 3, 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; 256.975, subdivision 2; 256B.031, subdivision

5; 256B.04, subdivision 14, and by adding a subdivision; 256B.055, subdivisions 7 and 8; 256B.056, subdivisions 3, 4, and 5; 256B.062; 256B.0625, subdivisions 2, 13, 17, and by adding subdivisions; 256B.091, subdivision 3; 256B.092, subdivision 7; 256B.14; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; 256B.48, subdivisions 1, 6, and 8; 256B.501, subdivisions 3, 3g, and by adding subdivisions; 256B.69, subdivisions 4, 5, 11, and by adding a subdivision; 256C.28, subdivision 3, and by adding subdivisions; 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1 and 4; 256D.03, subdivisions 2, 3, and 4; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.06, by adding a subdivision; 256D.101; 256D.111, subdivision 5; 256D.35, subdivisions 1, 7, and by adding subdivisions; 256D.36, subdivision 1, and by adding a subdivision; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.05, subdivision 3; 256E.08, subdivision 5; 256E.09, subdivisions 1 and 3; 256F.05, subdivisions 2, 3, and 4; 256F.07, subdivision 3a; 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.08; 256H.09; 256H.10, subdivisions 2, 3, and by adding a subdivision; 256H.11; 256H.12; 256H.15; 256H.18; 256H.20, subdivision 3; 257.071, subdivision 7; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 259.47, subdivision 5; 259.49, subdivision 2; 260.251, subdivision 1; 268.0111, subdivision 4, and by adding a subdivision; 268.0122, subdivisions 2 and 3; 268.08, subdivision 1; 268.31; 268.37, by adding a subdivision; 268.86, subdivision 2; 268.871, subdivision 5; 268.88; 287.12; 297.13, subdivision 1; 326.78, subdivision 2; 327.20, subdivision 1; 327C.02, subdivision 2; 357.021, subdivisions 2 and 2a; 517.08, subdivisions 1b and 1c; 518.54, subdivision 6; 518.551, subdivision 10, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivisions 1, 2, 4, and by adding a subdivision; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 403, article 3, section 98; Laws 1988, chapter 689, article 2, sections 248 and 269, subdivision 2; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 150A.06, subdivision 7; 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; 245.775; 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 245A.095, subdivision 3; 246.50, subdivisions 3a, 4a, and 9; 254B.09, subdivision 3; 254B.10; 256.87, subdivision 4; 256.969, subdivisions 2a, 3, 4, 5, and 6; 256B.0625, subdivision 21; 256B.17, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 256B.69, subdivisions 12, 13, 14, and 15; 256D.01, subdivision 1c; 256D.051, subdivision 6a; 256D.052, subdivisions 5, 6, and 7; 256D.06, subdivisions 3, 4, and 6; 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; 256D.43; 256E.08, subdivision 9; 256F.05, subdivision 1; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivision 4; 256H.13; 268.86, subdivision 7; 518.613, subdivision 5; Laws 1987, chapter 403, article 5, section 1; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; 157; 196; 245; 246; 251; 252; 253; 254A; 256; 256B; 256D; 256E; 256F; 256H; 259; 268; and 626; proposing coding for new law as Minnesota Statutes, chapter 256I.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1759, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1759 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN RESOURCES; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1989," "1990," and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively.

SUMMARY BY FUND

	1990	1991	TOTAL
General	$1,306,847,000	$1,361,394,000	$2,668,241,000
Special Revenue	$ 5,345,000	$ 5,391,000	$ 10,736,000
Metropolitan Landfill	$ 167,000	$ 167,000	$ 334,000
Trunk Highway	$ 1,488,000	$ 1,488,000	$ 2,976,000
Total	$1,313,847,000	$1,368,440,000	$2,682,287,000

	APPROPRIATIONS Available for the Year Ending June 30, 1990	1991
Sec. 2. COMMISSIONER OF HUMAN SERVICES		
Subdivision 1. Appropriation by Fund		
General Fund	1,104,499,000	1,160,516,000
The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.		
During the biennium ending June 30, 1991, the commissioner shall notify the chairs of the house health and human services appropriations committee and the senate health and human services finance committee whenever implementation of legislation by the department is likely to result in expenditures $1,000,000 or more than the amount authorized by the legislature.		

Federal money received in excess of the estimates shown in the 1989 department of human services budget document reduces the state appropriation by the amount of the excess receipts, unless otherwise directed by the governor, after consulting with the legislative advisory commission.

For the fiscal year ending June 30, 1989, the appropriations for the medical assistance and general assistance medical care programs in Laws 1988, chapter 689, article 1, section 2, subdivision 5, paragraph (a), are increased by the amount necessary to fully cover the expenditure requirements of these programs.

For the biennium ending June 30, 1991, federal receipts as shown in the biennial budget document or in working papers of the two appropriations committees to be used for financing activities, programs, and projects under the supervision and jurisdiction of the commissioner must be accredited to and become a part of the appropriations provided for in this section.

Positions and administrative money may be transferred within the department of human services as the commissioner considers necessary, with the advance approval of the commissioner of finance.

Estimates of federal money that will be earned by the various accounts of the department of human services and deposited in the general fund are detailed on the worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance. If federal money anticipated is less than that shown on the official worksheets, the commissioner of finance shall reduce the amount available from the direct appropriation a corresponding amount. The reductions must be noted in the budget document submitted to the 77th legislature in addition to an estimate of similar federal money anticipated for the biennium ending June 30, 1993.

The commissioner of human services, with the approval of the commissioner

of finance and by direction of the governor after consulting with the legislative advisory commission, may transfer unencumbered appropriation balances among the aid to families with dependent children, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and work readiness programs and between fiscal years of the biennium.

During the biennium ending June 30, 1991, the commissioner shall report annually to the chair of the house of representatives appropriations committee and the chair of the senate finance committee regarding information systems authorized under Minnesota Statutes, section 256.014, subdivision 3, including implementation schedules, the nature and amount of systems expenditures, projected and actual savings, evidence of cost-effectiveness, comparison with anticipated program goals and objectives, impact on affected consumers and providers, and future development plans.

For the biennium ending June 30, 1991, information system project appropriations for development and federal receipts for the alien verification entitlement system must be deposited in the special systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Information Policy Office, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner considers necessary. Any unexpended balance in the appropriation for these projects does not cancel in the first year but is available in the second year of the biennium.

Subd. 2. Human Services Administration	12,985,000	11,174,000

The state planning agency, the department of human services, and the department of finance shall conduct a study to determine the extent to which changes in health care program rate-setting rules are increasing state expenditures beyond the amount appropriated for the programs and report to the legislature by

February 1, 1990, regarding possible changes in state law to prevent major increases in state expenditures through the rulemaking process.

Subd. 3. Legal and Intergovernmental Programs	4,182,000	4,274,000

By January 1, 1990, the commissioner shall report to the legislature regarding the activities and effectiveness of the county community service evaluation staff, including additional funding necessary to continue the function if the report indicates the activities have improved or have the potential to improve delivery of county social services.

Subd. 4. Social Services	120,519,000	124,284,000

For the biennium ending June 30, 1991, this appropriation includes one position in fiscal year 1990 and two positions in fiscal year 1991 which are to be regionally based positions to assist in developing privately and publicly operated services for persons with developmental disabilities who are being relocated from regional treatment centers. The four positions authorized to improve the quality of regional treatment center services must also be regionally based.

By February 15, 1990, the board on aging shall submit a report to the legislature containing an analysis of the need for expanding congregate housing services and an evaluation of existing congregate housing service programs.

During the biennium ending June 30, 1991, juvenile detention facilities must provide or arrange for a chemical use assessment for juveniles who request such an assessment and for juveniles petitioned or adjudicated for alcohol- or drug-related unlawful acts in juvenile court.

For the biennium ending June 30, 1991, any balance remaining in the first year for the nonrecurring adoption expense reimbursement appropriation does not cancel, but is available for the second year of the biennium.

For the biennium ending June 30, 1991, $447,000 each year of the county allocation for Title XX community social services is for migrant child care.

For the biennium ending June 30, 1991, one complement position in the department of human services program for administration of child care fund grants shall be for the purpose of coordinating and expediting the review of applications and for expediting the dispersal of funds to grantees of child care service development grants.

By September 1, 1991, the Higher Education Coordinating Board shall report to the legislature on the percentage of non-AFDC, post-secondary funds expended for administrative purposes during fiscal year 1990.

In the event that money appropriated for foster care liability insurance for fiscal year 1990 is insufficient to cover increased premium costs in that year, the commissioner may use funds appropriated for fiscal year 1991 to cover the costs.

By July 1, 1990, each county shall report to the commissioner on efforts made to implement Minnesota Statutes, section 256F.07, subdivision 3a, regarding placement prevention and family reunification services for minority children. The report must include specific information on the number of foster and adoptive placements involving minority children, including information on the number of minority families who have become foster or adoptive parents and the number of minority families who have left the foster family system, with reasons for their departure from the system. The commissioner shall report to the legislature by November 1, 1990, with a summary and analysis of the county reports and an evaluation of county efforts.

In the event that the commissioner determines that the duties of regional services specialists have been assumed by county case managers and screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, the commissioner may reassign the regional services specialists to other duties.

Subd. 5. Mental Health	21,555,000	25,572,000

Funding to continue the family-based community support pilot project shall be

included as a base adjustment in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11. The funding level shall be adjusted to reflect the full biennial costs of operating the project.

Of this appropriation, $10,000 is for camping activities for people with mental illness from the mental health special project account.

Of this appropriation, $53,000 is for the depression awareness, recognition, and treatment program from the mental health special projects account.

Of the appropriation for therapeutic foster care programs, one grant must be awarded to Olmsted county for an existing program.

The commissioner may, with the written approval of the governor after consulting with the legislative advisory commission, transfer all or part of the appropriation for alternative placements for persons who must be moved out of nursing homes due to federal requirements to other appropriations if the commissioner determines that other funding mechanisms will more appropriately meet the needs of the persons being moved.

Subd. 6. Family Support Programs	181,169,000	189,755,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Aid to Families with Dependent Children, General Assistance, Work Readiness, Minnesota Supplemental Aid

$154,500,000	$156,236,000

The commissioner shall set the monthly standard of assistance for general assistance and work readiness assistance units consisting of an adult recipient who is childless and unmarried or living apart from his or her parents or a legal guardian at $203.

The $100,000 appropriated for literacy training for the biennium ending June 30, 1991, shall be used for pilot demonstration projects. Each grantee of funds must report back to the commissioner of

human services at the end of the grant period with a summary of expenditures and a detailed analysis of persons served, literacy programs used, and outcomes achieved. The commissioner shall report back to the legislature by January 1, 1992, with an evaluation of the program.

The commissioner of human services shall include as a budget change request in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, an annual adjustment in the aid to families with dependent children, general assistance, and work readiness grants as of July 1 of each year, beginning July 1, 1991, by a percentage amount equal to the percentage increase, if any, in the consumer price index (CPI-U-U.S.) city average, as published by the Bureau of Labor Statistics, United States Department of Labor, during the preceding calendar year for the biennium ending June 30, 1993.

During the biennium ending June 30, 1991, the commissioner of human services shall provide supplementary grants not to exceed $816,800 a year for aid to families with dependent children and include the following costs in determining the amount of the supplementary grants: major home repairs; repair of major home appliances; utility recaps; supplementary dietary needs not covered by medical assistance; replacement of essential household furnishings and essential major appliances; and employment-related transportation and educational expenses. Of this amount, $616,800 is for employment-related transportation and educational expenses.

For the biennium ending June 30, 1991, the maximum room and board rate for a facility that enters into an initial negotiated rate agreement with a county on or after June 1, 1989, may not exceed 90 percent of the maximum rate established under Minnesota Statutes, section 256D.37.

(b) Family Support Programs Administration

$ 26,669,000 $ 33,519,000

Federal financial reimbursement received during fiscal year 1989 for work readiness services expenditures by counties must be credited to the work readiness account and is appropriated to the commissioner of human services for work readiness program purposes. Amounts not needed to reimburse counties must be canceled to the general fund.

Any balance remaining in the first year for the welfare fraud eligibility verification program appropriation does not cancel but is available in the second year of the biennium ending June 30, 1991.

In implementing the requirements of Minnesota Statutes, section 256.01, subdivision 2, clause (c), the commissioner shall develop specific program measures to assess county compliance with fraud initiatives and provide technical assistance to enforce fraud program requirements.

Any balance remaining at the end of the first year in the appropriation for social adjustment services for refugees and child welfare services for refugees does not cancel but is available for the second year.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for food stamp outreach programs does not cancel to the general fund but is available in fiscal year 1990.

Federal financial participation received during fiscal year 1989 for work readiness service expenditures is appropriated to the commissioner for work readiness program purposes and must be used to reimburse counties for work readiness expenditures.

For the biennium ending June 30, 1991, federal food stamp employment and training funds received for the work readiness program are appropriated to the commissioner to reimburse counties for work readiness service expenditures.

During the biennium ending June 30, 1991, money appropriated from the general fund to the department of human services for the work incentive program shall transfer to the job opportunity and basic skills program upon acceptance by

the federal government of Minnesota's welfare reform plan.

Any unexpended balance remaining in the first year of the appropriation for the AFDC self-employment investment demonstration project appropriation does not cancel but is available for the second year of the biennium.

For the biennium ending June 30, 1991, federal funds received for direct employment services provided to refugees and immigrants is appropriated to the commissioner to provide bicultural employment service case managers to PATHS eligible refugees and immigrants. The commissioner of human services shall review expenditures of bilingual case management funds at the end of the third quarter of the second year of the biennium and may reallocate unencumbered funds to those counties which can demonstrate a need for additional funds. Funds shall be reallocated according to the same formula used initially to allocate funds to counties.

Any unexpended balance up to $2,000,000 remaining in the first year for the PATHS case management and employment and training services appropriation does not cancel and is available for the second year of the biennium ending June 30, 1991.

In planning for the operation of the child support enforcement clearinghouse information system, the commissioner shall issue a request for a proposal for the operation of the system and, in consultation with the information policy office, review responses to the solicitation. After review of the proposals, the commissioner may award a service contract for operation of the system or continue processing through the department of administration. In the event the projected costs for systems operation exceed the available appropriation, the commissioner shall notify the chairs of the house health and human services division of appropriations and the senate health and human services division of finance.

For the child support enforcement activity, during the biennium ending June 30,

1991, money received from the counties for providing data processing services must be deposited in that activity's account. The money is appropriated to the commissioner for the purposes of the child support enforcement activity.

Federal financial participation from the United States Department of Agriculture for expenditures that are eligible for reimbursement through the food stamp employment and training program for nonpublic assistance recipients is appropriated to the commissioner to operate the food stamp employment and training program for nonpublic assistance recipients.

For the biennium ending June 30, 1991, federal money received for the operating costs of the statewide MAXIS automated eligibility information system is appropriated to the commissioner to pay for the development and operation of the MAXIS system and the counties' share of the operating costs.

Subd. 7. Health Care Programs

General Fund	553,384,000	593,448,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Medical Assistance and General Assistance Medical Care

$506,808,000	$545,894,000

The developmental achievement center pilot payment rate system in Minnesota Statutes, section 252.46, subdivision 14, may operate through June 30, 1991.

The commissioner of human services shall seek federal financial participation to reimburse the costs of family therapy necessary to the mental health of an adoptive child who prior to adoption had been under the guardianship of the commissioner under Minnesota Statutes, section 260.242.

Notwithstanding any law to the contrary, the commissioner shall include as budget change requests in the fiscal year 1992 and 1993 detailed expenditure budget submitted to the legislature under Minnesota Statutes, section 16A.11, all annual

inflationary adjustments in the medical assistance, general assistance medical care, and Minnesota supplemental aid programs.

Of this appropriation, $300,000 in fiscal year 1991 is for the increased costs of exceptions to the moratorium on licensure and certification of long-term care beds. The commissioner of health may license or certify beds through the exception review process, provided the projected total annual increased state medical assistance costs of all licenses or certifications granted during the biennium under any exception to the moratorium do not exceed an annual amount of $300,000.

The amount appropriated for medical assistance is based on projected inflationary increases for Minnesota nursing homes of 5.1 percent the first year and 5.2 percent the second year. The inflationary increases are required under current law in Minnesota Statutes, chapter 256B. The projected increases include increases of 4.8 percent the first year and 5.1 percent the second year for nursing home wages, including nursing staff wages. The projected state general fund cost for inflationary increases is $11,314,000 the first year and $19,821,000 the second year. The actual inflationary increases will be based on the index established under Minnesota Statutes, chapter 256B. The commissioner shall annually report, in the manner prescribed by the commissioner, on the home's use of that portion of the inflationary increase that is attributable to the wage increase.

During the biennium ending June 30, 1991, the commissioner may determine the need for conversion of a home and community-based service program to an intermediate care facility for people with mental retardation if the conversion is cost-effective and the people receiving home and community-based services choose to receive services in an intermediate care facility for people with mental retardation. After the commissioner has determined the need to convert the program, the commissioner of

health shall certify the program as an intermediate care facility for people with mental retardation if the program meets applicable certification standards. Notwithstanding the provisions of Minnesota Statutes, section 246.18, receipts collected for state-operated community services are appropriated to the commissioner and are dedicated to the operation of state-operated community services which are converted in this section or which were authorized in Laws 1988, chapter 689, article 1, section 2, subdivision 5. Any balance remaining in this account at the end of the fiscal year does not cancel and is available for the second year of the biennium. The commissioner may, after consultation with the legislative advisory commission and approval of the governor, transfer funds from the Minnesota supplemental aid program to the medical assistance program to fund services converted under this section.

The maximum pharmacy dispensing fee under medical assistance and general assistance medical care is $4.20.

Payments to vendors for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and X-ray services in either the medical assistance or general assistance medical care programs must continue to be calculated at the lower of (1) the submitted charges, or (2) the 50th percentile of prevailing charges in 1982.

Effective with services rendered on or after July 1, 1989, payments to dentists for medical assistance recipients shall be increased by 7.5 percent for diagnostic and routine preventive services and by five percent for all other dental services.

Federal money received during the biennium for administration of the home and community-based services waiver for persons with mental retardation is appropriated to the commissioner of human services for administration of the home and community-based services program

and must be deposited in that activity's account.

(b) Preadmission Screening and Alternative Care Grants
$16,530,000 $16,530,000

Any balance remaining in the first year of the appropriation for the preadmission screening-alternative care grants program does not cancel but is available for the second year.

During the biennium ending June 30, 1991, the commissioner shall include in the forecast of health care entitlement program expenditures submitted to the commissioner of finance and the legislature, an estimate of projected expenditures for that portion of the preadmission screening and alternative care grant funded through the medical assistance program.

(c) Children's Health Plan
$ 4,297,000 $ 6,736,000

Of this appropriation, $20,000 in fiscal year 1990 is for a study of the utilization of outpatient mental health services by children eligible for medical assistance. The results of the study must be used to prepare recommendations for the legislature to structure an appropriate and cost-effective outpatient mental health benefit under the children's health plan. $480,000 in fiscal year 1991 is appropriated to add an outpatient mental health benefit to the children's health plan in fiscal year 1991.

(d) Health Care Programs Administration
$25,749,000 $24,288,000

For the biennium ending June 30, 1991, $200,000 in fiscal year 1990 and $200,000 in fiscal year 1991 is appropriated for contracting with private or public entities for case management services for those medical assistance and general assistance recipients identified by the commissioner as inappropriately using health care services. To implement the project, the commissioner shall seek appropriate waivers. The commissioner may enter into risk-based contracts and contract for a full range of health services for medical assistance and general

assistance medical care recipients. Federal receipts received for this purpose shall be dedicated to this activity.

By February 1, 1990, the commissioner may develop a plan to minimize turnover of direct care employees in privately operated day training and habilitation services, intermediate care facilities for persons with mental retardation, semi-independent living services, and waivered services programs. The plan must be provided to the chairs of the health and human services divisions of the senate finance committee and the house of representatives appropriations committee. The plan must specify the amount of appropriations required to implement the plan and may provide for a phase-in period of up to five years. The commissioner may develop the plan in collaboration with representatives of public and private facilities and service providers, clients and family members, advocacy organizations, employees, and other interested persons and organizations.

During the biennium ending June 30, 1991, the appropriation in the preadmission screening and annual resident review account shall be used to cover the nonfederal share of costs for conducting diagnostic assessments, reassessments, and screening which are required by Public Law Number 100-203 and which are federally reimbursable as a state medical assistance expense at 75 percent. This provision is effective July 1, 1989, and does not include screening costs covered under Minnesota Statutes, section 256B.091. Federal receipts for this activity are dedicated to the department for this purpose.

The interagency board for quality assurance shall study the following issues and report to the legislature by November 1, 1990, on its findings and recommendations: (1) identifying indicators of high quality long-term care service provided in Minnesota nursing homes and boarding care homes; and (2) establishing a program of incentive payments to reward nursing facilities that provide the highest quality care to residents. A study advisory committee consisting of nursing

home consumers and representatives of the nursing home industry must be appointed by the executive director of the interagency board for quality assurance to participate in the study process.

The commissioner shall work with Care Providers of Minnesota, the Minnesota Association of Homes for the Aging, and consumer groups to seek assistance from the Minnesota congressional delegation and the United States Department of Health and Human Services to obtain recognition of the Minnesota case mix system as an alternative to the current Medicare payment system, or other appropriate solutions. The commissioner shall report to the legislative commission on long-term care by November 1, 1989, regarding efforts to resolve the conflicts between the Medicare and medical assistance nursing home reimbursement systems. The commissioner shall report on the extent of the conflict and the potential impact on Minnesota nursing homes and shall make recommendations regarding necessary state and federal actions.

Recoveries obtained by the provider appeals unit shall be dedicated to the medical assistance account during the biennium ending June 30, 1991.

Federal receipts received for the phone-in system for prior authorization for health care providers and the provider relations unit within the health care management division are appropriated to the commissioner for those purposes.

The receipts realized for the sale of the provider manual are appropriated to the commissioner for printing and distribution of the materials.

Any balance remaining in the first year of the appropriation for the review of medical assistance prepayment programs does not cancel but is available for the second year.

Of this appropriation, $45,000 each year is for the establishment of a statewide resource center on caregiver support and respite care services. The complement of the department is increased by one

position for this purpose. This appropriation and complement increase are not included in the base funding level. The commissioner shall report to the legislature by February 15, 1990, with an analysis of the activities of the resource center, information on the need for respite care services, a projection of the need for respite care services, and an evaluation of existing caregiver support and respite care programs.

Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for a regional demonstration project to provide health care coverage to low-income uninsured persons does not cancel but is available for fiscal year 1990. The appropriation is available when planning for the project is complete, sufficient money has been committed from nonstate sources to allow the project to proceed, and the project is prepared to begin accepting and approving applications from uninsured individuals. The commissioner shall contract with the coalition formed for the nine counties named in Minnesota Statutes, section 256B.73, subdivision 2.

The MA and GAMC managed care project shall continue through June 30, 1990.

Subd. 8. State Residential Facilities	210,705,000	212,009,000

The amounts that may be spent from this appropriation for each activity are as follows:

(a) Regional Treatment Centers and State-operated Community Services

Approved Complement		
	June 30, 1990	June 30, 1991
	4,763	4,687
(1) Salaries	$169,617,000	$169,005,000
(2) Current Expense	$ 14,150,000	$ 15,699,000
(3) Repairs and Betterments	$ 2,772,000	$ 1,772,000
(4) Special Equipment	$ 680,000	$ 1,150,000
(5) Personnel Mitigation	$ -0-	$ 2,000,000

Money appropriated for personnel mitigation expenses in fiscal year 1991 may be used to cover expenses occurring in fiscal year 1990.

The commissioner shall prepare and present a plan to the legislature by February 15, 1990, on methods of increasing the use of staff and resources at the Willmar Regional Treatment Center to serve children with severe emotional disturbance who would otherwise be placed in treatment in other states.

Regional treatment center and state-operated nursing home employees, except temporary or emergency employees, affected by changes in the department of human services delivery system must receive, along with other options, priority consideration in order to transfer to vacant or newly created positions at the Minneapolis and Hastings veterans homes and at facilities operated by the commissioner of corrections. The veterans homes board, in cooperation with the commissioners of human services and corrections, shall develop procedures to facilitate these transfers.

The legislative audit commission shall evaluate the regional treatment center systems project and report findings and recommendations to the chair of the house health and human services division of appropriations and the senate health and human services division of finance by January 15, 1992.

Provided there is no conflict with any collective bargaining agreement, any regional treatment center or state nursing home reduction in the human services technician classifications and other nonprofessional, nonsupervisory direct care positions must only be accomplished through attrition, transfers, and retirement and must not be accomplished through layoff, unless the position reduction is due to the relocation of residents to a different state facility and the employee declines to accept a transfer to a comparable position in another state facility.

Any regional treatment center employee position identified as being vacant by the

regional treatment center and the commissioner of human services may only be declared so after review of the chair of the house human services division of appropriations and the chair of the senate health and human services division of finance.

The legislative auditor shall study the admission and discharge policies for persons with mental retardation or related conditions in regional treatment centers, state-operated community-based services, and privately operated facilities and report to the legislature by February 1, 1990.

Notwithstanding any other law to the contrary, the commissioner may transfer money between nonsalary object of expenditure classes to salary object of expenditure classes for staff training and personnel mitigation during the biennium ending June 30, 1991.

With the approval of the commissioner of finance, the commissioner of human services may transfer any unencumbered balance from any department account, except an income maintenance entitlement account, to the regional treatment salary account during fiscal year 1989. The amounts transferred must be identified to the chairs of the senate finance division on health and human services and the house appropriations division on health and human services.

For the biennium ending June 30, 1991, this appropriation includes $40,000 in the second year to be transferred to the commissioner of health for licensure of additional community-based supervised living facilities.

During the biennium ending June 30, 1991, employees of residential facilities who are eligible for retraining funds may use those funds to attend an approved program in any public or private adult education or post-secondary institution.

Of this appropriation, $546,000 each year shall be available to the commissioner for contingency situations related to chemical dependency programs operated by regional treatment centers during the biennium ending June 30, 1991.

The commissioner shall consolidate both program and support functions at each of the regional centers and state nursing homes to ensure efficient and effective space utilization that is consistent with applicable licensing and certification standards. The commissioner may transfer residents and positions between the regional center and state nursing home system as necessary to promote the most efficient use of available state buildings. Surplus buildings shall be reported to the commissioner of administration for appropriate disposition according to Minnesota Statutes, section 16B.24.

Any unencumbered balances in special equipment and repairs and betterments remaining in the first year do not cancel but are available for the second year of the biennium.

(b) Nursing Homes
Approved Complement - 569.5 534.5

(1) Salaries
$18,477,000 $17,649,000

(2) Current Expense
$ 2,486,000 $ 2,474,000

(3) Repairs and Betterments
$ 378,000 $ 222,000

(4) Special Equipment
$ 66,000 $ 0

(c) Other State Residential Facilities Administration Activities
$ 2,079,000 $ 2,038,000

Sec. 3. OMBUDSMAN FOR MENTAL HEALTH AND MENTAL RETARDATION 888,000 921,000

Sec. 4. VETERANS NURSING HOMES BOARD

Subdivision 1. Total Appropriation 18,876,000 21,041,000

The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.

Subd. 2. Veterans Nursing Homes 18,731,000 20,896,000

At least 80 percent of the new positions at the Hastings and Minneapolis veterans homes must be nonsupervisory positions

in direct care services, rehabilitation services, psychological services, social services, pharmaceutical services, food services, housekeeping services, and internal auditing as recommended in the governor's 1989-1991 biennial budget document. Any remaining portion of the appropriation for new positions may be used to fund other positions.		
The appropriation for geriatric research and teaching is not included in the base funding level.		
Subd. 3. Veterans Nursing Homes Board	145,000	145,000
Sec. 5. COMMISSIONER OF JOBS AND TRAINING		
Subdivision 1. Total Appropriation	37,755,000	32,349,000
The amounts that may be spent from this appropriation for each program are more specifically described in the following subdivisions.		
Subd. 2. Rehabilitation Services	18,305,000	18,380,000
Any balance remaining in the first year does not cancel but is available for the second year.		
The commissioner shall report to the legislature by January 15, 1990, on grants for the rehabilitation of injured workers, including the number of workers served and the outcome on injured workers of the services provided.		
Subd. 3. Services for the Blind	3,380,000	3,383,000
Subd. 4. Economic Opportunity Office	7,257,000	7,257,000
For the biennium ending June 30, 1991, the commissioner shall transfer to the community services block grant program ten percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 3.75 percent of the transferred money may be used by the commissioner for administrative purposes.		
For the biennium ending June 30, 1991, the commissioner shall transfer to the low-income home weatherization program at least five percent of money		

received under the low-income home energy assistance block grant in each year of the biennium and shall expend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the community services block grant and the weatherization program may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1991, discretionary money from the community services block grant (regular) must be used to supplement the appropriation for local storage, transportation, processing, and distribution of United States Department of Agriculture surplus commodities to the extent supplemental funding is required. Any remaining money shall be allocated to state-designated and state-recognized community action agencies, Indian reservations, and the Minnesota migrant council.

The commissioner shall, by January 1 of each year of the biennium, report to the legislature on the use of discretionary money from the community services block grant (regular) and discretionary money resulting from block grant transfers to the community services block grant.

Subd. 5. Employment and Training	8,813,000	3,329,000

Of this amount, $250,000 in each year is to be distributed to organizations applying for grants through the governor's job council to provide services and support to dislocated workers. The governor's job council may award grants to organizations to assist dislocated workers who have been dislocated as a result of a plant closing or layoff that did not meet the threshold levels as provided in article 2, section 177, subdivisions 6 and 8, if the council determines that the plant closing or layoff has a significant effect on the community. An additional $15,000

each year is for prefeasibility study grants related to this provision. Any balance remaining in the first year of the appropriation for dislocated workers does not cancel but is available for the second year.

The appropriations increase for the summer youth employment program must be spent on transitional services.

Of the money appropriated for the summer youth employment programs for fiscal year 1990, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

Any balance remaining in the first year of the appropriation for the Minnesota employment and economic development program does not cancel but is available for the second year.

Any balance remaining at the end of the fiscal year ending June 30, 1989, in the appropriation in Laws 1987, article 1, section 4, subdivision 2, for Minnesota employment and economic development wage subsidies does not cancel and is available for the fiscal year ending June 30, 1990.

Any balance remaining in the Minnesota wage subsidy account established under Minnesota Statutes, section 268.681, subdivision 4, at the end of the fiscal years ending June 30, 1989, and June 30, 1990, does not cancel and is available for the second year.

Sec. 6. COMMISSIONER OF CORRECTIONS

Subdivision 1. Appropriation by Fund

General Fund	104,822,000	104,505,000

The amounts that may be spent from the appropriation for each program and activity are more specifically described in the following subdivisions.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval

of the commissioner of finance.

Subd. 2. Correctional Institutions	75,733,000	75,477,000

Any unencumbered balances in special equipment, repairs and replacement, food provisions, and central office health care remaining in the first year do not cancel but are available for the second year.

Employees of the St. Paul-Ramsey Medical Center who perform the functions of psychologist and director of the mental health unit at the Minnesota correctional facility-Oak Park Heights and psychiatric social worker at the Minnesota correctional facility-Stillwater shall be transferred to the state classified service without competitive or qualifying examination and shall be placed by the commissioner of employee relations, with no loss in salary, in the proper classifications. These transferred employees shall begin on the date of transfer to serve a probationary period appropriate to the classification to which each is assigned according to a collective bargaining agreement or plans established under Minnesota Statutes, section 43A.16.

Subd. 3. Community Services	25,041,000	24,950,000

Base level funding in the probation and supervised release activity for services to Dakota and Rice counties must be transferred to the community corrections act appropriation upon the entry of those counties into the community corrections program. An incumbent whose position is transferred under this subdivision retains the wages and benefits of the former position under the applicable state plan or collective bargaining agreement until the date upon which a collective bargaining agreement under Minnesota Statutes, chapter 179A, covering the new position is renewed or adjusted.

The commissioners of corrections and human services shall study the funding structure of general assistance per diems for emergency shelters for battered women and report to the legislature by January 15, 1991.

The commissioner is encouraged to direct a portion of the increase in funding to battered women's programs toward pay

increases for employees of the programs.		
Of the appropriation for battered women's programs, $34,000 in fiscal year 1990 is to pay startup costs for an American Indian battered women's shelter.		
Subd. 4. Management Services	4,048,000	4,078,000
Sec. 7. SENTENCING GUIDELINES COMMISSION	218,000	218,000
Sec. 8. CORRECTIONS OMBUDSMAN	369,000	364,000
Sec. 9. COMMISSIONER OF HEALTH		
Subdivision 1. Appropriation by Fund		
General Fund	39,345,000	41,480,000
Metropolitan Landfill Contingency Fund	167,000	167,000
Special Revenue Fund	435,000	375,000
Trunk Highway Fund	1,488,000	1,488,000
The appropriation from the metropolitan landfill contingency fund is for monitoring well water supplies and conducting health assessments in the metropolitan area.		
The appropriation from the trunk highway fund is for emergency medical services activities.		
Positions and administrative money may be transferred within the department of health as the commissioner considers necessary, with the advance approval of the commissioner of finance.		
The amounts that may be spent from this appropriation for each program and activity are more specifically described in the following subdivisions.		
Subd. 2. Preventive and Protective Health Services		
General Fund	11,610,000	11,751,000
Metropolitan Landfill Contingency Fund	145,000	145,000
Special Revenue Fund	255,000	255,000
Trunk Highway Fund	61,000	61,000
Of this amount, $135,000 in 1990 and $115,000 in 1991 from the general fund are one-time appropriations to conduct a follow-up study of asbestos-related lung disease among Conwed Corporation		

employees and spouses. The commissioner shall by January 1, 1990, present to the legislature a report addressing recommendations and plans for a comprehensive feasibility study of a statewide occupational disease surveillance system.

Of this amount, $65,000 in 1990 from the general fund is a one-time appropriation to develop and pilot test the feasibility of an epidemiologic study of the relationship between emissions of sulfur dioxide and other air contaminants and the prevalence and severity of asthma in the city of Inver Grove Heights and surrounding areas of Dakota County. The commissioner of health shall, by February 1, 1990, submit to the legislature a report including the results of this study and specific recommendations related to any future epidemiologic studies.

For the biennium ending June 30, 1991, no less than $2,000,000 from the general fund shall be used by the commissioner for AIDS prevention grants and contracts for certain high risk populations, including communities of color, adolescents at high risk, homosexual men, intravenous drug users, and others as determined by the commissioner. By October 1, 1990, and October 1, 1991, the commissioner shall report to the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee regarding the amounts of state and federal money spent by the department in fiscal years 1990 and 1991 on grants and contracts to assist each of the above groups.

The $47,000 required to be transferred to the general fund by Laws 1987, chapter 388, section 9, paragraph (c), shall be transferred not later than June 30, 1992.

The commissioner shall present to the legislature by January 1, 1990, a plan for implementing the hazardous substance exposure provisions required under Minnesota Statutes, section 145.94. The plan shall include proposals for funding and recommendations for coordinating the implementation efforts of the state department of health, the pollution control agency, and local health departments.

Subd. 3. Health Delivery Systems		
General Fund	24,028,000	26,028,000
Special Revenue Fund	180,000	120,000
Trunk Highway Fund	1,341,000	1,341,000

Of this amount, $80,000 in 1990 and $20,000 in 1991 from the health occupations licensing account within the state government special revenue fund are to pay start-up and ongoing costs associated with registering contact lens technicians and respiratory therapists. These and all subsequent costs related to this provision shall be returned to the health occupations licensing account through fees. The commissioner may use unencumbered balances in the health occupations licensing account to pay start-up costs associated with the registration of any additional occupational groups, except acupuncturists, for which the commissioner determines registration is appropriate. All such costs shall be returned to the health occupations licensing account through fees.

Of this amount, $5,000 from the general fund is available as a state match for a grant program to community-based organizations to purchase and provide paint removal equipment.

Of this amount, $10,000 from the general fund in each year is to contract with local health boards to provide safe housing for residents who are relocated due to a paint-related or plaster-related lead contamination threat in their place of residence.

Of this amount, $35,000 from the general fund in each year is to conduct assessments to determine sources of lead contamination in the residences of children and pregnant women whose blood lead levels exceed 25 micrograms per deciliter or the Centers for Disease Control recommendation for elevated blood level, and to provide education on ways of reducing the danger of lead contamination.

Of this amount, $50,000 from the general fund in each year is to implement a lead education strategy and to fund lead abatement advocates.

Of this amount, $5,000 from the general fund is transferred to the commissioner of state planning for a task force to study lead abatement costs. The task force shall consist of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement contractors, realtors, community residents including both tenants and landowners, lead advocacy organizatons, and cultural groups at high risk of lead poisoning. The task force shall evaluate the costs of providing assistance to property owners and local communities required to do lead paint, soil, and dust abatement; and of providing subsidized programs to assist the property owners and communities. The task force shall present recommendations for a statewide subsidized abatement service program. The task force shall report its findings and recommendations to the legislature by January 15, 1990.

Of the appropriation to supplement the federal Women, Infants and Children (WIC) program, any balance remaining in the first year does not cancel but is available for the second year.

For the biennium ending June 30, 1991, the commissioner of finance may authorize the transfer of money to the community health services activity from other programs in this section if the transferred money is to be used to supplement the community health services subsidy.

For the biennium ending June 30, 1991, if the appropriation for community health services or services to children with handicaps is insufficient for either year, the appropriation for the other year is available by direction of the governor after consulting with the legislative advisory commission.

For the biennium ending June 30, 1991, community health services boards should give priority consideration in the allocation of increased community health services subsidy funds to activities consistent with recommendations of the state community health services advisory committee and the commissioner's statewide goals relating to prevention of human

immunodeficiency virus.

For the biennium ending June 30, 1991, community health services boards are encouraged to use a portion of their community health services subsidy increases to conduct erythrocyte protoporphyrin and blood lead screenings among children at high risk for lead toxicity.

Until the start of the 1992 licensure year, the commissioner of health shall not apply the provisions of Minnesota Statutes, section 144.55, subdivision 6, paragraph (b), to the Minnesota Veterans Home at Hastings.

The commissioner shall report to the legislature by December 15, 1989, on the commissioner's enforcement of section 144A.10, subdivision 2, relating to the coordination of nursing home inspections, and on the commissioner's enforcement of section 144.55, subdivision 5, relating to the coordination of hospital inspections. The report must include a list of the agencies inspecting nursing homes and hospitals, the frequency of inspections, the legal authority for the inspections, the purpose of the inspections, and recommendations for consolidating and coordinating the inspections. The report must also include recommendations for improving the enforcement of sections 144A.10, subdivision 2, and 144.55, subdivision 5.

Subd. 4. Health Support Services

General Fund	3,707,000	3,701,000
Metropolitan Landfill Contingency Fund	22,000	22,000
Trunk Highway Fund	86,000	86,000

Sec. 10. HEALTH-RELATED BOARDS

Subdivision 1. Total Appropriation

Special Revenue Fund	4,910,000	5,016,000
General Fund	75,000	

Notwithstanding any law to the contrary, all fees generated by the health-related licensing boards or the commissioner of health under Minnesota Statutes, section 214.06, and all unobligated balances in the direct-appropriated special revenue fund on June 30, 1989, attributable to fees generated by the health-related

licensing boards, shall be credited to the health occupations licensing account within the state government special revenue fund.

Unless otherwise designated, all appropriations in this section are from the special revenue fund.

Subd. 2. Board of Chiropractic Examiners	264,000	252,000
Subd. 3. Board of Dentistry	400,000	400,000
Subd. 4. Board of Medical Examiners	1,760,000	1,920,000

Of this amount, $210,000 in 1990 and $262,000 in 1991 are for the purpose of purchasing additional legal services from the office of the attorney general. This money is available only in the event that the board requires legal services above and beyond a level equivalent to that provided by the office of the attorney general during 1989. Unencumbered balances in the appropriation for purchasing additional legal services may be transferred between fiscal years of the biennium.

For the biennium ending June 30, 1991, fees set by the board of medical examiners pursuant to Minnesota Statutes, section 214.06, must be fixed by rule. The procedure for noncontroversial rules in Minnesota Statutes, sections 14.22 to 14.28, may be used except that, notwithstanding the requirements of Minnesota Statutes, section 14.22, clause (3), no public hearing may be held. The notice of intention to adopt the rules must state that no hearing will be held. This procedure may be used only when the total fees estimated for the biennium do not exceed the sum of direct appropriations, indirect costs, transfers in, and salary supplements for that purpose. A public hearing is required for adjustments of fees spent under open appropriations of dedicated receipts.

Subd. 5. Board of Nursing	1,055,000	1,019,000
Subd. 6. Board of Examiners for Nursing Home Administrators	141,000	141,000
Subd. 7. Board of Optometry	57,000	59,000
Subd. 8. Board of Pharmacy	445,000	431,000

Subd. 9. Board of Podiatry	26,000	26,000
Subd. 10. Board of Psychology	181,000	187,000
Subd. 11. Social Work and Mental Health Boards Special Revenue Fund	485,000	485,000
General Fund	75,000	

(a) Board of Marriage and Family Therapy

$ 82,000	$ 82,000

(b) Board of Social Work

$ 87,000	$ 87,000

(c) Board of Unlicensed Mental Health Service Providers

Special Revenue Fund

$ 93,000	$ 93,000

General Fund

$ 75,000	$

The fee for filing as an unlicensed mental health service provider is $50 until permanent rules establishing the amount of the fee are adopted.

(d) The Office of Social Work and Mental Health Boards

$223,000	$223,000

Subd. 12. Board of Veterinary Medicine	96,000	96,000

Subd. 13. Revenue

The commissioner of finance shall not permit the allotment, encumbrance, or expenditure of money appropriated in this section in excess of the anticipated biennial revenues from fees collected by the boards, except that the board of unlicensed mental health service providers may spend from appropriated money in excess of fees collected. Neither this provision nor Minnesota Statutes, section 214.06, applies to transfers from the general contingent account, if the amount transferred does not exceed the amount of surplus revenue accumulated by the transferee during the previous five years.

Sec. 11. COMMISSIONER OF FINANCE

During the biennium ending June 30, 1991, the commissioner of finance shall forward to the chairs of the house health and human services appropriations committee and the senate health and human services finance committee all reports of

projected funding deficiencies in programs operated or supervised by the departments of human services, health, jobs and training, and corrections, and the offices of ombudsman for corrections and for mental health and mental retardation, the sentencing guidelines commission, the health-related boards, and the department of veterans affairs. If no deficiency funding recommendations are made by the governor, the commissioner shall notify the legislature of any projected deficiencies by February 1 of each year.

For the governor's recommended budget for fiscal year 1992 and fiscal year 1993, in those instances where the governor recommends funding for a change request but at a level different from the agency request, the commissioner of finance shall include in the governor's recommendation detail information commensurate with that provided by the agency. This includes a breakout of spending items if more than one provision is included in the request and rationale for the request. The commissioner of finance shall also adjust the long range implications expenditure projections to coincide with the revised governor's recommendation.

Sec. 12. TRANSFERS OF MONEY

Subdivision 1. Governor's Approval Required

For the biennium ending June 30, 1991, the commissioners of human services, corrections, jobs and training, and health and the veterans nursing homes board shall not transfer money to or from the object of expenditure "personal services" to or from the object of expenditure "grants and aid," as shown on the official worksheets of the conferees of the senate and house of representatives, a true copy of which is on file in the office of the commissioner of finance, except upon the written approval of the governor after consulting with the legislative advisory commission. Notwithstanding this limitation, money may be transferred to "grants and aid" without approval of the governor in the following programs: services for the blind, basic

client rehabilitation services, and rehabilitation services for workers' compensation recipients.

Subd. 2. Transfers of Unencumbered Appropriations

For the biennium ending June 30, 1991, the commissioners of human services, corrections, health, and jobs and training by direction of the governor after consulting with the legislative advisory commission may transfer unencumbered appropriation balances and positions among all programs.

Sec. 13. PROJECT LABOR

For human services and corrections institutions, wages for project labor may be paid if the employee is to be engaged in a construction or repair project of short-term and nonrecurring nature. Minnesota Statutes, section 43A.25, does not prevent the payment of the prevailing wage rate, as defined in Minnesota Statutes, section 177.42, subdivision 6, to a person hired to work on a project, whether or not the person is working under a contract.

Sec. 14. PROVISIONS

For the biennium ending June 30, 1991, money appropriated to the commissioner of corrections and the commissioner of human services in this act for the purchase of provisions within the item "current expense" must be used solely for that purpose. Money provided and not used for purchase of provisions must be canceled into the fund from which appropriated, except that money provided and not used for the purchase of provisions because of population decreases may be transferred and used for the purchase of medical and hospital supplies with the written approval of the governor after consulting with the legislative advisory commission.

The allowance for food may be adjusted annually according to the United States Department of Labor, Bureau of Labor Statistics publication, producer price index, with the approval of the commissioner of finance. Adjustments for fiscal year 1990 and fiscal year 1991 must be

based on the June 1989 and June 1990 producer price index respectively, but the adjustment must be prorated if the wholesale food price index adjustment would require money in excess of this appropriation.

Sec. 15. PUBLIC HEALTH FUND

Any balance remaining in the public health fund at the close of fiscal year 1989, regardless of any dedicated purpose, shall be transferred to the general fund.

Sec. 16. Minnesota Statutes 1988, section 144.122, is amended to read:

144.122 [LICENSE AND PERMIT FEES.]

(a) The state commissioner of health, by rule, may prescribe reasonable procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the department of finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the general fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with subdivision 1 or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with handicaps program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

Sec. 17. Minnesota Statutes 1988, section 145.894, is amended to read:

145.894 [STATE COMMISSIONER OF HEALTH; DUTIES, RESPONSIBILITIES.]

The commissioner of health shall:

(a) Develop a comprehensive state plan for the delivery of nutritional

supplements to pregnant and lactating women, infants, and children;

(b) Contract with existing local public or private nonprofit organizations for the administration of the nutritional supplement program;

(c) Develop and implement a public education program promoting the provisions of sections 145.891 to 145.897, and provide for the delivery of individual and family nutrition education and counseling at project sites;

(d) Develop in cooperation with other agencies and vendors a uniform state voucher system for the delivery of nutritional supplements;

(e) Authorize local health agencies to issue vouchers bimonthly to some or all eligible individuals served by the agency, provided the agency demonstrates that the federal minimum requirements for providing nutrition education will continue to be met and that the quality of nutrition education and health services provided by the agency will not be adversely impacted;

(f) Investigate and implement an infant formula cost reduction system that will reduce the cost of nutritional supplements so that by October 1, 1988, additional mothers and children will be served;

(g) Develop, analyze, and evaluate the health aspects of the nutritional supplement program and establish nutritional guidelines for the program;

(h) Apply for, administer, and annually expend at least 99 percent of available federal or private funds;

(i) Aggressively market services to eligible individuals by conducting ongoing outreach activities and by coordinating with and providing marketing materials and technical assistance to local human services and community service agencies and nonprofit service providers;

(j) Determine, on July 1 of each year, the number of pregnant women participating in each special supplemental food program for women, infants, and children (W.I.C.) and, in 1986, 1987, and 1988, at the commissioner's discretion, designate a different food program deliverer if the current deliverer fails to increase the participation of pregnant women in the program by at least ten percent over the previous year's participation rate;

(k) Promulgate all rules necessary to carry out the provisions of sections 145.891 to 145.897; ~~and~~

(l) Report to the legislature by November 15 of every year on the expenditures and activities under sections 145.891 to 145.897 of the state and local health agencies for the preceding fiscal year; *and*

(m) Ensure that any state appropriation to supplement the federal program is spent consistent with federal requirements.

Sec. 18. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

Subd. 6. [ELIGIBILITY CRITERIA.] *To the extent allowed by federal regulations, the commissioner shall ensure that the same income eligibility criteria apply to both the weatherization program and the energy assistance program.*

Sec. 19. Minnesota Statutes 1988, section 287.12, is amended to read:

287.12 [TAXES, HOW APPORTIONED.]

All taxes paid to the county treasurer under the provisions of sections

287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month. The treasurer shall report to the county welfare agency on or before the tenth day of each month 97 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to 97 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month. *If a county's mortgage and deed tax receipts exceed the state share of AFDC grants for the county, the excess amount must be offset against state payments to the county for the state share of the income maintenance programs. Any excess remaining after offsetting all state payments for income maintenance programs must be paid to the commissioner of human services and credited to the AFDC account.*

ARTICLE 2

SOCIAL SERVICES, HEALTH, AND ADMINISTRATION

Section 1. Minnesota Statutes 1988, section 16B.06, is amended by adding a subdivision to read:

Subd. 2a. [EXCEPTION.] *The requirements of subdivision 2 do not apply to state contracts distributing state or federal funds pursuant to the federal economic dislocation and worker adjustment assistance act, United States Code, title 29, section 1651 et seq., or sections 268.973 and 268.974. For these contracts, the commissioner of jobs and training is authorized to directly enter into state contracts with approval of the governor's job training council, and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner shall adopt internal procedures to administer and monitor funds distributed under these contracts.*

Sec. 2. Minnesota Statutes 1988, section 43A.27, subdivision 2, is amended to read:

Subd. 2. [ELECTIVE ELIGIBILITY.] The following persons, if not otherwise covered by section 43A.24, may elect coverage for themselves or their dependents at their own expense:

(a) a state employee, including persons on layoff from a civil service position as provided in collective bargaining agreements or a plan established pursuant to section 43A.18;

(b) an employee of the board of regents of the University of Minnesota, including persons on layoff, as provided in collective bargaining agreements or by the board of regents;

(c) an officer or employee of the state agricultural society, state horticultural society, Sibley house association, Minnesota humanities commission, Minnesota international center, Minnesota academy of science, science museum of Minnesota, Minnesota safety council, state office of disabled American veterans, state office of the American Legion and its auxiliary, ~~or~~ state office of veterans of foreign wars and its auxiliary, *or state office of the Military Order of the Purple Heart*;

(d) a civilian employee of the adjutant general who is paid from federal funds and who is not eligible for benefits from any federal civilian employee

group life insurance or health benefits program; and

(e) an officer or employee of the state capitol credit union or the highway credit union.

Sec. 3. Minnesota Statutes 1988, section 62D.041, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] *(a)* For the purposes of this section, the term "uncovered expenditures" means the costs of health care services that are covered by a health maintenance organization for which an enrollee would also be liable in the event of the organization's insolvency, and that are not guaranteed, insured, or assumed by a person other than the health maintenance organization.

(b) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "uncovered expenditures" excludes any expenditures attributable to the supplemental benefit.

Sec. 4. Minnesota Statutes 1988, section 62D.041, is amended by adding a subdivision to read:

Subd. 10. [SUPPLEMENTAL DEPOSIT.] *A health maintenance organization offering supplemental benefits as described in section 62D.05, subdivision 6, must maintain an additional deposit in the first year such benefits are offered equal to $50,000. At the end of the second year such benefits are offered, the health maintenance organization must maintain an additional deposit equal to $150,000. At the end of the third year such benefits are offered and every year thereafter, the health maintenance organization must maintain an additional deposit of $250,000.*

Sec. 5. Minnesota Statutes 1988, section 62D.042, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, "guaranteeing organization" means an organization that has agreed to make necessary contributions or advancements to the health maintenance organization to maintain the health maintenance organization's statutorily required net worth.

(b) For this section, "working capital" means current assets minus current liabilities.

(c) For purposes of this section, if a health maintenance organization offers supplemental benefits as described in section 62D.05, subdivision 6, "expenses" does not include any expenses attributable to the supplemental benefit.

Sec. 6. Minnesota Statutes 1988, section 62D.05, subdivision 6, is amended to read:

Subd. 6. [SUPPLEMENTAL BENEFITS.] *(a)* A health maintenance organization may, as a supplemental benefit, provide coverage to its enrollees for health care services and supplies received from providers who are not employed by, under contract with, or otherwise affiliated with the health maintenance organization. *Supplemental benefits may be provided if the following conditions are met:*

(1) a health maintenance organization desiring to offer supplemental benefits must at all times comply with the requirements of sections 62D.041

and 62D.042;

(2) a health maintenance organization offering supplemental benefits must maintain an additional surplus in the first year supplemental benefits are offered equal to the lesser of $500,000 or 33 percent of the supplemental benefit expenses. At the end of the second year supplemental benefits are offered, the health maintenance organization must maintain an additional surplus equal to the lesser of $1,000,000 or 33 percent of the supplemental benefit expenses. At the end of the third year benefits are offered and every year after that, the health maintenance organization must maintain an additional surplus equal to the greater of $1,000,000 or 33 percent of the supplemental benefit expenses. When in the judgment of the commissioner the health maintenance organization's surplus is inadequate, the commissioner may require the health maintenance organization to maintain additional surplus;

(3) claims relating to supplemental benefits must be processed in accordance with the requirements of section 72A.201; and

(4) in marketing supplemental benefits, the health maintenance organization shall fully disclose and describe to enrollees and potential enrollees the nature and extent of the supplemental coverage, and any claims filing and other administrative responsibilities in regard to supplemental benefits.

(b) The commissioner may, pursuant to chapter 14, adopt, enforce, and administer rules relating to this subdivision, including: rules insuring that these benefits are supplementary and not substitutes for comprehensive health maintenance services *by addressing percentage of out-of-plan coverage*; rules relating to ~~protection against insolvency, including~~ the establishment of necessary financial reserves; ~~rules relating to appropriate standards for claims processing;~~ rules relating to marketing practices; and other rules necessary for the effective and efficient administration of this subdivision. The commissioner, in adopting rules, shall give consideration to existing laws and rules administered and enforced by the department of commerce relating to health insurance plans. ~~Except as otherwise provided by law, a health maintenance organization may not advertise, offer, or enter into contracts for the coverage described in this subdivision until 30 days after the effective date of rules adopted by the commissioner of health to implement this subdivision.~~

Sec. 7. [144.0535] [ENTRY FOR INSPECTION.]

For the purposes of performing their official duties, all officers and employees of the state department of health shall have the right to enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

Sec. 8. Minnesota Statutes 1988, section 144.50, subdivision 6, is amended to read:

Subd. 6. [SUPERVISED LIVING FACILITY LICENSES.] *(a)* The commissioner may license as a supervised living facility a facility seeking medical assistance certification as an intermediate care facility for persons with mental retardation or related conditions for four or more persons as authorized under section 252.291.

(b) Class B supervised living facilities for six or less persons seeking medical assistance certification as an intermediate care facility for persons

with mental retardation or related conditions shall meet Group R, Division 3, occupancy requirements of the state building code, the fire protection provisions of chapter 21 of the 1985 life safety code, NFPA 101, for facilities housing persons with impractical evacuation capabilities, and shall provide the necessary physical plant accommodations to meet the needs and functional disabilities of the residents.

Sec. 9. Minnesota Statutes 1988, section 144.562, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR LICENSE CONDITION.] A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ *482.66*, or it has a licensed bed capacity of 50 beds or more and has swing beds that were approved for medicare reimbursement before May 1, 1985 *or it has a licensed bed capacity of less than 65 beds and, as of the effective date, the available nursing homes within 50 miles have had occupancy rates of 96 percent or higher in the past two years*; (2) it is located in a rural area as defined in the federal medicare regulations, Code of Federal Regulations, title 42, section ~~405.1041~~ *482.66*; and (3) it agrees to utilize no more than four hospital beds as swing beds at any one time, except that the commissioner may approve the utilization of up to three additional beds at the request of a hospital if no medicare certified skilled nursing facility beds are available within 25 miles of that hospital.

Sec. 10. Minnesota Statutes 1988, section 144.562, subdivision 3, is amended to read:

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

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

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

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

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

care hospital.

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

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

Sec. 11. Minnesota Statutes 1988, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

~~(a)~~ *(1)* a balance sheet detailing the assets, liabilities, and net worth of the hospital;

~~(b)~~ *(2)* a detailed statement of income and expenses;

~~(c)~~ *(3)* a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act; ~~and~~

~~(d)~~ *(4)* a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in effect on July 1, 1989; and

(7) other information required by the commissioner in rule.

Sec. 12. Minnesota Statutes 1988, section 144.701, is amended to read:

144.701 [RATE DISCLOSURE.]

Subdivision 1. [CONSUMER INFORMATION.] The commissioner of health shall ensure that the total costs, total revenues, and total services of each hospital and each outpatient surgical center are reported to the public in a form understandable to consumers.

Subd. 2. [DATA FOR POLICY MAKING.] The commissioner of health shall compile relevant financial and accounting data concerning hospitals and outpatient surgical centers in order to have statistical information available for legislative policy making.

Subd. 3. [RATE SCHEDULE.] The commissioner of health shall obtain from each hospital and outpatient surgical center a current rate schedule. Any subsequent amendments or modifications of that schedule shall be

filed with the commissioner of health ~~at least 60 days in advance of~~ *on or before* their effective date.

Subd. 4. [FILING FEES.] Each report which is required to be submitted to the commissioner of health under sections 144.695 to 144.703 and which is not submitted to a voluntary, nonprofit reporting organization in accordance with section 144.702 shall be accompanied by a filing fee in an amount prescribed by rule of the commissioner of health. Fees received pursuant to this subdivision shall be deposited in the general fund of the state treasury. *Upon the withdrawal of approval of a reporting organization, or the decision of the commissioner to not renew a reporting organization, fees collected under section 144.702 shall be submitted to the commissioner and deposited in the general fund. The commissioner shall report the termination or nonrenewal of the voluntary reporting organization to the chair of the health and human services subdivision of the appropriations committee of the house of representatives, to the chair of the health and human services division of the finance committee of the senate, and the commissioner of finance.*

Sec. 13. Minnesota Statutes 1988, section 144.702, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF ORGANIZATION'S REPORTING PROCEDURES.] The commissioner of health may approve voluntary reporting procedures ~~which are substantially equivalent to reporting requirements and procedures adopted by the commissioner of health for reporting procedures under sections 144.695 to 144.703.~~ *consistent with written operating requirements for the voluntary, nonprofit reporting organization which shall be established annually by the commissioner. These written operating requirements shall specify reports, analyses, and other deliverables to be produced by the voluntary, nonprofit reporting organization, and the dates on which those deliverables must be submitted to the commissioner.* The commissioner of health shall, by rule, prescribe standards for ~~approval of voluntary reporting procedures, which~~ *submission of data by hospitals and outpatient surgical centers to the voluntary, nonprofit reporting organization or to the commissioner. These* standards shall provide for:

(a) The filing of appropriate financial information with the reporting organization;

(b) Adequate analysis and verification of that financial information; and

(c) Timely publication of the costs, revenues, and rates of individual hospitals and outpatient surgical centers prior to the effective date of any proposed rate increase. The commissioner of health shall annually review the procedures approved pursuant to this subdivision.

Sec. 14. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

Subd. 7. [STAFF SUPPORT.] *The commissioner may require as part of the written operating requirements for the voluntary, nonprofit reporting organization that the organization provide sufficient funds to cover the costs of one professional staff position who will directly administer the health care cost information system.*

Sec. 15. Minnesota Statutes 1988, section 144.702, is amended by adding a subdivision to read:

Subd. 8. [TERMINATION OR NONRENEWAL OF REPORTING

ORGANIZATION.] *The commissioner may withdraw approval of any voluntary, nonprofit reporting organization for failure on the part of the voluntary, nonprofit reporting organization to comply with the written operating requirements under subdivision 2. Upon the effective date of the withdrawal, all funds collected by the voluntary, nonprofit reporting organization under section 144.701, subdivision 4, but not expended shall be deposited in the general fund.*

The commissioner may choose not to renew approval of a voluntary, nonprofit reporting organization if the organization has failed to perform its obligations satisfactorily under the written operating requirements under subdivision 2.

Sec. 16. [144.851] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *The definitions in this section apply to sections 144.851 to 144.862.*

Subd. 2. [ABATEMENT.] *"Abatement" means the use of the best available technology to remove or encapsulate deteriorating or intact lead paint or to reduce the availability of lead in soil and house dust, medicine, water, and any other sources considered a lead hazard by the commissioner.*

Subd. 3. [BOARD OF HEALTH.] *"Board of health" means an administrative authority established under section 145A.03 or 145A.07.*

Subd. 4. [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

Subd. 5. [ELEVATED BLOOD LEAD LEVEL.] *"Elevated blood lead level" means at least 25 micrograms per deciliter.*

Subd. 6. [ENCAPSULATION.] *"Encapsulation" refers to the covering or containment of a lead source in soil or paint to prevent harmful exposure to lead. Encapsulation includes, but is not limited to, covering of bare soil that contains more than acceptable levels of lead under rules adopted under section 144.862 with sod or soil that contains acceptable parts per million lead under rules adopted under section 144.862, seeding, and treatment for walkways and parking areas.*

Subd. 7. [LEAD ABATEMENT CONTRACTOR.] *"Lead abatement contractor" means an employer or other person or entity who, for financial gain, directly performs or causes to be performed, through subcontracting or similar delegation, work related to lead hazard abatement or immediate hazard removal.*

Sec. 17. [144.852] [PROACTIVE LEAD EDUCATION STRATEGY.]

The commissioner shall contract with boards of health in communities at high risk for toxic lead exposure to children, lead advocacy organizations, and businesses to design and implement a uniform, proactive educational program to introduce sections 144.851 to 144.861 and promote the prevention of exposure to all sources of lead to target populations. Priority shall be given to provide ongoing education to health care and social service providers, registered lead abatement contractors, building trades professionals and nonprofessionals, property owners, and parents. Educational materials shall be multilingual and multicultural to meet the needs of diverse populations.

Sec. 18. [144.853] [LEAD SCREENING FOR CHILDREN.]

Within limits of available appropriations, the commissioner shall contract with the boards of health in Minneapolis, St. Paul, and Duluth to promote and subsidize a baseline blood lead test of all children at risk who live in the high risk areas served by these boards of health and who are under six years of age. The lead screening shall be advocated on a statewide basis through the proactive education efforts of boards of health. The lead screening shall be promoted to be carried out in conjunction with routine blood tests.

Medical laboratories performing blood lead analyses must provide copies of the laboratory report form for all blood levels of at least ten micrograms per deciliter to the commissioner and to the board of health of the city or county in which the patient resides.

The information obtained from the screenings shall be reported by census tract and made available for research and to the public.

The commissioner shall work through the statewide WIC program to ensure that erythrocyte protoporphyrin testing of children for lead toxicity is integrated as a state reimbursed screening component of WIC services. The commissioner shall also evaluate the accessibility and affordability of lead screening for children throughout the state as provided by other health care providers and report the findings to the legislature by January 1990.

Sec. 19. [144.854] [ASSESSMENT AND ABATEMENT.]

Subdivision 1. [RESIDENCE ASSESSMENT.] *If a child or pregnant woman is identified as having a blood lead level that exceeds 25 micrograms per deciliter or the Center for Disease Control recommendation for elevated blood level, the board of health must do a timely assessment of the child's or pregnant woman's residence to determine the sources of lead contamination and must provide education to the residents and the owner on the best means of reducing the danger of the lead sources.*

Subd. 2. [ABATEMENT ORDERS.] *If the level of lead in paint, soil, or dust found during the assessment conducted under subdivision 1 exceeds the toxic level of lead standards established in rules adopted under section 144.862, the board of health must order the property owner to abate the lead sources.*

Subd. 3. [PROVISION OF EQUIPMENT.] *State matching funds shall be made available for a grant program to community-based organizations to purchase and provide paint removal equipment. Equipment shall include: drop cloth, secure containers, power water sprayers, scrapers, and any other equipment required by local health department or state health department rules. Equipment shall be made available to low-income households on a priority basis.*

Subd. 4. [PROTECTION OF RESIDENT AND YARD.] *No person shall be required to scrape loose paint or remove intact paint in response to a housing code violation order or environmental health or abatement order unless the municipality provides:*

(1) specific information regarding personal safety precautions, and proper removal, containment, and cleanup of lead paint and debris;

(2) a referral to an organization with proper removal equipment; and

(3) a lead paint removal hot-line phone number for information and

technical assistance.

Subd. 5. [WARNING NOTICE.] *A warning notice must be posted on all entrances to properties for which an order to abate a lead source has been issued by a board of health. This notice must remain posted until the abatement has been completed in accordance with the order, or until the board of health removes it. This warning must be at least 8-1/2 by 11 inches in size, and must include the following provisions, or provisions using substantially similar language:*

(a) "This property contains dangerous amounts of lead to which children under age six and pregnant women should not be exposed."

(b) "It is unlawful to remove or deface this warning. This warning may be removed only upon the direction of the board of health."

Subd. 6. [RELOCATION OF RESIDENTS.] *Relocation of residents is required from rooms or dwellings for removal of intact paint and the removal or disruption of lead painted surfaces and plaster walls during construction or remodeling projects. The commissioner shall contract with boards of health for safe housing for relocation requirements. Efforts must be made to minimize disruption and ensure that a family may return to their place of residence if they desire, after abatement is completed.*

Subd. 7. [RETESTING REQUIRED.] *After completion of the abatement as ordered, the board of health must retest the paint, soil, and dust previously in violation to assure the violations no longer exist.*

Sec. 20. [144.856] [REGISTRATION OF ABATEMENT CONTRACTORS.]

After July 1, 1989, abatement contractors who contract for the removal of leaded soil, dust, or deteriorating paint must register by phone, mail, or in person with the commissioner and notify the board of health of all abatement projects undertaken in response to an abatement order. All abatement contractors shall be given instructional materials on safe abatement methods and the requirements of relocation from rooms or dwellings by residents. By July 1, 1990, the commissioner shall develop a training program for abatement contractors and adopt rules specifying the abatement methods that must be used by contractors to provide for the safe collection, handling, storage, encapsulation, removal, transportation, and disposal of lead containing material. The commissioner shall adopt emergency rules for abatement methods and standards for paint, bare soil, dust, and drinking water from public fountains for cities of the first class. By January 1, 1991, the commissioner shall report to the legislature concerning the need for licensure or certification of lead abatement contractors.

Sec. 21. [144.860] [LEAD ABATEMENT ADVOCATE.]

The commissioner shall create and administer a program to fund locally based advocates who, following the issuance of an abatement order, will visit the family in their residence to instruct them about safety measures, materials, and methods to be followed before, during, and after the abatement process.

Sec. 22. [144.861] [STUDY ON ABATEMENT COSTS.]

The commissioner of state planning shall convene a task force of representatives of the Minnesota housing finance agency, the pollution control agency, the department of health, the state planning agency, abatement

contractors, realtors, community residents including both tenants and landowners, lead advocacy organizations, and cultural groups at high risk of lead poisoning to evaluate the costs of providing assistance to property owners and local communities required to do abatement under this law and of providing subsidized programs to assist them. The task force shall also present recommendations for a statewide subsidized abatement service program. The agency shall report its findings and recommendations to the legislature by January 1990.

Sec. 23. [144.862] [RULES.]

By June 30, 1990, the commissioner of the pollution control agency and the commissioner of health shall jointly adopt rules to set toxic lead levels for paint, bare soil, dust, and drinking water from public fountains.

Sec. 24. Minnesota Statutes 1988, section 144A.01, subdivision 5, is amended to read:

Subd. 5. "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in section 144.562, clinic, doctor's office, diagnostic or treatment center, or a residential ~~facility~~ *program* licensed pursuant to sections ~~245.781 to 245.821~~ *245A.01 to 245A.16* or 252.28.

Sec. 25. Minnesota Statutes 1988, section 144A.45, subdivision 2, is amended to read:

Subd. 2. [REGULATORY FUNCTIONS.] (a) The commissioner shall:

(1) evaluate, monitor, and license home care providers in accordance with sections 144A.45 to 144A.49;

(2) inspect the office and records of a provider during regular business hours~~, provided that when conducting routine office visits or inspections, the commissioner shall provide at least 48 hours~~ *without* advance notice to the home care provider;

(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 reasonably required to accomplish the purposes of sections 144A.43 to 144A.49.

(b) In the exercise of the authority granted in sections 144A.43 to 144A.49, the commissioner shall comply with the applicable requirements of section 144.122, the government data practices act, and the administrative procedure act.

Sec. 26. Minnesota Statutes 1988, section 144A.46, is amended to read:

144A.46 [LICENSURE.]

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

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The

acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122.

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

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

(2) a personal care assistant who provides services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(3) a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under section 256B.0625, subdivision 19, and section 256B.04, subdivision 16;

(4) a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization;

(5) a person who provides services to a person with mental retardation under a program of semi-independent living services regulated by Minnesota Rules, parts 9525.0500 to 9525.0660; or

(6) a person who provides services to a person with mental retardation under contract with a county to provide home and community-based services that are reimbursed under the medical assistance program, chapter 256B, and regulated by Minnesota Rules, parts 9525.1800 to 9525.1930.

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

Subd. 3. [ENFORCEMENT.] The commissioner may refuse to grant or renew a license, or may suspend or revoke a license, for violation of statutes or rules relating to home care services or for conduct detrimental to the welfare of the consumer. Prior to any suspension, revocation, or refusal to renew a license, the home care provider shall be entitled to notice and a hearing as provided by sections 14.57 to 14.70. 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 a provider 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 provider; (2) after notice, the provider 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 an opportunity for a contested case hearing within the 60 days. The

process of suspending or revoking a license must include a plan for transferring affected clients to other providers.

Subd. 3a. [INJUNCTIVE RELIEF] *In addition to any other remedy provided by law, the commissioner may bring an action in district court to enjoin a person who is involved in the management, operation, or control of a home care provider, or an employee of the home care provider from illegally engaging in activities regulated by sections 144A.43 to 144A.48. The commissioner may bring an action under this subdivision in the district court in Ramsey county or in the district in which a home care provider is providing services. The court may grant a temporary restraining order in the proceeding if continued activity by the person who is involved in the management, operation, or control of a home care provider, or by an employee of the home care provider, would create an imminent risk of harm to a recipient of home care services.*

Subd. 3b. [SUBPOENA.] *In matters pending before the commissioner under sections 144A.43 to 144A.48, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books, records, documents, and other evidentiary material. If a person fails or refuses to comply with a subpoena or order of the commissioner to appear or testify regarding any matter about which the person may be lawfully questioned or to produce any papers, books, records, documents, or evidentiary materials in the matter to be heard, the commissioner may apply to the district court in any district, and the court shall order the person to comply with the commissioner's order or subpoena. The commissioner of health may administer oaths to witnesses, or take their affirmation. Depositions may be taken in or outside the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon a named person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage and in the same manner as prescribed by law for process issued out of a district court. A person subpoenaed under this subdivision shall receive the same fees, mileage, and other costs that are paid in proceedings in district court.*

Subd. 4. [RELATION TO OTHER REGULATORY PROGRAMS.] In the exercise of the authority granted under sections 144A.43 to 144A.49, 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 144A.44. For home care providers certified under the Medicare program, the state standards must not be inconsistent with the Medicare standards for Medicare services. To the extent possible, the commissioner shall coordinate the inspections required under sections 144A.45 to 144A.48 with the health facility licensure inspections required under sections 144.50 to 144.58 or 144A.10 when the health care facility is also licensed under the provisions of Laws 1987, chapter 378.

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] An applicant for a home care provider license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the provider. A home care provider shall require employees of the provider

and applicants for employment *in positions that involve contact with recipients of home care services* to disclose all criminal convictions. *The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the federal bureau of investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network.* No person may be employed by a home care provider ~~or~~ *in a position that involves contact with recipients of home care services nor may any person be* involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining *what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and* whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

Sec. 27. [144A.465] [LICENSURE; PENALTY.]

A person involved in the management, operation, or control of a home care provider who violates section 144A.46, subdivision 1, paragraph (a), is guilty of a misdemeanor. This section does not apply to a person who had no legal authority to affect or change decisions related to the management, operation, or control of a home care provider.

Sec. 28. Minnesota Statutes 1988, section 145.38, subdivision 1, is amended to read:

Subdivision 1. No person shall sell to a person under ~~19~~ *18* years of age any glue ~~or~~, cement, *or aerosol paint* containing toluene, benzene, xylene, *amyl nitrate, butyl nitrate, nitrous oxide,* or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system. This section does not apply if the glue ~~or~~, cement, *or aerosol paint* is contained in a packaged kit for the construction of a model automobile, airplane, or similar item.

Sec. 29. [145.385] [WARNING SIGNS.]

A business establishment that offers for sale at retail any item as described in section 145.38, subdivision 1, must display a conspicuous sign that

contains the following, or substantially similar, language:

"NOTICE

It is unlawful for a person to sell glue, cement, or aerosol paint containing intoxicating substances to a person under 18 years of age, except as provided by law. Such an offense is a misdemeanor. It is also unlawful for a person to use or possess glue, cement, or aerosol paint with the intent of inducing intoxication, excitement, or stupefaction of the central nervous system. Such an offense is a misdemeanor. Such use can be harmful or fatal."

Sec. 30. Minnesota Statutes 1988, section 145.39, subdivision 1, is amended to read:

Subdivision 1. No person ~~under 19 years of age~~ shall use or possess any glue, cement, *aerosol paint,* or any other substance containing toluene, benzene, xylene, *amyl nitrate, butyl nitrate, nitrous oxide,* or other aromatic hydrocarbon solvents, or any similar substance which the state commissioner of health has, by rule adopted pursuant to sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45, declared to have potential for abuse and toxic effects on the central nervous system with the intent of inducing intoxication, excitement or stupefaction of the central nervous system, except under the direction and supervision of a medical doctor.

Sec. 31. [145.406] [INFORMATION ON THE SALE AND USE OF TOXIC SUBSTANCES.]

The commissioner of health shall prepare and distribute materials designed to provide information to retail businesses on the requirements of sections 145.38 to 145.40.

Sec. 32. [145.867] [PERSONS REQUIRING SPECIAL DIETS.]

Subdivision 1. [PUBLIC FACILITY.] *"Public facility" means an auditorium, concert hall, sports stadium, sports arena, or theater.*

Subd. 2. [IDENTIFICATION CARD FOR INDIVIDUALS NEEDING A SPECIAL DIET.] *The commissioner of health shall make special diet identification cards available to physicians and to persons with diabetes and other conditions requiring special diets. The identification card must contain spaces for: (1) the person's name, address, and signature; (2) the physician's name, phone number, and signature; (3) a description of the person's medical condition; and (4) an expiration date. The card must also contain the following provision, in identical or substantially similar language: "The owner of this card is exempted by the commissioner of health from prohibitions on bringing outside food and drink into a public facility." Persons with medical conditions requiring a special diet may ask their physician to fill out and sign the card. The physician shall fill out and sign the card if, in the physician's medical judgment, the person has a medical condition that requires a special diet. Persons with diabetes shall be automatically assumed by physicians to require special diets. Special diet identification cards shall be valid for five years. Persons with a medical condition requiring a special diet may request a new card from their physician up to six months before the expiration date.*

Subd. 3. [EXEMPTION FROM FOOD AND DRINK PROHIBITIONS.] *Persons with medical conditions requiring a special diet who present a valid special diet identification card to any employee of a public facility shall be allowed to bring in outside food and drink, subject to the limitations*

in subdivision 4. To be valid, the card must be filled out according to subdivision 2 and must be current. Persons with special diet identification cards must obey all other food and drink regulations established by a public facility including prohibitions on eating or drinking in certain areas of the public facility.

Subd. 4. [LIMITATION ON EXEMPTION.] *Public facilities may limit the amount of food and drink that may be brought into a public facility by a person with a special diet identification card to the amount that can reasonably be consumed by a single individual. Public facilities may also place limits on the size of any food or drink container carried in, if the container would be a safety hazard or interfere with other patrons or customers. Public facilities may also require persons displaying a special diet identification card to show some other form of identification.*

Sec. 33. Minnesota Statutes 1988, section 145.882, subdivision 1, is amended to read:

Subdivision 1. [~~CONTINUATION OF 1983 PROJECTS~~ *FUNDING LEVELS AND ADVISORY TASK FORCE REVIEW.*] ~~(a) Notwithstanding subdivisions 2 and 3, recipients of maternal and child health grants for special projects in state fiscal year 1983 shall continue to be funded at the same level as in state fiscal year 1983 until December 31, 1987. Beginning January 1, 1988, recipients of maternal and child health special project grants awarded in state fiscal year 1983 must receive:~~

~~(1) for calendar year 1988, no less than 80 percent of the amount awarded in state fiscal year 1983; and~~

~~(2) for calendar year 1989, no less than 70 percent of the amount awarded in state fiscal year 1983.~~

~~(b) The amount of grants awarded under this subdivision must be deducted from the allocation under subdivisions 3 and 4 for the community health services area within which the grantee is located. In order to receive money under this subdivision, recipients must continue to comply with sections 145.881 and 145.882 to 145.888. These recipients are also eligible to apply for grants under subdivisions 2, 3, and 4.~~ Any decrease in the amount of federal funding to the state for the maternal and child health block grant must be apportioned to reflect a proportional decrease for each recipient. Any increase in the amount of federal funding to the state must be distributed under subdivisions 2, 3, and 4.

~~(c)~~ The advisory task force shall review and recommend the proportion of maternal and child health block grant funds to be expended for indirect costs, direct services and special projects.

Sec. 34. Minnesota Statutes 1988, section 145.882, subdivision 3, is amended to read:

Subd. 3. [ALLOCATION TO COMMUNITY HEALTH SERVICES AREAS.] *(a)* The maternal and child health block grant money remaining after distributions made under ~~subdivisions 1 and~~ *subdivision* 2 must be allocated according to the formula in subdivision 4 to community health services areas for distribution by community health boards as defined in section 145A.02, subdivision 5, to qualified programs that provide essential services within the community health services area *as long as:*

(1) the Minneapolis community health service area is allocated at least $1,626,215 per year;

(2) the St. Paul community health service area is allocated at least $822,931 per year; and

(3) all other community health service areas are allocated at least $30,000 per county per year or their 1988-1989 funding cycle award, whichever is less.

(b) Notwithstanding paragraph (a), if the total amount of maternal and child health block grant funding decreases, the decrease must be apportioned to reflect a proportional decrease for each recipient, including recipients who would otherwise receive a guaranteed minimum allocation under paragraph (a).

Sec. 35. Minnesota Statutes 1988, section 145.882, subdivision 7, is amended to read:

Subd. 7. [USE OF BLOCK GRANT MONEY.] (a) Maternal and child health block grant money allocated to a community health board or community health services area under this section must be used for qualified programs for high risk and low income individuals. Block grant money must be used for programs that:

(1) specifically address the highest risk populations, particularly low income and minority groups with a high rate of infant mortality and children with low birth weight, by providing services calculated to produce measurable decreases in infant mortality rates, instances of children with low birth weight, and medical complications associated with pregnancy and childbirth;

(2) specifically target pregnant women whose age, medical condition, or maternal history substantially increases the likelihood of complications associated with pregnancy and childbirth or the birth of a child with an illness, disability, or special medical needs;

(3) specifically address the health needs of young children who have or are likely to have a chronic disease or disability or special medical needs; ~~or~~

(4) provide family planning and preventive medical care for specifically identified target populations, such as minority and low income teenagers, in a manner calculated to decrease the occurrence of inappropriate pregnancy and minimize the risk of complications associated with pregnancy and childbirth~~.~~*; or*

(5) specifically address the frequency and severity of childhood injuries in high risk target populations by providing services calculated to produce measurable decreases in mortality and morbidity. However, money may be used for this purpose only if the community health board's application includes program components for the purposes in clauses (1) to (4) in the proposed geographic service area and the total expenditure for injury-related programs under this clause does not exceed ten percent of the total allocation under subdivision 3.

(b) Maternal and child health block grant money may be used for purposes other than the purposes listed in this subdivision only ~~if~~ *under the following conditions:*

(1) the community health board or community health services area can demonstrate that existing programs fully address the needs of the highest risk target populations described in this subdivision~~.~~*; or*

(2) the money is used to continue projects that received funding before creation of the maternal and child health block grant in 1981.

(c) Projects that received funding before creation of the maternal and child health block grant in 1981, must be allocated at least the amount of maternal and child health special project grant funds received in 1989, unless (1) the local board of health provides equivalent alternative funding for the project from another source; or (2) the local board of health demonstrates that the need for the specific services provided by the project has significantly decreased as a result of changes in the demographic characteristics of the population, or other factors that have a major impact on the demand for services. If the amount of federal funding to the state for the maternal and child health block grant is decreased, these projects must receive a proportional decrease as required in subdivision 1. Increases in allocation amounts to local boards of health under subdivision 4 may be used to increase funding levels for these projects.

Sec. 36. [145.898] [SUDDEN INFANT DEATH.]

The department of health shall develop uniform investigative guidelines and protocols for coroners and medical examiners conducting death investigations and autopsies of children under two years of age.

Sec. 37. [145.9245] [GRANTS FOR CASE MANAGEMENT SERVICES FOR AIDS INFECTED PERSONS.]

The commissioner may award special grants to community health boards as defined in section 145A.02, subdivision 5, or nonprofit corporations for the development, implementation, and evaluation of case management services for individuals infected with the human immunodeficiency virus to assist in preventing transmission of the human immunodeficiency virus to others.

Sec. 38. Minnesota Statutes 1988, section 146.13, is amended to read:

146.13 [REGISTRATION FEES.]

Every person not hereinafter excepted from the provisions of this chapter authorized to practice healing in this state shall~~, in the month of January each year,~~ *annually* register with the director of the particular board of examiners which examined and registered or licensed the person to practice that branch or system of healing pursued; and shall, at that time, for the purpose of making such registration, sign and send to such director in writing the following: name, the name of the place, and the address, at which the practice of healing is engaged in, and pay to the director each year a fee in an amount to be fixed by rule of the respective board of examiners. Any person who shall change the address or place of practice during the year shall forthwith notify such director in writing of such change, giving such new address or place. The director of each board of examiners shall keep a proper register of all such persons and to each person so registering the proper board shall issue a certificate for the current year, signed by the president and the director and sealed with the seal of such board, setting forth name, the name of the place and the address at which the practice of healing is engaged in, and the branch or system of healing pursued. Any person not hereinafter excepted from the provisions of this chapter lawfully entitled to engage in the practice of healing in this state ~~after the month of January in any year~~, and who shall not be *currently* registered as provided in this section, shall, within 30 days after first so engaging in the practice of healing, register with the proper examining

board in the manner provided in this chapter, pay to the director of such board the fee above required, and received from such board a certificate as above prescribed for the balance of such year. Every person receiving a certificate, as herein provided, shall display the same in a conspicuous place in the office or other corresponding place where the practice of healing is pursued.

All fees received by the director of any examining board for registration required by this section shall be paid to the general fund. The expenses of keeping proper registers, furnishing the certificates herein provided for, employing inspectors for procuring evidence of any violation of the laws administered thereby and aiding in the enforcement of such laws, and for such other expenses as may be necessarily paid or incurred in the exercise of its powers or performance of its duties, shall be paid from the appropriation made to the examining board.

Sec. 39. Minnesota Statutes 1988, section 147.02, subdivision 1, is amended to read:

Subdivision 1. [UNITED STATES OR CANADIAN MEDICAL SCHOOL GRADUATES.] The board shall, with the consent of six of its members, issue a license to practice medicine to a person who meets the following requirements:

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed ~~an~~ *a comprehensive* examination *for initial licensure* prepared and graded by the national board of medical examiners or the federation of state medical boards. The board shall by rule determine what constitutes a passing score in the examination.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant shall make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

Sec. 40. Minnesota Statutes 1988, section 148B.23, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTION FROM EXAMINATION.] For two years from July 1, 1987, the board shall issue a license without examination to an applicant:

(1) for a licensed social worker, if the board determines that the applicant has received a baccalaureate degree from an accredited program of social work, or that the applicant has at least a baccalaureate degree from an accredited college or university and two years in full-time employment or 4,000 hours of experience in the supervised practice of social work within the five years before July 1, 1989, *or within a longer time period as specified by the board*;

(2) for a licensed graduate social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board;

(3) for a licensed independent social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline, as approved by the board; and, after receiving the degree, has practiced social work for at least two years in full-time employment or 4,000 hours under the supervision of a social worker meeting these requirements, or of another qualified professional; and

(4) for a licensed independent clinical social worker, if the board determines that the applicant has received a master's degree from an accredited program of social work or doctoral degree in social work; or a master's or doctoral degree from a graduate program in a human service discipline as approved by the board; and, after receiving the degree, has practiced clinical social work for at least two years in full-time employment or 4,000 hours under the supervision of a clinical social worker meeting these requirements, or of another qualified mental health professional.

Sec. 41. Minnesota Statutes 1988, section 148B.27, subdivision 2, is amended to read:

Subd. 2. [USE OF TITLES.] After the board adopts rules, no individual shall be presented to the public by any title incorporating the words "social work" or "social worker" unless that individual holds a valid license issued under sections 148B.18 to 148B.28. City, county, and state agency social workers who are not licensed under sections 148B.18 to 148B.28 may use the title city agency social worker or county agency social worker or state agency social worker. *Hospital social workers who are not licensed under sections 148B.18 to 148B.28 may use the title hospital social worker while acting within the scope of their employment.*

Sec. 42. Minnesota Statutes 1988, section 148B.32, subdivision 2, is amended to read:

Subd. 2. [APPEARANCE AS LICENSEE PROHIBITED.] After adoption of rules by the board implementing sections 148B.29 to 148B.39, no individual shall be held out to be a marriage and family therapist unless that individual holds a valid license issued under sections 148B.29 to 148B.39,

is a psychologist licensed by the board of psychology with a competency in marriage and family therapy, or is a person providing marriage and family therapy who is employed by a hospital licensed under chapter 144 and who is acting within the scope of the person's employment.

Sec. 43. Minnesota Statutes 1988, section 148B.40, subdivision 3, is amended to read:

Subd. 3. [MENTAL HEALTH SERVICE PROVIDER.] "Mental health service provider" or "provider" means any person who provides, for a remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; or the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license. *In addition, the term does not include employees of the state of Minnesota or any of its political subdivisions while acting within the scope of their public employment; hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting as marriage and family counselors within the scope of their employment by the hospital or nursing home; persons employed by a program licensed by the commissioner of human services who are acting as mental health service providers within the scope of their employment; and persons certified as chemical dependency professionals by the Institute for Chemical Dependency Professionals of Minnesota, Inc. The Institute for Chemical Dependency Professionals shall provide the board of unlicensed mental health service providers with the name and address of any person whose certification has been discontinued, along with the reason for the discontinuance. Any chemical dependency treatment professional who does not maintain a current and valid certification with the Institute of Chemical Treatment Professionals of Minnesota, Inc., must register with the board of unlicensed mental health service providers in order to provide chemical dependency treatment services.*

Sec. 44. Minnesota Statutes 1988, section 149.02, is amended to read:

149.02 [EXAMINATION; LICENSING.]

The state commissioner of health is hereby authorized and empowered to examine, upon submission of an application therefor and fee as prescribed by the commissioner pursuant to section 144.122, all applicants for license to practice mortuary science or funeral directing and to determine whether or not the applicants possess the necessary qualifications to practice mortuary science or funeral directing. If upon examination the commissioner shall determine that an applicant is properly qualified to practice mortuary science or funeral directing, the commissioner shall grant a license to the person to practice mortuary science or funeral directing. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

On or after the thirty-first day of December, 1955, separate licenses as embalmer or funeral director shall not be issued, except that a license as funeral director shall be issued to those apprentices who have been registered under rules of the commissioner as apprentice funeral directors on the first day of July, 1955, qualify by examination for licensure under such

rules as funeral directors before the first day of August, 1957. Such applicants shall file an application for license as a funeral director in the manner as is required in section 149.03 for a license in mortuary science. It shall be accompanied by a fee in an amount prescribed by the commissioner pursuant to section 144.122. However, a single license as a funeral director shall be issued to those persons whose custom, rites, or religious beliefs forbid the practice of embalming. An applicant for a single license as a funeral director under this exception shall submit to the commissioner of health two affidavits substantiating the beliefs and convictions of the applicant and shall meet any other standards for licensure as are required by law or by rule of the commissioner. Such a funeral director shall only direct funerals for persons of the same customs, rites or religious beliefs as those of the funeral director. In the case of a funeral conducted for persons of such customs, rites or religious beliefs where embalming and funeral directing is necessary according to law, such embalming and funeral directing shall be performed only by a person licensed to do so in this state.

All licensees who on the thirty-first day of December, 1955, hold licenses as embalmers only shall be granted licenses to practice mortuary science and may renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122.

All licensees who on the thirty-first day of December, 1955, hold licenses as funeral director only may continue to renew their licenses at the times and in the manner specified by the commissioner pursuant to section 144.122. If a licensee fails to renew, as in this chapter required, that person's license as a funeral director shall not thereafter be reinstated.

To assist in the holding of the examination and enforcement of the provisions of this chapter, the commissioner shall establish a mortuary sciences advisory council and shall appoint ~~four~~ *five* members to it. Two members shall be licensed in mortuary science and shall have had at least five years experience immediately preceding their appointment in the preparation and disposition of dead human bodies and in the practice of mortuary science. ~~A third member shall be a representative of the commissioner~~ *Two members must be public members as defined by section 214.02*, and the ~~fourth~~ *fifth* member shall be a full-time academic staff member of the course in mortuary science of the University of Minnesota. The terms, compensation and removal of members and expiration of the council shall be as provided in section 15.059.

Sec. 45. Minnesota Statutes 1988, section 149.06, is amended to read:

149.06 [VIOLATIONS, PENALTIES.]

Any person who shall embalm a dead human body, or who shall hold out as a mortician, embalmer, funeral director, or trainee, without being licensed or registered, shall be guilty of a misdemeanor and punished accordingly. This chapter shall not apply to or in any way interfere with the duties of any officer of any public institution, or with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of mortuary science, or to any person engaged in the performance of duties prescribed by law relating to the conditions under which the indigent dead human bodies are held subject to anatomical study, or to the custom or rites of any religious sect in the burial of their dead.

~~The name of a person registered as a trainee must not be used or caused or permitted to be used by the person, in any way, in the name, designation,~~

~~or title, or in the advertising of the funeral establishment with which the person is associated or in which the person may have acquired a proprietary or financial interest.~~

Nothing in this chapter shall in any way affect the operation of corporations or burial associations, providing all work of embalming or funeral directing is done by licensed morticians or funeral directors, as provided by this chapter. It shall be unlawful for any such corporation or burial association to:

(1) Violate any of the laws of this state relative to the burial or disposal of dead human bodies, or any of the rules of the state commissioner of health in relation to the care, custody, or disposition of dead human bodies, or the disinfecting of premises where contagion exists;

(2) Publish or disseminate misleading advertising;

(3) Directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business, other than by advertising, or for obtaining authority to dispose of any dead human bodies;

(4) Permit unlicensed persons to render or perform any of the services required to be performed by persons licensed under the provisions of this chapter.

Any corporation or burial association violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

Nothing in this chapter shall be construed as repealing any of the laws of this state in regard to the organizing or incorporating of cooperative associations.

Sec. 46. Minnesota Statutes 1988, section 153A.13, subdivision 4, is amended to read:

Subd. 4. [HEARING INSTRUMENT SELLING.] "Hearing instrument selling" means fitting and selling hearing instruments, assisting the consumer in instrument selection, selling hearing instruments at retail, ~~and~~ *or* testing human hearing in connection with these activities.

Sec. 47. Minnesota Statutes 1988, section 153A.15, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The commissioner shall establish, in writing, internal operating procedures for receiving and investigating complaints and imposing enforcement actions. *The written internal operating procedures may include procedures for sharing complaint information with government agencies in this and other states.* Establishment of the operating procedures are not subject to rulemaking procedures under chapter 14. *Procedures for sharing complaint information shall be consistent with the requirements for handling government data under chapter 13.*

Sec. 48. Minnesota Statutes 1988, section 153A.16, is amended to read:

153A.16 [BOND REQUIRED.]

A sole proprietor, partnership, association, or corporation engaged in hearing instrument sales shall provide a surety bond in favor of the state of Minnesota in the amount of $5,000 for every individual engaged in the practice of selling hearing instruments, up to a maximum of $25,000. The bond required by this section must be in favor of the state for the benefit of any person who suffers loss of payments for the purchase or repair of

a hearing instrument after July 1, 1988, due to insolvency or cessation of the business of the sole proprietor, partnership, association, or corporation engaged in hearing instrument sales. A copy of the bond must be filed with the ~~attorney general~~ *commissioner of health*. A person claiming against the bond may maintain an action at law against the surety and the sole proprietor, partnership, association, or corporation. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein must not exceed the amount of the bond.

Sec. 49. [157.031] [ADDITIONAL LICENSE REQUIRED FOR BOARD AND LODGING ESTABLISHMENTS; SPECIAL SERVICES.]

Subdivision 1. [DEFINITIONS.] *(a) "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, and dressing, grooming, or bathing. Supportive services also include providing reminders to residents to take medications that are self administered or providing storage for medications if requested.*

(b) "Health supervision services" means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in bathing or with walking devices.

Subd. 2. [REGISTRATION.] *A board and lodging establishment that provides supportive services or health supervision services must register with the commissioner by September 1, 1989. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the board and lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the special license rules required by subdivision 5 are effective.*

Subd. 3. [RESTRICTION ON THE PROVISION OF SERVICES.] *Effective September 1, 1989, and until the rules required under subdivision 5 are adopted, a board and lodging establishment may provide health supervision services only if a licensed nurse is on site in the facility for at least four hours a week to provide supervision and health monitoring of the residents. A board and lodging facility that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.*

Subd. 4. [SPECIAL LICENSE REQUIRED.] *Upon adoption of the rules required by subdivision 5, a board and lodging establishment that provides either supportive care or health supervision services must obtain a special license from the commissioner. The special license is required until rules resulting from the recommendations made in accordance with section 213 are implemented.*

Subd. 5. [RULES.] *By July 1, 1990, the commissioner of health shall adopt rules necessary to implement the special license provisions. The rules may address the type of services that can be provided, staffing requirements, and the training and qualifications of staff. The rules must set a fee for the issuance of the special service license. The special license*

fee is in addition to the license fee prescribed in section 157.03. Nothing in section 157.031 and sections 213 and 214 is intended to prevent the promulgation of rules by the commissioner of human services governing the licensure or delivery of services to persons with mental illness or the requirement to comply with those rules.

Subd. 6. [SERVICES THAT MAY NOT BE PROVIDED IN A BOARD AND LODGING ESTABLISHMENT.] *A board and lodging establishment may not admit or retain individuals who:*

(1) would require assistance from facility staff because of the following needs: incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or

(2) require a level of care and supervision beyond supportive services or health supervision services.

Subd. 7. [CERTAIN INDIVIDUALS MAY PROVIDE SERVICES.] *This section does not prohibit the provision of health care services to residents of a board and lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.*

Subd. 8. [EXEMPTION FOR ESTABLISHMENTS WITH A HUMAN SERVICES LICENSE.] *This section does not apply to a board and lodging establishment that is licensed by the commissioner of human services under chapter 245A.*

Subd. 9. [VIOLATIONS.] *The commissioner may revoke both the special service license, when issued, and the establishment license, if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.*

Sec. 50. Minnesota Statutes 1988, section 157.14, is amended to read:

157.14 [EXEMPTIONS.]

This chapter shall not be construed to apply to interstate carriers under the supervision of the United States Department of Health, Education and Welfare or to any building constructed and primarily used for religious worship, nor to any building owned, operated and used by a college or university in accordance with regulations promulgated by the college or university. Any person, firm or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05 is exempt at that premises from licensure as a place of refreshment or restaurant; provided, that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of the chapter or the rules of the state commissioner of health relating to food and beverage service establishments. This chapter does not apply to family day care homes or group family day care homes governed by sections 245.781 to 245.812 *and does not apply to nonprofit senior citizen centers for the sale of home-baked goods.*

Sec. 51. Minnesota Statutes 1988, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

The procedures established by the commissioner shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, ~~to the 75th percentile of usual and customary fees or charges~~ based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 52. Minnesota Statutes 1988, section 176.136, subdivision 5, is amended to read:

Subd. 5. [PERMANENT RULES.] Where permanent rules have been adopted to implement this section, the commissioner shall annually give notice in the State Register of the ~~75th percentile~~ *reimbursement allowance* to meet the requirements of subdivision 1. The notice shall be in lieu of the requirements of chapter 14 ~~if the 75th percentile for the service meets~~ *and shall be set at the 75th percentile of the billings for each service in the data base; provided that* the requirements of paragraphs (a) to (e) *are met.*

(a) The data base includes at least three different providers of the service.

(b) The data base contains at least 20 billings for the service.

(c) The ~~standard deviation as a percentage of the mean of billings for the service is 50 percent or less.~~ *data is taken from the data base of Blue Cross and Blue Shield of Minnesota where available; if not available from Blue Cross and Blue Shield of Minnesota, the data will be taken directly from the health care providers, professional associations, or other available sources.*

(d) The ~~means of the Blue Cross and Blue Shield data base and of the department of human services data base for the service are within 20 percent of each other.~~ *standard deviation is less than or equal to 50 percent of the mean of the billings for each service in the data base or the value of the 75th percentile is not greater than or equal to three times the value of the 25th percentile of the billings for each service in the data base.*

(e) The ~~data is taken from the data base of Blue Cross and Blue Shield or the department of human services~~ *75th percentile logically reflects the usual and customary charges for the service.*

Sec. 53. [196.27] [AGENT ORANGE SETTLEMENT PAYMENTS.]

(a) Payments received by veterans or their dependents because of settlements between them and the manufacturers of Agent Orange or other chemical agents, as defined in section 196.21, must not be treated as income (or an available resource) of the veterans or their dependents for the purposes of any program of public assistance or benefit program administered by the department of veterans affairs, the department of human services, or other agencies of the state or political subdivisions of the state, except as provided in paragraph (b).

(b) The income and resource exclusion in paragraph (a) does not apply to the medical assistance, food stamps, or aid to families with dependent children programs until the commissioner of human services receives formal approval from the United States Department of Health and Human Services, for the medical assistance and aid to families with dependent children programs, and from the United States Department of Agriculture, for the food stamps program. The income exclusion does not apply to the Minnesota supplemental aid program until the commissioner receives formal federal approval of the exclusion for the medical assistance program.

Sec. 54. Minnesota Statutes 1988, section 214.04, subdivision 3, is amended to read:

Subd. 3. The executive secretary of each health-related and non-health-related board shall be the chief administrative officer for the board but shall not be a member of the board. The executive secretary shall maintain the records of the board, account for all fees received by it, supervise and direct employees servicing the board, and perform other services as directed by the board. The executive secretaries and other employees of the following boards shall be hired by the board, and the executive secretaries shall be in the unclassified civil service, except as provided in this subdivision:

(1) dentistry;

(2) medical examiners;

(3) nursing;

(4) pharmacy;

(5) accountancy;

(6) architecture, engineering, land surveying and landscape architecture;

(7) barber examiners;

(8) cosmetology;

(9) electricity;

(10) teaching;

(11) peace officer standards and training;

(12) social work;

(13) marriage and family therapy;

(14) unlicensed mental health service providers; and

(15) office of social work and mental health boards.

The board of medical examiners shall set the salary of its executive director, which may not exceed 95 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1. *The board of dentistry shall set the salary of its executive director, which may not exceed 80 percent of the top of the salary range set for the commissioner of health in section 15A.081, subdivision 1.* The board shall submit a proposed salary increase to the legislative commission on employee relations and the full legislature for approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2.

The executive secretaries serving the remaining boards are hired by those

boards and are in the unclassified civil service, except for part-time executive secretaries, who are not required to be in the unclassified service. Boards not requiring full-time executive secretaries may employ them on a part-time basis. To the extent practicable, the sharing of part-time executive secretaries by boards being serviced by the same department is encouraged. Persons providing services to those boards not listed in this subdivision, except executive secretaries of the boards and employees of the attorney general, are classified civil service employees of the department servicing the board. To the extent practicable, the commissioner shall ensure that staff services are shared by the boards being serviced by the department. If necessary, a board may hire part-time, temporary employees to administer and grade examinations.

Sec. 55. Minnesota Statutes 1988, section 245.73, subdivision 1, is amended to read:

Subdivision 1. [COMMISSIONER'S DUTY.] The commissioner shall establish a statewide program to assist counties in ensuring provision of services to adult mentally ill persons. The commissioner shall make grants to county boards to provide community based services to mentally ill persons through ~~facilities~~ *programs* licensed under sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*.

Sec. 56. Minnesota Statutes 1988, section 245.73, subdivision 2, is amended to read:

Subd. 2. [APPLICATION; CRITERIA.] County boards may submit an application and budget for use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner for residential ~~facilities~~ *programs* for adult mentally ill persons to meet licensing requirements pursuant to sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*. Funds shall not be used to supplant or reduce local, state, or federal expenditure levels supporting existing resources unless the reduction in available moneys is the result of a state or federal decision not to refund an existing program. State funds received by a county pursuant to this section shall be used only for direct service costs. Both direct service and other costs, including but not limited to renovation, construction or rent of buildings, purchase or lease of vehicles or equipment as required for licensure as a ~~facility~~ *residential program* for adult mentally ill persons under sections ~~245.781 to 245.812~~ *245A.01 to 245A.16*, may be paid out of the matching funds required under subdivision 3. Neither the state funds nor the matching funds shall be used for room and board costs.

Sec. 57. Minnesota Statutes 1988, section 245.91, is amended by adding a subdivision to read:

Subd. 6. [SERIOUS INJURY.] *"Serious injury" means:*

(1) fractures;

(2) dislocations;

(3) evidence of internal injuries;

(4) head injuries with loss of consciousness;

(5) lacerations involving injuries to tendons or organs, and those for which complications are present;

(6) extensive second degree or third degree burns, and other burns for

which complications are present;

(7) extensive second degree or third degree frost bite, and others for which complications are present;

(8) irreversible mobility or avulsion of teeth;

(9) injuries to the eyeball;

(10) ingestion of foreign substances and objects that are harmful;

(11) near drowning;

(12) heat exhaustion or sunstroke; and

(13) all other injuries considered serious by a physician.

Sec. 58. Minnesota Statutes 1988, section 245.94, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, other than clients in acute care facilities who are receiving services not paid for by public funds.

(d) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency, facility, or program.

(e) The ombudsman may examine, on behalf of a client, records of an agency, facility, or program if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with mental retardation or a related condition.

(f) The ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.

~~(f)~~ *(g)* The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

~~(g)~~ *(h)* The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected client, other proceedings

affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with mental retardation or a related condition.

~~(h)~~ *(i)* The ombudsman shall have access to data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 12 and 13, regarding services provided to clients with mental retardation or a related condition.

~~(i)~~ *(j)* To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

~~(j)~~ *(k)* Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

Sec. 59. Minnesota Statutes 1988, section 245.94, is amended by adding a subdivision to read:

Subd. 2a. [MANDATORY REPORTING.] *Within 24 hours after a client suffers death or serious injury, the facility or program director shall notify the ombudsman of the death or serious injury.*

Sec. 60. Minnesota Statutes 1988, section 245A.02, subdivision 3, is amended to read:

Subd. 3. [APPLICANT.] "Applicant" means an individual, corporation, partnership, voluntary association, *controlling individual,* or other organization that has applied for licensure under sections 245A.01 to 245A.16 and the rules of the commissioner.

Sec. 61. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

Subd. 5a. [CONTROLLING INDIVIDUAL.] *"Controlling individual" means a public body, governmental agency, business entity, officer, program administrator, or director whose responsibilities include the direction of the management or policies of a program. Controlling individual also means an individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business association that is a controlling individual. Controlling individual does not include:*

(1) a bank, savings bank, trust company, building and loan association, savings and loan association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer or director of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.15, subdivision 1, clause (f); or

(ii) whose transactions are exempt under section 80A.15, subdivision 2, clause (b); or

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer or director of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation.

Sec. 62. Minnesota Statutes 1988, section 245A.02, is amended by adding a subdivision to read:

Subd. 6a. [DROP-IN CHILD CARE PROGRAM.] *"Drop-in child care program" means a nonresidential program of child care provided to children for a maximum per child of five hours in any one day and 40 hours in any one calendar month at a child care center that does not have a regularly scheduled, ongoing child care program with a stable enrollment, and that is licensed exclusively for that purpose.*

Sec. 63. Minnesota Statutes 1988, section 245A.02, subdivision 9, is amended to read:

Subd. 9. [LICENSE HOLDER.] "License holder" means an individual, corporation, partnership, voluntary association, or other organization that is legally responsible for the operation of the program ~~and~~, has been granted a license by the commissioner under sections 245A.01 to 245A.16 and the rules of the commissioner, *and is a controlling individual.*

Sec. 64. Minnesota Statutes 1988, section 245A.02, subdivision 10, is amended to read:

Subd. 10. [NONRESIDENTIAL PROGRAM.] "Nonresidential program" means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation *or a related condition* or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semi-independent living services for persons with mental retardation *or a related condition* that are provided in or outside of a person's own home.

Sec. 65. Minnesota Statutes 1988, section 245A.02, subdivision 14, is amended to read:

Subd. 14. [RESIDENTIAL PROGRAM.] "Residential program" means a program that provides 24-hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more persons whose primary diagnosis is mental retardation *or a related condition* or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; *a program in an intermediate care facility for four or more persons with mental retardation or a related condition;* a nursing home or hospital that was licensed by the

commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Residential programs include home and community-based services and semi-independent living services for persons with mental retardation *or a related condition* that are provided in or outside of a person's own home.

Sec. 66. Minnesota Statutes 1988, section 245A.03, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] Unless licensed by the commissioner, an individual, corporation, partnership, voluntary association ~~or~~, other organization, *or controlling individual* must not:

(1) operate a residential or a nonresidential program;

(2) receive a child or adult for care, supervision, or placement in foster care or adoption;

(3) help plan the placement of a child or adult in foster care or adoption; or

(4) advertise *a* residential or nonresidential program.

Sec. 67. Minnesota Statutes 1988, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;

(6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered

by a county agency. This exclusion expires on July 1, ~~1989~~ *1990*;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs ~~not located in family or group family day care homes~~ whose primary purpose is to provide *social or recreational* activities ~~outside of the regular school day~~ for *adults or school-age* children ~~age five and older, until such time as appropriate rules have been adopted by the commissioner~~ *such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board*;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period; ~~or~~

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) until July 1, 1991, nonresidential programs for persons with mental illness; or

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.

Sec. 68. Minnesota Statutes 1988, section 245A.03, subdivision 3, is amended to read:

Subd. 3. [UNLICENSED PROGRAMS.] (a) It is a misdemeanor for an individual, corporation, partnership, voluntary association, ~~or~~ other organization, *or a controlling individual* to provide a residential or nonresidential program without a license and in willful disregard of sections 245A.01 to 245A.16 unless the program is excluded from licensure under subdivision 2.

(b) If, after receiving notice that a license is required, the individual, corporation, partnership, voluntary association, ~~or~~ other organization, *or controlling individual* has failed to apply for a license, the commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the

program. The county attorney and the attorney general have a duty to cooperate with the commissioner.

Sec. 69. Minnesota Statutes 1988, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION FOR LICENSURE.] *(a)* An individual, corporation, partnership, voluntary association, ~~or~~ other organization *or controlling individual that is* subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions.

(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

Sec. 70. Minnesota Statutes 1988, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before ~~issuing~~ *the commissioner issues* a license, the commissioner shall conduct a study of the ~~applicant~~ *individuals specified in clauses (1) to (4) according to rules of the commissioner*. The applicant, *license holder*, the bureau of criminal apprehension, ~~county attorneys, county sheriffs,~~ *and* county agencies, ~~and local chiefs of police,~~ after *written* notice to the *individual who is the* subject of the ~~data~~ *study*, shall help with the study by giving the commissioner criminal conviction data~~, arrest information,~~ *and* reports about abuse or neglect of ~~children or~~ adults~~, and investigation results available from local, state, and national criminal record repositories, including the criminal justice data communications network, about~~ *substantiated under section 626.557 and the maltreatment of minors substantiated under section 626.556. The individuals to be studied shall include*:

(1) the applicant;

(2) persons *over the age of 13* living in the household where the licensed program will be provided;

(3) *current* employees or contractors of the applicant who will have direct contact with persons served by the program; and

(4) volunteers who have direct contact with persons served by the program *to provide program services*, if the contact is not directly supervised by the individuals listed in clause (1) or (3).

~~The commissioner and agencies required to help conduct the study may charge the applicant or the subject of the data a reasonable fee for conducting the study.~~

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (4) shall be conducted on at least an annual basis. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) *The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.*

(c) A study must ~~meet the following minimum criteria:~~

~~(1) if the subject of the data has resided in the same county for at least the past five years, the study must~~ include information from ~~the county sheriff, the local chief of police, and~~ the county ~~agency~~

~~(2) if the subject of the data has resided in the state, but not in the same county, for the past five years, the study must include~~ *agency's record of substantiated abuse of adults, neglect of adults, and the maltreatment of minors, and* information from ~~the agencies listed in clause (1) and~~ the bureau of criminal apprehension~~; and~~

~~(3) if the subject of the data has not resided in the state for at least five years, the study must include information from the agencies listed in clauses (1) and (2) and the national criminal records repository and the state law enforcement agencies in the states where the subject of the data has maintained a residence during the past five years~~.

The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to (4).

~~(c)~~ *(d)* An applicant's *or license holder's* failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or *immediately suspend, suspend, or* revoke ~~or suspend~~ a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the

license holder's license to be immediately suspended, suspended, or revoked.

~~(d)~~ *(e)* The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(f) No person in paragraph (a), clause (1), (2), (3), or (4) who is disqualified as a result of this act may be retained by the agency in a position involving direct contact with persons served by the program.

(g) The commissioner shall not implement the procedures contained in this subdivision until appropriate rules have been adopted, except for the applicants and license holders for child foster care, adult foster care, and family day care homes.

(h) Termination of persons in paragraph (a), clause (1), (2), (3), or (4) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(i) The commissioner may establish records to fulfill the requirements of this section. The information contained in the records is only available to the commissioner for the purpose authorized in this section.

Sec. 71. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

Subd. 3a. [NOTIFICATION TO SUBJECT OF STUDY RESULTS.] *The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program.*

The commissioner shall notify the individual studied if the information contained in the study could cause disqualification from direct contact with persons served by the program. The commissioner shall disclose the information to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that could cause disqualification of the subject from direct contact with persons served by the program. However, the applicant or license holder shall not be told what that information is unless the data practices act provides for release of the information and the individual studied authorizes the release of the information.

Sec. 72. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] *(a) Within 30 days after receiving notice of possible disqualification under subdivision 3a, the individual who is the subject of the study may request reconsideration of the notice of possible disqualification. The individual must submit the request for reconsideration to the commissioner in writing. The individual must present information to show that:*

(1) the information the commissioner relied upon is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification if the commissioner finds that the information the commissioner relied upon is incorrect

or the individual does not pose a risk of harm to any person served by the applicant or license holder and rules adopted by the commissioner do not preclude reconsideration. The commissioner shall review the consequences of the event or events that could lead to disqualification, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event.

(c) The commissioner shall respond in writing to all reconsideration requests within 15 working days after receiving the request for reconsideration. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing of the decision.

(d) Except as provided in subdivision 3c, the commissioner's decision to grant or deny a reconsideration of disqualification under this subdivision, or to set aside or uphold the results of the study under subdivision 3, is the final administrative agency action.

Sec. 73. Minnesota Statutes 1988, section 245A.04, is amended by adding a subdivision to read:

Subd. 3c. [CONTESTED CASE.] *If a disqualification is not set aside, a person who, on or after the effective date of rules adopted under subdivision 3, paragraph (i), is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).*

Sec. 74. Minnesota Statutes 1988, section 245A.04, subdivision 5, is amended to read:

Subd. 5. [COMMISSIONER'S RIGHT OF ACCESS.] When the commissioner is exercising the powers conferred by sections 245A.01 to 245A.15, the commissioner must be given access to the physical plant and grounds where the program is provided, documents, persons served by the program, and staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is conducting an investigation of allegations of abuse, neglect, *maltreatment,* or other violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 75. Minnesota Statutes 1988, section 245A.04, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER'S EVALUATION.] Before granting, suspending, revoking, or making probationary a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, consumer evaluations of the program, and information about the character and qualifications of the personnel employed by the applicant or license holder.

The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in rules adopted under this chapter. If any rule currently does not include these disqualification standards, the commissioner shall apply the standards in section 364.03, subdivision ~~2~~ *3*, until the rule is revised to include disqualification standards. The commissioner shall revise all rules authorized by this chapter to include disqualification standards. *Prior to the adoption of rules establishing disqualification standards, the commissioner shall forward the proposed rules to the commissioner of human rights for review and recommendation concerning the protection of individual rights. The recommendation of the commissioner of human rights is not binding on the commissioner of human services.* The provisions of chapter 364 do not apply to applicants or license holders governed by sections 245A.01 to 245A.16 except as provided in this subdivision.

Sec. 76. Minnesota Statutes 1988, section 245A.04, subdivision 7, is amended to read:

Subd. 7. [ISSUANCE OF A LICENSE; PROVISIONAL LICENSE.] (a) If the commissioner determines that the program complies with all applicable rules and laws, the commissioner shall issue a license. At minimum, the license shall state:

(1) the name of the license holder;

(2) the address of the program;

(3) the effective date and expiration date of the license;

(4) the type of license;

(5) the maximum number and ages of persons that may receive services from the program; and

(6) any special conditions of licensure.

(b) The commissioner may issue a provisional license for a period not to exceed one year if:

(1) the commissioner is unable to conduct the evaluation or observation required by subdivision 4, paragraph (a), clauses (3) and (4), because the program is not yet operational;

(2) certain records and documents are not available because persons are not yet receiving services from the program; and

(3) the applicant complies with applicable laws and rules in all other respects.

A provisional license must not be issued except at the time that a license

is first issued to an applicant.

A license shall not be transferable to another individual, corporation, partnership, voluntary association ~~or~~, other organization, *or controlling individual,* or to another location. All licenses expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must apply for and be granted a new license to operate the program or the program must not be operated after the expiration date.

Sec. 77. Minnesota Statutes 1988, section 245A.06, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS OF CORRECTION ORDERS.] *(a)* If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order to the applicant or license holder. The correction order must state:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated; and

(3) the time allowed to correct each violation.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or fine.

Sec. 78. Minnesota Statutes 1988, section 245A.06, subdivision 5, is amended to read:

Subd. 5. [FORFEITURE OF FINES.] The license holder shall pay the fines assessed ~~within 15 calendar days of receipt of notice of~~ *on or before the payment date specified in* the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.

Sec. 79. Minnesota Statutes 1988, section 245A.06, is amended by adding a subdivision to read:

Subd. 5a. [ACCRUAL OF FINES.] *A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. A fine assessed for a violation shall stop accruing when the commissioner receives the written notice. The commissioner shall reinspect the program within three working days after receiving the notice. If upon reinspection the commissioner determines that a violation has not been corrected as indicated*

by the order to forfeit, accrual of the daily fine resumes on the date of reinspection and the amount of fines that otherwise would have accrued between the date the commissioner received the notice and date of the reinspection is added to the total assessment due from the license holder. The commissioner shall notify the license holder by certified mail that accrual of the fine has resumed. The license holder may challenge the resumption in a contested case under chapter 14 by written request within 15 days after receipt of the notice of resumption. Recovery of the resumed

fine must be stayed if a controlling individual or a legal representative on behalf of the license holder makes a written request for a hearing. The request for hearing, however, may not stay accrual of the daily fine for violations that have not been corrected. The cost of reinspection conducted under this subdivision for uncorrected violations must be added to the total amount of accrued fines due from the license holder.

Sec. 80. Minnesota Statutes 1988, section 245A.07, subdivision 2, is amended to read:

Subd. 2. [IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS.] If the license holder's failure to comply with applicable law or rule has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner shall act immediately to suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under sections 245A.01 to 245A.16 while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a contested case hearing under chapter 14 must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license by notifying the commissioner in writing by certified mail within five calendar days after receiving notice that the license has been immediately suspended. A license holder *and any controlling individual* shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 81. Minnesota Statutes 1988, section 245A.08, subdivision 5, is amended to read:

Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14. The notice must also contain information about the appellant's rights under chapter 14. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder *and each controlling individual of a license holder* whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation.

Sec. 82. Minnesota Statutes 1988, section 245A.12, is amended to read:

245A.12 [VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL ~~FACILITIES~~ *PROGRAMS*.]

A majority of controlling ~~persons~~ *individuals* of a residential program may at any time ask the commissioner to assume operation of the residential program through appointment of a receiver. On receiving the request for a receiver, the commissioner may enter into an agreement with a majority of controlling ~~persons~~ *individuals* and provide for the appointment of a receiver to operate the residential program under conditions acceptable to

both the commissioner and the majority of controlling persons. The agreement must specify the terms and conditions of the receivership and preserve the rights of the persons being served by the residential program. A receivership set up under this section terminates at the time specified by the parties to the agreement or 30 days after either of the parties gives written notice to the other party of termination of the receivership agreement.

Sec. 83. Minnesota Statutes 1988, section 245A.13, is amended to read:

245A.13 [INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL ~~FACILITIES~~ *PROGRAMS.*]

Subdivision 1. [APPLICATION.] *In addition to any other remedy provided by law,* the commissioner may petition the district court in the county where the residential program is located for an order directing the controlling ~~persons~~ *individuals* of the residential program to show cause why the commissioner or the commissioner's designated representative should not be appointed receiver to operate the residential program. The petition to the district court must contain proof by affidavit: *(1)* that the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or *has* decided to deny an application for licensure of the residential program; *or (2) it appears to the commissioner that the health, safety, or rights of the residents may be in jeopardy because of the manner in which the residential program may close, the residential program's financial condition, or violations committed by the residential program of federal or state laws or rules.* If the license holder ~~or~~, applicant, *or controlling individual* operates more than one residential program, the commissioner's petition must specify and be limited to the residential program for which ~~the commissioner has either begun license suspension or revocation proceedings, suspended or revoked a license, or has decided to deny an application for licensure of the residential program~~ *it seeks receivership. The affidavit submitted by the commissioner must set forth alternatives to receivership that have been considered, including rate adjustments.* The order to show cause is returnable not less than five days after service is completed and must provide for personal service of a copy to the residential program administrator and to the persons designated as agents by the controlling ~~persons~~ *individuals* to accept service on their behalf.

Subd. 2. [APPOINTMENT OF RECEIVER; RENTAL.] If the court finds that involuntary receivership is necessary as a means of protecting the health, safety, or rights of persons being served by the residential program, the court shall appoint ~~the commissioner or the commissioner's designated representative as~~ a receiver to operate the residential program. *In the event that no receiver can be found who meets the conditions of this section, the commissioner or commissioner's designated representative may serve as the receiver.* The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors ~~including~~ *necessary to meet required arms-length obligations of controlling individuals such as mortgage payments, real estate taxes, special assessments, and* the conditions of the physical plant. The rental fee must be paid by the receiver to the appropriate controlling ~~persons~~ *individuals* for each month that the receivership remains in effect. No payment made to a controlling ~~person~~ *individual* by the receiver or any state agency during a period of involuntary receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

Subd. 3. [POWERS AND DUTIES OF THE RECEIVER.] Within ~~18~~ *36*

months after the receivership order, a receiver appointed to operate a residential program during a period of involuntary receivership shall provide for the orderly transfer of the persons served by the residential program to other residential programs or make other provisions to protect their health, safety, and rights. The receiver shall correct or eliminate deficiencies in the residential program that the commissioner determines endanger the health, safety, or welfare of the persons being served by the residential program unless the correction or elimination of deficiencies involves major alteration in the structure of the physical plant. If the correction or elimination of the deficiencies requires major alterations in the structure of the physical plant, the receiver shall take actions designed to result in the immediate transfer of persons served by the residential program. During the period of the receivership, the receiver shall operate the residential program in a manner designed to ~~guarantee~~ *preserve* the health, safety, rights, adequate care, and supervision of the persons served by the residential program. The receiver may make contracts and incur lawful expenses. The receiver shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the receiver's functions including the receiver's fee set under subdivision 4. No security interest in any real or personal property comprising the residential program or contained within it, or in any fixture of the physical plant, shall be impaired or diminished in priority by the receiver. The receiver shall pay all valid obligations of the residential program and may deduct these expenses, if necessary, from rental payments owed to any controlling ~~person~~ *individual* by virtue of the receivership.

Subd. 4. [RECEIVER'S FEE; LIABILITY; ASSISTANCE FROM THE COMMISSIONER.] A receiver appointed under an involuntary receivership is entitled to a reasonable receiver's fee as determined by the court. *The receiver's fee is governed by section 256B.495.* The receiver is liable only in an official capacity for injury to person and property by reason of the conditions of the residential program. The receiver is not personally liable, except for gross negligence and intentional acts.

Subd. 5. [TERMINATION.] An involuntary receivership terminates ~~12~~ *36* months after the date on which it was ordered or at any other time designated by the court or when any of the following events occurs:

(1) the commissioner determines that the residential program's license application should be granted or should not be suspended or revoked;

(2) a new license is granted to the residential program; or

(3) the commissioner determines that all persons residing in the residential program have been provided with alternative residential programs.

Subd. 6. [EMERGENCY PROCEDURE.] *If it appears from the petition filed under subdivision 1, from an affidavit or affidavits filed with the petition, or from testimony of witnesses under oath if the court determines it necessary, that there is probable cause to believe that an emergency exists in a residential program, the court shall issue a temporary order for appointment of a receiver within five days after receipt of the petition. Notice of the petition must be served on the residential program administrator and on the persons designated as agents by the controlling individuals to accept service on their behalf. A hearing on the petition must be held within five days after notice is served unless the administrator or designated agent consents to a later date. After the hearing, the court may continue, modify, or terminate the temporary order.*

Subd. 7. [RATE RECOMMENDATION.] *The commissioner of human services may review rates of a residential program participating in the medical assistance program which is in involuntary receivership and that has needs or deficiencies documented by the department of health or the department of human services. If the commissioner of human services determines that a review of the rate established under section 256B.501 is needed, the commissioner shall:*

(1) review the order or determination that cites the deficiencies or needs; and

(2) determine the need for additional staff, additional annual hours by type of employee, and additional consultants, services, supplies, equipment, repairs, or capital assets necessary to satisfy the needs or deficiencies.

Subd. 8. [ADJUSTMENT TO THE RATE.] *Upon review of rates under subdivision 7, the commissioner may adjust the residential program's payment rate. The commissioner shall review the circumstances, together with the residential program cost report, to determine whether or not the deficiencies or needs can be corrected or met by reallocating residential program staff, costs revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that any deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during the commissioner's review by the residential program's actual resident days from the most recent desk-audited cost report or the estimated resident days in the projected receivership period. The payment rate adjustment must meet the conditions in Minnesota Rules, parts 9553.0010 to 9553.0080, and remains in effect during the period of the receivership or until another date set by the commissioner. Upon the subsequent sale or transfer of the residential program, the commissioner may recover amounts that were paid as payment rate adjustments under this subdivision. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. This provision does not limit the liability of the seller to the commissioner pursuant to section 256B.0641.*

Sec. 84. Minnesota Statutes 1988, section 245A.14, subdivision 3, is amended to read:

Subd. 3. [CONDITIONAL LICENSE.] Until such time as the commissioner adopts appropriate rules for conditional licenses, no license holder or applicant for a family or group family day care license is required to spend more than $100 to meet fire safety rules in excess of those required to meet Group "R" occupancies under the Uniform Building Code, chapter 12, as incorporated by reference in Minnesota Rules, part 1305.0100.

When the commissioner determines that an applicant or license holder of a family or group family day care license would be required to spend over $100 for physical changes to ensure fire safety, the commissioner may issue a conditional license when all of the following conditions have been met:

(a) The commissioner shall notify the ~~provider~~ *license holder* or applicant in writing of the fire safety deficiencies.

(b) The commissioner shall notify the ~~provider~~ *license holder* or applicant

in writing of alternative compliance standards that would correct deficiencies, if available.

(c) The ~~provider~~ *license holder* or applicant agrees in writing to notify each parent, on a form prescribed by the commissioner that requires the signature of the parent, of the fire safety deficiencies, and the existence of the conditional license.

Sec. 85. Minnesota Statutes 1988, section 245A.14, is amended by adding a subdivision to read:

Subd. 5a. [DROP-IN CHILD CARE PROGRAMS.] *Except as expressly set forth in this subdivision, drop-in child care programs must be licensed as a drop-in program under the rules governing child care programs operated in a center. Drop-in child care programs are exempt from the requirements in Minnesota Rules, parts 9503.0040; 9503.0045, subpart 1, items F and G; 9503.0050, subpart 6, except for children less than two and one-half years old; one-half the requirements of 9503.0060, subpart 4, item A, subitems (2), (5), and (8), subpart 5, item A, subitems (2), (3), and (7), and subpart 6, item A, subitems (3) and (6); 9507.0070; and 9503.0090, subpart 2. A drop-in child care program must be operated under the supervision of a person qualified as a director and a teacher. A drop-in child care program must maintain a minimum staff ratio for children age two and one-half or greater of one staff person for each ten children, except that there must be at least two persons on staff whenever the program is operating. If the program has additional staff who are on call as a mandatory condition of their employment, the minimum ratio may be exceeded only for children age two and one-half or greater, by a maximum of four children, for no more than 20 minutes while additional staff are in transit. The minimum staff-to-child ratio for infants up to 16 months of age is one staff person for every four infants. The minimum staff-to-child ratio for children age 17 months to 30 months is one staff for every seven children. In drop-in care programs that serve both infants and older children, children up to age two and one-half may be supervised by assistant teachers, as long as other staff are present in appropriate ratios. The minimum staff distribution pattern for a drop-in child care program serving children age two and one-half or greater is: the first staff member must be a teacher; the second, third, and fourth staff members must have at least the qualifications of a child care aide; the fifth staff member must have at least the qualifications of an assistant teacher; the sixth, seventh, and eighth staff members must have at least the qualifications of a child care aide; and the ninth staff person must have at least the qualifications of an assistant teacher. A drop-in child care program serving children less than two and one-half years of age must serve these children in an area separated from older children. Children age two and one-half and older may be cared for in the same child care group.*

Sec. 86. Minnesota Statutes 1988, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] *(a)* County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, *to recommend correction orders and fines under section 245A.06,* or to recommend suspending, revoking, and making licenses probationary under

section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

(b) By January 1, 1991, the commissioner shall study and make recommendations to the legislature regarding the licensing and provision of support services to child foster homes. In developing the recommendations, the commissioner shall consult licensed private agencies, county agencies, and licensed foster home providers.

Sec. 87. Minnesota Statutes 1988, section 246.50, subdivision 3, is amended to read:

Subd. 3. [~~REGIONAL TREATMENT CENTER~~ *STATE FACILITY.*] "~~Regional treatment center~~ *State facility*" means a *any* state facility ~~for treating persons with mental illness, mental retardation, or chemical dependency now existing or hereafter established.~~ *owned or operated by the state of Minnesota and under the programmatic direction or fiscal control of the commissioner. State facility includes regional treatment centers; the state nursing homes; state-operated, community-based programs; and other facilities owned or operated by the state and under the commissioner's control.*

Sec. 88. Minnesota Statutes 1988, section 246.50, subdivision 4, is amended to read:

Subd. 4. [~~PATIENT OR RESIDENT~~ CLIENT.] "~~Patient~~ *Client*" means any person ~~with mental illness or chemical dependency.~~ *receiving services at a state facility, whether or not those services require occupancy of a bed overnight.*

Sec. 89. Minnesota Statutes 1988, section 246.50, subdivision 5, is amended to read:

Subd. 5. [COST OF CARE.] "Cost of care" means the commissioner's ~~determination of the anticipated average per capita cost of all maintenance, treatment and expense, including depreciation of buildings and equipment, interest paid on bonds issued for capital improvements to state facilities, and indirect costs related to the operation other than that paid from the Minnesota state building fund, at all of the state facilities during the current year for which billing is being made. The commissioner shall determine the anticipated average per capita cost. The commissioner may establish one all inclusive rate or separate rates for each patient or resident disability group, and may establish separate charges for each facility. "Cost of care" for outpatient or day care patients or residents shall be on a cost for service basis under a schedule the commissioner shall establish.~~

~~For purposes of this subdivision "resident patient" means a person who occupies a bed while housed in a state facility for observation, care, diagnosis, or treatment.~~

~~For purposes of this subdivision "outpatient" or "day care" patient or resident means a person who makes use of diagnostic, therapeutic, counseling, or other service in a state facility or through state personnel but does not occupy a bed overnight.~~

~~For the purposes of collecting from the federal government for the care of those patients eligible for medical care under the Social Security Act "cost of care" shall be determined as set forth in the rules and regulations of the Department of Health and Human Services or its successor agency.~~ *charge for services provided to any person admitted to a state facility.*

For purposes of this subdivision, "charge for services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs.

Sec. 90. Minnesota Statutes 1988, section 246.51, is amended by adding a subdivision to read:

Subd. 3. [APPLICABILITY.] *The commissioner may recover, under sections 246.50 to 246.55, the cost of any care provided in a state facility, including care provided prior to the effective date of this section regardless of the terminology used to designate the status or condition of the person receiving the care or the terminology used to identify the facility. For purposes of recovering the cost of care provided prior to the effective date of this section, the term "state facility" as used in sections 246.50 to 246.55 includes "state hospital," "regional treatment center," or "regional center"; and the term "client" includes, but is not limited to, persons designated as "mentally deficient," "inebriate," "chemically dependent," or "intoxicated."*

Sec. 91. Minnesota Statutes 1988, section 246.54, is amended to read:

246.54 [LIABILITY OF COUNTY; REIMBURSEMENT.]

Except for chemical dependency services provided under sections 254B.01 to 254B.09, the patient's or resident's county shall pay to the state of Minnesota a portion of the cost of care provided in a regional treatment center to a patient or resident 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~~ *cost of care*, as determined by the commissioner, for each day, or the portion thereof, that the patient or resident spends at a regional treatment center. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the ~~per capita rate~~ *cost of care*, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the patient or resident, the patient's or resident's estate, or from the patient's or resident's relatives, except as provided in section 246.53. No such payments shall be made for any patient or resident who was last committed prior to July 1, 1947.

Sec. 92. Minnesota Statutes 1988, section 252.27, subdivision 1, is amended to read:

Subdivision 1. Whenever any child who has mental retardation or a related condition, or a physical or emotional handicap is in 24 hour care outside the home including respite care, in a facility licensed by the commissioner of human services, the cost of care shall be paid by the county of financial responsibility determined pursuant to ~~section 256E.08, subdivision 7~~ *chapter 256G*. If the child's parents or guardians do not reside in this state, the cost shall be paid by ~~the county in which the child is found~~ *the responsible governmental agency in the state from which the child came, by the parents or guardians of the child if they are financially able, or, if no other payment source is available, by the commissioner of*

human services.

Subd. 1a. [DEFINITIONS.] A person has a "related condition" if that person has a severe, chronic disability that is (a) attributable to cerebral palsy, epilepsy, autism, *prader-willi syndrome,* or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (b) is likely to continue indefinitely; and (c) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living. For the purposes of this section, a child has an "emotional handicap" if the child has a psychiatric or other emotional disorder which substantially impairs the child's mental health and requires 24 hour treatment or supervision.

Sec. 93. Minnesota Statutes 1988, section 252.46, subdivision 1, is amended to read:

Subdivision 1. [RATES FOR CALENDAR YEARS ~~1988 AND~~ 1989 *AND 1990.*] Payment rates to vendors, except regional centers, for county-funded day training and habilitation services and transportation provided to persons receiving day training and habilitation services established by a county board for calendar years ~~1988 and~~ 1989 *and 1990* are governed by subdivisions 2 to 10.

"Payment rate" as used in subdivisions 2 to 10 refers to three kinds of payment rates: a full-day service rate for persons who receive at least six service hours a day, including the time it takes to transport the person to and from the service site; a partial-day service rate that must not exceed 75 percent of the full-day service rate for persons who receive less than a full day of service; and a transportation rate for providing, or arranging and paying for, transportation of a person to and from the person's residence to the service site.

Sec. 94. Minnesota Statutes 1988, section 252.46, subdivision 2, is amended to read:

Subd. 2. [~~1988 AND~~ 1989 *AND 1990* MINIMUM.] Unless a variance is granted under subdivision 6, the minimum payment rates set by a county board for each vendor for calendar years ~~1988 and~~ 1989 *and 1990* must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, ~~1987~~ *1988*, and January 1, ~~1988~~ *1989*, respectively.

Sec. 95. Minnesota Statutes 1988, section 252.46, subdivision 3, is amended to read:

Subd. 3. [~~1988 AND~~ 1989 *AND 1990* MAXIMUM.] Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor for calendar years ~~1988 and~~ 1989 *and 1990* must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, ~~1987~~ *1988*, and December 1, ~~1988~~ *1989*, respectively, increased by no more than the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the upcoming calendar year over the current calendar year.

Sec. 96. Minnesota Statutes 1988, section 252.46, subdivision 4, is amended to read:

Subd. 4. [NEW VENDORS.] Payment rates established by a county for calendar years ~~1988 and~~ 1989 *and 1990*, for a new vendor for which there were no previous rates must not exceed 125 percent of the average payment rates in the regional development commission district under sections 462.381 to 462.396 in which the new vendor is located.

Sec. 97. Minnesota Statutes 1988, section 252.46, subdivision 6, is amended to read:

Subd. 6. [VARIANCES.] A variance from the minimum or maximum payment rates in subdivisions 2 and 3 may be granted by the commissioner when the vendor requests and the county board submits to the commissioner a written variance request with the recommended payment rates. *The commissioner shall develop by October 1, 1989, a uniform format for submission of documentation for the variance requests. This format shall be used by each vendor requesting a variance. The form shall be developed by the commissioner and shall be reviewed by representatives of advocacy and provider groups and counties.* A variance may be utilized for costs associated with compliance with state administrative rules, compliance with court orders, *capital costs required for continued licensure,* increased insurance costs, start-up and conversion costs for supported employment, direct service staff salaries *and benefits*, and transportation. The county board shall review all vendors' payment rates that are ten or more than ten percent lower than the statewide median payment rates. If the county determines that the payment rates do not provide sufficient revenue to the vendor for authorized service delivery the county must recommend a variance under this section. When the county board contracts for increased services from any vendor for some or all individuals receiving services from the vendor, the county board shall review the vendor's payment rates to determine whether the increase requires that a variance to the minimum rates be recommended under this section to reflect the vendor's lower per unit fixed costs. The written variance request must include documentation that all the following criteria have been met:

(1) The commissioner and the county board have both conducted a review and have identified a need for a change in the payment rates *and recommended an effective date for the change in the rate*.

(2) The proposed changes are required for the vendor to deliver authorized individual services in an effective and efficient manner.

(3) The proposed changes are necessary to demonstrate compliance with minimum licensing standards~~.~~, *or to provide community-integrated and supported employment services after a change in the vendor's existing services has been approved as provided in section 252.28*.

(4) The vendor documents that the changes cannot be achieved by reallocating current staff or by reallocating financial resources.

(5) The county board submits evidence that the need for additional staff cannot be met by using temporary special needs rate exceptions under Minnesota Rules, parts 9510.1020 to 9510.1140.

(6) The county board submits a description of the nature and cost of the proposed changes, and how the county will monitor the use of money by the vendor to make necessary changes in services.

(7) The county board's recommended payment rates do not exceed 125 percent of the current calendar year's statewide median payment rates.

The commissioner shall have 60 calendar days from the date of the receipt of the complete request to accept or reject it, or the request shall be deemed to have been granted. If the commissioner rejects the request, the commissioner shall state in writing the specific objections to the request and the reasons for its rejection.

Sec. 98. Minnesota Statutes 1988, section 252.46, subdivision 12, is amended to read:

Subd. 12. [RATES ESTABLISHED AFTER ~~1989~~ *1990.*] Payment rates established by a county board to be paid to a vendor on or after January 1, ~~1990~~ *1991*, must be determined under permanent rules adopted by the commissioner. No county shall pay a rate that is less than the minimum rate determined by the commissioner.

In developing procedures for setting minimum payment rates and procedures for establishing payment rates, the commissioner shall consider the following factors:

(1) a vendor's payment rate and historical cost in the previous year;

(2) current economic trends and conditions;

(3) costs that a vendor must incur to operate efficiently, effectively and economically and still provide training and habilitation services that comply with quality standards required by state and federal regulations;

(4) increased liability insurance costs;

(5) costs incurred for the development and continuation of supported employment services;

(6) cost variations in providing services to people with different needs;

(7) the adequacy of reimbursement rates that are more than 15 percent below the statewide average; and

(8) other appropriate factors.

The commissioner may develop procedures to establish differing hourly rates that take into account variations in the number of clients per staff hour, to assess the need for day training and habilitation services, and to control the utilization of services.

In developing procedures for setting transportation rates, the commissioner may consider allowing the county board to set those rates or may consider developing a uniform standard.

Medical assistance rates for home and community-based services provided under section 256B.501 by licensed vendors of day training and habilitation services must not be greater than the rates for the same services established by counties under sections 252.40 to 252.47.

Sec. 99. Minnesota Statutes 1988, section 252.47, is amended to read:

252.47 [RULES.]

To implement sections 252.40 to 252.47, the commissioner shall adopt permanent rules under sections 14.01 to 14.38. The rules may include a plan for phasing in implementation of the procedures and rates established by the rules. The phase-in may occur prior to calendar year ~~1990~~ *1991*. The commissioner shall establish an advisory task force to advise and make recommendations to the commissioner during the rulemaking process. The

advisory task force must include legislators, vendors, residential service providers, counties, consumers, department personnel, and others as determined by the commissioner.

Sec. 100. Minnesota Statutes 1988, section 253B.03, subdivision 6a, is amended to read:

Subd. 6a. [ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.] (a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) A neuroleptic medication may be administered to a patient who is competent to consent to neuroleptic medications only if the patient has given written, informed consent to administration of the neuroleptic medication.

(c) A neuroleptic medication may be administered to a patient who is not competent to consent to neuroleptic medications only if a court approves the administration of the neuroleptic medication or:

(1) the patient does not object to or refuse the medication;

(2) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(3) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication.

(d) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

(e) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

Sec. 101. Minnesota Statutes 1988, section 254A.08, subdivision 2, is amended to read:

Subd. 2. For the purpose of this section, a detoxification program means a social rehabilitation program established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. ~~Such~~ a *Evaluation of the person shall include verification by a professional, after preliminary examination, that the person is intoxicated or has symptoms of chemical dependency and appears to be in imminent danger of harming self or others. A detoxification* program shall have available the services of a licensed physician for medical emergencies and routine medical surveillance. *A detoxification program licensed by the department of human services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.*

Sec. 102. [254A.145] [INHALANT ABUSE DEMONSTRATION PROJECT.]

Within the limits of the available appropriation and notwithstanding the

requirements of chapter 254B, the commissioner of human services shall create a demonstration project to provide intervention and to coordinate community services for inhalant abusers aged seven to 14. The project shall be established in a community that has been shown to be at great risk of such inhalant abuse and shall include assessment, education, and case management components. For individuals identified as inhalant abusers, case managers shall make referrals to services otherwise offered in the community. The case manager shall also monitor the progress of the individuals referred.

As part of this project, the commissioner of human services shall work with other agencies that provide services to youth and children, including education agencies and other drug treatment and counseling agencies, to increase public awareness concerning inhalant abuse among youth and children.

Sec. 103. Minnesota Statutes 1988, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. [CHEMICAL DEPENDENCY TREATMENT ALLOCATION.] The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. 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. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) The county non-Indian and over age 14 per capita-months of eligibility for aid to families with dependent children, general assistance, and medical assistance is divided by the total state non-Indian and over age 14 per capita-months of eligibility to determine the caseload factor for each county.

(b) The average median ~~family~~ *married couple* income for the previous three years for the state is divided by the average median ~~family~~ *married couple* income for the previous three years for each county to determine the income factor.

(c) The non-Indian and over age 14 population of the county is multiplied by the sum of the income factor and the caseload factor to determine the adjusted population.

(d) $15,000 shall be allocated to each county.

(e) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 104. Minnesota Statutes 1988, section 254B.03, subdivision 1, is amended to read:

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 and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. 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. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

Sec. 105. Minnesota Statutes 1988, section 254B.03, subdivision 4, is amended to read:

Subd. 4. [DIVISION OF COSTS.] *Except for services provided by a county under section 254B.09, subdivision 1,* the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services. 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, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall pay the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, if the county financially responsible for the persons has exhausted its allocation.

Sec. 106. Minnesota Statutes 1988, section 254B.04, is amended by adding a subdivision to read:

Subd. 2a. [AMOUNT OF CONTRIBUTION.] *The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income is greater than the standard of assistance under sections 256B.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The commissioner may adopt rules to amend existing fee scales. The commissioner may establish a separate fee scale for recipients of chemical dependency transitional and extended care rehabilitation services that provides for the collection of fees for board and lodging expenses. The fee schedule shall ensure that employed persons are allowed the income disregards and savings accounts that are allowed residents of community mental illness facilities under section 256D.06, subdivisions 1 and 1b. 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.055, 256B.056, 256B.06, and 256D.01 to 256D.21. The required amount of contribution established by the fee scale in this subdivision is also the cost of care responsibility subject to collection under section 254B.06, subdivision 1.

Sec. 107. Minnesota Statutes 1988, section 254B.06, subdivision 1, is amended to read:

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 Laws 1986, chapter 394, sections 8 to 20. The commissioner *may initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid cost of care. The commissioner* may collect all third-party payments for chemical dependency services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance and federal medicaid and medicare financial participation. The commissioner shall deposit in a dedicated account a percentage of collections to pay for the cost of operating the chemical dependency consolidated treatment fund invoice processing and vendor payment system, billing, and collections. The remaining receipts must be deposited in the chemical dependency fund.

Sec. 108. Minnesota Statutes 1988, section 254B.09, subdivision 1, is amended to read:

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 *or a county if the tribal governing body has not entered into an agreement under subdivision 2* on behalf of a current resident of the reservation under this section.

Sec. 109. Minnesota Statutes 1988, section 254B.09, subdivision 4, is amended to read:

Subd. 4. [TRIBAL ALLOCATION.] Forty-two and one-half 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. *When a tribal governing body has not entered into an agreement with the commissioner under subdivision 2, the county may use funds allocated to the reservation to pay for chemical dependency services for a current resident of the county and of the reservation.*

Sec. 110. Minnesota Statutes 1988, section 254B.09, subdivision 5, is amended to read:

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 *and to counties submitting invoices for American Indians under subdivision 1 when all money allocated under subdivision 4 has been used.* An American Indian tribal governing body *or a county submitting invoices under subdivision 1* may receive not more than 30 percent of the reserve account in a year. The commissioner may refuse to make reserve payments for persons not eligible under section 254B.04, subdivision 1, if the tribal governing body responsible for treatment placement has exhausted its allocation. Money must be allocated as invoices are received.

Sec. 111. Minnesota Statutes 1988, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require local agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of local agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require local agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017; and

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds.

(2) Inform local agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to local agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to

the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) ~~The commissioner is~~ *Act as* designated ~~as~~ guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by local agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The proposed comprehensive plan including estimated project costs

and the proposed order establishing the waiver shall be filed with the secretary of the senate and chief clerk of the house of representatives at least 60 days prior to its effective date.

(b) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(c) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) In accordance with federal requirements establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches $400,000. When the balance in the account exceeds $400,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing

shelter to women and their children pursuant to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

Sec. 112. Minnesota Statutes 1988, section 256.01, is amended by adding a subdivision to read:

Subd. 12. [CHILD MORTALITY REVIEW PANEL.] *(a) The commissioner shall establish a child mortality review panel for reviewing deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause. The commissioners of health, education, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to local agencies for improving the child protection system, including modifications in statute, rule, policy, and procedure.*

(b) The commissioner may require a local agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any

other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency.

(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a local agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.

Sec. 113. Minnesota Statutes 1988, section 256.018, is amended to read:

256.018 [COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.]

~~Beginning in 1990, $1,000,000 is appropriated from the general fund to the department in each fiscal year for~~ *The commissioner shall grant incentive* awards *of money specifically appropriated for this purpose* to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agencies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

Sec. 114. Minnesota Statutes 1988, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. [CONTINUING SUPPORT CONTRIBUTIONS.] In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency.

~~Except as provided in subdivision 4,~~ The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and for five months thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that assistance is again being provided for the child of the parent under sections 256.72 to 256.87. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 115. Minnesota Statutes 1988, section 256.974, is amended to read:

256.974 [OFFICE OF OMBUDSMAN FOR OLDER MINNESOTANS; LOCAL PROGRAMS.]

The ombudsman for older Minnesotans serves in the classified service under section 256.01, subdivision 7, in an office within the Minnesota board on aging that incorporates the long-term care ombudsman program required by the Older Americans Act, Public Law Number ~~98-456~~ *100-75*, United States Code, title 42, section 3027(a)(12), and established within the Minnesota board on aging. The Minnesota board on aging may make grants to *and designate* local programs ~~or area agencies on aging~~ for the provision of ombudsman services to clients in county or multicounty areas. ~~Individuals providing local ombudsman services must be qualified to perform the duties required by section 256.9742.~~ *The local program may not be an agency engaged in the provision of nursing home care, hospital care, or home care services either directly or by contract, or have the responsibility for planning, coordinating, funding, or administering nursing home care, hospital care, or home care services.*

Sec. 116. Minnesota Statutes 1988, section 256.9741, subdivision 3, is amended to read:

Subd. 3. "Client" means an individual who requests, or on whose behalf a request is made for, ombudsman services and is (a) a resident of a long-term care facility or (b) a ~~patient in an acute care facility who is eligible for~~ Medicare ~~and~~ *beneficiary who* requests assistance relating to ~~admission or discharge from an acute care facility~~ *access, discharge, or denial of inpatient or outpatient services, or (c) an individual reserving or requesting a home care service.*

Sec. 117. Minnesota Statutes 1988, section 256.9741, subdivision 5, is amended to read:

Subd. 5. "Office" means the office of ombudsman established within the Minnesota board on aging or local ombudsman programs *that the board on aging designates.*

Sec. 118. Minnesota Statutes 1988, section 256.9741, is amended by adding a subdivision to read:

Subd. 6. "Home care service" means health, social, or supportive services provided to an individual for a fee in the individual's residence and in the community to promote, maintain, or restore health, or maximize the individual's level of independence, while minimizing the effects of disability and illness.

Sec. 119. Minnesota Statutes 1988, section 256.9742, is amended to read:

256.9742 [DUTIES AND POWERS OF THE OFFICE.]

Subdivision 1. [DUTIES.] The ombudsman shall:

(1) gather information and evaluate any act, practice, policy, procedure, or administrative action of a long-term care facility, acute care facility, *home care service provider,* or government agency that may adversely affect the health, safety, welfare, or rights of any client;

(2) mediate or advocate on behalf of clients;

(3) monitor the development and implementation of federal, state, or local laws, *rules,* regulations, and policies affecting the rights and benefits of clients;

(4) comment on and recommend to the legislature and public and private agencies regarding laws, *rules,* regulations, and policies affecting clients;

(5) inform public agencies about the problems of clients;

(6) provide for training of volunteers and promote the development of citizen participation in the work of the office;

(7) conduct public forums to obtain information about and publicize issues affecting clients;

(8) provide public education regarding the health, safety, welfare, and rights of clients; and

(9) collect and analyze data relating to complaints ~~and~~, conditions ~~in long-term care facilities~~, *and services.*

Subd. 1a. [DESIGNATION; LOCAL OMBUDSMAN REPRESENTATIVES.] *(a) In designating an individual to perform duties under this section, the ombudsman must determine that the individual is qualified to perform the duties required by this section.*

(b) An individual designated under this section must successfully complete an orientation training conducted under the direction of the ombudsman or approved by the ombudsman. Orientation training shall be at least 20 hours and will consist of training in: investigation, dispute resolution, health care regulation, confidentiality, resident and patients' rights, and health care reimbursement.

(c) The ombudsman shall develop and implement a continuing education program for individuals designated under this section. The continuing education program shall be at least 60 hours annually.

(d) The ombudsman may withdraw an individual's designation if the individual fails to perform duties of this section or meet continuing education requirements. The individual may request a reconsideration of such action by the board on aging whose decision shall be final.

Subd. 2. [IMMUNITY FROM LIABILITY.] ~~A person designated as an~~ *The* ombudsman *or designee* under this section is immune from civil liability that otherwise might result from the person's actions or omissions if the person's actions are in good faith, are within the scope of the person's responsibilities as an ombudsman, and do not constitute willful or reckless misconduct.

Subd. 3. [POSTING.] Every long-term care facility and acute care facility shall post in a conspicuous place the address and telephone number of the office. *A home care service provider shall provide all recipients with the*

address and telephone number of the office. The posting *or notice* is subject to approval by the ombudsman.

Subd. 4. [ACCESS TO LONG-TERM CARE AND ACUTE CARE FACILITIES AND CLIENTS.] The ombudsman *or designee* may:

(1) enter any long-term care facility without notice at any time;

(2) enter any acute care facility without notice during normal business hours;

(3) *enter any acute care facility without notice at any time to interview a patient or observe services being provided to the patient as part of an investigation of a matter that is within the scope of the ombudsman's authority, but only if the ombudsman's or designee's presence does not intrude upon the privacy of another patient or interfere with routine hospital services provided to any patient in the facility;*

(4) communicate privately and without restriction with any client in accordance with section 144.651; ~~and~~

~~(4)~~ *(5)* inspect records of a long-term care facility, *home care service provider,* or acute care facility that pertain to the care of the client according to sections 144.335 and 144.651~~.~~*; and*

(6) with the consent of a client or client's legal guardian, have access to review records pertaining to the care of the client according to sections 144.335 and 144.651. If a client cannot consent and has no legal guardian, access to the records is authorized by this section.

A person who denies access to the ombudsman or designee in violation of this subdivision or aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.

Subd. 5. [ACCESS TO STATE RECORDS.] The ombudsman *or designee* has access to data of a state agency necessary for the discharge of the ombudsman's duties, including records classified confidential or private under chapter 13, or any other law. The data requested must be related to a specific case and is subject to section 13.03, subdivision 4. If the data concerns an individual, the ombudsman *or designee* shall first obtain the individual's consent. *If the individual cannot consent and has no legal guardian, then access to the data is authorized by this section.*

Each state agency responsible for licensing, regulating, and enforcing state and federal laws and regulations concerning long-term care, *home care service providers,* and acute care facilities shall forward to the ombudsman on a quarterly basis, copies of all correction orders, penalty assessments, and complaint investigation reports, for all long-term care facilities ~~and~~, acute care facilities, *and home care service providers.*

Subd. 6. [PROHIBITION AGAINST DISCRIMINATION OR RETALIATION.] *(a) No entity shall take discriminatory, disciplinary, or retaliatory action against an employee or volunteer, or a patient, resident, or guardian or family member of a patient, resident, or guardian for filing in good faith a complaint with or providing information to the ombudsman or designee. A person who violates this subdivision or who aids, abets, invites, compels, or coerces another to do so is guilty of a misdemeanor.*

(b) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of report, is discriminatory, disciplinary, or retaliatory. For the purpose of this clause, the term "adverse action" refers

to action taken by the entity involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge or transfer from a facility;

(2) termination of service;

(3) restriction or prohibition of access to the facility or its residents;

(4) discharge from or termination of employment;

(5) demotion or reduction in remuneration for services; and

(6) any restriction of rights set forth in section 144.651 or 144A.44.

Sec. 120. Minnesota Statutes 1988, section 256.9744, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATION.] Except as provided in this section, data maintained by the office under sections 256.974 to 256.9744 are private data on individuals or nonpublic data as defined in section 13.02, subdivision 9 or 12, and must be maintained in accordance with the requirements of Public Law Number ~~98-459~~ *100-75*, United States Code, title 42, section 3027(a)(12)(D).

Sec. 121. Minnesota Statutes 1988, section 256.975, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The board shall carry out the following duties:

(a) to advise the governor and heads of state departments and agencies regarding policy, programs, and services affecting the aging;

(b) to provide a mechanism for coordinating plans and activities of state departments and citizens' groups as they pertain to aging;

(c) to create public awareness of the special needs and potentialities of older persons;

(d) to gather and disseminate information about research and action programs, and to encourage state departments and other agencies to conduct needed research in the field of aging;

(e) to stimulate, guide, and provide technical assistance in the organization of local councils on aging;

(f) to provide continuous review of ongoing services, programs and proposed legislation affecting the elderly in Minnesota; ~~and~~

(g) to administer and to make policy relating to all aspects of the older americans act of 1965, as amended, including implementation thereof~~.~~*; and*

(h) to award grants, enter into contracts, and adopt rules the Minnesota board on aging deems necessary to carry out the purposes of this section.

Sec. 122. Minnesota Statutes 1988, section 256C.28, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The council shall:

(1) *advise the commissioner, the governor, and the legislature on the nature of the issues and disabilities confronting hearing impaired persons in Minnesota;*

(2) advise the commissioner ~~and~~, *the* governor, *and the legislature* on the development of policies, programs, and services affecting ~~the~~ hearing impaired *persons*, and on the use of appropriate federal and state money;

~~(2)~~ *(3)* create a public awareness of the special needs and potential of hearing impaired persons; ~~and~~

~~(3)~~ *(4)* provide the commissioner ~~and~~, *the* governor, *and the legislature* with a review of ongoing services, programs, and proposed legislation affecting ~~the~~ hearing impaired~~.~~ *persons;*

(5) advise the commissioner, the governor, and the legislature on statutes or rules necessary to ensure that hearing impaired persons have access to benefits and services provided to individuals in Minnesota;

(6) recommend to the commissioner, the governor, and the legislature legislation designed to improve the economic and social conditions of hearing impaired persons in Minnesota;

(7) propose solutions to problems of hearing impaired persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;

(8) recommend to the governor and the legislature any needed revisions in the state's affirmative action program and any other steps necessary to eliminate the underemployment or unemployment of hearing impaired persons in the state's work force;

(9) work with other state and federal agencies and organizations to promote economic development for hearing impaired Minnesotans; and

(10) coordinate its efforts with other state and local agencies serving hearing impaired persons.

Sec. 123. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 4. [STAFF.] *The council may appoint, subject to the approval of the governor, an executive director who must be experienced in administrative activities and familiar with the problems and needs of hearing impaired persons. The council may delegate to the executive director any powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by a majority vote of the council. The executive director shall coordinate the provision of necessary support services to the council with the state department of human services.*

Sec. 124. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 5. [POWERS.] *The council may contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.*

Sec. 125. Minnesota Statutes 1988, section 256C.28, is amended by adding a subdivision to read:

Subd. 6. [REPORT.] *The council shall prepare and distribute a report to the commissioner, the governor, and the legislature by December 31 of each even-numbered year. The report must summarize the activities of the*

council since its prior report, list receipts and expenditures, identify the major problems and issues confronting hearing impaired persons, make recommendations regarding needed policy and program development on behalf of hearing impaired individuals in Minnesota, and list the specific objectives the council seeks to attain during the next biennium.

Sec. 126. Minnesota Statutes 1988, section 256E.03, subdivision 2, is amended to read:

Subd. 2. *(a)* "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1 to the following groups of persons:

~~(a)~~ *(1)* families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

~~(b)~~ *(2)* persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

~~(c)~~ *(3)* adults who are in need of protection and vulnerable as defined in section 626.557;

~~(d)~~ *(4)* persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

~~(e)~~ *(5)* emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

~~(f)~~ *(6)* persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1, who are unable to provide for their own needs or to independently engage in ordinary community activities;

~~(g)~~ *(7)* drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

~~(h)~~ *(8)* parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

~~(i)~~ *(9)* other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 127. Minnesota Statutes 1988, section 256E.05, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DUTIES.] The commissioner shall also:

(a) Provide necessary forms and instructions to the counties for plan format and information;

(b) ~~Identify and then amend or repeal the portions of all applicable department rules which mandate counties to provide specific community~~

~~social services or programs, unless state or federal law requires the commissioner to mandate a service or program. The commissioner shall be exempt from the rulemaking provisions of chapter 14 in amending or repealing rules pursuant to this clause. However, when the commissioner proposes to amend or repeal any rule under the authority granted by this clause, notice shall be provided by publication in the State Register. When the commissioner proposes to amend a rule, the notice shall include that portion of the existing rule necessary to provide adequate notice of the nature of the proposed change. On proposing to repeal an entire rule, the commissioner need only publish that fact, giving the exact citation to the rule to be repealed. In all cases, the notice shall contain a statement indicating that interested persons may submit comment on the proposed repeal or amendment for a period of 30 days after publication of the notice. The commissioner shall take no final action until after the close of the comment period. The commissioner's actions shall not be effective until five days after the commissioner publishes notice of adoption in the State Register. If the final action is the same as the action originally proposed, publication may be made by notice in the State Register that the amendment and repeals have been adopted as proposed, and by citing the prior publication. If the final action differs from the action as previously proposed in the State Register, the text which differs from the original proposal shall be included in the notice of adoption together with a citation to the prior State Register publication. The commissioner shall provide to all county boards separate notice of all final actions which become effective under this clause, advising the boards with respect to services or programs which have now become optional, to be provided at county discretion;~~ *To the extent possible, coordinate other categorical social service grant applications and plans required of counties so that the applications and plans are included in and are consistent with the timetable and other requirements for the community social services plan in subdivision 2 and section 256E.09;*

(c) Provide to the chair of each county board, in addition to notice required pursuant to sections 14.05 to 14.36, timely advance notice and a written summary of the fiscal impact of any proposed new rule or changes in existing rule which will have the effect of increasing county costs for community social services;

(d) Provide training, technical assistance, and other support services to county boards to assist in needs assessment, planning, implementing, and monitoring social services programs in the counties;

(e) Design and implement a method of monitoring and evaluating social services, including site visits that utilize quality control audits to assure county compliance with applicable standards, guidelines, and the county and state social services plans; *and*

(f) ~~Annually publish a report on community social services which shall reflect the contents of the individual county reports. The report shall be submitted to the governor and the legislature with an evaluation of community social services and recommendations for changes needed to fully implement state social service policies; and~~

~~(g)~~ Request waivers from federal programs as necessary to implement sections 256E.01 to 256E.12.

Sec. 128. Minnesota Statutes 1988, section 256E.08, subdivision 5, is amended to read:

Subd. 5. [COMMUNITY SOCIAL SERVICES FUND.] In the accounts and records of each county there shall be created a community social services fund. All moneys provided for community social services programs under sections 256E.06 and 256E.07 and all other revenues~~,~~; fees~~,~~; grants-in-aid, *including those from public assistance programs identified in section 256E.03, subdivision 2, paragraph (b), that pay for services such as child care, waivered services under the medical assistance programs, alternative care grants, and other services funded by these programs through federal or state waivers;* gifts~~,~~; or bequests designated for community social services purposes shall be identified in the record of the fund and in the report required in subdivision 8. This fund shall be used exclusively for planning and delivery of community social services as defined in section 256E.03, subdivision 2. If county boards have joined for purposes of administering community social services, the county boards may create a joint community social services fund. If a human service board has been established, the human service board shall account for community social services money as required in chapter 402.

Sec. 129. Minnesota Statutes 1988, section 256E.09, subdivision 1, is amended to read:

Subdivision 1. [PLAN PROPOSAL.] ~~In 1988, the county board shall publish a one-year update to its 1987-1988 biennial plan for calendar year 1989, and make it available upon request to all residents of the county.~~ Beginning in 1989, and every two years after that, the county board shall publish and make available upon request to all county residents a proposed biennial community social services plan for the next two calendar years.

Sec. 130. Minnesota Statutes 1988, section 256E.09, subdivision 3, is amended to read:

Subd. 3. [PLAN CONTENT.] The biennial community social services plan published by the county shall include:

(a) A statement of the goals of community social service programs in the county;

(b) Methods used pursuant to subdivision 2 to encourage participation of citizens and providers in the development of the plan and the allocation of money;

(c) Methods used to identify persons in need of service and the social problems to be addressed by the community social service programs, including efforts the county proposes to make in providing for early intervention, prevention and education aimed at minimizing or eliminating the need for services for groups of persons identified in section 256E.03, subdivision 2;

(d) A statement describing how the county will fulfill its responsibilities identified in section 256E.08, subdivision 1, to the groups of persons described in section 256E.03, subdivision 2, and a description of each community social service proposed and identification of the agency or person proposed to provide the service;

(e) A statement describing how the county proposes to make the following services available for persons identified by the county as in need of services: daytime developmental achievement services for children~~,~~; day training and habilitation services for adults~~,~~; extended employment program services for persons with disabilities~~,~~; *supported employment services as*

defined in section 252.41, subdivision 8; community-based employment programs as defined in section 129A.01, subdivision 12; subacute detoxification services~~,~~*; and* residential services and nonresidential social support services as appropriate for the groups identified in section 256E.03, subdivision 2;

(f) *A statement specifying how the county will collaboratively plan the development of supported employment services and community-based employment services with local representatives of public rehabilitation agencies and local education agencies, including, if necessary, how existing day or employment services could be modified to provide supported employment services and community-based employment services;*

(g) A statement describing how the county is fulfilling its responsibility to establish a comprehensive and coordinated system of early intervention services as required under section 120.17, subdivisions 11a, 12, and 14;

~~(g)~~ *(h)* The amount of money proposed to be allocated to each service;

~~(h)~~ *(i)* An inventory of public and private resources including associations of volunteers which are available to the county for social services;

~~(i)~~ *(j)* Evidence that serious consideration was given to the purchase of services from private and public agencies; and

~~(j)~~ *(k)* Methods whereby community social service programs will be monitored and evaluated by the county.

Sec. 131. [256E.115] [SAFE HOUSES.]

The commissioner shall have authority to make grants for pilot programs when the legislature authorizes money to encourage innovation in the development of safe house programs to respond to the needs of homeless youth.

Sec. 132. Minnesota Statutes 1988, section 256F.05, subdivision 2, is amended to read:

Subd. 2. [~~ADDITIONAL~~ MONEY *AVAILABLE.*] ~~Additional~~ Money appropriated for ~~family-based services~~ *permanency planning grants to counties*, together with an amount as determined by the commissioner of title IV-B funds distributed to Minnesota according to the Social Security Act, United States Code, title 42, section 621, must be distributed to counties according to the formula in subdivision 3.

Sec. 133. Minnesota Statutes 1988, section 256F.05, subdivision 4, is amended to read:

Subd. 4. [PAYMENTS.] The commissioner shall make grant payments to each county whose biennial community social services plan includes a permanency plan under section 256F.04, subdivision 2. The payment must be made in four installments per year. The commissioner may certify the payments for the first three months of a calendar year. Subsequent payments must be made on April ~~1~~ *30*, July ~~1~~ *30*, and October ~~1~~ *30*, of each calendar year. *When an amount of title IV-B funds as determined by the commissioner is made available, it shall be reimbursed to counties on October 30.*

Sec. 134. [256F.08] [GRANTS FOR PLACEMENT PREVENTION AND FAMILY REUNIFICATION; AMERICAN INDIAN AND MINORITY CHILDREN.]

Subdivision 1. [GRANT PROGRAM.] *Within the limits of funds appropriated for this purpose, the commissioner shall establish a specialized grants program for placement prevention and family reunification for American Indian and minority children.*

Subd. 2. [REQUEST FOR PROPOSALS.] *The commissioner shall request proposals for the development and provision of services listed in 256E.07, subdivisions 3 and 3a.*

Subd. 3. [GRANT APPLICATIONS.] *Local social services agencies may apply for American Indian and minority children placement prevention and family reunification grants. Application may be made alone or in combination with neighboring local social services agencies.*

Subd. 4. [FORMS AND INSTRUCTIONS.] *The commissioner shall provide necessary forms and instructions to the counties to apply for an American Indian and minority child placement prevention and family reunification grant.*

Subd. 5. [MONITORING.] *The commissioner shall design and implement methods for monitoring, delivering, and evaluating the effectiveness of placement prevention and family reunification services for American Indian and minority children.*

Sec. 135. Minnesota Statutes 1988, section 256H.01, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of sections 256H.01 to ~~265H.19~~ *256H.19*, the following terms have the meanings given.

Sec. 136. Minnesota Statutes 1988, section 256H.01, subdivision 2, is amended to read:

Subd. 2. [CHILD CARE SERVICES.] "Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, ~~play groups,~~ head start, ~~and parent cooperatives,~~ *and extended day school age child care programs* ~~or~~ in *or out of* the child's home.

Sec. 137. Minnesota Statutes 1988, section 256H.01, subdivision 7, is amended to read:

Subd. 7. [EDUCATION PROGRAM.] "Education program" means remedial or basic education or English as a second language instruction, ~~high school education,~~ a program leading to a general equivalency *or high school* diploma, ~~and post-secondary education excluding post-baccalaureate programs~~ *and other education and training needs as documented in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services. The employability plan must outline education and training needs of a recipient, meet state requirements for employability plans, and meet the requirements of other programs that provide federal reimbursement for child care services. The county must incorporate into a recipient's employability plan an educational plan developed by a post-secondary institution for a nonpriority AFDC recipient who is enrolled or planning to enroll at that institution.*

Sec. 138. Minnesota Statutes 1988, section 256H.01, subdivision 8, is amended to read:

Subd. 8. [EMPLOYMENT PROGRAM.] "Employment program" means employment of recipients financially eligible for ~~the~~ child care ~~sliding fee program, vocational assessment, and job readiness and job search activities.~~ *assistance, preemployment activities, or other activities approved in an employability plan that is developed by an employment and training service provider certified by the commissioner of jobs and training or an individual designated by the county to provide employment and training services. The plans must meet the requirements of other programs that provide federal reimbursement for child care services.*

Sec. 139. Minnesota Statutes 1988, section 256H.01, subdivision 11, is amended to read:

Subd. 11. [INCOME.] "Income" means earned or unearned income received by all family members 16 years or older, including public assistance benefits, unless specifically excluded. The following are excluded from income: scholarships, *work study income,* and grants that cover costs for tuition, fees, books, and educational supplies; student loans for tuition, fees, books, supplies, and living expenses; *earned income tax credits;* in-kind income such as food stamps, energy assistance, medical assistance, and housing subsidies; income from summer or part-time employment of 16-, 17-, and 18-year-old full-time secondary school students; grant awards under the family subsidy program; and nonrecurring lump sum income only to the extent that it is earmarked and used for the purpose for which it is paid.

Sec. 140. Minnesota Statutes 1988, section 256H.01, subdivision 12, is amended to read:

Subd. 12. [PROVIDER.] "Provider" means ~~the~~ *a* child care license holder ~~or the legal nonlicensed caregiver~~ who operates a family day care home, a group family day care home, a day care center, a nursery school, ~~or~~ a day nursery, *an extended day school age child care program; a person exempt from licensure who meets child care standards established by the state board of education;* or ~~who functions in the child's home~~ *a legal nonlicensed caregiver who is at least 18 years of age.*

Sec. 141. Minnesota Statutes 1988, section 256H.02, is amended to read:

256H.02 [DUTIES OF COMMISSIONER.]

The commissioner shall develop standards for county and human services boards~~, and post-secondary educational systems~~ , to provide child care services to enable eligible families to participate in employment, training, or education programs. *Within the limits of available appropriations,* the commissioner shall distribute money to counties to reduce the costs of child care for eligible families. The commissioner shall adopt rules to govern the program in accordance with this section. The rules must establish a sliding schedule of fees for parents receiving child care services. The commissioner shall maximize the use of federal money under the AFDC employment special needs program in section 256.736, subdivision 8, *and other programs that provide federal reimbursement for child care services* for recipients of aid to families with dependent children who are in education, training, job search, or other activities allowed under ~~that program~~ *those programs*. Money appropriated under this section must be coordinated with the AFDC employment special needs program *and other programs that provide federal reimbursement for child care services* to accomplish

this purpose. Federal reimbursement obtained must be allocated to the county that spent money for child care that is federally reimbursable under the AFDC employment special needs program *or other programs that provide federal reimbursement for child care services*. The counties shall use the federal money to expand services to AFDC recipients ~~under this section~~.

Sec. 142. Minnesota Statutes 1988, section 256H.03, is amended to read:

256H.03 [~~ALLOCATION OF FUNDS~~ *BASIC SLIDING FEE PROGRAM.*]

Subdivision 1. [COUNTIES; NOTICE OF ALLOCATION; ~~REPORT~~.] ~~By June 1 of each odd-numbered year, the commissioner shall notify all county and human services boards and post-secondary educational systems of their allocation. If the appropriation is insufficient to meet the needs in all counties, the amount must be prorated among the counties.~~ *When the commissioner notifies county and human service boards of the forms and instructions they are to follow in the development of their biennial community social services plans required under section 256E.08, the commissioner shall also notify county and human services boards of their estimated child care fund program allocation for the two years covered by the plan. By June 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.*

Subd. 1a. [WAITING LIST.] Each county that receives funds under this section *and section 256H.05* must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy *or have requested child care assistance*. Counties shall perform a cursory determination of eligibility when a family requests information about child care assistance. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. *The waiting list must identify students in need of child care. When money is available counties shall expedite the processing of student applications during key enrollment periods.*

Subd. 2. [ALLOCATION; LIMITATIONS.] ~~Except for set-aside money allocated under sections 256H.04, 256H.05, 256H.06, and 256H.07, the commissioner shall allocate money appropriated~~ *The commissioner shall allocate 66 percent of the money appropriated under the child care fund for the basic sliding fee program and shall allocate those funds* between the metropolitan area, comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, and the area outside the metropolitan area ~~so that no more than 55 percent of the total appropriation goes to either area after excluding allocations for statewide administrative costs. The commissioner shall allocate 50 percent of the money among counties on the basis of the number of families below the poverty level, as determined from the most recent special census, and 50 percent on the basis of caseloads of aid to families with dependent children for the preceding fiscal year, as determined by the commissioner of human services.~~ *as follows:*

(1) 50 percent of the money shall be allocated among the counties on the basis of the number of families below the poverty level, as determined from the most recent census or special census; and

(2) 50 percent of the money shall be allocated among the counties on the basis of the counties' portion of the AFDC caseload for the preceding

state fiscal year .

If under the preceding formula, either the seven-county metropolitan area consisting of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties or the area consisting of counties outside the seven-county metropolitan area is allocated more than 55 percent of the basic sliding fee funds, each county's allocation in that area shall be proportionally reduced until the total for the area is no more than 55 percent of the basic sliding fee funds. The amount of the allocations proportionally reduced shall be used to proportionally increase each county's allocation in the other area.

Subd. 2a. [ELIGIBLE RECIPIENTS.] *Families that meet the eligibility requirements under sections 256H.10 and 256H.11 are eligible for child care assistance under the basic sliding fee program. Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.*

Subd. 2b. [FUNDING PRIORITY.] *(a) First priority for child care assistance under the basic sliding fee program must be given to eligible recipients who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment. Priority for child care assistance under the basic sliding fee program must be given to non-AFDC families for this first priority unless a county can demonstrate that funds available in the AFDC child care program allocation are inadequate to serve all AFDC families needing child care services. Within this priority, the following subpriorities must be used:*

(1) child care needs of minor parents;

(2) child care needs of parents under 21 years of age; and

(3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to all other parents who are eligible for the basic sliding fee program.

Subd. 3. [REVIEW OF USE OF FUNDS; REALLOCATION.] ~~Once~~ *After* each quarter, the commissioner shall review the use of ~~child care fund~~ *basic sliding fee program and AFDC child care program* allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full ~~portion~~ *allocation*. Any unexpended money from the first year of the biennium may be carried forward to the second year of the biennium.

Sec. 143. Minnesota Statutes 1988, section 256H.05, is amended to read:

256H.05 [~~SET ASIDE MONEY FOR AFDC PRIORITY GROUPS~~ *AFDC CHILD CARE PROGRAM*.]

Subdivision 1. [~~ALLOCATIONS; USE~~ *NOTICE OF ALLOCATION*.] ~~Set-aside money for AFDC priority groups must be allocated among the counties based on the average monthly number of caretakers receiving AFDC under the age of 21 and the average monthly number of AFDC cases open 24 or more consecutive months.~~ *By June 1 of each year, the commissioner shall notify all county and human services boards of their allocation under the AFDC child care fund program.*

Subd. 1a. [COUNTY ALLOCATION; LIMITATIONS.] *The commissioner shall allocate 34 percent of the money appropriated under the child care fund for the AFDC child care program and shall allocate those funds among the counties as follows:*

(1) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC caretakers less than 21 years of age and the average number of AFDC cases which were open 24 or more consecutive months during the preceding fiscal year; and

(2) 50 percent of the funds shall be allocated to the counties based on the average number of AFDC recipients for the preceding state fiscal year. For each fiscal year the ~~average monthly caseload~~ *AFDC caseloads* shall be based on *counts taken at three-month intervals during* the 12-month period ending ~~March 31~~ *December 31* of the previous *state* fiscal year. ~~The commissioner may reallocate quarterly unexpended or unencumbered set-aside money to counties that expend their full allocation. The county shall use the set-aside money for AFDC priority groups and for former AFDC recipients who (1) have had their child care subsidized under the set-aside for AFDC priority groups; (2) continue to require a child care subsidy in order to remain employed; and (3) are on a waiting list for the basic sliding fee program.~~

Subd. 1b. [ELIGIBLE RECIPIENTS.] *Families eligible for child care assistance under the AFDC child care program are families receiving AFDC and former AFDC recipients who, during their first year of employment, continue to require a child care subsidy in order to retain employment. The commissioner shall designate between 20 to 60 percent of the AFDC child care program as the minimum to be reserved for AFDC recipients in an educational program. If a family meets the eligibility requirements of the AFDC child care program and the caregiver has an approved employability plan that meets the requirements of appropriate federal reimbursement programs, that family is eligible for child care assistance.*

Subd. 1c. [FUNDING PRIORITY.] *Priority for child care assistance under the AFDC child care program shall be given to AFDC priority groups who are engaged in an employment or education program consistent with their employability plan. If the AFDC recipient is employed, the AFDC child care disregard shall be applied before the remaining child care costs are subsidized by the AFDC child care program. AFDC recipients leaving AFDC due to their earned income, who have been on AFDC three out of the last six months and who apply for child care assistance under subdivision 1b within the first year after leaving AFDC, shall be entitled to one year of child care subsidies during the first year of employment. AFDC recipients must be put on a waiting list for the basic sliding fee program when they leave AFDC due to their earned income.*

Subd. 2. [COOPERATION WITH OTHER PROGRAMS.] The county shall develop cooperative agreements with the employment and training service provider for coordination of child care funding with employment, training, and education programs for ~~aid to families with dependent children priority groups~~ *all AFDC recipients*. The cooperative agreement shall specify that individuals receiving employment, training, and education services under an employability plan from the employment and training service provider shall, as resources permit, be guaranteed ~~set-aside money for~~ child care assistance from the county of their residence.

Subd. 3. [CONTRACTS; OTHER USES ALLOWED.] Counties may

contract for administration of the program or may arrange for or contract for child care funds to be used by other appropriate programs, in accordance with this section and as permitted by federal law and regulations.

Subd. 3a. [AFDC CHILD CARE PROGRAM REALLOCATION.] *The commissioner shall review the use of child care funds allocated under this section after every quarter. Priority for use of this money shall continue to be given to the AFDC priority groups.*

The commissioner may reallocate to other counties AFDC child care program funds which a county has failed to encumber or expend according to the following procedure:

(a) Unexpended or unencumbered funds reserved for recipients in educational programs may be reallocated to counties that have expended their funds for recipients in educational programs.

(b) If any funds reserved for recipients in educational programs remain after this reallocation, or any funds remain unencumbered or unexpended from the entire AFDC child care program, the funds may be reallocated to counties that have expended their full allocation for the AFDC child care program.

(c) If any AFDC child care program funds remain after this reallocation, they may be reallocated to counties who have expended their full allocation for the basic sliding fee program.

~~Subd. 4. [USE OF FUNDS FOR OTHER APPLICANTS.] If the commissioner finds, on or after January 1 of a fiscal year, that set-aside money for AFDC priority groups is not being fully utilized, the commissioner may permit counties to use set-aside money for other eligible applicants, as long as priority for use of the money will continue to be given to the AFDC priority groups.~~

Subd. 5. [FEDERAL REIMBURSEMENT.] ~~A county may claim~~ *Counties shall maximize their* federal reimbursement under the AFDC special needs program *or other federal reimbursement programs* for money spent for persons listed in *this* section ~~256H.04, subdivision 1, clause (1)~~ *and section 256H.03*. The commissioner shall allocate any federal earnings to the county~~. The county shall use the money~~ *to be used* to expand child care ~~sliding fee~~ services under ~~this subdivision~~ *these sections*.

Sec. 144. Minnesota Statutes 1988, section 256H.07, subdivision 1, is amended to read:

Subdivision 1. [ALLOCATION; USE.] ~~Each post-secondary educational system shall be allocated a portion of the set-aside money for persons listed in section 256H.04, subdivision 1, clause (3), based on the number of students with dependent children enrolled in each system in the preceding fiscal year. The post-secondary educational systems shall allocate their money among institutions under their authority based on the number of students with dependent children enrolled in each institution in the last fiscal year. For the purposes of this subdivision, "students with dependent children" means the sum of all Minnesota residents enrolled in public post-secondary institutions who report dependents on their applications to the state scholarship and grant program. The commissioner shall transfer the allocation for each post-secondary institution to the county board of the county in which the institution is located, to be held in an account for students found eligible for child care sliding fee assistance and attending~~

~~the institution.~~ *The higher education coordinating board will administer the non-AFDC post-secondary child care program utilizing the sliding fee scale developed by the department of human services. The board will determine eligibility for the child care subsidy based on family income and family size. For purposes of this determination, "income" means the income amount used to calculate eligibility for state scholarships and grants under section 136A.121. "Family size" means the family size used to calculate eligibility for state scholarships and grants under section 136A.121.*

Students receiving subsidies shall:

(1) choose providers utilizing a licensed or legal unlicensed provider that meets the needs of their family;

(2) continue to receive a subsidy as long as they are eligible, to the limit of the allocation; and

(3) receive a subsidy to cover all eligible hours of education and employment.

The higher education coordinating board shall consult with the commissioner to ensure a program comparable to the child care subsidy program administered by the commissioner.

Sec. 145. Minnesota Statutes 1988, section 256H.08, is amended to read:

256H.08 [USE OF MONEY.]

Money for persons listed in ~~section 256H.04, subdivision 1,~~

~~clauses (2) and (3)~~ *sections 256H.03, subdivision 2a, and 256H.05, subdivision 1b*, shall be used to reduce the costs of child care for students, including the costs of child care for students while employed if enrolled in an eligible education program at the same time and making satisfactory progress towards completion of the program. ~~The county may plan for and provide child care assistance to persons listed in section 256H.04, subdivision 1, clauses (2) and (3), from the regular sliding fee fund to supplement the set-aside funds.~~ *Counties may not limit the duration of child care subsidies for a person in an employment or educational program, except when the person is found to be ineligible under the child care fund eligibility standards. Any limitation must be based on a person's employability plan in the case of an AFDC recipient, and county policies included in the child care allocation plan.* Financially eligible students who have received child care assistance for one academic year shall be provided child care assistance in the following academic year if funds allocated under ~~section 256H.06 or 256H.07 are available~~ *sections 256H.03 and 256H.05. If a student who is receiving AFDC child care assistance under this chapter moves to another county as specified in their employability plan, continues to be enrolled in a post-secondary institution, and continues to be eligible for AFDC child care assistance under this chapter, the student must receive continued child care assistance from their county of origin without interruption to the limit of the county's allocation.*

Sec. 146. Minnesota Statutes 1988, section 256H.09, is amended to read:

256H.09 [REPORTING AND PAYMENTS.]

Subdivision 1. [QUARTERLY REPORTS.] Counties ~~and post-secondary~~

~~educational systems~~ shall submit on forms prescribed by the commissioner a quarterly financial and program activity report which is due 20 calendar days after the end of each quarter. *The failure to submit a complete report by the end of the quarter in which the report is due may result in a reduction of child care fund allocations equal to the next quarter's allocation.* The financial and program activity report must include:

(1) a detailed accounting of the expenditures and revenues for the program during the preceding quarter by funding source and by eligibility group;

(2) a description of activities and concomitant expenditures that are federally reimbursable under the AFDC employment special needs program *and other federal reimbursement programs*;

(3) a description of activities and concomitant expenditures of ~~set-aside~~ *child care* money;

(4) information on money encumbered at the quarter's end but not yet reimbursable, for use in adjusting allocations as provided in ~~section~~ *sections 256H.03, subdivision 3, and* 256H.05, subdivision 4 *1a*; ~~256H.06, subdivision 3; and 256H.07, subdivision 3;~~ and

(5) other data the commissioner considers necessary to account for the program or to evaluate its effectiveness in preventing and reducing participants' dependence on public assistance and in providing other benefits, including improvement in the care provided to children.

Subd. 2. [QUARTERLY PAYMENTS.] ~~The commissioner shall make payments to each county in quarterly installments. The commissioner may certify an advance for the first quarter of the fiscal year. Later payments must be based on actual expenditures as reported in the quarterly financial and program activity report.~~ *The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures, and may be adjusted for anticipated spending patterns. Payments may be withheld if quarterly reports are incomplete or untimely.*

Subd. 3. [CHILD CARE FUND PLAN.] *Effective January 1, 1992, the county will include the plan required under this subdivision in its biennial community social services plan required in this section, for the group described in section 256E.03, subdivision 2, paragraph (h). For the period July 1, 1989, to December 31, 1991, the county shall submit separate child care fund plans required under this subdivision for the periods July 1, 1989, to June 30, 1990; and July 1, 1990, to December 31, 1991. The commissioner shall establish the dates by which the county must submit these plans. The county and designated administering agency shall submit to the commissioner an annual child care fund allocation plan. The plan shall include:*

(1) a narrative of the total program for child care services, including all policies and procedures that affect eligible families and are used to administer the child care funds;

(2) the number of families that requested a child care subsidy in the previous year, the number of families receiving child care assistance, the number of families on a waiting list, and the number of families projected to be served during the fiscal year;

(3) the methods used by the county to inform eligible groups of the

availability of child care assistance and related services;

(4) the provider rates paid for all children by provider type;

(5) the county prioritization policy for all eligible groups under the basic sliding fee program and AFDC child care program;

(6) a report of all funds available to be used for child care assistance, including demonstration of compliance with the maintenance of funding effort required under section 256H.12; and

(7) other information as requested by the department to insure compliance with the child care fund statutes and rules promulgated by the commissioner.

The commissioner shall notify counties within 60 days of the date the plan is submitted whether the plan is approved or the corrections or information needed to approve the plan. The commissioner shall withhold a county's allocation until it has an approved plan. Plans not approved by the end of the second quarter after the plan is due may result in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter after the plan is due may result in a 100 percent reduction in the allocation to the county. Counties are to maintain services despite any reduction in their allocation due to plans not being approved.

Subd. 4. [TERMINATION OF ALLOCATION.] The commissioner may withhold, reduce, or terminate the allocation of any county ~~or post-secondary educational system~~ that does not meet the reporting or other requirements of this program. The commissioner shall reallocate to other counties ~~or post-secondary educational systems~~ money so reduced or terminated.

Sec. 147. Minnesota Statutes 1988, section 256H.10, subdivision 3, is amended to read:

Subd. 3. [PRIORITIES; ALLOCATIONS.] If ~~a disproportionate amount~~ *more than 75 percent* of the available money is provided to any one of the groups described in ~~subdivision 1~~ *section 256H.03 or 256H.05*, the county board shall document to the commissioner the reason the group received a disproportionate share *unless approved in the plan*. If a county projects that its child care allocation is insufficient to meet the needs of all eligible groups, it may prioritize among the groups *that remain* to be served *after the county has complied with the priority requirements of sections 256H.03 and 256H.05*. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program prior to July 1, 1987, continues to receive assistance, providing the person meets all other eligibility criteria. Set aside money must be prioritized by the state, and counties do not have discretion over the use of this money.~~ *Counties that have established a priority must submit the policy in the annual allocation plan.*

Sec. 148. Minnesota Statutes 1988, section 256H.10, is amended by adding a subdivision to read:

Subd. 5. [PROVIDER CHOICE.] *Parents may choose child care providers as defined under section 256H.01, subdivision 12, that best meet the needs of their family. Counties shall make resources available to parents in choosing quality child care services. Counties may require a parent to sign a release stating their knowledge and responsibilities in choosing a legal provider described under section 256H.01, subdivision 12. When a county knows that a particular provider is unsafe, or that the circumstances of the child care arrangement chosen by the parent are unsafe, the county*

may deny a child care subsidy. A county may not restrict access to a general category of provider allowed under section 256H.01, subdivision 12.

Sec. 149. Minnesota Statutes 1988, section 256H.11, is amended to read:

256H.11 [EMPLOYMENT OR TRAINING ELIGIBILITY.]

Subdivision 1. [ASSISTANCE FOR PERSONS SEEKING *AND RETAINING* EMPLOYMENT.] Persons who are seeking employment and who are eligible for assistance under this section are eligible to receive the equivalent of one month of child care. Employed persons who work at least ten hours a week and receive at least a minimum wage for all hours worked are eligible for *continued* child care assistance.

Subd. 2. [FINANCIAL ELIGIBILITY REQUIRED.] Persons participating in employment programs, training programs, or education programs are eligible for *continued* assistance from the child care ~~sliding fee program~~ *fund*, if they are financially eligible under the sliding fee scale set by the commissioner in section 256H.14. ~~Counties shall assure that a person receiving child care assistance from the sliding fee program while attending a post-secondary institution prior to July 1, 1987, continues to receive assistance from the regular sliding fee program, or the set-asides in section 256H.06 or 256H.07, providing the person meets all other eligibility criteria.~~

Sec. 150. Minnesota Statutes 1988, section 256H.12, is amended to read:

256H.12 [COUNTY CONTRIBUTION.]

Subdivision 1. [COUNTY CONTRIBUTIONS REQUIRED.] In addition to payments from parents, ~~the program must be funded by county contributions. Except for set-aside money,~~ counties shall contribute from county tax *or other* sources a minimum of 15 percent of the cost of the *basic sliding fee* program. The commissioner shall recover *funds* from the county as necessary to bring county expenditures into compliance with this subdivision.

Subd. 2. [FEDERAL MONEY; STATE RECOVERY.] The commissioner shall recover from counties any state or federal money *that was spent for persons* found to be ineligible. If a federal audit exception is taken based on a percentage of federal earnings, all counties shall pay a share proportional to their respective federal earnings during the period in question.

Subd. 3. [~~OTHER SOURCES MUST BE MAINTAINED~~ *MAINTENANCE OF FUNDING EFFORT.*] To receive money through this program, each county shall certify, *in its annual plan* to the commissioner, that the county has not reduced allocations from other federal, state, and county sources, which, in the absence of *the* child care ~~sliding fee or wage subsidy money~~ *fund*, would have been available for child care ~~services~~ *assistance*.

Sec. 151. Minnesota Statutes 1988, section 256H.15, is amended to read:

256H.15 [CHILD CARE RATES.]

Subdivision 1. [SUBSIDY RESTRICTIONS.] The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The *maximum* rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median

rate *in that county* for like care arrangements ~~in that county~~ *for all types of care, including special needs and handicapped care, as determined by the commissioner. If the county sets a maximum rate, it must pay the provider's rate for each child receiving a subsidy, up to the maximum rate set by the county.* In order to be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers. *If a county does not set a maximum provider rate, it shall pay the provider's rate for every child in care. The maximum state payment is 125 percent of the median provider rate. If the county has not set a maximum provider rate and the provider rate is greater than 125 percent of the median provider rate in the county, the county shall pay the amount in excess of 125 percent of the median provider rate from county funding sources. When the provider charge is greater than the maximum provider rate set by the county, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.*

Subd. 2. [PROVIDER RATE BONUS FOR ACCREDITATION.] *Currently accredited child care centers shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the center can demonstrate that its staff wages are greater than 110 percent of the average wages in the county for similar care, up to the actual provider rate. A family day care provider shall be paid a five percent bonus above the maximum rate established by the county in subdivision 1, if the provider holds a current child development associate certificate, up to the actual provider rate. A county is not required to review wages under this subdivision unless the county has set a maximum above 110 percent for all providers with employees in their county.*

Subd. 3. [PROVIDER RATE FOR CARE OF CHILDREN WITH HANDICAPS OR SPECIAL NEEDS.] *Counties shall reimburse providers for the care of children with handicaps or special needs, at a special rate to be set by the county for care of these children, subject to the approval of the commissioner.*

Sec. 152. Minnesota Statutes 1988, section 256H.18, is amended to read:

256H.18 [ADMINISTRATIVE EXPENSES.]

A county ~~must~~ *may* not use more than seven percent of its allocation for ~~its~~ administrative expenses under ~~this section, except a county may not use any of its allocation of the set-aside funds under subdivisions 3b and 3c for administrative expenses~~ *the basic sliding fee program.* ~~A county may use up to four percent of the funds transferred to it under subdivision 3d for administrative expenses.~~

Sec. 153. Minnesota Statutes 1988, section 256H.20, subdivision 3, is amended to read:

Subd. 3. [PROGRAM SERVICES.] The commissioner may make grants to public or private nonprofit entities to fund child care resource and referral programs. Child care resource and referral programs must serve a defined geographic area.

Subd. 3a. [GRANT REQUIREMENTS AND PRIORITY.] *Priority for awarding resource and referral grants shall be given in the following order:*

(1) start up resource and referral programs in areas of the state where they do not exist; and

(2) improve resource and referral programs.

Resource and referral programs shall meet the following requirements:

(a) Each program shall identify all existing child care services through information provided by all relevant public and private agencies in the areas of service, and shall develop a resource file of the services which shall be maintained and updated at least quarterly. These services must include family day care homes; public and private day care programs; full-time and part-time programs; infant, preschool, and extended care programs; and programs for school age children.

The resource file must include: the type of program, hours of program service, ages of children served, fees, location of the program, eligibility requirements for enrollment, *special needs services,* and transportation available to the program. The file may also include program information and special ~~needs services~~ *program features.*

(b) Each program shall establish a referral process which responds to parental need for information and which fully recognizes confidentiality rights of parents. The referral process must afford parents maximum access to all referral information. This access must include telephone referral available for no less than 20 hours per week.

Each child care resource and referral agency shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.

(c) Each program shall maintain ongoing documentation of requests for service. All child care resource and referral agencies must maintain documentation of the number of calls and contacts to the child care information and referral agency or component. A program ~~may~~ *shall* collect and maintain the following information:

(1) ages of children served;

(2) time category of child care request for each child;

(3) special time category, such as nights, weekends, and swing shift; and

(4) reason that the child care is needed.

(d) Each program shall ~~have~~ *make* available the following information as an educational aid to parents:

(1) information on aspects of evaluating the quality and suitability of child care services, including licensing regulation, financial assistance available, child abuse reporting procedures, appropriate child development information;

(2) information on available parent, early childhood, and family education programs in the community.

(e) *On or after one year of operation* a program ~~may~~ *shall* provide technical assistance to *employers and* existing and potential providers of all types of child care services ~~and employers~~. This assistance shall include:

(1) information on all aspects of initiating new child care services including licensing, zoning, program and budget development, and assistance in finding information from other sources;

(2) information and resources which help existing child care providers to maximize their ability to serve the children and parents of their community;

(3) dissemination of information on current public issues affecting the local and state delivery of child care services;

(4) facilitation of communication between existing child care providers and child-related services in the community served;

(5) recruitment of licensed providers; and

(6) options, and the benefits available to employers utilizing the various options, to expand child care services to employees.

Services prescribed by this section must be designed to maximize parental choice in the selection of child care and to facilitate the maintenance and development of child care services and resources.

(f) Child care resource and referral information must be provided to all persons requesting services and to all types of child care providers and employers.

(g) Public or private entities may apply to the commissioner for funding. The maximum amount of money which may be awarded to any entity for the provision of service under this subdivision is $60,000 per year. A local match of up to 25 percent is required.

Sec. 154. [256H.21] [CHILD CARE SERVICES GRANT DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] *As used in sections 256H.20 to 256H.23, the words defined in this section shall have the meanings given them.*

Subd. 2. [CHILD.] *"Child" means a person 12 years old or younger, or a person age 13 or 14 who is handicapped, as defined in section 120.03.*

Subd. 3. [CHILD CARE.] *"Child care" means the care of a child by someone other than a parent or legal guardian outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.*

Subd. 4. [CHILD CARE SERVICES.] *"Child care services" means child care provided in family day care homes, group day care homes, nursery schools, day nurseries, child day care centers, head start, and extended day school age child care programs.*

Subd. 5. [CHILD CARE WORKER.] *"Child care worker" means a person who cares for children for compensation, including a licensed provider of child care services, an employee of a provider, a person who has applied for a license as a provider, or a person who meets the standards established by the state board of education.*

Subd. 6. [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

Subd. 7. [FACILITY IMPROVEMENT EXPENSES.] *"Facility improvement expenses" means funds for building improvements, equipment, toys, and supplies needed to establish, expand, or improve a licensed child care facility or a child care program under the jurisdiction of the state board of education.*

Subd. 8. [INTERIM FINANCING.] *"Interim financing" means funds to carry out such activities as are necessary for family day care homes, group family day care homes, and child care centers to receive and maintain*

state licensing, to expand an existing program or to improve program quality, and to provide operating funds for a period of six consecutive months after a family day care home, group family day care home, or child care center becomes licensed or satisfies standards of the state board of education. Interim financing may not exceed a period of 18 months.

Subd. 9. [MINI-GRANTS.] *"Mini-grants" means child care grants for facility improvements that are less than $1,000. Mini-grants include, but are not limited to, improvements to meet licensing requirements, improvements to expand a child care facility or program, toys and equipment, start-up costs, staff training, and development costs.*

Subd. 10. [RESOURCE AND REFERRAL PROGRAM.] *"Resource and referral program" means a program that provides information to parents, including referrals and coordination of community child care resources for parents and public or private providers of care. Services may include parent education, technical assistance for providers, staff development programs, and referrals to social services.*

Subd. 11. [STAFF TRAINING OR DEVELOPMENT EXPENSES.] *"Staff training or development expenses" include the cost to a child care worker of tuition, transportation, required materials and supplies, and wages for a substitute while the child care worker is engaged in a training program.*

Subd. 12. [TRAINING PROGRAM.] *"Training program" means child development courses offered by an accredited post-secondary institution or similar training approved by a county board or the department of human services. To qualify as a training program under this section, a course of study must teach specific skills that meet licensing requirements or requirements of the state board of education.*

Sec. 155. [256H.22] [CHILD CARE SERVICES GRANTS.]

Subdivision 1. [GRANTS ESTABLISHED.] *The commissioner shall award grants to develop child care services, including facility improvement expenses, interim financing, resource and referral programs, and staff training expenses. Child care services grants may include mini-grants up to $1,000. The commissioner shall develop a grant application form, inform county social service agencies about the availability of child care services grants, and set a date by which applications must be received by the commissioner.*

The commissioner may renew grants to existing resource and referral agencies that have met state standards and have been designated as the child care resource and referral service for a particular geographical area. The recipients of renewal grants are exempt from the proposal review process.

Subd. 2. [DISTRIBUTION OF FUNDS.] *(a) The commissioner shall allocate grant money appropriated for child care service (development and resource and referral services) among the development regions designated by the governor under section 462.385, as follows:*

(1) 50 percent of the child care service development grant appropriation shall be allocated to the metropolitan area; and

(2) 50 percent of the child care service development grant appropriation shall be allocated to greater Minnesota counties.

(b) The following formulas shall be used to allocate grant appropriations among the counties:

(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the total number of children under 12 years of age in all counties; and

(2) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each county to the number of licensed child care spaces currently available in each county.

(c) Out of the amount allocated for each development region and county, the commissioner shall award grants based on the recommendation of the grant review advisory task force. In addition, the commissioner shall award no more than 75 percent of the money either to child care facilities for the purpose of facility improvement or interim financing or to child care workers for staff training expenses. The commissioner shall award no more than 50 percent of the money for resource and referral services to maintain or improve an existing resource and referral until all regions are served by resource and referral programs.

(d) Any funds unobligated may be used by the commissioner to award grants to proposals that received funding recommendations by the advisory task force but were not awarded due to insufficient funds.

Subd. 3. [CHILD CARE REGIONAL ADVISORY COMMITTEES.] *Child care regional advisory committees shall review and make recommendations to the commissioner on applications for service development grants under this section. The commissioner shall appoint the child care regional advisory committees in each governor's economic development regions. People appointed under this subdivision must represent the following constituent groups: family child care providers, group center providers, parent users, health services, social services, public schools, and other citizens with demonstrated interest in child care issues. Members of the advisory task force with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal. Committee members may be reimbursed for their actual travel expenses for up to six committee meetings per year. The child care regional advisory committees shall complete their reviews and forward their recommendations to the commissioner by the date specified by the commissioner.*

Subd. 4. [PURPOSES FOR WHICH A CHILD CARE SERVICES GRANT MAY BE AWARDED.] *The commissioner may award grants for any of the following purposes:*

(1) for creating new licensed day care facilities and expanding existing facilities, including, but not limited to, supplies, equipment, facility renovation, and remodeling;

(2) for improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, priority must be given to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(3) for supportive child development services including, but not limited to, in-service training, curriculum development, consulting specialist, resource centers, and program and resource materials;

(4) for carrying out programs including, but not limited to, staff, supplies, equipment, facility renovation, and training;

(5) for interim financing; and

(6) for carrying out the resource and referral program services identified in section 256H.20, subdivision 3.

Subd. 5. [FUNDING PRIORITIES; FACILITY IMPROVEMENT AND INTERIM FINANCING.] *In evaluating applications for funding and making recommendations to the commissioner, the grant review advisory task force shall rank and give priority to:*

(1) new programs or projects, or the expansion or improvement of existing programs or projects in areas where a demonstrated need for child care facilities has been shown, with special emphasis on programs or projects in areas where there is a shortage of licensed child care;

(2) new programs and projects, or the expansions or enrichment of existing programs or projects that serve sick children, infants or toddlers, children with special needs, and children from low-income families;

(3) unlicensed providers who wish to become licensed; and

(4) improvement of existing programs.

Subd. 6. [FUNDING PRIORITIES; TRAINING GRANTS.] *In evaluating applications for training grants and making recommendations to the commissioner, the grant review advisory task force shall give priority to:*

(1) applicants who will work in facilities caring for sick children, infants, toddlers, children with special needs, and children from low-income families;

(2) applicants who will work in geographic areas where there is a shortage of child care;

(3) unlicensed providers who wish to become licensed;

(4) child care programs seeking accreditation and child care providers seeking certification; and

(5) entities that will use grant money for scholarships for child care workers attending educational or training programs sponsored by the entity.

Subd. 7. [ELIGIBLE GRANT RECIPIENTS.] *Eligible recipients of child care grants are licensed providers of child care, or those in the process of being licensed, resource and referral programs, or corporations or public agencies, or any combination thereof. With the exception of mini-grants, priority for child care grants shall be given to grant applicants as follows:*

(1) public and private nonprofit agencies;

(2) employer-based child care centers;

(3) for-profit child care centers; and

(4) family day care providers.

Subd. 8. [GRANT MATCH REQUIREMENTS.] *Child care grants for facility improvements, interim financing, resource and referral, and staff training and development require a 25 percent local match by the grant applicant. A local match is not required for a mini-grant.*

Subd. 9. [CHILD CARE MINI-GRANTS.] *Mini-grants for child care service development must be used by the grantee for facility improvements, including, but not limited to, improvements to meet licensing requirements, improvements to expand the facility, toys and equipment, start-up costs, interim financing, or staff training and development. Priority for child care mini-grants shall be given to grant applicants as follows:*

(1) family day care providers;

(2) public and private nonprofit agencies;

(3) employer-based child care centers; and

(4) for-profit child care centers.

Subd. 10. [ADVISORY TASK FORCE.] *The commissioner shall convene a statewide advisory task force which shall advise the commissioner on grants and other child care issues. The statewide advisory task force shall review and make recommendations to the commissioner on child care resource and referral grants and on statewide child care training grants. Members of the advisory task force with a direct financial interest in a resource and referral or a statewide training proposal may not provide a recommendation or participate in the ranking of that grant proposal. Each regional grant review committee formed under subdivision 3, shall appoint a representative to the advisory task force. The commissioner may convene meetings of the task force as needed. Terms of office and removal from office are governed by the appointing body. The commissioner may compensate members for their expenses of travel to meetings of the task force. The members of the child care advisory task force shall also meet once with the interagency advisory committee on child care under section 256H.25.*

Subd. 11. [ADVISORY COMMITTEE COSTS.] *The commissioner may use money appropriated for services under this section for administrative expenses associated with advisory committees and task forces authorized by this section.*

Sec. 156. [256H.23] [OTHER AUTHORIZATION TO MAKE GRANTS.]

Subdivision 1. [AUTHORITY.] *In addition to the commissioner's authority to make child care services grants, the county board is authorized to provide child care services, or to make grants from the community social service fund, special tax revenue, or its general fund, or other sources to any municipality, corporation, or combination thereof, for the cost of providing technical assistance and child care services. The county board is also authorized to contract for services with any licensed day care facility, as the board deems necessary or proper to carry out the purposes of this section.*

The county board may also make grants to or contract with any municipality, licensed child care facility, or resource and referral program, or corporation or combination thereof, for any of the following purposes:

(1) creating new licensed day care facilities and expanding existing facilities including, but not limited to, supplies, equipment, and facility renovation and remodeling;

(2) improving licensed day care facility programs, including, but not limited to, staff specialists, staff training, supplies, equipment, and facility renovation and remodeling. In awarding grants for training, counties must give priority to child care workers caring for infants, toddlers, sick children, children in low-income families, and children with special needs;

(3) supportive child development services, including, but not limited to, in-service training, curriculum development, consulting specialists, resource centers, and program and resource materials;

(4) carrying out programs, including, but not limited to, staff, supplies, equipment, facility renovation, and training;

(5) interim financing; and

(6) carrying out the resource and referral program services identified in section 256H.20, subdivision 3.

Subd. 2. [DONATED MATERIALS AND SERVICES; MATCHING SHARE OF COST.] *For the purposes of this section, donated professional and volunteer services, program materials, equipment, supplies, and facilities may be approved as part of a matching share of the cost, provided that total costs shall be reduced by the costs charged to parents if a sliding fee scale has been used.*

Subd. 3. [BIENNIAL PLAN.] *The county board shall biennially develop a plan for the distribution of money for child care services as part of the community social services plan described in section 256E.09. All licensed child care programs shall be given written notice concerning the availability of money and the application process.*

Sec. 157. [256H.24] [DUTIES OF COMMISSIONER.]

In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) by September 1, 1990, and by September 1 of each subsequent even-numbered year, survey and report on all components of the child care system, including, but not limited to, availability of licensed child care slots, the number of children in various kinds of child care settings, staff wages, rate of staff turnover, qualifications of child care workers, cost of child care by type of service and ages of children, and child care availability through school systems;

(2) by September 1, 1990, and September 1 of each subsequent even-numbered year, survey and report on the extent to which existing child care services fulfill the need for child care, giving particular attention to the need for part-time care and for care of infants, sick children, children with special needs, low-income children, toddlers, and school-age children;

(3) administer the child care fund, including the sliding fee program authorized under sections 256H.01 to 256H.19;

(4) monitor the child care resource and referral programs established under section 256H.20; and

(5) encourage child care providers to participate in a nationally recognized accreditation system for early childhood programs. The commissioner shall reimburse licensed child care providers for one-half of the direct cost of accreditation fees, upon successful completion of accreditation.

Sec. 158. [256H.25] [INTERAGENCY ADVISORY COMMITTEE ON CHILD CARE.]

Subdivision 1. [MEMBERSHIP.] *By January 1, 1990, the commissioner of the state planning agency shall convene and chair an interagency advisory committee on child care. In addition to the commissioner, members of the committee are the commissioners of each of the following agencies and departments: health, human services, jobs and training, public safety, education, and the higher education coordinating board. The purpose of the committee is to improve the quality and quantity of child care and the coordination of child care related activities among state agencies.*

Subd. 2. [DUTIES.] *The committee shall advise its member agencies on*

matters related to child care policy and planning. Specifically, the committee shall:

(1) develop a consistent policy on issues related to child care;

(2) advise the member agencies on implementing policies and developing rules that are consistent with the committee's policy on child care;

(3) advise the member agencies on state efforts to increase the supply and improve the quality of child care facilities and options; and

(4) perform other advisory tasks related to improving child care options throughout the state.

Subd. 3. [MEETINGS.] *The committee shall meet as often as necessary to perform its duties. The committee shall meet at least once per year with the members of the child care advisory task force.*

Sec. 159. [256H.26] [CHILD CARE INFORMATION SERVICE.]

The commissioner shall establish, on a pilot project basis, a toll-free information service for child care providers, potential providers, and parents to assist callers to find existing child care services at the state or local level and to facilitate expansion and marketing of child care services. The telephone must be staffed during regular business hours to respond promptly to questions and during regular business hours to respond promptly to questions and concerns. The information and assistance must be made available free to all callers. The commissioner shall report to the legislature by January 1, 1991 on the effectiveness of this service and shall recommend how and by whom the operation should be administered. The commissioner shall consult with local resource and referral agencies, both public and private, in making its recommendations. The commissioner may use money appropriated for child care resource and referral grants for the administrative costs incurred under this section.

Sec. 160. Minnesota Statutes 1988, section 257.071, subdivision 7, is amended to read:

Subd. 7. [RULES.] By December 31, ~~1988~~ *1989*, the commissioner shall revise Minnesota Rules, parts 9545.0010 to ~~9545.0269~~ *9545.0260*, the rules setting standards for family and group family foster care. The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on the importance of protecting cultural heritage within the meaning of Laws 1983, chapter 278, the Indian Child Welfare Act, Public Law Number 95-608, and the Minnesota Indian family preservation act, sections 257.35 to 257.357; and

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures.

Sec. 161. Minnesota Statutes 1988, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child; or

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this clause to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted.

(f) Evidence of statistical probability of paternity based on blood testing establishes that the likelihood that the man is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater.

Sec. 162. Minnesota Statutes 1988, section 257.57, subdivision 1, is amended to read:

Subdivision 1. A child, the child's biological mother, or a man presumed to be the child's father under section 257.55, subdivision 1, clause (a), (b), or (c) may bring an action:

(a) At any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c); or

(b) *Within three years after the child's birth* for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, clause (a), (b), or (c) ~~only if the action is brought~~

~~within a reasonable time after the person bringing the action has obtained knowledge of relevant facts, but in no event later than three years after the child's birth~~. *However, if the presumed father was divorced from the child's mother after service by publication, and, if, on or before the 280th day after the judgment and decree of divorce or dissolution became final, he did not know that the child was born during the marriage or within 280 days after the marriage was terminated, the action is not barred until one year after the child reaches the age of majority.* After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

Sec. 163. Minnesota Statutes 1988, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] *(a)* If the results of ~~the~~ blood tests *completed in a laboratory accredited by the American Association of Blood Banks* indicate that the likelihood of the alleged father's paternity, *calculated with a prior probability of no more than 0.5 (50 percent),* is ~~more than~~ 92 percent *or greater*, upon motion the court shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

(b) If the results of blood tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

Sec. 164. [259.44] [REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.]

The commissioner of human services shall provide reimbursement of up to $2,000 to the adoptive parent or parents for costs incurred in adopting a child with special needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676.

Sec. 165. Minnesota Statutes 1988, section 259.47, subdivision 5, is amended to read:

Subd. 5. [CHARGES.] ~~Agencies~~ *The commissioner, the commissioner's agents, and licensed child-placing agencies* may require a reasonable expense reimbursement for providing services required in this section. *Reimbursements received by the commissioner according to this subdivision shall be deposited in the general fund.*

Sec. 166. [259.471] [POSTADOPTION SERVICE GRANTS PROGRAM.]

Subdivision 1. [PURPOSE.] *The commissioner of human services shall establish and supervise a postadoption service grants program to be administered by local social service agencies for the purpose of preserving and strengthening adoptive families. The program will provide financial assistance to adoptive parents to meet the special needs of an adopted child that cannot be met by other resources available to the family.*

Subd. 2. [ELIGIBILITY CRITERIA.] *A child may be certified by the*

local social service agency as eligible for a postadoption service grant after a final decree of adoption and before the child's 18th birthday if:

(a) The child was a ward of the commissioner or a Minnesota licensed child placing agency before adoption;

(b) The child had special needs at the time of adoption. For the purposes of this section, "special needs" means a child who had a physical, mental, emotional, or behavioral disability at the time of an adoption or has a preadoption background to which the current development of such disabilities can be attributed; and

(c) The adoptive parents have exhausted all other available resources. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

Subd. 3. [CERTIFICATION STATEMENT.] *The local social service agency shall certify a child's eligibility for a postadoption service grant in writing to the commissioner. The certification statement shall include:*

(1) a description and history of the special needs upon which eligibility is based; and

(2) applicable supporting documentation including:

(i) the child's individual service plan;

(ii) medical, psychological, or special education evaluations;

(iii) documentation that all other resources have been exhausted; and

(iv) an estimate of the costs necessary to meet the special needs of the child.

Subd. 4. [COMMISSIONER REVIEW.] *The commissioner shall review the facts upon which eligibility is based and shall award postadoption service grants to eligible adoptive parents to the extent funds are appropriated consistent with subdivision 5.*

Subd. 5. [GRANT PAYMENTS.] *The amount of the postadoption service grant payment shall be based on the special needs of the child and the determination that other resources to meet those special needs are not available. The amount of any grant payments shall be based on the severity of the child's disability and the effect of the disability on the family and must not exceed $10,000 annually.*

Permissible expenses that may be paid from grants shall be limited to:

(1) medical expenses not covered by the family's health insurance or medical assistance;

(2) therapeutic expenses, including individual and family therapy; and

(3) nonmedical services, items, or equipment required to meet the special needs of the child.

The grants under this section shall not be used for maintenance for out-of-home placement of the child in substitute care.

Sec. 167. Minnesota Statutes 1988, section 259.49, subdivision 2, is amended to read:

259.49 [ACCESS TO ~~ADOPTION RECORDS~~ *ORIGINAL BIRTH CERTIFICATE INFORMATION.*]

Subd. 2. [SEARCH.] Within six months after receiving notice of the request of the adopted person, the commissioner of human services shall make complete and reasonable efforts to notify each parent identified on the original birth certificate of the adopted person. The commissioner, *the commissioner's agents, and licensed child-placing agencies* may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the genetic parents named on the original birth certificate of the adopted person. The contact shall not be by mail and shall be by an employee or agent of the licensed child placing agency which processed the pertinent adoption or some other licensed child placing agency designated by the commissioner of human services. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

(a) The nature of the information requested by the adopted person;

(b) The date of the request of the adopted person;

(c) The right of the parent to file, within 120 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth certificate should not be disclosed;

(d) The right of the parent to file a consent to disclosure with the commissioner of health at any time; and

(e) The effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth certificate should not be disclosed.

Sec. 168. Minnesota Statutes 1988, section 260.251, subdivision 1, is amended to read:

Subdivision 1. [CARE, EXAMINATION, OR TREATMENT.] (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a county welfare board, or

(2) whenever legal custody is transferred to a person other than the county welfare board, but under the supervision of the county welfare board,

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, *and the county welfare board shall require,* the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs

allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, social security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, *and the county welfare board shall require, reimbursement from* the child ~~to reimburse the county~~ for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, *the court* shall order, *and the county welfare board shall require,* the parents to ~~reimburse the county, in the manner and to whom the court may direct, such sums as will cover in whole or in part~~ *contribute to* the cost of care, examination, or treatment of the child. *When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the county welfare board and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.*

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518 from the income of the parents or the custodian of the child. A parent or custodian ~~or child over the age of 18~~ who fails to pay ~~this sum~~ without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed ~~against any of them~~ to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, copayments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 169. Minnesota Statutes 1988, section 268.08, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] An individual shall be eligible to receive benefits with respect to any week of unemployment only if the commissioner finds that the individual:

(1) has registered for work at and thereafter has continued to report to an employment office, or agent of the office, in accordance with rules the commissioner may adopt; except that the commissioner may by rule waive or alter either or both of the requirements of this clause as to types of cases or situations with respect to which the commissioner finds that compliance with the requirements would be oppressive or would be inconsistent with the purposes of sections 268.03 to 268.24;

(2) has made a claim for benefits in accordance with rules as the commissioner may adopt;

(3) was able to work and was available for work, and was actively seeking work. The individual's weekly benefit amount shall be reduced one-fifth for each day the individual is unable to work or is unavailable for work. Benefits shall not be denied by application of this clause to an individual who is in training with the approval of the commissioner, *is a dislocated worker as defined in section 268.975, subdivision 3, who is in training approved by the commissioner,* or in training approved pursuant to section 236 of the Trade Act of 1974, as amended.

An individual is deemed unavailable for work with respect to any week which occurs in a period when the individual is a full-time student in attendance at, or on vacation from an established school, college, or university unless a majority of the wage credits earned in the base period were for services performed during weeks in which the student was attending school as a full-time student.

An individual serving as a juror shall be considered as available for work and actively seeking work on each day the individual is on jury duty; and

(4) has been unemployed for a waiting period of one week during which the individual is otherwise eligible for benefits under sections 268.03 to 268.24. However, payment for the waiting week, not to exceed $20, shall be made to the individual after the individual has qualified for and been paid benefits for four weeks of unemployment in a benefit year which period of unemployment is terminated because of the individual's return to employment. No individual is required to serve a waiting period of more than one week within the one-year period subsequent to filing a valid claim and commencing with the week within which the valid claim was filed.

Sec. 170. Minnesota Statutes 1988, section 268.31, is amended to read:

268.31 [DEVELOPMENT OF YOUTH EMPLOYMENT OPPORTUNITIES.]

(a) To the extent of available funding, the commissioner of jobs and training shall establish a program to employ individuals from the ages of 14 years up to 22 years. Available money may be used to operate this program on a full calendar year basis, to *provide transitional services,* link basic skills training and remedial education to job training and school completion, and for support services. The amount spent on support services in any one fiscal year may not exceed 15 percent of the total annual appropriation for this program. Individuals employed in this program will be placed in service with departments, agencies, and instrumentalities of the state, county, local governments, school districts, with nonprofit organizations, and private sector employers. The maximum number of hours that an individual may be employed in a position supported under this program is 480 hours. Program funds may not be used for private sector placements. Program operators must use the targeted jobs tax credit, other federal, state, and local government resources, as well as private sector resources to fund private sector placements. The commissioner shall cooperate with the commissioner of human services in determining and implementing the most effective means of disregarding a youth's earnings from family income for purposes of the aid to families with dependent children program, to the extent permitted by the federal government.

(b) Upon request of the commissioner of the department of natural

resources, the commissioner will contract for or provide available services for remedial skills, life skills, and career counseling activities to youth in the Minnesota conservation corps program.

(c) The commissioner shall evaluate the services provided under this section. The evaluation shall include information on the effectiveness of program services in promoting the employability of young people. In order to measure the long-term effectiveness of the program, the evaluation shall include follow-up information on each participant.

Sec. 171. [268.912] [HEAD START PROGRAM.]

The department of jobs and training is the state agency responsible for administering the head start program. The commissioner of jobs and training may make grants to public or private nonprofit agencies for the purpose of providing supplemental funds for the federal head start program.

Sec. 172. [268.913] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *As used in sections 268.914 to 268.916, the terms defined in this section have the meanings given them.*

Subd. 2. [PROGRAM ACCOUNT 20.] *"Program account 20" means the federally designated and funded account limited to training activities.*

Subd. 3. [PROGRAM ACCOUNT 22.] *"Program account 22" means the federally designated and funded account for basic services.*

Subd. 4. [PROGRAM ACCOUNT 26.] *"Program account 26" means the federally designated and funded account that can only be used to provide special services to handicapped diagnosed children.*

Subd. 5. [PROGRAM ACCOUNT 23.] *"Program account 23" means the federally designated and funded account for all day services.*

Subd. 6. [START-UP COSTS.] *"Start-up costs" means one-time costs incurred in expanding services to additional children.*

Sec. 173. [268.914] [DISTRIBUTION OF APPROPRIATION.]

(a) The commissioner of jobs and training shall distribute money appropriated for that purpose to head start program grantees to expand services to additional low-income children. Money must be allocated to each project head start grantee in existence on the effective date of this act. Migrant and Indian reservation grantees must be initially allocated money based on the grantees' share of federal funds. The remaining money must be initially allocated to the remaining local agencies based equally on the agencies' share of federal funds and on the proportion of eligible children in the agencies' service area who are not currently being served. A head start grantee must be funded at a per child rate equal to its contracted, federally funded base level for program accounts 20 to 26 at the start of the fiscal year. The commissioner may provide additional funding to grantees for start-up costs incurred by grantees due to the increased number of children to be served. Before paying money to the grantees, the commissioner shall notify each grantee of its initial allocation, how the money must be used, and the number of low-income children that must be served with the allocation. Each grantee must notify the commissioner of the number of additional low-income children it will be able to serve. For any grantee that cannot serve additional children to its full allocation, the commissioner shall reduce the allocation proportionately. Money available after the initial allocations are reduced must be redistributed to eligible

grantees.

(b) Up to 11 percent of the funds appropriated annually may be used to provide grants to local head start agencies to provide funds for innovative programs designed either to target head start resources to particular at-risk groups of children or to provide services in addition to those currently allowable under federal head start regulations. The commissioner shall award funds for innovative programs under this paragraph on a competitive basis.

Sec. 174. [268.915] [FEDERAL REQUIREMENTS.]

Grantees and the commissioner shall comply with federal regulations governing the federal head start program, except for innovative programs funded under section 268.914, paragraph (b), which may operate differently than federal head start regulations, and except that when a state statute or regulation conflicts with a federal statute or regulation, the state statute or regulation prevails.

Sec. 175. [268.916] [REPORTS.]

Each grantee shall submit an annual report to the commissioner on the format designated by the commissioner, including program information report data. By January 1 of each year, the commissioner shall prepare an annual report to the health and human services committees of the legislature concerning the uses and impact of head start supplemental funding, including a summary of innovative programs and the results of innovative programs and an evaluation of the coordination of head start programs with employment and training services provided to AFDC recipients.

Sec. 176. [268.971] [HOSPITALITY HOST PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *A hospitality host older worker tourism program is established in the department of jobs and training to assist economically disadvantaged older workers to gain employment in the promotion of the tourism industry in Minnesota and to become self-sufficient. The objectives of the program are to:*

(1) assist in the diversification of industry in rural areas by stimulating and promoting tourism;

(2) create full-time and part-time employment for low-income persons 55 years old or older;

(3) raise the income of older persons living in poverty; and

(4) promote tourism in selected local areas throughout the state, thereby improving local economies.

Subd. 2. [DEFINITIONS.] *(a)* [SCOPE.] *As used in this section, the terms defined in this section have the meanings given them.*

(b) [COMMISSIONER.] *"Commissioner" means the commissioner of the department of jobs and training.*

(c) [OLDER WORKER.] *"Older worker" means an economically disadvantaged person 55 years or older.*

(d) [ECONOMICALLY DISADVANTAGED.] *"Economically disadvantaged" means a person having an income of 125 percent or less of the federal poverty income guidelines. In determining income, the federal Job Training Partnership Act definition of family and family income will prevail.*

(e) [PROGRAM.] *"Program" means the hospitality host older worker program created in subdivision 1.*

(f) [COORDINATING AGENCY.] *"Coordinating agency" means the Arrowhead economic opportunity agency.*

Subd. 3. [DISTRIBUTION AND USE OF STATE MONEY.] *Money allocated to the coordinating agency by the commissioner must be used for activities consistent with the objectives of the program including, but not limited to: outreach, selection of eligible participants, program sites, individual work sites, classroom training, on-the-job training opportunities, and program marketing. Program funds shall be used to provide training-related costs to enrollees during orientation and classroom training segments. Program funds shall be used to subsidize up to 50 percent of enrollee wages during contracted on-the-job training periods with the employer being responsible for the remainder. Salaries upon employment shall be at least the state or federal minimum wage, whichever is higher.*

Subd. 4. [RESPONSIBILITIES OF COORDINATING AGENCY.] *The commissioner shall enter into written agreement with the coordinating agency for the design, delivery, and general administration of the program. The commissioner shall set program goals and objectives, and monitor the program.*

Subd. 5. [REPORTS.] *The coordinating agency shall submit an annual report to the commissioner one year from the effective date of this act and annually thereafter. In addition, the coordinating agency shall submit to the commissioner such other reports as required to document the status and progress of the program. The annual report must include: information on the number and types of jobs created; status of program sites; wages paid program participants; types of services provided by programs; the retention of program participants; and other information to assess the progress and status of the program.*

Sec. 177. [268.975] [DEFINITIONS.]

Subdivision 1. [TERMS.] *For the purposes of sections 268.975 to 268.98, the following terms have the meanings given them.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of jobs and training.*

Subd. 3. [DISLOCATED WORKER.] *"Dislocated worker" means an individual who:*

(1) has been terminated or has received a notice of termination of employment as a result of a plant closing or any substantial layoff at a plant, facility, or enterprise located in the state;

(2) was a resident of the state at the time of termination of employment or at the time of receiving the notification of termination of employment; and

(3) is eligible for or has exhausted unemployment compensation and is unlikely to return to the previous industry or occupation.

Subd. 4. [ELIGIBLE ORGANIZATION.] *"Eligible organization" means a local government unit, nonprofit organization, community action agency, business organization or association, or labor organization that has applied for a prefeasibility grant under section 268.978.*

Subd. 5. [LOCAL GOVERNMENT UNIT.] *"Local government unit" means a statutory or home rule charter city, county, or town.*

Subd. 6. [PLANT CLOSING.] *"Plant closing" means the announced or actual permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for (a) 50 or more employees excluding employees who work less than 20 hours per week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.*

Subd. 7. [PREFEASIBILITY STUDY GRANT; GRANT.] *"Prefeasibility study grant" or "grant" means the grant awarded under section 268.978.*

Subd. 8. [SUBSTANTIAL LAYOFF.] *"Substantial layoff" means a reduction in the work force, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for (a) at least 50 employees excluding those employees that work less than 20 hours a week; or (b) at least 500 employees who in the aggregate work at least 20,000 hours per week, exclusive of hours of overtime.*

Sec. 178. [268.976] [EARLY WARNING SYSTEM.]

Subdivision 1. [EARLY WARNING INDICATORS.] *The commissioner, in cooperation with the commissioners of revenue and trade and economic development, shall establish and oversee an early warning system to identify industries and businesses likely to experience large losses in employment including a plant closing or a substantial layoff, by collecting and analyzing information which may include, but not be limited to, products and markets experiencing declining growth rates, companies and industries subject to competition from production in low wage counties, changes in ownership, layoff and employment patterns, payments of unemployment compensation contributions, and state tax payments. The commissioner may request the assistance of businesses, business organizations, and trade associations in identifying businesses, industries, and specific establishments that are likely to experience large losses in employment. The commissioner may request information and other assistance from other state agencies for the purposes of this subdivision.*

Subd. 2. [NOTICE.] *The commissioner shall encourage those business establishments considering a decision to effect a plant closing, substantial layoff or relocation of operations located in this state to give notice of that decision as early as possible to the commissioner, the employees of the affected establishment, any employee organization representing the employees, and the local government unit in which the affected establishment is located. This notice shall be in addition to any notice required under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101.*

Subd. 3. [EMPLOYER RESPONSIBILITY.] *An employer providing notice of a plant closing, substantial layoff, or relocation of operations under the Worker Adjustment and Retraining Notification Act, United States Code, title 29, section 2101, or under subdivision 2 must report to the commissioner the names, addresses, and occupations of the employees who will be or have been terminated.*

Sec. 179. [268.977] [RAPID RESPONSE PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHMENT.] *(a) The commissioner shall establish a rapid response program to assist employees, employers, business organizations or associations, labor organizations, local government units, and community organizations to quickly and effectively respond to announced or actual plant closings and substantial layoffs.*

(b) The program must include or address at least the following:

(1) within five working days after becoming aware of an announced or actual plant closing or substantial layoff, establish on-site contact with the employer, employees, labor organizations if there is one representing the employees, and leaders of the local government units and community organizations to provide coordination of efforts to formulate a communitywide response to the plant closing or substantial layoff, provide information on the public and private service and programs that might be available, inform the affected parties of the prefeasibility study grants under section 268.978, and collect any information required by the commissioner to assist in responding to the plant closing or substantial layoff;

(2) provide ongoing technical assistance to employers, employees, business organizations or associations, labor organizations, local government units, and community organizations to assist them in reacting to or developing responses to plant closings or substantial layoffs;

(3) establish and administer the prefeasibility study grant program under section 268.978 to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs;

(4) work with employment and training service providers, employers, business organizations or associations, labor organizations, local government units, and community organizations in providing training, education, community support service, job search programs, job clubs, and other services to address the needs of potential or actual dislocated workers;

(5) coordinate with providers of economic development related financial and technical assistance services so that communities that are experiencing plant closings or substantial layoffs have immediate access to economic development related services; and

(6) collect and make available information on programs that might assist dislocated workers and the communities affected by plant closings or substantial layoffs.

Subd. 2. [APPLICABILITY.] *Notwithstanding section 268.975, subdivisions 6 and 8, the commissioner may waive the threshold requirements for finding a plant closing or substantial layoff in special cases where the governor's job training council recommends waiver to the commissioner following a finding by the council that the number of workers dislocated as a result of a plant closing or substantial layoff would have a substantial impact on the community or labor market where the closure or layoff occurs and, in the absence of intervention through the rapid response program, would overwhelm the capacity of other programs to provide effective assistance.*

Sec. 180. [268.978] [PREFEASIBILITY STUDIES.]

Subdivision 1. [PREFEASIBILITY STUDY GRANTS.] *(a) The commissioner may make grants for up to $10,000 to eligible organizations to provide an initial assessment of the feasibility of alternatives to plant closings or substantial layoffs. The alternatives may include employee*

ownership, other new ownership, new products or production processes, or public financial or technical assistance to keep a plant open. Two or more eligible organizations may jointly apply for a grant under this section.

(b) Interested organizations shall apply to the commissioner for the grants. As part of the application process, applicants must provide a statement of need for a grant, information relating to the workforce at the plant, the area's unemployment rate, the community's and surrounding area's labor market characteristics, information of efforts to coordinate the community's response to the plant closing or substantial layoff, a timetable of the prefeasibility study, a description of the organization applying for the grant, a description of the qualifications of persons conducting the study, and other information required by the commissioner.

(c) The commissioner shall respond to the applicant within five working days of receiving the organization's application. The commissioner shall inform each organization that applied for but did not receive a grant the reasons for the grant not being awarded. The commissioner may request further information from those organizations that did not receive a grant, and the organization may reapply for the grant.

Subd. 2. [PREFEASIBILITY STUDY.] *(a) The prefeasibility study must explore the current and potential viability, profitability, and productivity of the plant that may close or experience a substantial layoff and alternative uses for the plant. The study is not intended to be a major examination of each possible alternative, but rather is meant to quickly determine if further action or examination is feasible and should be fully explored.*

(b) The prefeasibility study must contain:

(1) a description of the plant's present products, production techniques, management structure, and history;

(2) a brief discussion of the feasibility of the various alternatives for ownership, production technique, and products;

(3) an estimate of the financing required to keep the plant open and the potential sources of that financing;

(4) a description of the employer's, employees', and community's efforts to maintain the operation of the plant; and

(5) other information the commissioner may require.

Subd. 3. [REPORTS.] *(a) The commissioner shall report monthly to the program subcommittee of the governor's job training council on the grants made and studies completed during the previous month.*

(b) The commissioner shall provide an annual report to the governor, legislature, and the governor's job training council on the administration of the prefeasibility study grant program. The report must also include details of actions taken as a result of a grant.

Sec. 181. [268.979] [DISLOCATED WORKER COORDINATION.]

The commissioner shall coordinate the actions taken by state agencies and public post-secondary educational institutions to respond to or address the specific needs of dislocated workers and to provide services to dislocated workers including education and retraining. The commissioner shall also assist local government units, community groups, business associations or organizations, labor organizations, and others in coordinating

their efforts in providing services to dislocated workers.

Sec. 182. [268.98] [PERFORMANCE STANDARDS.]

The commissioner shall establish performance standards for the programs and activities administered or funded through the rapid response program under section 268.977. The commissioner may use existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the rapid response program are effectively administered.

Sec. 183. Minnesota Statutes 1988, section 326.78, subdivision 2, is amended to read:

Subd. 2. [ISSUANCE OF LICENSES AND CERTIFICATES.] The commissioner may issue licenses to employers ~~and certificates to employees~~ who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates shall be valid for at least 12 months, *except that the initial certificate will be issued to expire one year after the completion date on the approved training course diploma.*

Sec. 184. Minnesota Statutes 1988, section 327C.02, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION OF RULES.] The park owner must give the resident at least 60 days notice in writing of any rule change. A rule adopted or amended after the resident initially enters into a rental agreement may be enforced against that resident only if the new or amended rule is reasonable and is not a substantial modification of the original agreement. *Any security deposit increase is a substantial modification of the rental agreement.* A reasonable rent increase made in compliance with section 327C.06 is not a substantial modification of the rental agreement and is not considered to be a rule for purposes of section 327C.01, subdivision 8. A rule change necessitated by government action is not a substantial modification of the rental agreement. A rule change requiring all residents to maintain their homes, sheds and other appurtenances in good repair and safe condition shall not be deemed a substantial modification of a rental agreement. If a part of a resident's home, shed or other appurtenance becomes so dilapidated that repair is impractical and total replacement is necessary, the park owner may require the resident to make the replacement in conformity with a generally applicable rule adopted after the resident initially entered into a rental agreement with the park owner.

In any action in which a rule change is alleged to be a substantial modification of the rental agreement, a court may consider the following factors in limitation of the criteria set forth in section 327C.01, subdivision 11:

(a) any significant changes in circumstances which have occurred since the original rule was adopted and which necessitate the rule change; and

(b) any compensating benefits which the rule change will produce for the residents.

Sec. 185. Minnesota Statutes 1988, section 357.021, subdivision 2, is amended to read:

Subd. 2. [FEE AMOUNTS.] The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of $30, except that in an action for marriage dissolution, the fee is ~~$55~~ *$75*.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of $30.

The party requesting a trial by jury shall pay $30.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under sections 106A.005 to 106A.811, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding $5, plus 25 cents per page after the first page and $3.50, plus 25 cents per page after the first page for an uncertified copy.

(3) Issuing a subpoena $3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, $5.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, $5.

(6) Filing and entering a satisfaction of judgment, partial satisfaction or assignment of judgment, $5.

(7) Certificate as to existence or nonexistence of judgments docketed, $1 for each name certified to and $3 for each judgment certified to.

(8) Filing and indexing trade name; or recording notary commission; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians or optometrists, $5.

(9) For the filing of each partial, final, or annual account in all trusteeships, $10.

(10) All other services required by law for which no fee is provided such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

Sec. 186. Minnesota Statutes 1988, section 357.021, subdivision 2a, is amended to read:

Subd. 2a. [CERTAIN FEE PURPOSES.] Of the marriage dissolution fee collected pursuant to subdivision 1, the court administrator shall pay ~~$35~~ *$55* to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~$15~~ *$35* for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96; and $20 is appropriated to the commissioner of corrections for the purpose of funding emergency shelter services and support services to battered women, on a matching basis with local money for 20 percent of the costs and state money for 80 percent. Of

the ~~$15~~ *$35* for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36 and for administering displaced homemaker programs established under section 268.96, ~~$6.75~~ *$16.75* is appropriated to the commissioner of corrections and ~~$8.25~~ *$18.25* is appropriated to the commissioner of jobs and training. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 187. Minnesota Statutes 1988, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE.] The court administrator shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, the court administrator shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the district court seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the county court or a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. The court administrator shall collect from the applicant a fee of ~~$45~~ *$65* for administering

the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the court administrator for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A court administrator who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed $1,000.

Sec. 188. Minnesota Statutes 1988, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay ~~$30~~ *$50* to the state treasurer to be deposited in the special revenue fund to be used as follows: ~~$6.75~~ *$16.75* is appropriated to the commissioner of corrections for the purposes of funding grant programs for emergency shelter services and support services to battered women under sections 611A.31 to 611A.36, and ~~$23.25~~ *$33.25* is appropriated to the commissioner of jobs and training for displaced homemaker programs under section 268.96. The commissioner of jobs and training may use money appropriated in this subdivision for the administration of a displaced homemaker program regardless of the date on which the program was established.

Sec. 189. Minnesota Statutes 1988, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an

independent contractor, workers' compensation, unemployment compensation, annuity, military and naval retirement, pension and disability payments. *Benefits received under sections 256.72 to 256.87 and chapter 256D are not income under this section.*

Sec. 190. Minnesota Statutes 1988, section 518.551, is amended by adding a subdivision to read:

Subd. 5a. [ORDER FOR COMMUNITY SERVICES.] *If the court finds that the obligor earns $400 or less per month and does not have the ability to provide support based on the guidelines and factors under subdivision 5, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this subdivision, the court shall consider whether the obligor has the physical capability of performing community services, and shall order community services that are appropriate for the obligor's abilities.*

Sec. 191. Minnesota Statutes 1988, section 518.551, subdivision 10, is amended to read:

Subd. 10. [ADMINISTRATIVE PROCESS *FOR* CHILD *AND MEDICAL* SUPPORT ~~PILOT PROJECT~~ *ORDERS.*] ~~A pilot project~~ *An administrative process* is established to obtain, modify, and enforce child and medical support orders and maintenance ~~through administrative process, to evaluate the efficiency of the administrative process. The pilot project shall begin when the procedures have been established and end on June 30, 1989~~.

~~During the pilot project,~~ *The commissioner of human services may designate counties to participate in the administrative process established by this section.* All proceedings for obtaining, modifying, or enforcing child and medical support orders and maintenance *and adjudicating uncontested parentage proceedings,* required to be conducted in ~~Dakota county~~ *counties designated by the commissioner of human services* in which ~~Dakota~~ *the* county human services *agency* is a party or represents a party to the action must be conducted by an administrative law judge from the office of administrative hearings, except for the following proceedings:

(1) adjudication of ~~paternity~~ *contested parentage*;

(2) motions to set aside a paternity adjudication or declaration of parentage;

(3) evidentiary hearing on contempt motions; and

(4) motions to sentence or to revoke the stay of a jail sentence in contempt proceedings.

An administrative law judge may hear a stipulation reached on a contempt motion, but any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a ~~county or~~ district judge.

For the purpose of this ~~pilot project~~ *process*, all powers, duties, and responsibilities conferred on judges of the ~~county or~~ district court to obtain and enforce child and medical support obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue orders to show cause and to issue bench warrants for failure to appear.

~~During fiscal year 1988~~ *Before implementing the process in a county*, the chief administrative law judge, the commissioner of human services,

the director of ~~Dakota~~ *the* county human services *agency*, the ~~Dakota~~ county attorney, and the ~~clerk of the Dakota~~ county court *administrator* shall jointly establish procedures *and the county shall provide hearing facilities* for ~~the implementation of~~ *implementing* this ~~pilot project~~ *process in a county*.

Nonattorney employees of ~~Dakota county human services~~ *the public agency responsible for child support in the counties designated by the commissioner*, acting at the direction of the county attorney, may prepare, sign, serve, and file *complaints and* motions for obtaining, modifying, or enforcing child and medical support orders and maintenance and related documents, appear at prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law.

~~For the purpose of this pilot project,~~ The hearings shall be conducted under the ~~conference contested case rules adopted by the chief administrative law judge. Any discovery required in a proceeding shall be conducted under the rules of family court and the rules of civil procedure.~~ *rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. All other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure and chapter 518. The administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order.* Orders issued by an administrative law judge ~~shall be~~ *are* enforceable by the contempt powers of the county ~~or~~ *and* district courts.

~~The administrative law judge shall make a report to the chief administrative law judge or the chief administrative law judge's designee, stating findings of fact and conclusions and recommendations concerning the proposed action, in accordance with sections 14.48 to 14.56. The chief administrative law judge or a designee shall render the final decision and order in accordance with sections 14.61 and 14.62.~~ The decision and order of the ~~chief~~ administrative law judge ~~or a designee~~ shall be a final agency decision for purposes of sections 14.63 to 14.69.

Sec. 192. Minnesota Statutes 1988, section 518.611, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] Notwithstanding any law to the contrary, the order is binding on the employer, trustee, or other payor of the funds when service under subdivision 2 has been made. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. An employer or other payor of funds in this state is required to withhold income according to court orders for withholding issued by other states or territories. The payor shall withhold from the income payable to the obligor the amount specified in the order and amounts required under subdivision 2, paragraph (b) and section 518.613 and shall remit, within ten days of the date the obligor is paid the remainder of the income, the amounts withheld to the public authority. *The payor shall identify on the remittance information the date the obligor is paid the remainder of the income.* Employers may combine all amounts withheld from one pay period into one payment to each public authority, but shall separately identify each obligor making payment. Amounts received by the public authority which are in excess of public assistance expended for the party or for a child shall be remitted to the party. An employer shall not

discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer or other payor of funds shall be liable to the obligee for any amounts required to be withheld.

Sec. 193. Minnesota Statutes 1988, section 518.613, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, *enforced by the public authority,* is initially determined and ordered *or modified* by the court in a county in which this section applies, the amount of child support or maintenance ordered by the court must be withheld from the income, regardless of source, of the person obligated to pay the support.

Sec. 194. Minnesota Statutes 1988, section 518.613, subdivision 2, is amended to read:

Subd. 2. [ORDER; COLLECTION SERVICES.] Every order for child support must include the obligor's social security number and the name and address of the obligor's employer or other payor of funds. Upon entry of the order for support or maintenance, the court shall mail a copy of the court's *automatic income withholding* order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and to the public ~~agency~~ *authority* responsible for child support enforcement. An obligee who is not a recipient of public assistance shall apply for the collection services of the public authority when an order for support is entered *unless the requirements of this section have been waived under subdivision 6. No later than January 1, 1990, the supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.*

Sec. 195. Minnesota Statutes 1988, section 518.613, subdivision 4, is amended to read:

Subd. 4. [APPLICATION.] On and after August 1, ~~1987, and prior to August 1,~~ 1989, this section applies in a county selected under Laws 1987, chapter 403, article 3, section 93 and in a county that chooses to have this section apply by resolution of a majority vote of its county board. *On and after*

November 1, 1990, this section applies to all child support and maintenance obligations that are initially ordered or modified on and after November 1, 1990, and that are being enforced by the public authority.

Sec. 196. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

Subd. 6. [NOTICE OF SERVICES.] *The department of human services shall prepare and make available to the courts a form notice of child support and maintenance collection services available through the public authority responsible for child support enforcement, including automatic income withholding under this section. Promptly upon the filing of a petition for dissolution of marriage or legal separation by parties who have a minor child, the court administrator shall send the form notice to the*

petitioner and respondent at the addresses given in the petition. The rule-making provisions of chapter 14 shall not apply to the preparation of the form notice.

Sec. 197. Minnesota Statutes 1988, section 518.613, is amended by adding a subdivision to read:

Subd. 7. [WAIVER.] *(a) The court may waive the requirements of this section if the court finds that there is no arrearage in child support or maintenance as of the date of the hearing, that it would not be contrary to the best interests of the child, and: (1) one party demonstrates and the court finds that there is good cause to waive the requirements of this section or to terminate automatic income withholding on an order previously entered under this section; or (2) all parties reach a written agreement that provides for an alternative payment arrangement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. If the court waives the requirements of this section:*

(1) in all cases where the obligor is at least 30 days in arrears, withholding must be carried out pursuant to section 518.611;

(2) the obligee may at any time and without cause request the court to issue an order for automatic income withholding under this section; and

(3) the obligor may at any time request the public authority to begin withholding pursuant to this section, by serving upon the public authority the request and a copy of the order for child support or maintenance. Upon receipt of the request, the public authority shall serve a copy of the court's order and the provisions of section 518.611 and this section on the obligor's employer or other payor of funds. The public authority shall notify the court that withholding has begun at the request of the obligor pursuant to this clause.

(b) For purposes of this subdivision, "parties" includes the public authority in cases when it is a party pursuant to section 518.551, subdivision 9.

Sec. 198. Minnesota Statutes 1988, section 540.08, is amended to read:

540.08 [INJURY TO CHILD OR WARD; SUIT BY PARENT OR GUARDIAN.]

A parent may maintain an action for the injury of a minor son or daughter. A general guardian may maintain an action for an injury to the ward. A guardian of a dependent, neglected, or delinquent child, appointed by a court having jurisdiction, may maintain an action for the injury of the child. If no action is brought by the father or mother, an action for the injury may be brought by a guardian ad litem, either before or after the death of the parent. Before a parent receives property as a result of the action, the parent shall file a bond as the court prescribes and approves as security therefor. In lieu of this bond, upon petition of the parent, the court may order that the property received be invested in securities issued by the United States, which shall be deposited pursuant to the order of the court, or that the property be invested in a savings account, savings certificate, or certificate of deposit, in a bank, savings and loan association, or trust company, or an annuity or other form of structured settlement, subject to the order of the court. A copy of the court's order and the evidence of the deposit shall be filed with the court administrator. *Money or assets in an account established by the court under this section are not available to the minor child or the child's parent or guardian until released by the court to the child*

or the child's parent or guardian. No settlement or compromise of the action is valid unless it is approved by a judge of the court in which the action is pending.

Sec. 199. Minnesota Statutes 1988, section 609.378, is amended to read:

609.378 [NEGLECT *OR ENDANGERMENT* OF A CHILD.]

Subdivision 1. [PERSONS GUILTY OF NEGLECT OR ENDANGERMENT.] *The following people are guilty of neglect or endangerment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.*

(a) [NEGLECT.] *(1)* A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and ~~which~~ *the* deprivation substantially harms the child's physical or emotional health ~~or (b)~~ *is guilty of neglect of a child. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.*

(2) A parent, legal guardian, or ~~foster parent~~ *caretaker* who knowingly permits the continuing physical or sexual abuse of a child~~,~~ is guilty of neglect of a child ~~and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both~~.

(b) [ENDANGERMENT.] *A parent, legal guardian, or caretaker who endangers the child's person or health by intentionally causing or permitting a child to be placed in a situation likely to substantially harm the child's physical or mental health or cause the child's death is guilty of child endangerment. This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).*

Subd. 2. [DEFENSES.] It is a defense to a prosecution under ~~clause (b)~~ *subdivision 1, paragraph (a), clause (2), or paragraph (b),* that at the time of the neglect *or endangerment* there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect *or endangerment* would result in substantial bodily harm to the defendant or the child in retaliation.

~~If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment shall constitute "health care" as used in clause (a).~~

Sec. 200. Minnesota Statutes 1988, section 626.556, 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 content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321

to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to ~~(1)~~ mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child~~, or (2)~~ *in lieu of medical care; except that there is a duty to report if a lack of medical care may cause imminent and serious danger to the child's health. This section does not* impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~10~~ *2a*, clause ~~(c)~~ *(5)*.

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

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

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 201. Minnesota Statutes 1988, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

(1) an assault, as defined in section 609.02, subdivision 10, or any physical contact not exempted by section 609.379, where the assault or physical contact is either severe or recurring and causes either injury or significant risk of injury to the child;

(2) neglect as defined in subdivision 2, paragraph (c); or

(3) sexual abuse as defined in subdivision 2, paragraph (a).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in imminent and serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

Sec. 202. Minnesota Statutes 1988, section 626.558, is amended to read:

626.558 [MULTIDISCIPLINARY CHILD PROTECTION TEAM.]

Subdivision 1. [ESTABLISHMENT OF THE TEAM.] A county may establish a multidisciplinary child protection team ~~comprised of~~ *that may include, but not be limited to,* the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, ~~and~~ representatives of health and education~~. In addition~~, representatives of mental health or other appropriate human service agencies, and parent groups ~~may be added to the child protection team~~.

Subd. 2. [DUTIES OF TEAM.] A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its child protection functions under section 626.556 and the community social services act. *As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family.* Case consultation ~~must~~ *may* be performed by a committee *or subcommittee* of ~~the team composed of the team~~ members representing ~~social~~ *human* services, *including mental health and chemical dependency;* law enforcement, *including probation and parole;* the county attorney~~,~~*;* health care~~,~~*;* education~~,~~*; and other necessary agencies;* and persons directly involved in an individual case as ~~determined~~ *designated* by ~~the case consultation committee. Case consultation is a case review process that results in recommendations about services to be provided to the identified children and family~~ *other members performing case consultation.*

Subd. 2a. [JUVENILE PROSTITUTION OUTREACH PROGRAM.] A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for juveniles who are engaging in prostitution. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. The county may finance these services by means of the penalty assessment authorized by section 609.3241. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3. [INFORMATION SHARING.] *(a)* The local welfare agency may make available to the case consultation committee ~~of the team~~ *or subcommittee*, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. ~~Any member of the~~ *A* case consultation committee *or subcommittee member* may share information acquired in the member's professional capacity with the committee *or subcommittee* to assist ~~the committee~~ in ~~its function~~ *case consultation*.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

Sec. 203. [626.5593] [PEER REVIEW OF LOCAL AGENCY RESPONSE.]

Subdivision 1. [ESTABLISHMENT.] *By January 1, 1991, the commissioner of human services shall establish a pilot program for peer review of local agency responses to child maltreatment reports made under section 626.556. The peer review program shall examine agency assessments of maltreatment reports and delivery of child protection services in at least two counties. The commissioner shall designate the local agencies to be reviewed, and shall appoint a peer review panel composed of child protection workers, as defined in section 626.559, and law enforcement personnel who are responsible for investigating reports of child maltreatment under section 626.556, subdivision 10, within the designated counties.*

Subd. 2. [DUTIES.] *The peer review panel shall meet at least quarterly to review case files representative of child maltreatment reports that were investigated or assessed by the local agency. These cases shall be selected randomly from local welfare agency files by the commissioner. Not public data, as defined in section 13.02, subdivision 8, may be shared with panel members in connection with a case review.*

The panel shall review each case for compliance with relevant laws, rules, agency policies, appropriateness of agency actions, and case determinations. The panel shall issue a report to the designated agencies after each meeting which includes findings regarding the agency's compliance with relevant laws, rules, policies, case practice, and any recommendations to be considered by the agency. The panel shall also issue a semiannual report concerning its activities. This semiannual report shall be available to the public, but may not include any information that is classified as not public data.

Subd. 3. [REPORT TO LEGISLATURE.] *By January 1, 1992, the commissioner shall report to the legislature regarding the activities of the peer review panel, compliance findings, barriers to the effective delivery of child protection services, and recommendations for the establishment of a permanent peer review system for child protection services.*

Subd. 4. [FUNDS.] *The commissioner may use funds allocated for child protection services, training, and grants to pay administrative expenses associated with the peer review panel pilot program created by this section.*

Sec. 204. Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended by Laws 1987, chapter 75, section 1, and by Laws 1988, chapter 689, article 2, section 238, is amended to read:

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.] Through June 30, 1990, the following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied prior to the date of enactment of this act if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site prior to the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another~~,~~; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building; ~~or~~

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice county that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota; *or*

(10) a project to replace a 130-bed or less hospital if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds.

Sec. 205. Laws 1988, chapter 689, article 2, section 248, is amended to read:

Sec. 248. [LOCAL INCOME ASSISTANCE FROM FEDERAL FOOD STAMPS.]

To the extent of available appropriations, the commissioner of human services shall contract with community outreach programs to encourage participation in the food stamp program of *eligible low-income households, including, but not limited to,* seniors, *disabled persons,* farmers, veterans, unemployed workers, low-income working heads of households, battered women residing in shelters, migrant workers, *refugee* families with children, and ~~other eligible~~ individuals who are homeless. ~~For purposes of this section, "homeless" means that the individual lacks a fixed and regular nighttime residence or has a primary nighttime residence that is:~~

~~(1) a publicly supervised or privately operated shelter, including a welfare hotel or congregate shelter, designed to provide temporary living accommodations;~~

~~(2) an institution that provides a temporary residence for individuals who will be institutionalized;~~

~~(3) a temporary accommodation in the residence of another individual; or~~

~~(4) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~

The commissioner shall seek federal reimbursement for state money used for grants and contracts under this section. Federal money received is appropriated to the commissioner for purposes of this section. The commissioner shall convene an advisory committee to help establish criteria for awarding grants, to make recommendations regarding grant proposals, to assist in the development of training and educational materials, and to participate in the evaluation of grant programs. The grantees shall provide training for program workers, offer technical assistance, and prepare educational materials. Grantees must demonstrate that grants were used to increase participation in the food stamp program by creating new outreach activities, and not by replacing existing activities. No more than five percent of the appropriation for community outreach programs shall be used by the commissioner for the department's administrative costs. The rulemaking requirements of Minnesota Statutes, chapter 14 do not apply to the procedures used by the commissioner to request and evaluate grant proposals and to award grants and contracts under this section. Distribution of grant money must begin within three months after any transfer of funds from the commissioner of health to the commissioner of human services.

Sec. 206. Laws 1988, chapter 689, article 2, section 269, subdivision 2, is amended to read:

Subd. 2. Section 248 is repealed effective July 1, ~~1990~~ *1991*.

Sec. 207. Laws 1988, chapter 719, article 8, section 32, is amended to read:

Sec. 32. [TRANSFER OF COUNTY FOOD STAMP QUALITY CONTROL SYSTEM EMPLOYEES.]

(a) All positions covered by the Minnesota merit system located in Crow Wing county family social service center and in the Redwood county welfare department classified as food stamp corrective action specialist I and II and as financial assistant supervisor I, if the positions supervise food stamp

corrective action specialists, are transferred to the department of human services and become state civil service positions.

(b) All incumbent employees affected by this transfer, who choose to transfer to state civil service positions in the department of human services, must be transferred with no reduction in salary. Salaries of individual employees who transfer must be adjusted to the minimum salary or to the nearest equal or higher step on the state compensation plan for their class, whichever is greater.

(c) Existing sick leave and vacation accruals for an employee who transfers must be transferred to the department of human services and the employee shall accrue additional vacation and sick leave under the provisions of the appropriate state collective bargaining agreement based on the employee's years of service in either Crow Wing county family service center or in the Redwood county welfare department.

(d) If an employee who transfers chooses to retain the county coverage for employee and dependent health, dental, and life insurance, the department of human services shall reimburse the employee for one month of continued enrollment in the health, dental, and life insurance plans in an amount equal to what their former county employer would have paid for the coverage had the employee remained a county employee, until the employee is eligible for coverage under the state insurance plans.

(e) ~~Classification seniority for an employee who transfers must be calculated according to the provisions of the appropriate state collective bargaining agreement based upon the employee's years of service in the county merit system.~~ *The state must negotiate with the exclusive representative for the bargaining unit to which food stamp quality control employees are transferring regarding their classification seniority. For purposes of calculating classification seniority for employees transferring into state service, a transferred employee must retain the same seniority ranking the employee had within the employee's current classification within the county relative to the other employees with that classification within the county. Classification seniority for classifications outside of the bargaining unit into which the employee is transferring must be calculated according to the provisions of the appropriate state collective bargaining agreement based upon the employee's years of service in the county merit system.*

Sec. 208. [REPORT ON INHALANT ABUSE DEMONSTRATION PROJECT.]

The commissioner shall prepare a report on the outcome of the inhalant abuse demonstration project in Minnesota Statutes, section 254A.145, to be presented to the legislature by February 1, 1991. In that report, the commissioner shall include information on the effectiveness of the chemical dependency treatment system for children under 14 years of age, particularly children who are inhalant abusers, and shall issue recommendations for the appropriate provision of services for this population group.

Sec. 209. [PLANNING GRANT.]

The commissioner of human services is authorized to award, for the biennium ending June 30, 1991, a planning grant to a public or private agency or program experienced in working with youth and inhalant/chemical abuse, in order to establish a treatment program for children under

age 12 identified as inhalant abusers. This treatment program shall evaluate clients, provide treatment and aftercare services, and coordinate services provided with existing agencies. The agency or program receiving the planning grant must report program results and recommendations to the commissioner of human services by February 15, 1991.

Sec. 210. [COMMUNITY ACTION PROGRAM LEGISLATIVE TASK FORCE.]

Subdivision 1. [PURPOSE.] *On this 25th anniversary of the Economic Opportunity Act of 1964, the legislature recognizes the need to evaluate how Minnesota can, through community action programs, meet the needs of its low-income residents and provide them with opportunities to escape poverty. With the population of low-income residents increasing, and federal financial support for community action programs decreasing, the legislature must evaluate the ability of community action programs to serve low-income residents. The purpose of the task force is to chart a course for community action programs to ensure that the needs of low-income residents are met.*

Subd. 2. [MEMBERSHIP.] *There is established a legislative task force consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate majority leader. At least two members should be of the minority caucus.*

Subd. 3. [CHAIR.] *The members of the task force shall elect one member to serve as chair of the task force.*

Subd. 4. [STAFF.] *The task force shall use legislative staff to carry out its duties.*

Subd. 5. [DUTIES.] *The task force shall examine the role and future of community action programs in Minnesota. At least three hearings shall be held in the area of Minnesota outside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. Community action programs shall organize regional presentations as well as selected tours for the task force. The task force shall examine and make recommendations on how community action programs can better address the needs of Minnesota's low-income residents. The task force shall also examine programs, advocacy efforts, funding trends, and local initiatives to reduce poverty, as well as the state's role in supporting community action programs in Minnesota. The task force shall submit a report on its findings and recommendations to the legislature by January 15, 1990.*

Sec. 211. [RULES FOR DROP-IN CARE.]

By April 1, 1990, the commissioner of human services must adopt permanent rules to amend Minnesota Rules, part 9503.0075, to bring that rule part into conformity with the requirements of section 245A.14, subdivision 6.

Sec. 212. [RULES PROVIDING VARIANCES.]

The commissioner of human services is authorized to amend Minnesota Rules, part 9503.0170, subpart 6, item D, to permit variances from the staff distribution requirements of part 9503.0040, subpart 2, item D; to permit variances from the age category grouping requirements of part 9503.0040, subpart 3, item B, subitem (1); and to permit variances from the transportation requirements of part 9503.0150, item E. Variance requests

submitted to the commissioner according to the amendments authorized in this section must comply in all respects with the provisions of part 9503.0170, subpart 6, items A to C. The commissioner's authority to adopt rules under this section expires on April 1, 1990.

Sec. 213. [SUPPORTIVE RESIDENTIAL PROGRAMS REPORT.]

Subdivision 1. [SUPPORTIVE RESIDENTIAL PROGRAM REGULATION RECOMMENDATION.] *By February 1, 1990, the commissioners of health and human services shall jointly make a recommendation to the legislature on the regulation and licensure of facilities and programs that provide housing services and provide or coordinate supportive services or health supervision services to residents. The recommendations must address:*

(1) the existing use of residential arrangements with a lodging, hotel, or food service license under Minnesota Statutes, chapter 157;

(2) existing county board and local human service agency administrative or certification standards for board and lodging houses or supportive living residences;

(3) county referral and placement practices for persons who, in addition to food or lodging services, need assistance with health or supportive services;

(4) the status of persons in these facilities with respect to the vulnerable adults abuse reporting act and their need for referral to protective services or social services for assessment prior to placement by the county or referral to the residence by the county;

(5) the applicability of laws governing the rights of patients and residents specified in Minnesota Statutes, section 144.651, and the rights of tenants in housing;

(6) a determination as to the need for and degree of regulation of these services;

(7) recommendations for repeal or revision of existing facility and program statutes and regulations; and

(8) a fiscal analysis of the current costs associated with the provision of supportive programs and facilities, recommendations for methods for maximizing all funding sources used for these services, and an analysis of the costs for licensure and regulation.

Subd. 2. [CONSULTATION WITH AFFECTED PARTIES.] *In developing the recommendations, the commissioners may consult other state departments and agencies, the interagency board for quality assurance established under Minnesota Statutes, section 144A.31, counties and other affected political subdivisions, advocacy groups, representatives or owners of facilities and programs, lodging houses and assisted or supportive living services, and service consumers.*

Subd. 3. [COUNTY REPORTING.] *No later than September 1, 1989, and annually after that date, the county board or human services board in each county shall report to the commissioner of human services the names and addresses of the owners and operators of all facilities and programs with which the county has a negotiated rate agreement and which are not licensed under Minnesota Statutes, chapter 144, 144A, or 245A. The report must identify the amount of the negotiated rate for each facility or program, services other than the provision of lodging that the owner*

or operator is responsible for coordinating or providing, the number of persons receiving services, and the per unit cost for the services. No later than September 1, 1989, the county board or human services agency in each county shall also provide the commissioner of human services with a copy of any administrative standards or certification standards adopted by or used by the county for board and lodging facilities and supervised living residences that are in addition to or different from those contained in Minnesota Rules, chapter 4625, or that are for facilities and programs not licensed under Minnesota Statutes, chapter 144, 144A, or 245A.

Sec. 214. [LICENSURE EXCLUSIONS.]

Until July 1, 1990, Minnesota Statutes, sections 245A.01 to 245A.16, do not apply to board and lodging establishments licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness and who have refused an appropriate residential program offered by a county agency.

Sec. 215. [STUDY; BOND REQUIREMENT FOR HEARING INSTRUMENT SELLERS.]

The commissioner of health shall study issues relating to the requirement in Minnesota Statutes, section 153A.16, that hearing instruments obtain a surety bond. The study must address the availability of bonds, the costs of obtaining the bonds, and the underwriter financial requirements for obtaining bonds. The commissioner of health shall report to the legislature by January 1, 1990, with the results of the study and the commissioner's recommendations, including findings and recommendations on whether other mechanisms are available to protect purchasers of hearing instrument products and services.

Sec. 216. [STUDY OF EXEMPTIONS TO REGISTRATION WITH THE BOARD OF UNLICENSED MENTAL HEALTH SERVICE PROVIDERS.]

The commissioner of human services, in consultation with the board of unlicensed mental health service providers, shall study and report to the legislature by February 15, 1990, on whether any of the persons exempted from registration by reason of their employment in a program licensed by the commissioner of human services should be required to register with the board.

Sec. 217. [IRIS COORDINATING COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] *The coordinating committee for the inventory, referral, and intake system (IRIS) required under Minnesota Statutes, section 268.86, subdivision 10, consists of the commissioners or their designees of the departments of human services, administration, and jobs and training; a representative of the information policy office; two members of the senate appointed under the rules of the senate; and two members of the house of representatives appointed under the rules of the house.*

Subd. 2. [DUTIES.] *The IRIS coordinating committee shall:*

(1) monitor the implementation of IRIS;

(2) oversee a delivery system study to determine the scope and nature of the current delivery system problems;

(3) oversee the development of a strategic plan for human service delivery which must include, in addition to planned improvements in delivery

systems, information system objectives and policy requirements accomplished through IRIS; and

(4) evaluate the IRIS prototype pilot project conducted jointly by the department of human services and the department of jobs and training.

Subd. 3. [REPORT.] *The IRIS coordinating committee shall report to the legislature every six months beginning July 1, 1989, on the activities of the committee.*

Subd. 4. [EXPIRATION.] *The IRIS coordinating committee expires on July 1, 1991, or six months after full implementation of IRIS, whichever occurs later.*

Sec. 218. [INSTRUCTION TO REVISOR.]

In Minnesota Statutes 1989 Supplement and subsequent editions of the statutes, the revisor of statutes shall change the words "resident" and "patient," wherever they appear in Minnesota Statutes, sections 246.50 to 246.55, to "client."

Sec. 219. [REPEALER.]

Subdivision 1. [HEALTH DEPARTMENT HOSPITAL INFORMATION.] *Minnesota Rules, parts 4650.0162 and 4650.0164, are repealed.*

Subd. 2. [HUMAN SERVICES LICENSING.] *Laws 1987, chapter 403, article 5, section 1, is repealed.*

Subd. 3. [CHEMICAL DEPENDENCY FUND.] *Section 254B.09, subdivision 3, is repealed effective the day following final enactment. Section 254B.10 is repealed effective July 1, 1989.*

Subd. 4. [PERMANENCY PLANNING.] *Minnesota Statutes 1988, section 256F.05, subdivision 1, is repealed.*

Subd. 5. [CHILD SUPPORT.] *Minnesota Statutes 1988, section 518.613, subdivision 5; and 256.87, subdivision 4, are repealed. Laws 1988, chapter 719, article 8, section 34, is repealed.*

Subd. 6. [CHILD CARE.] *Minnesota Statutes 1988, sections 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; and 256H.13, are repealed.*

Subd. 7. [STATE FACILITY COST OF CARE.] *Minnesota Statutes, section 246.50, subdivisions 3a, 4a, and 9, are repealed.*

Sec. 220. [EFFECTIVE DATE.]

Subdivision 1. [HEALTH DEPARTMENT ADMINISTRATION.] *Sections 3 to 6 are effective the day following final enactment.*

Subd. 2. [HUMAN SERVICES LICENSING.] *Sections 62, 82, 83, 85, 210, and 211 are effective the day following final enactment.*

Subd. 3. [CHEMICAL DEPENDENCY FUND.] *Sections 105, 106, and 108 to 110 are effective the day following final enactment.*

Subd. 4. [HEAD START.] *Sections 171 to 175 are effective the day following final enactment.*

Subd. 5. [HOSPITALITY HOST PROGRAM.] *Section 176 is effective the day following final enactment.*

Subd. 6. [CHILD SUPPORT.] *Section 162 is effective the day following final enactment and applies to actions brought after January 1, 1986. Section 197 is effective the day following final enactment and applies to support and maintenance orders entered or modified before, on, or after the effective date.*

Subd. 7. [CHILD MORTALITY REVIEW PANELS.] *Section 112 is effective the day following final enactment.*

Subd. 8. [LEAD ABATEMENT.] *Section 19 is effective the day following final enactment.*

Subd. 9. [BOARD OF SOCIAL WORK.] *Section 40 is effective the day following final enactment.*

Subd. 10. [MARRIAGE AND DISSOLUTION FEES.] *Sections 185 to 188 are effective the day following final enactment.*

Subd. 11. [MARRIAGE AND FAMILY THERAPISTS.] *Section 42 is effective retroactively to December 28, 1988.*

Subd. 12. [COURT-SUPERVISED SETTLEMENT ACCOUNTS.] *Section 198 is effective the day following final enactment and applies to issues concerning the availability of funds that arise on and after the effective date.*

Subd. 13. [REPEALER SECTION.] *Section 219, subdivisions 3 and 5, are effective the day following final enactment.*

ARTICLE 3

HEALTH CARE AND MEDICAL ASSISTANCE

Section 1. Minnesota Statutes 1988, section 62A.045, is amended to read:

62A.045 [PAYMENTS ~~TO~~ *ON BEHALF OF* WELFARE RECIPIENTS.]

No policy of accident and sickness insurance *regulated under this chapter; vendor of risk management services regulated under section 60A.23; nonprofit health service plan corporation regulated under chapter 62C; health maintenance organization regulated under chapter 62D; or self-insured plan regulated under chapter 62E* shall contain any provision denying or reducing benefits because services are rendered to ~~an insured or dependent~~ *a person* who is eligible for or receiving medical ~~assistance~~ *benefits* pursuant to chapter 256B *or 256D* or services pursuant to section 252.27; *256.936;* 260.251, subdivision 1a; 261.27; or 393.07, subdivision 1 or 2.

Notwithstanding any law to the contrary, when a person covered under a policy of accident and sickness insurance, risk management plan, nonprofit health service plan, health maintenance organization, or self-insured plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the provider must be issued directly to the provider. If a person was receiving medical benefits through the department of human services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the insurer for those services. If the commissioner of human services notifies the insurer that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the insurer must be issued directly to the

commissioner. Submission by the department to the insurer of the claim on a department of human services claim form is proper notice and shall be considered proof of payment of the claim to the provider, and supersedes any contract requirements of the insurer relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the insurer to the provider or the commissioner.

Sec. 2. Minnesota Statutes 1988, section 62A.046, is amended to read:

62A.046 [COORDINATION OF BENEFITS.]

(1) No group contract providing coverage for hospital and medical treatment or expenses issued or renewed after August 1, 1984, which is responsible for secondary coverage for services provided, may deny coverage or payment of the amount it owes as a secondary payor solely on the basis of the failure of another group contract, which is responsible for primary coverage, to pay for those services.

(2) A group contract which provides coverage of a claimant as a dependent of a parent who has legal responsibility for the dependent's medical care pursuant to a court order under section 518.171 must make payments directly to the provider of care. In such cases, liability to the insured is satisfied to the extent of benefit payments made to the provider.

(3) This section applies to an insurer, a vendor of risk management services regulated under section 60A.23, a nonprofit health service plan corporation regulated under chapter 62C and a health maintenance organization regulated under chapter 62D. Nothing in this section shall require a secondary payor to pay the obligations of the primary payor nor shall it prevent the secondary payor from recovering from the primary payor the amount of any obligation of the primary payor that the secondary payor elects to pay.

(4) Payments made by an enrollee or by the commissioner on behalf of an enrollee in the children's health plan under section 256.936, or a person receiving benefits under chapter 256B or 256D, for services that are covered by the policy or plan of health insurance shall, for purposes of the deductible, be treated as if made by the insured.

(5) The commissioner of human services shall recover payments made by the children's health plan from the responsible insurer, for services provided by the children's health plan and covered by the policy or plan of health insurance.

Sec. 3. [144.0723] [CLIENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.]

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 1988, section 144.50, is amended by adding a subdivision to read:

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

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

Subd. 2. [DEFINITIONS.] For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Patient" also means a minor who is admitted to a residential program as defined in

section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and ~~board and~~ *boarding* care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

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

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

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

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

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

Subd. 7. [MINIMUM NURSING STAFF REQUIREMENT.] Notwithstanding the provisions of Minnesota Rules, part 4655.5600, the minimum staffing standard for nursing personnel

in *certified* nursing homes is as follows:

(a) The minimum number of hours of nursing personnel to be provided in a nursing home is the greater of two hours per resident per 24 hours or 0.95 hours per standardized resident day.

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

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

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

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

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

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

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

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

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

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

(b) to certify a new bed in a facility that commenced construction before May 23, 1983. For the purposes of this section, "commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were secured;

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

items, not incurred to a similar extent by most nursing homes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure and if the cost of any remodeling of the facility does not exceed ten percent of the appraised value of the facility or $200,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase in the future. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements; ~~or~~

(q) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the

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

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

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

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

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

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

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

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

Sec. 13. Minnesota Statutes 1988, section 144A.10, is amended by adding a subdivision to read:

Subd. 6b. [FINES FOR FEDERAL CERTIFICATION DEFICIENCIES.] *If the commissioner determines that a nursing home or certified boarding care home does not meet a requirement of section 1919(b), (c), or (d), of the Social Security Act, or any regulation adopted under that section of the Social Security Act, the nursing home or certified boarding care home may be assessed a civil fine for each day of noncompliance and until a*

notice of correction is received by the commissioner under subdivision 7. Money collected because of these fines must be applied to the protection of the health or property of residents of nursing facilities the commissioner finds deficient. A fine for a specific deficiency may not exceed $500 for each day of noncompliance. The commissioner shall adopt rules establishing a schedule of fines.

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

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

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

Subd. 6d. [SCHEDULE OF FINES.] *(a) The schedule of fines for noncompliance with correction orders issued to nursing homes that was adopted under the provisions of section 144A.10, subdivision 6, and in effect on May 1, 1989, is effective until repealed, modified, or superseded by rule.*

(b) By September 1, 1990, the commissioner shall amend the schedule of fines to increase to $250 the fines for violations of section 144.561, subdivisions 18, 20, 21, 22, 27, and 30, and for repeated violations.

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

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

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

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

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

Sec. 18. [144A.103] [PENALTY FOR DEATH OF A RESIDENT.]

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

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

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

Sec. 19. [144A.105] [SUSPENSION OF ADMISSIONS.]

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

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

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

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

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

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

Subd. 2. [ORDER.] *If the commissioner suspends admissions under subdivision 1, the commissioner shall notify the nursing home or certified boarding care home, by written order, that admissions to the nursing home or certified boarding care home will be suspended beginning at a time specified in the order. The suspension is effective no earlier than 48 hours after the nursing home or certified boarding care home receives the order, unless the order is due to an emergency under subdivision 1, clause (3). The order may be served on the administrator of the nursing home or certified boarding care home, or the designated agent in charge of the*

home, by personal service or by certified or registered mail with a return receipt of delivery. The order shall specify the reasons for the suspension, the corrective action required to be taken by the nursing home or certified boarding care home, and the length of time the suspension will be in effect. The nursing home or certified boarding care home shall not admit any residents after the effective time of the order. In determining the length of time for the suspension, the commissioner shall consider the reasons for the suspension, the performance history of the nursing home, and the needs of the residents.

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

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

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

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

Sec. 20. Minnesota Statutes 1988, section 144A.11, is amended by adding a subdivision to read:

Subd. 2a. [NOTICE TO RESIDENTS.] *Within five working days after proceedings are initiated by the commissioner to revoke, suspend, or not renew a nursing home license, the controlling person of the nursing home or a designee must provide to the commissioner and the ombudsman for older Minnesotans the names of residents and the names and addresses of*

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

Sec. 21. Minnesota Statutes 1988, section 144A.11, subdivision 3, is amended to read:

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

Sec. 22. Minnesota Statutes 1988, section 144A.12, subdivision 1, is amended to read:

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

Sec. 23. Minnesota Statutes 1988, section 144A.15, subdivision 1, is amended to read:

Subdivision 1. [PETITION, NOTICE.] In addition to any other remedy provided by law, the commissioner of health may petition the district court in Ramsey *or Hennepin* county or in the district in which a nursing home *or certified boarding care home* is located for an order directing the controlling persons of the nursing home *or certified boarding care home* to

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

Sec. 24. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

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

Sec. 25. Minnesota Statutes 1988, section 144A.15, is amended by adding a subdivision to read:

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

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

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

Sec. 26. [144A.135] [TRANSFER AND DISCHARGE APPEALS.]

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

Sec. 27. [144A.155] [PLACEMENT OF MONITOR.]

Subdivision 1. [AUTHORITY.] *The commissioner may place a person*

to act as a monitor in a nursing home or certified boarding care home in any of the circumstances listed in clause (1) or (2):

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

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

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

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

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

Sec. 28. Minnesota Statutes 1988, section 144A.61, is amended to read:

144A.61 [NURSING ASSISTANT TRAINING.]

Subdivision 1. [~~PURPOSE~~ *AUTHORITY.*] ~~The purpose of this section and section 144A.611 is to improve the quality of care provided to patients of nursing homes by assuring that approved programs for the training of nursing assistants are established as necessary throughout the state.~~ *The commissioner of health, in consultation with the commissioner of human services, shall implement the provisions of Public Law Number 100-203, the Omnibus Budget Reconciliation Act of 1987, that relate to training and competency evaluation programs, testing, and the establishment of a registry for nursing assistants in nursing homes and boarding care homes certified for participation in the medical assistance or Medicare programs. The commissioner of health may adopt permanent rules that may be necessary to implement Public Law Number 100-203 and provisions of this section. The commissioner of health may contract with outside parties for the purpose of implementing the provisions of this section. At the request of the commissioner, the board of nursing may establish training and competency evaluation standards; review, evaluate, and approve curricula; review and approve training programs; and establish a registry of nursing assistants.*

Subd. 2. [NURSING ASSISTANTS.] For the purposes of this section

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

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

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

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

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

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

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

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

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

Sec. 29. Minnesota Statutes 1988, section 144A.611, is amended to read:

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

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

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

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

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

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

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

Sec. 30. Minnesota Statutes 1988, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a *nonprofit organization acting according to clause (k) or a* committee whose membership is limited to professionals and administrative staff, except where otherwise provided for by state or federal law, and which is established by a hospital, by a clinic, by one or more state or local associations of professionals, by an organization of professionals from a particular area or medical institution, by a health maintenance organization as defined in chapter 62D, by a nonprofit health service plan corporation as defined in chapter 62C ~~or~~, by a professional standards review organization established pursuant to United States Code, title 42, section 1320c-1 et seq., *or by a medical review agent established to meet the requirements of section 256B.04, subdivision 15,*

or 256D.03, subdivision 7, paragraph (b), or by the department of human services, to gather and review information relating to the care and treatment of patients for the purposes of:

(a) evaluating and improving the quality of health care rendered in the area or medical institution;

(b) reducing morbidity or mortality;

(c) obtaining and disseminating statistics and information relative to the treatment and prevention of diseases, illness and injuries;

(d) developing and publishing guidelines showing the norms of health care in the area or medical institution;

(e) developing and publishing guidelines designed to keep within reasonable bounds the cost of health care;

(f) reviewing the quality or cost of health care services provided to enrollees of health maintenance organizations;

(g) acting as a professional standards review organization pursuant to United States Code, title 42, section 1320c-1 et seq.;

(h) determining whether a professional shall be granted staff privileges in a medical institution or whether a professional's staff privileges should be limited, suspended or revoked; ~~or~~

(i) reviewing, ruling on, or advising on controversies, disputes or questions between:

(1) health insurance carriers or health maintenance organizations and their insureds or enrollees;

(2) professional licensing boards acting under their powers including disciplinary, license revocation or suspension procedures and health providers licensed by them when the matter is referred to a review committee by the professional licensing board;

(3) professionals and their patients concerning diagnosis, treatment or care, or the charges or fees therefor;

(4) professionals and health insurance carriers or health maintenance organizations concerning a charge or fee for health care services provided to an insured or enrollee;

(5) professionals or their patients and the federal, state, or local government, or agencies thereof; ~~or~~

(j) providing underwriting assistance in connection with professional liability insurance coverage applied for or obtained by dentists, or providing assistance to underwriters in evaluating claims against dentists~~.~~*;*

(k) acting as a medical review agent under section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b); or

(l) providing recommendations on the medical necessity of a health service, or the relevant prevailing community standard for a health service.

Sec. 31. Minnesota Statutes 1988, section 145.63, is amended to read:

145.63 [LIMITATION ON LIABILITY FOR SPONSORING ORGANIZATIONS, *REVIEW ORGANIZATIONS,* AND MEMBERS OF REVIEW ORGANIZATIONS.]

Subdivision 1. [MEMBERS.] No *review organization and no* person who is a member or employee of, who acts in an advisory capacity to or who furnishes counsel or services to, a review organization shall be liable for damages or other relief in any action brought by a person or persons whose activities have been or are being scrutinized or reviewed by a review organization, by reason of the performance by the person of any duty, function, or activity of such review organization, unless the performance of such duty, function or activity was motivated by malice toward the person affected thereby. No *review organization and no* person shall be liable for damages or other relief in any action by reason of the performance of the *review organization or* person of any duty, function, or activity as a *review organization or a* member of a review committee or by reason of any recommendation or action of the review committee when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person or the review organization after reasonable efforts to ascertain the facts upon which the review organization's action or recommendation is made, except that any corporation designated as a review organization under the Code of Federal Regulations, title 42, section 466 (1983) shall be subject to actions for damages or other relief by reason of any failure of a person, whose care or treatment is required to be scrutinized or reviewed by the review organization, to receive medical care or treatment as a result of a determination by the review organization that medical care was unnecessary or inappropriate.

Subd. 2. [ORGANIZATIONS.] No state or local association of professionals or organization of professionals from a particular area shall be liable for damages or other relief in any action brought by a person whose activities have been or are being scrutinized or reviewed by a review organization established by the association or organization, unless the association or organization was motivated by malice towards the person affected by the review or scrutiny.

Sec. 32. Minnesota Statutes 1988, section 214.06, subdivision 1, is amended to read:

Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984 by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by health-related licensing boards must be credited to the special revenue fund. ~~Any balance remaining in the special revenue fund at the end of each fiscal year, after payment of health-related licensing board expenses including salaries, attorney general fees, and indirect costs, must be credited to the public health fund.~~

Sec. 33. Minnesota Statutes 1988, section 256.936, subdivision 1, is amended to read:

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

(a) "Eligible persons" means children who are one year of age or older but less than ~~nine~~ *18* years of age who have gross family incomes that are equal to or less than 185 percent of the federal poverty guidelines and who are not eligible for medical assistance under chapter 256B or general assistance medical care under chapter 256D and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes ~~nine~~ *18* years old.

(b) "Covered services" means children's health services.

(c) "Children's health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, *special education services*, private duty nursing services, orthodontic services, medical transportation services, personal care assistant and case management services, hospice care services, nursing home or intermediate care facilities services, and ~~mental health and~~ chemical dependency services.

(d) "Eligible providers" means those health care providers who provide children's health services to medical assistance ~~clients~~ *recipients* under rules established by the commissioner for that program. Reimbursement under this section shall be at the same rates and conditions established for medical assistance.

(e) "Commissioner" means the commissioner of human services.

(f) "Gross family income" for farm and nonfarm self-employed means income calculated using as the baseline the adjusted gross income reported on the applicant's federal income tax form for the previous year and adding back in reported depreciation, carryover loss, and net operating loss amounts that apply to the business in which the family is currently engaged. Applicants shall report the most recent financial situation of the family if it has changed from the period of time covered by the federal income tax form. The report may be in the form of percentage increase or decrease.

Sec. 34. Minnesota Statutes 1988, section 256.936, subdivision 2, is amended to read:

Subd. 2. [PLAN ADMINISTRATION.] The children's health plan is established to promote access to appropriate primary health care to assure healthy children. The commissioner shall establish an office for the state administration of this plan. The plan shall be used to provide children's health services for eligible persons. Payment for these services shall be made to all eligible providers. *The commissioner may adopt rules to administer this section.* The commissioner shall establish marketing efforts to encourage potentially eligible persons to receive information about the program and about other medical care programs administered or supervised by the department of human services. A toll-free telephone number must be used to provide information about medical programs and to promote access to the covered services. The commissioner must make a quarterly assessment of the expected expenditures for the covered services and the appropriation. Based on this assessment the commissioner may limit enrollments and target former aid to families with dependent children recipients. If sufficient money is not available to cover all costs incurred in one quarter, the commissioner may seek an additional authorization for funding from the legislative advisory committee.

Sec. 35. Minnesota Statutes 1988, section 256.936, subdivision 4, is amended to read:

Subd. 4. [ENROLLMENT FEE.] An annual enrollment fee of $25, not to exceed $150 per family, is required from eligible persons for children's health services. Enrollment fees ~~must be deposited in the public health fund and~~ are ~~appropriated~~ *dedicated* to the commissioner for the children's health plan program. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance.

Sec. 36. [256.9685] [ESTABLISHMENT OF INPATIENT HOSPITAL PAYMENT SYSTEM.]

Subdivision 1. [AUTHORITY.] *The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.*

Subd. 2. [FEDERAL REQUIREMENTS.] *If it is determined that a provision of this section or section 256.9686, 256.969, or 256.9695 conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the medicare limitations.*

Sec. 37. [256.9686] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of this section and sections 256.9685, 256.969, and 256.9695, the following terms and phrases have the meanings given.*

Subd. 2. [BASE YEAR.] *"Base year" means a hospital's fiscal year that is recognized by the Medicare program or a hospital's fiscal year specified by the commissioner if a hospital is not required to file information by the Medicare program from which cost and statistical data are used to establish medical assistance and general assistance medical care payment rates.*

Subd. 3. [CASE MIX INDEX.] *"Case mix index" means a hospital's distribution of relative values among the diagnostic categories.*

Subd. 4. [CHARGES.] *"Charges" means the usual and customary payment requested of the general public.*

Subd. 5. [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

Subd. 6. [HOSPITAL.] *"Hospital" means a facility licensed under sections 144.50 to 144.58 or an out-of-state facility licensed under the requirements of that state in which it is located.*

Subd. 7. [MEDICAL ASSISTANCE.] *"Medical assistance" means the*

program established under chapter 256B and Title XIX of the Social Security Act. Medical assistance includes general assistance medical care established under chapter 256D, unless otherwise specifically stated.

Subd. 8. [RATE YEAR.] *"Rate year" means a calendar year from January 1 to December 31.*

Subd. 9. [RELATIVE VALUE.] *"Relative value" means the average allowable cost of inpatient services provided within a diagnostic category divided by the average allowable cost of inpatient services provided in all diagnostic categories.*

Sec. 38. Minnesota Statutes 1988, section 256.969, is amended to read:

256.969 [~~INPATIENT HOSPITALS~~ *PAYMENT RATES.*]

Subdivision 1. [~~ANNUAL~~ *HOSPITAL* COST INDEX.] ~~The commissioner of human services shall develop a prospective payment system for inpatient hospital service under the medical assistance and general assistance medical care programs. Rates established for licensed hospitals for rate years beginning during the fiscal biennium ending June 30, 1987, shall not exceed an annual hospital cost index for the final rate allowed to the hospital for the preceding year not to exceed five percent in any event.~~ The ~~annual~~ hospital cost index shall be obtained from an independent source ~~representing~~ *and shall represent* a ~~statewide~~ *weighted* average of ~~inflation~~ *historical and projected cost change* estimates determined for expense categories to include *wages and* salaries, employee benefits, medical *and professional* fees, raw food, ~~medical supplies, pharmaceuticals,~~ utilities, ~~repairs and maintenance,~~ insurance ~~other than~~ *including* malpractice insurance, and other applicable expenses as determined by the commissioner. The index shall reflect ~~the regional differences within the state and include a one percent increase to reflect changes in technology. The annual hospital cost index shall be published 30 days before the start of each calendar quarter and shall be applicable to all hospitals whose fiscal years start on or during the calendar quarter.~~ *Minnesota cost category weights. Individual indices shall be specific to Minnesota if the commissioner determines that sufficient accuracy of the hospital cost index is achieved. The hospital cost index shall be used to adjust the base year operating payment rate through the rate year on an annually compounded basis.*

Subd. 2. [~~RATES FOR INPATIENT HOSPITALS~~ *DIAGNOSTIC CATEGORIES.*] ~~On July 1, 1984,~~ The commissioner shall ~~begin to utilize~~ *use* to the extent possible existing *diagnostic* classification systems, including *the system used by the* Medicare *program to determine the relative values of inpatient services and case mix indices.* ~~The commissioner may incorporate the grouping of hospitals with similar characteristics for uniform rates upon the development and implementation of the diagnostic classification system. Prior to implementation of the diagnostic classification system, the commissioner shall report the proposed grouping of hospitals to the senate health and human services committee and the house health and welfare committee.~~ *The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed and shall not be determined on a hospital specific basis. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative*

value determinations shall not include property cost data, Medicare crossover data, and data from the transferring hospital on transfer discharges, except data on transfer discharges with a burn diagnostic classification or data on transfer discharges for the patient's convenience that have been reported by the hospital to the commissioner by the October 1 preceding the rate year. The computation of the base year cost per admission ~~and the computation of the relative values of the diagnostic categories~~ must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs ~~and days~~ *recognized in outlier payments* beyond that point. ~~Claims paid for care provided on or after August 1, 1985, shall be adjusted to reflect a recomputation of rates, unless disapproved by the federal Health Care Financing Administration. The state shall pay the state share of the adjustment for care provided on or after August 1, 1985, up to and including June 30, 1987, whether or not the adjustment is approved by the federal Health Care Financing Administration.~~ The commissioner may ~~reconstitute~~ *recategorize* the diagnostic ~~categories~~ *classifications and recalculate relative values and case mix indices* to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period. ~~After May 1, 1986, acute care hospital billings under the medical assistance and general assistance medical care programs must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments with inpatient hospitals that have individual patient lengths of stay in excess of 30 days regardless of diagnosis-related group. For purposes of establishing interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance and general assistance medical care reimbursement for treatment of mental illness shall be reimbursed based upon diagnosis classifications. The commissioner may selectively contract with hospitals for services within the diagnostic classifications relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to utilize a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Effective July 1, 1988, the commissioner shall limit the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index described in subdivision 1. When computing budgeted pass-through cost payments, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc. consistent with the quarter of the hospital's fiscal year end. In final settlement of pass-through cost payments, the commissioner shall use the hospital cost index for the month in which the hospital's fiscal year ends compared to the same month one year earlier.~~

~~Subd. 2a. [AUDIT ADJUSTMENTS TO INPATIENT HOSPITAL RATES.] Inpatient hospital rates established under subdivision 2 using 1981 historical medicare cost report data may be adjusted based on the findings of audits of hospital billings and patient records performed by the commissioner that identify billings for services that were not delivered or never ordered. The audit findings may be based on a statistically valid sample of billings of the hospital. After the audits are complete, the commissioner shall adjust rates paid in subsequent years to reflect the audit findings and recover payments in excess of the adjusted rates or reimburse hospitals when audit findings indicate that underpayments were made to~~

~~the hospital.~~

Subd. 2b. [OPERATING PAYMENT RATES.] *In determining operating payment rates for admissions occurring on or after the rate year beginning January 1, 1991, and every two years after, or more frequently as determined by the commissioner, the commissioner shall obtain operating data from an updated base year and establish operating payment rates per admission for each hospital based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year. The base year operating payment rate per admission is standardized by the case mix index and adjusted by the hospital cost index, relative values, and disproportionate population adjustment. The cost and charge data used to establish operating rates shall only reflect inpatient services covered by medical assistance and shall not include property cost information and costs recognized in outlier payments.*

Subd. 2c. [PROPERTY PAYMENT RATES.] *For each hospital's first two consecutive fiscal years beginning on or after July 1, 1988, the commissioner shall limit the annual increase in property payment rates for depreciation, rents and leases, and interest expense to the annual growth in the hospital cost index derived from the methodology in effect on the day before the effective date of this section. When computing budgeted and settlement property payment rates, the commissioner shall use the annual increase in the hospital cost index forecasted by Data Resources, Inc., consistent with the quarter of the hospital's fiscal year end. For admissions occurring on or after January 1, 1991, the commissioner shall obtain property data from an updated base year and establish property payment rates per admission for each hospital. Property payment rates shall be derived from data from the same base year that is used to establish operating payment rates. The property information shall include cost categories not subject to the hospital cost index and shall reflect the cost-finding methods and allowable costs of the Medicare program in effect during the base year.*

The property payment rate per admission shall be adjusted for positive percentage change differences in the net book value of hospital property and equipment by increasing the property payment rate per admission 85 percent of the percentage change from the base year through the most recent year ending prior to the rate year for which required information is available. The percentage change shall be derived from equivalent audited information in both years and shall be adjusted to account for changes in generally accepted accounting principles, reclassification of assets, allocations to non-hospital areas, and fiscal years. The cost, audit, and charge data used to establish property rates shall only reflect inpatient services covered by medical assistance and shall not include operating cost information. To be eligible for the property payment rate per admission adjustment, the hospital must provide the necessary information to the commissioner, in a format specified by the commissioner, by the October 1 preceding the rate year. The commissioner shall adjust rates for the rate year beginning January 1, 1991, to ensure that all hospitals are subject to the hospital cost index limitation for two complete years.

~~Subd. 3. [SPECIAL CONSIDERATIONS.] (a) In determining the rate the commissioner of human services will take into consideration whether the following circumstances exist:~~

~~(1) minimal medical assistance and general assistance medical care~~

~~utilization;~~

~~(2) unusual length of stay experience; and~~

~~(3) disproportionate numbers of low-income patients served.~~

~~(b) To the extent of available appropriations, the commissioner shall provide supplemental grants directly to a hospital described in section 256B.031, subdivision 10, paragraph (a), that receives medical assistance payments through a county-managed health plan that serves only residents of the county. The payments must be designed to compensate for actuarially demonstrated higher health care costs within the county, for the population served by the plan, that are not reflected in the plan's rates under section 256B.031, subdivision 4.~~

~~(c) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.~~

~~(d) Indian health service facilities are exempt from the rate establishment methods required by this section and section 256D.03, subdivision 4, and shall be reimbursed at the facility's usual and customary charges to the general public.~~

~~(e) Out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule and hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.~~

~~(f) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have rates established as provided in paragraph (e) or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not be affected by negotiated rates.~~

~~(g) For inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989, hospitals with 100 or fewer medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 30 percent. Hospitals with more than 100 but fewer than 250 medical assistance annualized paid admissions, excluding Medicare cross-overs, that were paid by March 1, 1988, for admissions paid during the period January 1, 1987, to June 30, 1987, shall have medical assistance inpatient payments increased 20 percent for inpatient hospital originally paid admissions, excluding Medicare cross-overs, provided from July 1, 1988, through June 30, 1989. This provision applies only to hospitals that have 100 or fewer licensed beds on March 1, 1988.~~

Subd. 3a. [PAYMENTS.] *Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. To establish interim rates, the commissioner is exempt from the requirements of chapter 14. Medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. The commissioner may selectively contract with hospitals for services within the diagnostic categories relating to mental illness and chemical dependency under competitive bidding when reasonable geographic access by recipients can be assured. No physician shall be denied the privilege of treating a recipient required to use a hospital under contract with the commissioner, as long as the physician meets credentialing standards of the individual hospital. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party liability, for admissions occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation is not applicable and shall not be calculated to include general assistance medical care services. Services that have rates established under subdivision 6a, paragraph (a), clause (5) or (6), must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.*

~~Subd. 4. [APPEALS BOARD.] An appeals board shall be established for purposes of hearing reports for changes in the rate per admission. The appeals board shall consist of two public representatives, two representatives of the hospital industry, and one representative of the business or consumer community. The appeals board shall advise the commissioner on adjustments to hospital rates under this section.~~

Subd. 4a. [REPORTS.] *If, under this section or section 256.9685, 256.9686, or 256.9695, a hospital is required to report information to the commissioner by a specified date, the hospital must report the information on*

time. If the hospital does not report the information on time, the commissioner may determine the information that will be used and may disregard the information that is reported late. If the Medicare program does not require or does not audit information that is needed to establish medical assistance rates, the commissioner may, after consulting the affected hospitals, require reports to be provided, in a format specified by the commissioner, that are based on allowable costs and cost-finding methods of the Medicare program in effect during the base year. The commissioner may require any information that is necessary to implement this section and sections 256.9685, 256.9686, and 256.9695 to be provided by a hospital within a reasonable time period.

~~Subd. 5. [APPEAL RIGHTS.] Nothing in this section supersedes the contested case provisions of chapter 14, the administrative procedure act.~~

Subd. 5a. [AUDITS AND ADJUSTMENTS.] *Inpatient hospital rates and payments must be established under this section and sections 256.9685, 256.9686, and 256.9695. The commissioner may adjust rates and payments based on the findings of audits of payments to hospitals, hospital billings, costs, statistical information, charges, or patient records performed by the commissioner or the Medicare program that identify billings, costs, statistical information, or charges for services that were not delivered, never ordered, in excess of limits, not covered by the medical assistance program, paid separately from rates established under this section and sections 256.9685, 256.9686, and 256.9695, or for charges that are not consistent with other payor billings. Charges to the medical assistance program must be less than or equal to charges to the general public. Charges to the medical assistance program must not exceed the lowest charge to any other payor. The audit findings may be based on a statistically valid sample of hospital information that is needed to complete the audit. If the information the commissioner uses to establish rates or payments is not audited by the Medicare program, the commissioner may require an audit using Medicare principles and may adjust rates and payments to reflect any subsequent audit.*

~~Subd. 6. [RULES.] The commissioner of human services shall promulgate emergency and permanent rules to implement a system of prospective payment for inpatient hospital services pursuant to chapter 14, the administrative procedure act. Notwithstanding section 14.53, emergency rule authority authorized by Laws 1983, chapter 312, article 5, section 9, subdivision 6, shall extend to August 1, 1985.~~

Subd. 6a. [SPECIAL CONSIDERATIONS.] *(a) In determining the payment rates, the commissioner shall consider whether the following circumstances exist:*

(1) [MINIMAL MEDICAL ASSISTANCE USE.] *Minnesota hospitals with 30 or fewer annualized admissions of Minnesota medical assistance recipients in the base year, excluding Medicare crossover admissions, may have the base year operating rates, as adjusted by the case mix index, and property payment rates established at the 70th percentile of hospitals in the peer group in effect during the base year as established by the Minnesota department of health for use by the rate review program. Rates within a peer group shall be adjusted for differences in fiscal years and outlier percentage payments before establishing the 70th percentile. The operating payment rate portion of the 70th percentile shall be adjusted by the hospital cost index. To have rates established under this paragraph,*

the hospital must notify the commissioner in writing by November 1 of the year preceding the rate year. This paragraph shall be applied to all payment rates of the affected hospital.

(2) [UNUSUAL COST OR LENGTH OF STAY EXPERIENCE.] *The commissioner shall establish day and cost outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the geometric mean length of stay or allowable cost. Payment for the days and cost beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2, 2b and 2c. Payment for outliers shall be at 70 percent of the allowable operating cost calculated by dividing the operating payment rate per admission, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment, by the arithmetic mean length of stay for the diagnostic category. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the geometric mean length of stay or allowable cost, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative percentage outlier payment to a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission. Cost outliers shall be calculated using hospital specific allowable cost data. If a stay is both a day and a cost outlier, outlier payments shall be based on the higher outlier payment.*

(3) [DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS SERVED.] *For admissions occurring on or after July 1, 1989, the medical assistance disproportionate population adjustment shall comply with federal law at fully implemented rates. The commissioner may establish a separate disproportionate population operating payment rate adjustment under the general assistance medical care program. For admissions occurring on or after January 1, 1991, the disproportionate population adjustment shall be derived from base year Medicare cost report data and may be adjusted by data reflecting actual claims paid by the department.*

(4) [SEPARATE BILLING BY CERTIFIED REGISTERED NURSE ANESTHETISTS.] *Hospitals may exclude certified registered nurse anesthetist costs from the operating payment rate as allowed by section 256B.0625, subdivision 11. To be eligible, a hospital must notify the commissioner in writing by October 1 of the year preceding the rate year of the request to exclude certified registered nurse anesthetist costs. The hospital must agree that all hospital claims for the cost and charges of certified registered nurse anesthetist services will not be included as part of the rates for inpatient services provided during the rate year. In this case, the operating payment rate shall be adjusted to exclude the cost of certified registered nurse anesthetist services. Payments made through separate claims for certified registered nurse anesthetist services shall not be paid directly through the hospital provider number or indirectly by the certified registered nurse anesthetist to the hospital or related organizations.*

(5) [SPECIAL RATES.] *The commissioner may establish special rate-setting methodologies, including a per day operating and property payment system, for hospice, ventilator dependent, and other services on a hospital*

and recipient specific basis taking into consideration such variables as federal designation, program size, and admission from a medical assistance waiver or home care program. The data and rate calculation method shall conform to the requirements of paragraph (7), except that hospice rates shall not exceed the amount allowed under federal law and payment shall be secondary to any other medical assistance hospice program. Rates and payments established under this paragraph must meet the requirements of section 256.9685, subdivisions 1 and 2, and must not exceed payments that would otherwise be made to a hospital in total for rate year admissions under subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The cost and charges used to establish rates shall only reflect inpatient medical assistance covered services. Hospital and claims data that are used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.

(6) [REHABILITATION DISTINCT PARTS.] *Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating and property payment rates and the disproportionate population adjustment established separately from other inpatient hospital services, based on the methods of subdivisions 2, 2b, 2c, 3, 4, 5, and 6. The commissioner may establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.*

(7) [NEONATAL TRANSFERS.] *For admissions occurring on or after July 1, 1989, neonatal diagnostic category transfers shall have operating and property payment rates established at receiving hospitals which have neonatal intensive care units on a per day payment system that is based on the cost finding methods and allowable costs of the Medicare program during the base year. Other neonatal diagnostic category transfers shall have rates established according to paragraph (8). The rate per day for the neonatal service setting within the hospital shall be determined by dividing base year neonatal allowable costs by neonatal patient days. The operating payment rate portion of the rate shall be adjusted by the hospital cost index and the disproportionate population adjustment. The cost and charges used to establish rates shall only reflect inpatient services covered by medical assistance. Hospital and claims data used to establish rates under this paragraph shall not be used to establish payments or relative values under subdivisions 2, 2b, 2c, 3, 4, 5, and 6.*

(8) [TRANSFERS.] *Except as provided in paragraphs (5) and (7), operating and property payment rates for admissions that result in transfers and transfers shall be established on a per day payment system. The per day payment rate shall be the sum of the adjusted operating and property payment rates determined in subdivisions 2b and 2c, divided by the arithmetic mean length of stay for the diagnostic category. Each admission that results in a transfer and each transfer is considered a separate admission to each hospital, and the total of the admission and transfer payments to each hospital must not exceed the total per admission payment that would otherwise be made to each hospital under paragraph (2) and subdivisions*

2b and 2c.

(b) The computation of each hospital's payment rate and the relative values of the diagnostic categories are not subject to the routine service cost limitation imposed under the Medicare program.

(c) Indian health service facilities are exempt from the rate establishment methods required by this section and shall be reimbursed at the facility's usual and customary charges to the general public. This exemption is not effective for payments under general assistance medical care.

(d) Except as provided in paragraph (a), clauses (1) and (3), out-of-state hospitals that are located within a Minnesota local trade area shall have rates established using the same procedures and methods that apply to Minnesota hospitals. Hospitals that are not required by law to file information in a format necessary to establish rates shall have rates established based on the commissioner's estimates of the information. Relative values of the diagnostic categories shall not be redetermined under this paragraph until required by rule. Hospitals affected by this paragraph shall then be included in determining relative values. However, hospitals that have rates established based upon the commissioner's estimates of information shall not be included in determining relative values. This paragraph is effective for hospital fiscal years beginning on or after July 1, 1988. A hospital shall provide the information necessary to establish rates under this paragraph at least 90 days before the start of the hospital's fiscal year.

(e) Hospitals that are not located within Minnesota or a Minnesota local trade area shall have operating and property rates established at the average of statewide and local trade area rates or, at the commissioner's discretion, at an amount negotiated by the commissioner. Relative values shall not include data from hospitals that have rates established under this paragraph. Payments, including third party liability, established under this paragraph may not exceed the charges on a claim specific basis for inpatient services that are covered by medical assistance.

(f) Medical assistance inpatient payment rates must include the cost incurred by hospitals to pay the department of health for metabolic disorder testing of newborns who are medical assistance recipients, if the cost is not recognized by another payment source.

(g) Medical assistance inpatient payments shall increase 20 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had 100 or fewer Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June 30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

(h) Medical assistance inpatient payments shall increase 15 percent for inpatient hospital originally paid admissions, excluding Medicare crossovers, that occurred between July 1, 1988, and December 31, 1990, if: (i) the hospital had more than 100 but fewer than 250 Minnesota medical assistance annualized paid admissions, excluding Medicare crossovers, that were paid by March 1, 1988 for the period January 1, 1987, to June

30, 1987; (ii) the hospital had 100 or fewer licensed beds on March 1, 1988; (iii) the hospital is located in Minnesota; and (iv) the hospital is not located in a city of the first class as defined in section 410.01. For this paragraph, medical assistance does not include general assistance medical care.

Sec. 39. [256.9695] [APPEALS OF RATES; PROHIBITED PRACTICES FOR HOSPITALS; TRANSITION RATES.]

Subdivision 1. [APPEALS.] *A hospital may appeal a decision arising from the application of standards or methods under section 256.9685, 256.9686, or 256.969, if an appeal would result in a change to the hospital's payment rate or payments. Both overpayments and underpayments that result from the submission of appeals shall be implemented. Regardless of any appeal outcome, relative values shall not be recalculated. The appeal shall be heard by an administrative law judge according to sections 14.48 to 14.56, or upon agreement by both parties, according to a modified appeals procedure established by the commissioner and the office of administrative hearings. In any proceeding under this section, the appealing party must demonstrate by a preponderance of the evidence that the commissioner's determination is incorrect or not according to law.*

(a) To appeal a payment rate or payment determination or a determination made from base year information, the hospital shall file a written appeal request to the commissioner within 60 days of the date the payment rate determination was mailed. The appeal request shall specify: (i) the disputed items; (ii) the authority in federal or state statute or rule upon which the hospital relies for each disputed item; and (iii) the name and address of the person to contact regarding the appeal. A change to a payment rate or payments that results from a successful appeal to the Medicare program of the base year information establishing rates for the rate year beginning in 1991 and after is a prospective adjustment to subsequent rate years. After December 31, 1990, payment rates shall not be adjusted for appeals of base year information that affect years prior to the rate year beginning January 1, 1991. Facts to be considered in any appeal of base year information are limited to those in existence at the time the payment rates of the first rate year were established from the base year information. In the case of Medicare settled appeals, the 60-day appeal period shall begin on the mailing date of the notice by the Medicare program or the date the medical assistance payment rate determination notice is mailed, whichever is later.

(b) To appeal a payment rate or payment change that results from a difference in case mix between the base year and a rate year, the procedures and requirements of paragraph (a) apply. However, the appeal must be filed with the commissioner within 60 days after the end of a rate year. A case mix appeal must apply to the cost of services to all medical assistance patients that received inpatient services from the hospital during the rate year appealed. For this paragraph, hospital means a facility holding the provider number as an inpatient service facility.

Subd. 2. [PROHIBITED PRACTICES.] *(a) Hospitals that have a provider agreement with the department may not limit medical assistance admissions to percentages of certified capacity or to quotas unless patients from all payors are limited in the same manner. This requirement does not apply to certified capacity that is unavailable due to contracts with payors for specific occupancy levels.*

(b) Hospitals may not transfer medical assistance patients to or cause medical assistance patients to be admitted to other hospitals without the explicit consent of the receiving hospital when service needs of the patient are available and within the scope of the transferring hospital. The transferring hospital is liable to the receiving hospital for patient charges and ambulance services without regard to medical assistance payments plus the receiving hospital's reasonable attorney fees if found in violation of this prohibition.

Subd. 3. [TRANSITION.] *Except as provided in section 256.969, subdivision 6a, paragraph (a), clause (3), the commissioner shall establish a transition period for the calculation of payment rates from the effective date of this section to December 31, 1990, as follows:*

(a) Changes resulting from section 256.969, subdivision 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8), shall not be implemented.

(b) Rates established for hospital fiscal years beginning on or after July 1, 1989, shall not be adjusted for the one percent technology factor included in the hospital cost index.

(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. Payments made for admissions occurring after July 1, 1990, shall not include the one percent technology factor.

(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through December 31, 1990. The laws in effect on the day before the effective date of this section apply to the retroactive settlement from the effective date of this section to December 31, 1990.

Subd. 4. [STUDY.] *The commissioner shall contract for an evaluation of the inpatient and outpatient hospital payment systems. The study shall include recommendations concerning:*

(1) more effective methods of assigning operating and property payment rates to specific services or diagnoses;

(2) effective methods of cost control and containment;

(3) fiscal impacts of alternative payment systems;

(4) the relationships of the use of and payment for inpatient and outpatient hospital services;

(5) methods to relate reimbursement levels to the efficient provision of services; and

(6) methods to adjust reimbursement levels to reflect cost differences between geographic areas.

The commissioner shall report the findings to the legislature by January 15, 1991, along with recommendations for implementation.

Subd. 5. [RULES.] *The commissioner of human services shall adopt permanent rules to implement this section and sections 256.9685, 256.9686, and 256.969 under chapter 14, the administrative procedure act.*

Sec. 40. Minnesota Statutes 1988, section 256B.031, subdivision 5, is amended to read:

Subd. 5. [FREE CHOICE LIMITED.] (a) The commissioner may require recipients of aid to families with dependent children to enroll in a prepaid health plan and receive services from or through the prepaid health plan, with the following exceptions:

(1) recipients who are refugees and whose health services are reimbursed 100 percent by the federal government ~~for the first 24 months after entry into the United States~~; and

(2) recipients who are placed in a foster home or facility. If placement occurs before the seventh day prior to the end of any month, the recipient will be disenrolled from the recipient's prepaid health plan effective the first day of the following month. If placement occurs after the seventh day before the end of any month, that recipient will be disenrolled from the prepaid health plan on the first day of the second month following placement. The prepaid health plan must provide all services set forth in subdivision 2 during the interim period.

Enrollment in a prepaid health plan is mandatory only when recipients have a choice of at least two prepaid health plans.

(b) Recipients who become eligible on or after December 1, 1987, must choose a health plan within 30 days of the date eligibility is determined. At the time of application, the local agency shall ask the recipient whether the recipient has a primary health care provider. If the recipient has not chosen a health plan within 30 days but has provided the local agency with the name of a primary health care provider, the local agency shall determine whether the provider participates in a prepaid health plan available to the recipient and, if so, the local agency shall select that plan on the recipient's behalf. If the recipient has not provided the name of a primary health care provider who participates in an available prepaid health plan, commissioner shall randomly assign the recipient to a health plan.

(c) If possible, the local agency shall ask whether the recipient has a primary health care provider and the procedures under paragraph (b) shall apply. If a recipient does not choose a prepaid health plan by this date, the commissioner shall randomly assign the recipient to a health plan.

(d) The commissioner shall request a waiver from the federal Health Care Financing Administration to limit a recipient's ability to change health plans to once every six or 12 months. If such a waiver is obtained, each recipient must be enrolled in the health plan for a minimum of six or 12 months. A recipient may change health plans once within the first 60 days after initial enrollment.

(e) Women who are receiving medical assistance due to pregnancy and later become eligible for aid to families with dependent children are not required to choose a prepaid health plan until 60 days postpartum. An infant born as a result of that pregnancy must be enrolled in a prepaid health plan at the same time as the mother.

(f) If third-party coverage is available to a recipient through enrollment in a prepaid health plan through employment, through coverage by the former spouse, or if a duty of support has been imposed by law, order, decree, or judgment of a court under section 518.551, the obligee or recipient shall participate in the prepaid health plan in which the obligee has

enrolled provided that the commissioner has contracted with the plan.

Sec. 41. Minnesota Statutes 1988, section 256B.04, subdivision 14, is amended to read:

Subd. 14. [COMPETITIVE BIDDING.] *When determined to be effective, economical, and feasible,* the commissioner ~~shall~~ *may* utilize volume purchase through competitive bidding *and negotiation* under the provisions of chapter ~~16~~ *16B*, to provide ~~the following~~ items *under the medical assistance program including but not limited to the following*:

(1) eyeglasses;

(2) oxygen. The commissioner shall provide for oxygen needed in an emergency situation on a short-term basis, until the vendor can obtain the necessary supply from the contract dealer;

(3) hearing aids and supplies; and

(4) durable medical equipment, including but not limited to:

(a) hospital beds;

(b) commodes;

(c) glide-about chairs;

(d) patient lift apparatus;

(e) wheelchairs and accessories;

(f) oxygen administration equipment;

(g) respiratory therapy equipment;

(h) electronic diagnostic, therapeutic and life support systems;

(5) ~~wheelchair~~ *special* transportation services; and

(6) drugs.

Sec. 42. Minnesota Statutes 1988, section 256B.04, is amended by adding a subdivision to read:

Subd. 17. [PRENATAL CARE OUTREACH.] *(a) The commissioner of human services shall award a grant to an eligible organization to conduct a statewide media campaign promoting early prenatal care. The goals of the campaign are to increase public awareness of the importance of early and continuous prenatal care and to inform the public about public and private funds available for prenatal care.*

(b) In order to receive a grant under this section, an applicant must:

(1) have experience conducting prenatal care outreach;

(2) have an established statewide constituency or service area; and

(3) demonstrate an ability to accomplish the purposes in this subdivision.

(c) Money received under this subdivision may be used for purchase of materials and supplies, staff fees and salaries, consulting fees, and other goods and services necessary to accomplish the goals of the campaign. Money may not be used for capital expenditures.

Sec. 43. Minnesota Statutes 1988, section 256B.055, subdivision 7, is amended to read:

Subd. 7. [AGED, BLIND, OR DISABLED PERSONS.] Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program and the other eligibility requirements of this section. The methodology for calculating ~~disregards and deductions from~~ income must be ~~as specified in section 256D.37, subdivisions 6 to 14~~ *the same methodology used for calculating income for the supplemental security income program except as specified otherwise by state or federal law, rule or regulation.*

Effective February 1, 1989, and to the extent allowed by federal law the commissioner shall deduct state and federal income taxes and federal insurance contributions act payments withheld from the individual's earned income in determining eligibility under this subdivision.

Sec. 44. Minnesota Statutes 1988, section 256B.055, subdivision 8, is amended to read:

Subd. 8. [MEDICALLY NEEDY PERSONS WITH EXCESS INCOME OR ASSETS.] Medical assistance may be paid for a person who, except for the amount of income or assets, would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children, and who meets the other eligibility requirements of this section. However, in the case of families and children ~~who meet the categorical eligibility requirements for aid to families with dependent children~~, the methodology for calculating assets shall be as specified in section 256.73, subdivision 2, except that the exclusion for an automobile shall be as in subdivision 3, clause (g), as long as acceptable to the health care financing administration, and the methodology for calculating deductions from earnings for child care and work expenses shall be as specified in section 256.74, subdivision 1.

Sec. 45. Minnesota Statutes 1988, section 256B.056, subdivision 3, is amended to read:

Subd. 3. [ASSET LIMITATIONS.] To be eligible for medical assistance, a person must not individually own more than $3,000 in ~~cash or liquid~~ assets, or if a member of a household with two family members (husband and wife, or parent and child), the household must not own more than $6,000 in ~~cash or liquid~~ assets, plus $200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. ~~Cash and liquid assets may include a prepaid funeral contract and insurance policies with cash surrender value. The value of the following shall not be included:~~ *The value of the items in paragraphs (a) to (i) are not considered in determining medical assistance eligibility.*

(a) The homestead~~,~~ *is not considered.*

(b) Household goods and personal effects ~~with a total equity value of $2,000 or less,~~ *are not considered.*

(c) Personal property used as a regular abode by the applicant or recipient~~,~~ *is not considered.*

(d) A lot in a burial plot for each member of the household~~,~~ *is not*

considered.

(e) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income~~;~~ *are not considered.*

(f) For a period of six months, insurance settlements to repair or replace damaged, destroyed, or stolen property~~;~~ *are not considered.*

(g) One motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit~~;~~ ~~and (h) other items which may be required by federal law or statute~~ *is not considered.*

To be excluded, the vehicle must have a market value of less than $4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the ~~cash or liquid~~ asset limit.

(h) Life insurance policies and assets designated as burial expenses, according to the standards and restrictions of the supplemental security income (SSI) program.

(i) Other items which may be excluded by federal law are not considered.

Sec. 46. Minnesota Statutes 1988, section 256B.056, subdivision 4, is amended to read:

Subd. 4. [INCOME.] To be eligible for medical assistance, a person must not have, or anticipate receiving, semiannual income in excess of ~~115~~ *120* percent of the income standards by family size used in the aid to families with dependent children program, except that families and children may have an income up to 133-1/3 percent of the AFDC income standard. Notwithstanding any laws or rules to the contrary, in computing income to determine eligibility of persons who are not residents of long-term care facilities, the commissioner shall disregard increases in income as required by Public Law Numbers 94-566, section 503; 99-272; and 99-509.

Sec. 47. Minnesota Statutes 1988, section 256B.056, subdivision 5, is amended to read:

Subd. 5. [EXCESS INCOME.] A person who has excess income is eligible for medical assistance if the person has expenses for medical care that are more than the amount of the person's excess income, computed by deducting incurred medical expenses from the excess income to reduce the excess to the income standard specified in subdivision 4. The person shall elect to have the medical expenses deducted ~~monthly~~ *at the beginning of a one-month budget period* or at the beginning of ~~the~~ *a six-month* budget period~~; or who is a pregnant woman or infant up to one year of age who meets the requirements of section 256B.055, subdivisions 1 to 9, except that her anticipated income is in excess of the income standards by family size used in the aid to families with dependent children program, but is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant up to one year of age with respect to this clause shall be without regard to the asset standards specified in subdivisions 2 and 4. For persons who reside in~~

~~licensed nursing homes, regional treatment centers, or medical institutions, the income over and above that required in section 256B.35 for personal needs allowance is to be applied to the cost of institutional care. In addition, income may be retained by an institutionalized person (a) to support dependents in the amount that, together with the income of the spouse and child under age 18, would provide net income equal to the medical assistance standard for the family size of the dependents excluding the person residing in the facility; or (b) for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if the person was not living together with a spouse or child under age 21 at the time the person entered a long-term care facility, if the person has expenses of maintaining a residence in the community, and if a physician certifies that the person is expected to reside in the long-term care facility on a short-term basis. For purposes of this section, persons are determined to be residing in licensed nursing homes, regional treatment centers, or medical institutions if the persons are expected to remain for a period expected to last longer than three months. The commissioner of human services may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care.~~ *The commissioner shall seek applicable waivers from the Secretary of Health and Human Services to allow persons eligible for assistance on a spend-down basis under this subdivision to elect to pay the monthly spend-down amount to the local agency in order to maintain eligibility on a continuous basis for medical assistance and to simplify payment to health care providers. If the local agency has not received payment of the spend-down amount by the 15th day of the month, the recipient is ineligible for this option for the following month. The commissioner may seek a waiver of the requirement of the Social Security Act that all requirements be uniform statewide, to phase in this option over a six-month period.*

Sec. 48. [256B.057] [ELIGIBILITY; INCOME AND ASSET LIMITATIONS FOR SPECIAL CATEGORIES.]

Subdivision 1. [PREGNANT WOMEN AND INFANTS.] *An infant less than one year of age or a pregnant woman, as certified in writing by a physician or nurse midwife, is eligible for medical assistance if countable family income is equal to or less than 185 percent of the federal poverty guideline for the same family size. Eligibility for a pregnant woman or infant less than one year of age under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.*

Subd. 2. [CHILDREN.] *A child one through seven years of age in a family whose countable income is less than 100 percent of the federal poverty guidelines for the same family size is eligible for medical assistance. Eligibility for children under this subdivision must be determined without regard to asset standards established in section 256B.056, subdivision 3. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.*

Subd. 3. [QUALIFIED MEDICARE BENEFICIARIES.] *A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 85 percent of the federal poverty guidelines, and whose assets are no*

more than twice the asset limit used to determine eligibility for the supplemental security income program, is eligible for medical assistance reimbursement of Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; to 95 percent on January 1, 1991; and to 100 percent on January 1, 1992. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the changes.

Sec. 49. [256B.0575] [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally-appointed guardian or conservator, five percent of the recipient's gross monthly income up to $100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member; and

(6) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized spouse that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (5), family member includes only minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse if the sibling resides with the community spouse.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 50. [256B.058] [TREATMENT OF INCOME OF INSTITUTIONALIZED SPOUSE.]

Subdivision 1. [INCOME NOT AVAILABLE.] *The income described in subdivisions 2 and 3 shall be deducted from an institutionalized spouse's monthly income and is not considered available for payment of the monthly costs of an institutionalized person in the institution after the person has been determined eligible for medical assistance.*

Subd. 2. [MONTHLY INCOME ALLOWANCE FOR COMMUNITY SPOUSE.] *(a) For an institutionalized spouse with a spouse residing in the community, monthly income may be allocated to the community spouse as a monthly income allowance for the community spouse. Beginning with the first full calendar month the institutionalized spouse is in the institution, the monthly income allowance is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution as long as the income is made available to the community spouse.*

(b) The monthly income allowance is the amount by which the community spouse's monthly maintenance needs allowance under paragraphs (c) and (d) exceeds the amount of monthly income otherwise available to the community spouse.

(c) The community spouse's monthly maintenance needs allowance is the lesser of $1,500 or 122 percent of the monthly federal poverty guideline for a family of two plus an excess shelter allowance. The excess shelter allowance is for the amount of shelter expenses that exceed 30 percent of 122 percent of the federal poverty guideline line for a family of two. Shelter expenses are the community spouse's expenses for rent, mortgage payments including principal and interest, taxes, insurance, required maintenance charges for a cooperative or condominium that is the community spouse's principal residence, and the standard utility allowance under section 5(e) of the federal Food Stamp Act of 1977. If the community spouse has a required maintenance charge for a cooperative or condominium, the standard utility allowance must be reduced by the amount of utility expenses included in the required maintenance charge.

If the community or institutionalized spouse establishes that the community spouse needs income greater than the monthly maintenance needs allowance determined in this paragraph due to exceptional circumstances resulting in significant financial duress, the monthly maintenance needs allowance may be increased to an amount that provides needed additional income.

(d) The percentage of the federal poverty guideline used to determine

the monthly maintenance needs allowance in paragraph (c) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes. The $1,500 maximum must be adjusted January 1, 1990, and every January 1 after that by the same percentage increase in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers.

(e) If a court has entered an order against an institutionalized spouse for monthly income for support of the community spouse, the community spouse's monthly income allowance under this subdivision shall not be less than the amount of the monthly income ordered.

Subd. 3. [FAMILY ALLOWANCE.] *(a) A family allowance determined under paragraph (b) is not considered available to the institutionalized spouse for monthly payment of costs of care in the institution.*

(b) The family allowance is equal to one-third of the amount by which 122 percent of the monthly federal poverty guideline for a family of two exceeds the monthly income for that family member.

(c) For purposes of this subdivision, the term family member only includes a minor or dependent child, dependent parent, or dependent sibling of the institutionalized or community spouse if the sibling resides with the community spouse.

(d) The percentage of the federal poverty guideline used to determine the family allowance in paragraph (b) is increased to 133 percent on July 1, 1991, and to 150 percent on July 1, 1992. Adjustments in the income limits due to annual changes in the federal poverty guidelines shall be implemented the first day of July following publication of the annual changes.

Subd. 4. [TREATMENT OF INCOME.] *(a) No income of the community spouse will be considered available to an eligible institutionalized spouse, beginning the first full calendar month of institutionalization, except as provided in this subdivision.*

(b) In determining the income of an institutionalized spouse or community spouse, after the institutionalized spouse has been determined eligible for medical assistance, the following rules apply.

(1) For income that is not from a trust, availability is determined according to items (i) to (v), unless the instrument providing the income otherwise specifically provides:

(i) if payment is made solely in the name of one spouse, the income is considered available only to that spouse;

(ii) if payment is made in the names of both spouses, one-half of the income is considered available to each;

(iii) if payment is made in the names of one or both spouses together with one or more other persons, the income is considered available to each spouse according to the spouse's interest, or one-half of the joint interest is considered available to each spouse if each spouse's interest is not specified;

(iv) if there is no instrument that establishes ownership, one-half of the income is considered available to each spouse; and

(v) either spouse may rebut the determination of availability of income by showing by a preponderance of the evidence that ownership interests are different than provided above.

(2) For income from a trust, income is considered available to each spouse as provided in the trust. If the trust does not specify an amount available to either or both spouses, availability will be determined according to items (i) to (iii):

(i) if payment of income is made only to one spouse, the income is considered available only to that spouse;

(ii) if payment of income is made to both spouses, one-half is considered available to each; and

(iii) if payment is made to either or both spouses and one or more other persons, the income is considered available to each spouse in proportion to each spouse's interest, or if no such interest is specified, one-half of the joint interest is considered available to each spouse.

Sec. 51. [256B.059] [TREATMENT OF ASSETS WHEN A SPOUSE IS INSTITUTIONALIZED.]

Subdivision 1. [DEFINITIONS.] *(a) For purposes of this section, the terms defined in this subdivision have the meanings given them.*

(b) "Community spouse" means the spouse of an institutionalized person.

(c) "Spousal share" means one-half of the total value of all assets, to the extent that either the institutionalized spouse or the community spouse had an ownership interest at the time of institutionalization.

(d) "Assets otherwise available to the community spouse" means assets individually or jointly owned by the community spouse, other than assets excluded by subdivision 5, paragraph (c).

(e) "Community spouse asset allowance" is the value of assets that can be transferred under subdivision 3.

Subd. 2. [ASSESSMENT OF SPOUSAL SHARE.] *At the beginning of a continuous period of institutionalization of a person, at the request of either the institutionalized spouse or the community spouse, or upon application for medical assistance, the total value of assets in which either the institutionalized spouse or the community spouse had an interest at the time of institutionalization shall be assessed and documented and the spousal share shall be assessed and documented.*

Subd. 3. [COMMUNITY SPOUSE ASSET ALLOWANCE.] *(a) An institutionalized spouse may transfer assets to the community spouse solely for the benefit of the community spouse. Except for increased amounts allowable under subdivision 4, the maximum amount of assets allowed to be transferred is the amount which, when added to the assets otherwise available to the community spouse, is the greater of:*

(1) $12,000;

(2) the lesser of the spousal share or $60,000; or

(3) the amount required by court order to be paid to the community spouse.

If the assets available to the community spouse are already at the limit permissible under this section, or the higher limit attributable to increases

under subdivision 4, no assets may be transferred from the institutionalized spouse to the community spouse. The transfer must be made as soon as practicable after the date the institutionalized spouse is determined eligible for medical assistance, or within the amount of time needed for any court order required for the transfer. On January 1, 1990, and every January 1 thereafter, the $12,000 and $60,000 limits shall be adjusted by the same percentage change in the consumer price index for all urban consumers (all items; United States city average) between the two previous Septembers. These adjustments shall also be applied to the $12,000 and $60,000 limits in subdivision 5.

Subd. 4. [INCREASED COMMUNITY SPOUSE ASSET ALLOWANCE; WHEN ALLOWED.] *(a) If either the institutionalized spouse or community spouse establishes that the community spouse asset allowance under subdivision 3 (in relation to the amount of income generated by such an allowance) is not sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance in section 256B.058, subdivision 2, paragraph (c), there shall be substituted for the amount allowed to be transferred an amount sufficient, when combined with the monthly income otherwise available to the spouse, to provide the minimum monthly maintenance needs allowance.*

(b) The community spouse asset allowance under subdivision 3 can be increased by court order or hearing that complies with the requirements of United States Code, title 42, section 1924.

Subd. 5. [ASSET AVAILABILITY.] *(a) At the time of application for medical assistance benefits, assets considered available to the institutionalized spouse shall be the total value of all assets in which either spouse has an ownership interest, reduced by the greater of:*

(1) $12,000; or

(2) the lesser of the spousal share or $60,000; or

(3) the amount required by court order to be paid to the community spouse. If the community spouse asset allowance has been increased under subdivision 4, then the assets considered available to the institutionalized spouse under this subdivision shall be further reduced by the value of additional amounts allowed under subdivision 4.

(b) After the month in which the institutionalized spouse is determined eligible for medical assistance, during the continuous period of institutionalization, no assets of the community spouse are considered available to the institutionalized spouse.

(c) For purposes of this section, assets do not include assets excluded under section 256B.056, without regard to the limitations on total value in that section.

Sec. 52. [256B.0595] [PROHIBITIONS ON TRANSFER; EXCEPTIONS.]

Subdivision 1. [PROHIBITED TRANSFERS.] *If an institutionalized person has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under section 256B.056, subdivision 3, within 30 months of the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months of the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care*

services for the period of time determined under subdivision 2. For purposes of this section, long-term care services include nursing facility services, and home and community-based services provided pursuant to section 256B.491. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility, or who is receiving home and community-based services under section 256B.491.

Subd. 2. [PERIOD OF INELIGIBILITY.] *For any uncompensated transfer, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.*

Subd. 3. [HOMESTEAD EXCEPTION TO TRANSFER PROHIBITION.] *(a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:*

(1) title to the homestead was transferred to the individual's

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of the excess resources created by the uncompensated transfer because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within 30 months of the transfer or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.

Subd. 4. [OTHER EXCEPTIONS TO TRANSFER PROHIBITION.] *An institutionalized person receiving medical assistance on the date of institutionalization who has transferred assets for less than fair market value within the 30 months immediately before the date of institutionalization or an institutionalized person who was not receiving medical assistance on the date of institutionalization and who has transferred assets for less than fair market value within 30 months immediately before the month of application is not ineligible for long-term care services if one of the following conditions apply:*

(1) the assets were transferred to the community spouse, as defined in section 256B.059; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to his or her spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship, and grants a waiver of excess assets. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within 30 months of the transfer, or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256B.

Sec. 53. Minnesota Statutes 1988, section 256B.062, is amended to read:

256B.062 [CONTINUED ELIGIBILITY.]

~~Subdivision 1. Any family which was eligible for aid to families with dependent children in at least three of the six months immediately preceding the month in which the family became ineligible for aid to families with dependent children because of increased income from employment shall, while a member of the family is employed, remain eligible for medical assistance for four calendar months following the month in which the family would otherwise be determined to be ineligible due to the income and resources limitations of this chapter.~~

~~Subd. 2. A family whose eligibility for aid to families with dependent children is terminated because of the loss of the $30, or the $30 and one-third earned income disregard is eligible for medical assistance for 12 calendar months following the month in which the family loses medical assistance eligibility as an aid to families with dependent children recipient.~~ *Medical assistance may be paid for persons who received aid to families with dependent children in at least three of the six months preceding the*

month in which the person became ineligible for aid to families with dependent children, if the ineligibility was due to an increase in hours of employment or employment income or due to the loss of an earned income disregard. A person who is eligible for extended medical assistance is entitled to six months of assistance without reapplication, unless the assistance unit ceases to include a dependent child. For a person under 21 years of age, medical assistance may not be discontinued within the six-month period of extended eligibility until it has been determined that the person is not otherwise eligible for medical assistance. Medical assistance may be continued for an additional six months if the person meets all requirements for the additional six months, according to Title XIX of the Social Security Act, as amended by section 303 of the Family Support Act of 1988, Public Law Number 100-485.

Sec. 54. Minnesota Statutes 1988, section 256B.0625, subdivision 2, is amended to read:

Subd. 2. [SKILLED AND INTERMEDIATE NURSING CARE.] Medical assistance covers skilled nursing home services and services of intermediate care facilities, including training and habilitation services, as defined in section 252.41, subdivision 3, for persons with mental retardation or related conditions who are residing in intermediate care facilities for persons with mental retardation or related conditions. Medical assistance must not be used to pay the costs of nursing care provided to a patient in a swing bed as defined in section 144.562~~, unless (a) the facility in which the swing bed is located is eligible as a sole community provider, as defined in Code of Federal Regulations, title 42, section 412.92, or the facility is a public hospital owned by a governmental entity with 15 or fewer licensed acute care beds; (b) the health care financing administration approves the necessary state plan amendments; (c) the patient was screened as provided in section 256B.091; (d) the patient no longer requires acute care services; and (e) no nursing home beds are available within 25 miles of the facility. The daily medical assistance payment for nursing care for the patient in the swing bed is the statewide average medical assistance skilled nursing care per diem as computed annually by the commissioner on July 1 of each year~~.

Sec. 55. Minnesota Statutes 1988, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner. The commissioner shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is 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 *and pregnant or nursing women*; 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 the commissioner's 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.

(b) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug may be estimated by the commissioner. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. 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. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

Sec. 56. Minnesota Statutes 1988, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. [TRANSPORTATION COSTS.] *(a)* Medical assistance covers 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 subdivision, a person who is incapable of transport by taxicab or bus shall be considered to be nonambulatory.

(b) Special transportation, as defined in Minnesota Rules, part 9505.0315, subpart 1, item F, provided to nonambulatory persons who do not need a wheelchair lift van or stretcher-equipped vehicle, may be reimbursed at a lower rate than special transportation provided to persons who need a wheelchair lift van or stretcher-equipped vehicle.

Sec. 57. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 26. [SPECIAL EDUCATION SERVICES.] *Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.*

Sec. 58. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 27. [ORGAN AND TISSUE TRANSPLANTS.] *Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program, provided those procedures comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program.*

Sec. 59. [256B.0642] [FEDERAL FINANCIAL PARTICIPATION.]

The commissioner may, in the aggregate, prospectively reduce payment rates for medical assistance providers receiving federal funds to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare limitations.

Sec. 60. Minnesota Statutes 1988, section 256B.091, subdivision 3, is

amended to read:

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

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

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

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

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

(e) Recommendations for individuals screened regarding:

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

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

(f) *Assessment of active treatment needs:*

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

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

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

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

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

Sec. 61. Minnesota Statutes 1988, 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 the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, *and* a qualified

mental retardation professional, as defined in the Code of Federal Regulations, title 42, section ~~442.401~~ *483.430*, as amended through ~~December 31, 1987.~~ *June 3, 1988. The case manager may also act as the qualified mental retardation professional if the case manager meets the federal definition. County social service agencies may contract with a public or private agency or individual who is not a service provider for the person for the public guardianship representation required by the screening or individual service and habilitation planning process. The contract shall be limited to public guardianship representation for the screening and individual service and habilitation planning activities. The contract shall require compliance with the commissioner's instructions, and may be for paid or voluntary services.* For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons 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. 62. [256B.093] [SERVICES FOR PERSONS WITH BRAIN INJURIES.]

Subdivision 1. [STATE COORDINATOR.] *The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with brain injuries.*

Subd. 2. [ELIGIBILITY.] *The commissioner may contract with qualified agencies or persons to provide case management services to medical assistance recipients who are at risk of institutionalization and meet one of the following criteria:*

(a) The person has a brain injury.

(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:

(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;

(2) the person is unable to direct the person's own care;

(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);

(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or

(6) the person has received or will receive home care services for longer than six months.

Subd. 3. [CASE MANAGEMENT DUTIES.] *The department shall fund*

the case management contracts using medical assistance administrative funds. The contractor must:

(1) assess the person's individual needs for services required to prevent institutionalization;

(2) assure that a care plan that meets the person's needs is developed by the appropriate agency or individual;

(3) assist the person in obtaining services necessary to allow the person to remain in the community;

(4) coordinate home care services with other medical assistance services under section 256B.0625;

(5) assure cost effectiveness of medical assistance services;

(6) make recommendations to the commissioner on the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(7) assist the person with problems related to the provision of home care services;

(8) assure the quality of home care services; and

(9) reassess the person's need for and level of home care services at a frequency determined by the commissioner.

Subd. 4. [DEFINITIONS.] *For purposes of this section, the following definitions apply:*

(a) "Brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative nature. The insult or damage may produce an altered state of consciousness or a decrease in mental, cognitive, behavioral, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions 6, 7, and 19.

Sec. 63. Minnesota Statutes 1988, section 256B.14, is amended to read:

256B.14 [RELATIVE'S RESPONSIBILITY.]

Subdivision 1. [IN GENERAL.] Subject to the provisions of sections 256B.055, 256B.056, and 256B.06, responsible relative means the ~~spouse of a medical assistance recipient or~~ parent of a minor recipient of medical assistance.

Subd. 2. [ACTIONS TO OBTAIN PAYMENT.] The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete repayment of medical assistance furnished to recipients for whom they are responsible. ~~No resource contribution is required of a spouse at the time of the first approved medical assistance application.~~ These rules shall not require repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27, subdivision 2, for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(e)(3), while living

in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care. The county agency shall give the responsible relative notice of the amount of the repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 64. Minnesota Statutes 1988, section 256B.25, is amended by adding a subdivision to read:

Subd. 4. [PAYMENT DURING SUSPENDED ADMISSIONS.] *A nursing home or boarding care home that has received a notice to suspend admissions under section 144A.10, subdivision 4a, shall be ineligible to receive payment for admissions that occur during the effective dates of the suspension. Upon termination of the suspension by the commissioner of health, payments may be made for eligible persons, beginning with the day after the suspension ends.*

Sec. 65. Minnesota Statutes 1988, section 256B.421, subdivision 14, is amended to read:

Subd. 14. [FRINGE BENEFITS.] "Fringe benefits" means workers' compensation insurance, group health or dental insurance, group life insurance, retirement benefits or plans, *except for public employee retirement act contributions,* and uniform allowances.

Sec. 66. Minnesota Statutes 1988, section 256B.431, subdivision 2b, is amended to read:

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

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

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

(d) The commissioner shall establish limits on actual allowable historical

operating cost per diems based on cost reports of allowable operating costs for the reporting year that begins October 1, 1983, taking into consideration relevant factors including resident needs, geographic location, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. In developing the geographic groups for purposes of reimbursement under this section, the commissioner shall ensure that nursing homes in any county contiguous to the Minneapolis-St. Paul seven-county metropolitan area are included in the same geographic group. The limits established by the commissioner shall not be less, in the aggregate, than the 60th percentile of total actual allowable historical operating cost per diems for each group of nursing homes established under subdivision 1 based on cost reports of allowable operating costs in the previous reporting year. For rate years beginning on or after July 1, 1987, or until the new base period is established, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987, may choose to have the commissioner apply either the care related limits or the other operating cost limits calculated for facilities located in geographic group II, or both, if either of the limits calculated for the group II facilities is higher. The efficiency incentive for geographic group I nursing homes must be calculated based on geographic group I limits. The phase-in must be established utilizing the chosen limits. For purposes of these exceptions to the geographic grouping requirements, the definitions in Minnesota Rules, parts 9549.0050 to 9549.0059 (Emergency), and 9549.0010 to 9549.0080, apply. The limits established under this paragraph remain in effect until the commissioner establishes a new base period. Until the new base period is established, the commissioner shall adjust the limits annually using the appropriate economic change indices established in paragraph (e). In determining allowable historical operating cost per diems for purposes of setting limits and nursing home payment rates, the commissioner shall divide the allowable historical operating costs by the actual number of resident days, except that where a nursing home is occupied at less than 90 percent of licensed capacity days, the commissioner may establish procedures to adjust the computation of the per diem to an imputed occupancy level at or below 90 percent. The commissioner shall establish efficiency incentives as appropriate. The commissioner may establish efficiency incentives for different operating cost categories. The commissioner shall consider establishing efficiency incentives in care related cost categories. The commissioner may combine one or more operating cost categories and may use different methods for calculating payment rates for each operating cost category or combination of operating cost categories. For the rate year beginning on July 1, 1985, the commissioner shall:

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

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

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

of the 105 percent.

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

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

(g) The commissioner shall include the reported actual real estate tax liability or payments in lieu of real estate tax of each nursing home as an operating cost of that nursing home. Allowable costs under this subdivision for payments made by a nonprofit nursing home that are in lieu of real estate taxes shall not exceed the amount which the nursing home would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes. For rate years beginning on or after July 1, 1987, the reported actual real estate tax liability or payments in lieu of real estate tax of nursing homes shall be adjusted to include an amount equal to one-half of the dollar change in real estate taxes from the prior year. The commissioner shall include a reported actual special assessment, and reported actual license fees required by the Minnesota department of health, for each nursing home as an operating cost of that nursing home. *For rate years beginning on or after July 1, 1989, the commissioner shall include a nursing home's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories and other operating cost categories multiplied by the appropriate composite index or indices established pursuant to paragraph (e) as costs under this paragraph.* Total adjusted real estate tax liability, payments in lieu of real estate tax, actual special assessments paid, *the indexed public employee retirement act contribution,* and license fees paid as required by the Minnesota department of health, for each nursing home (1) shall be divided by actual resident days in order to compute the operating cost payment rate for this operating cost category, (2) shall not be used to compute the ~~60th percentile~~ *care-related operating cost limits* or other operating cost limits established by the commissioner, and (3) shall not be increased by the composite index or indices established pursuant to paragraph (e), *unless otherwise indicated in this paragraph.*

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

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

Sec. 67. Minnesota Statutes 1988, section 256B.431, subdivision 2e, is amended to read:

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

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

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

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

(4) the commissioner has determined that necessary services for the person cannot be provided under existing nursing home rates.

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

(1) the cost effectiveness and appropriateness of services;

(2) the nursing home's compliance with federal and state licensing and certification standards; and

(3) the proximity of the nursing home to a ventilator dependent person identified by the commissioner who requires nursing home placement.

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

Sec. 68. Minnesota Statutes 1988, section 256B.431, subdivision 2i, is amended to read:

Subd. 2i. [OPERATING COSTS AFTER JULY 1, 1988.] (a) [OTHER OPERATING COST LIMITS.] For the rate year beginning July 1, 1988, the commissioner shall increase the other operating cost limits established in Minnesota Rules, part 9549.0055, subpart 2, item E, to 110 percent of the median of the array of allowable historical other operating cost per

diems and index these limits as in Minnesota Rules, part 9549.0056, subparts 3 and 4. The limits must be established in accordance with subdivision 2b, paragraph (d). For rate years beginning on or after July 1, 1989, the adjusted other operating cost limits must be indexed as in Minnesota Rules, part 9549.0056, subparts 3 and 4.

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

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

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

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

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

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

~~Public Employee Retirement Act and contributions to other employee pension plans if the pension plan existed on March 1, 1988.~~

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

(1) statutory changes made in geographic groups;

(2) redefinitions of cost categories; and

(3) reclassification, pass-through, or exemption of certain costs such as public employee retirement act contributions.

Sec. 69. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

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

higher cost limits accorded hospital-based nursing facilities under the Medicare program, or, prior to June 30, 1983, was classified as a hospital-attached nursing home under Minnesota Rules, parts 9510.0010 to 9510.0480, provided that the nursing home's cost report filed under Minnesota Rules, parts 9549.0010 to 9549.0080, shall use the same cost allocation principles and methods used in the reports filed for the Medicare program.

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

Sec. 70. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2k. [OPERATING COSTS AFTER JULY 1, 1989.] *For rate years beginning on or after July 1, 1989, a nursing home that is exempt under subdivision 2b, paragraph (d), clause (2); whose total number of licensed*

beds are licensed under Minnesota Rules, parts 9570.2000 to 9570.3600; and that maintains an average length of stay of less than 365 days during each reporting year, is limited to 140 percent of the other-operating-cost limit for hospital-attached nursing homes as established by Minnesota Rules, part 9549.0055, subpart 2, item E, subitem (2), as modified by subdivision 2i, paragraph (a). For purposes of this subdivision, the nursing home's average length of stay must be computed by dividing the nursing home's actual resident days for the reporting year by the nursing home's total discharges for that reporting year.

Sec. 71. Minnesota Statutes 1988, section 256B.431, subdivision 3a, is amended to read:

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

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

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

(2) minimize discretionary or appealable decisions;

(3) eliminate any incentives to sell nursing homes;

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

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

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

(7) establish an investment per bed limitation;

(8) reward efficient management of capital assets;

(9) provide equitable treatment of facilities;

(10) consider a variable rate; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 72. Minnesota Statutes 1988, section 256B.431, subdivision 3f, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Sec. 73. Minnesota Statutes 1988, section 256B.431, subdivision 3g, is amended to read:

Subd. 3g. [PROPERTY COSTS AFTER JULY 1, 1990, FOR CERTAIN FACILITIES.] For rate years beginning on or after July 1, 1990, ~~non-hospital-attached~~ nursing homes that, on or after January 1, 1976, but prior to ~~December 31, 1985~~ *January 1, 1987*, were newly licensed after new construction, or increased their licensed beds by a minimum of 35 percent through new construction, and whose building capital allowance is less than their allowable annual principal and interest on allowable debt prior to the application of the replacement-cost-new per bed limit and whose remaining weighted average debt amortization schedule as of January 1, 1988, exceeded 15 years, must receive a property-related payment rate equal to the greater of their rental per diem or their annual allowable principal and allowable interest without application of the replacement-cost-new per bed limit *divided by their capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), from the preceding reporting year,* plus their equipment allowance. A nursing home that is eligible for a property-related payment rate under this subdivision and whose property-related payment rate in a subsequent rate year is its rental per diem must continue to have its property-related payment rates established for all future rate years based on the rental reimbursement method in Minnesota Rules, part 9549.0060.

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

Sec. 74. Minnesota Statutes 1988, section 256B.431, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of

the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

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

(1) the sale or transfer of a nursing home upon death of an owner;

(2) the sale or transfer of a nursing home due to serious illness or disability of an owner as defined under the social security act;

(3) the sale or transfer of the nursing home upon retirement of an owner at 62 years of age or older;

(4) any transaction in which a partner, owner, or shareholder acquires an interest or share of another partner, owner, or shareholder in a nursing home business provided the acquiring partner, owner, or shareholder has less than 50 percent ownership after the acquisition;

(5) a sale and leaseback to the same licensee which does not constitute a change in facility license;

(6) a transfer of an interest to a trust;

(7) gifts or other transfers for no consideration;

(8) a merger of two or more related organizations;

(9) a transfer of interest in a facility held in receivership;

(10) a change in the legal form of doing business other than a publicly held organization which becomes privately held or vice versa;

(11) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing home or the issuance of stock; or

(12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

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

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

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

Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

Sec. 75. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

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

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

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

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

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

registered nurse, the director of nurses' hours must be included in the compensated hours for registered nurses in clause (2); and

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

(b) The one-time nursing staff adjustment to the payment rate is effective from January 1, 1990, to June 30, 1991.

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

Sec. 76. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 8. [ONETIME PER DIEM RATE ADJUSTMENT FOR INCREASED COSTS UNDER THE OMNIBUS BUDGET RECONCILIATION ACT.] *For the rate period January 1, 1990, through June 30, 1991, the commissioner shall add 30 cents per resident per day to the nursing home's payment rate. The adjustment must not be paid to freestanding boarding care homes.*

Sec. 77. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

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

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

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

(d) The maximum allowable annual adjustment per bed is $300.

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

(f) The onetime adjustment determined is effective from January 1, 1990, to June 30, 1991.

Sec. 78. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 10. [APPRAISAL SAMPLE STABILIZATION AND SPECIAL REAPPRAISALS.] *(a) The percentage change in appraised values for nursing homes in the sample used for routine updating of appraised values under Minnesota Rules, part 9549.0060, subpart 2, shall be stabilized by eliminating from the sample of nursing home those appraisals that represent the five highest and the five lowest deviations from those nursing homes' previously established appraised values.*

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

Sec. 79. Minnesota Statutes 1988, section 256B.47, subdivision 3, is amended to read:

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

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

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

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

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

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

sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

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

Sec. 80. Minnesota Statutes 1988, section 256B.48, subdivision 1, is amended to read:

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

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

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

(c) Requiring any resident of the nursing home to utilize a vendor of

health care services who is a licensed physician or pharmacist chosen by the nursing home.

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

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance *or refusal to purchase special services*. Admissions discrimination shall include, but is not limited to:

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

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

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

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

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

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

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

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

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

account upon request; and

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

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation, and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

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

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

Sec. 81. Minnesota Statutes 1988, section 256B.48, subdivision 6, is amended to read:

Subd. 6. [MEDICARE CERTIFICATION.] *(a)* [DEFINITION.] *For purposes of this subdivision, "nursing facility" means a nursing home that is certified as a skilled nursing facility or, after September 30, 1990, a nursing home licensed under chapter 144A that is certified as a nursing facility.*

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

~~Until September 30, 1987, the commissioner of health may grant exceptions from this requirement when a nursing home submits a written request for exception and it is determined that there is sufficient participation in the Medicare program to meet the needs of Medicare beneficiaries in that region of the state. For the purposes of this section, the relevant region is the county in which the nursing home is located together with contiguous Minnesota counties. There is sufficient participation in the Medicare program in a particular region when the proportion of skilled resident days paid by the Medicare program is at least equal to the national average~~

~~based on the most recent figure that can be supplied by the federal health care financing administration. A nursing home that is granted an exception under this subdivision must give appropriate notice to all applicants for admission that Medicare coverage is not available in the nursing home and publish this fact in all literature and advertisement related to the nursing home.~~

(c) [UNTIL SEPTEMBER 30, 1990.] *Until September 30, 1990, a nursing facility satisfies the requirements of paragraph (b) if: (1) at least 50 percent of the facility's beds that are licensed under section 144A and certified as skilled nursing beds under the medical assistance program are Medicare certified; or (2) if a nursing facility's beds are licensed under section 144A, and some are medical assistance certified as skilled nursing beds and others are Medical assistance certified as intermediate care facility I beds, at least 50 percent of the facility's total skilled nursing beds and intermediate care facility I beds or 100 percent of its skilled nursing beds, whichever is less, are Medicare certified.*

(d) [OCTOBER 1, 1990, TO JUNE 30, 1991.] *After September 30, 1990, and until June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if at least 50 percent of the facility's beds certified as nursing facility beds under the medical assistance program are Medicare certified.*

(e) [AFTER JUNE 30, 1991.] *After June 30, 1991, a nursing facility satisfies the requirements of paragraph (b) if 100 percent of the facility's beds that are certified as nursing facility beds under the medical assistance program are Medicare certified.*

(f) [PROHIBITED TRANSFERS.] *A resident in a skilled nursing bed or, after September 30, 1990, a resident in any nursing facility bed, who is eligible for medical assistance and who becomes eligible for Medicare has the right to refuse an intrafacility skilled nursing bed transfer if the commissioner approves the exception request based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident. A resident who is occupying a skilled nursing bed or, after September 30, 1990, a nursing facility bed certified by the medical assistance and Medicare programs, has the right to refuse a transfer if the resident's bed is needed for a Medicare-eligible patient or private-pay patient and if the commissioner approves the exception based on written documentation submitted by a physician that the transfer would create or contribute to a health problem for the resident.*

(g) [INSTITUTIONS FOR MENTAL DISEASE.] *The commissioner may grant exceptions to the requirements of paragraph (b) for nursing facilities that are designated as institutions for mental disease.*

(h) [NOTICE OF RIGHTS.] *The commissioner shall inform recipients of their rights under this subdivision and section 144.651, subdivision 29.*

Sec. 82. Minnesota Statutes 1988, section 256B.48, subdivision 8, is amended to read:

Subd. 8. [NOTIFICATION TO A SPOUSE.] When a private pay resident who has not yet been screened by the preadmission screening team is admitted to a nursing home or boarding care facility, the nursing home or boarding care facility must notify the resident and the resident's spouse of the following:

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

(2) that the federal Medicare hospital insurance benefits program covers posthospital extended care services in a qualified skilled nursing facility for up to ~~100~~ *150* days and that there are several limitations on this benefit. The resident and the resident's family must be informed about all mechanisms to appeal limitations imposed under this federal benefit program.

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

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

Sec. 83. [256B.495] [LONG-TERM CARE RECEIVERSHIP FEES.]

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

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

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

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

(c) Notification of the payment rate increase must meet the requirements of section 256B.47, subdivision 2.

(d) The payment rate in paragraph (b) for a nursing home shall be effective the first day of the month following the receiver's compliance with the notice conditions in paragraph (c). The payment rate in paragraph (b)

for an intermediate care facility for the mentally retarded shall be effective on the first day of the rate year in which the receivership fee per diem is determined.

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

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

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

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

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

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

Sec. 84. Minnesota Statutes 1988, section 256B.501, subdivision 3, is amended to read:

Subd. 3. [RATES FOR INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] The commissioner shall establish, by rule, procedures for determining rates for care of residents of intermediate care facilities for persons with mental retardation or related conditions. The procedures shall be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of residents in efficiently and economically operated facilities. In developing the procedures, the commissioner shall include:

(a) cost containment measures that assure efficient and prudent management of capital assets and operating cost increases which do not exceed increases in other sections of the economy;

(b) limits on the amounts of reimbursement for property, general and administration, and new facilities;

(c) requirements to ensure that the accounting practices of the facilities conform to generally accepted accounting principles;

(d) incentives to reward accumulation of equity;

(e) a revaluation on sale *between unrelated organizations* for a facility that, for at least three years before its use as an intermediate care facility, has been used by the seller as a single family home and been claimed by the seller as a homestead, and was not revalued immediately prior to or upon entering the medical assistance program, provided that the facility revaluation not exceed the amount permitted by the Social Security Act, section 1902(a)(13); and

(f) appeals procedures that satisfy the requirements of section 256B.50 for appeals of decisions arising from the application of standards or methods pursuant to Minnesota Rules, parts 9510.0500 to 9510.0890, 9553.0010 to 9553.0080, and 12 MCAR 2.05301 to 2.05315 (temporary).

In establishing rules and procedures for setting rates for care of residents in intermediate care facilities for persons with mental retardation or related conditions, the commissioner shall consider the recommendations contained in the February 11, 1983, Report of the Legislative Auditor on Community Residential Programs for the Mentally Retarded and the recommendations contained in the 1982 Report of the Department of Public Welfare Rule 52 Task Force. Rates paid to supervised living facilities for rate years beginning during the fiscal biennium ending June 30, 1985, shall not exceed the final rate allowed the facility for the previous rate year by more than five percent.

Sec. 85. Minnesota Statutes 1988, section 256B.501, subdivision 3g, is amended to read:

Subd. 3g. [ASSESSMENT OF RESIDENTS.] For rate years beginning on or after October 1, 1990, the commissioner shall establish program operating cost rates for care of residents in facilities that take into consideration service characteristics of residents in those facilities. To establish the service characteristics of residents, the quality assurance and review teams in the department of health shall assess all residents annually beginning January 1, 1989, using a uniform assessment instrument developed by the commissioner. This instrument shall include assessment of the client's behavioral needs, integration into the community, ability to perform activities of daily living, medical and therapeutic needs, and other relevant factors determined by the commissioner. The commissioner may ~~establish procedures to adjust the program operating costs of facilities based on a comparison of client services characteristics, resource needs, and costs.~~ *adjust the program operating cost rates of facilities based on a comparison of client service characteristics, resource needs, and costs. The commissioner may adjust a facility's payment rate during the rate year when accumulated changes in the facility's average service units exceed the minimums established in the rules required by subdivision 3j.*

Sec. 86. Minnesota Statutes 1988, section 256B.501, is amended by adding a subdivision to read:

Subd. 3k. [EXPERIMENTAL PROJECT.] *The commissioner of human services may conduct and administer experimental projects to determine*

the effects of competency-based wage adjustments for direct-care staff on the quality of care and active treatment for persons with mental retardation or related conditions. The commissioner shall authorize one project under the following conditions:

(a) One service provider will participate in the project.

(b) The vendor must have an existing competency-based training curriculum and a proposed salary schedule that is coordinated with the training package.

(c) The University of Minnesota affiliated programs must approve the content of the training package and assist the vendor in studying the impact on service delivery and outcomes for residents under a competency-based salary structure. The study and its conclusions must be presented to the commissioner at the conclusion of the project.

(d) The project will last no more than 21 months from its inception.

(e) The project will be funded by Title XIX, medical assistance and the costs incurred shall be allowable program operating costs for future rate years under Minnesota Rules, parts 9553.0010 to 9553.0080. The project's total annual cost must not exceed $49,500. The commissioner shall establish an adjustment to the selected facility's per diem by dividing the $49,500 by the facility's actual resident days for the reporting year ending December 31, 1988. The facility's experimental training project per diem shall be effective on October 1, 1989, and shall remain in effect for the 21-month period ending June 30, 1991.

(f) Only service vendors who have submitted a determination of need pursuant to Minnesota Rules, parts 9525.0015 to 9525.0165, and Minnesota Statutes, section 252.28, requesting the competency-based training program cost increase are eligible. Furthermore, they are only eligible if their determination of need was approved prior to January 1, 1989, and funds were not available to implement the plan.

Sec. 87. Minnesota Statutes 1988, section 256B.69, subdivision 4, is amended to read:

Subd. 4. [LIMITATION OF CHOICE.] The commissioner shall develop criteria to determine when limitation of choice may be implemented in the experimental counties. The criteria shall ensure that all eligible individuals in the county have continuing access to the full range of medical assistance services as specified in subdivision 6. The commissioner shall exempt the following persons from participation in the project, in addition to those who do not meet the criteria for limitation of choice: (1) persons eligible for medical assistance according to section 256B.055, subdivision 1, or who are in foster placement; ~~and~~ (2) persons eligible for medical assistance due to blindness or disability as determined by the social security administration or the state medical review team, unless they are 65 years of age or older; *(3) recipients who currently have private coverage through a health maintenance organization; and (4) recipients who are eligible for medical assistance by spending down excess income for medical expenses other than the nursing facility per diem expense*. Before limitation of choice is implemented, eligible individuals shall be notified and after notification, shall be allowed to choose only among demonstration providers. After initially choosing a provider, the recipient is allowed to change that choice only at specified times as allowed by the commissioner. *If a demonstration provider ends participation in the project for any reason, a recipient enrolled*

with that provider must select a new provider but may change providers without cause once more within the first 60 days after enrollment with the second provider.

Sec. 88. Minnesota Statutes 1988, section 256B.69, subdivision 5, is amended to read:

Subd. 5. [PROSPECTIVE PER CAPITA PAYMENT.] The ~~project advisory committees with the~~ commissioner shall establish the method and amount of payments for services. The commissioner shall annually contract with demonstration providers to provide services consistent with these established methods and amounts for payment. Notwithstanding section 62D.02, subdivision 1, payments for services rendered as part of the project may be made to providers that are not licensed health maintenance organizations on a risk-based, prepaid capitation basis.

If allowed by the commissioner, a demonstration provider may contract with an insurer, health care provider, nonprofit health service plan corporation, or the commissioner, to provide insurance or similar protection against the cost of care provided by the demonstration provider or to provide coverage against the risks incurred by demonstration providers under this section. The recipients enrolled with a demonstration provider are a permissible group under group insurance laws and chapter 62C, the Nonprofit Health Service Plan Corporations Act. Under this type of contract, the insurer or corporation may make benefit payments to a demonstration provider for services rendered or to be rendered to a recipient. Any insurer or nonprofit health service plan corporation licensed to do business in this state is authorized to provide this insurance or similar protection.

Payments to providers participating in the project are exempt from the requirements of sections 256.966 and 256B.03, subdivision 2. The commissioner shall complete development of capitation rates for payments before delivery of services under this section is begun. *For payments made during calendar year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.*

Sec. 89. Minnesota Statutes 1988, section 256B.69, subdivision 11, is amended to read:

Subd. 11. [APPEALS.] A recipient may appeal to the commissioner a demonstration provider's delay or refusal to provide services, *according to section 256.045*. ~~The commissioner shall appoint a panel of health practitioners, including social service practitioners, as necessary to determine the necessity of services provided or refused to a recipient. The deliberations and decisions of the panel replace the administrative review process otherwise available under chapter 256. The panel shall follow the time requirements and other provisions of the Code of Federal Regulations, title 42, sections 431.200 to 431.246. The time requirements shall be expedited based on request by the individual who is appealing for emergency services. If a service is determined to be necessary and is included among the benefits for which a recipient is enrolled, the service must be provided by the demonstration provider as specified in subdivision 5. The panel's decision is a final agency action.~~

Sec. 90. Minnesota Statutes 1988, section 256B.69, is amended by adding a subdivision to read:

Subd. 17. [CONTINUATION OF PREPAID MEDICAL ASSISTANCE.] *The commissioner may continue the provisions of this section after June*

30, 1990, in any or all of the participating counties if necessary federal authority is granted. The commissioner may adopt permanent rules to continue prepaid medical assistance in these areas.

Sec. 91. Minnesota Statutes 1988, section 256D.03, subdivision 3, is amended to read:

Subd. 3. [GENERAL ASSISTANCE MEDICAL CARE; ELIGIBILITY.] (a) General assistance medical care may be paid for any person:

(1) who is eligible for assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B; or

(2) *(i)* who is a resident of Minnesota; ~~whose income as calculated under chapter 256B is not in excess of the medical assistance standards or whose excess income is spent down pursuant to chapter 256B;~~ and whose equity in ~~resources~~ *assets* is not in excess of $1,000 per assistance unit. Exempt ~~real and liquid~~ assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in chapter 256B~~.~~*; and*

(ii) who has countable income not in excess of the assistance standards established in section 256B.056, subdivision 4, or whose excess income is spent down pursuant to section 256B.056, subdivision 5. The method for calculating earned income disregards and deductions for a person who resides with a dependent child under age 21 shall be as specified in section 256.74, subdivision 1. The earned income deductions for a person who does not reside with a dependent child under age 21 shall be the same as the method used to determine eligibility for a person under section 256D.06, subdivision 1, except for the disregard of the first $50 of earned income; or

(3) who is over age 18 and who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner or the federal health care financing administration to be an institution for mental diseases.

(b) Eligibility is available for the month of application and for three months prior to application if the person was eligible in those prior months. A redetermination of eligibility must occur every 12 months.

(c) General assistance medical care may be paid for a person, regardless of age, who is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, if the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(d) General assistance medical care is not available for applicants or recipients who do not cooperate with the local agency to meet the requirements of medical assistance.

(e) In determining the amount of assets of an individual, there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 30 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care,

unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired. The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired.

Sec. 92. Minnesota Statutes 1988, 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, chiropractic services as covered under the medical assistance program, podiatric services, and dental care. In addition, payments of state aid shall be made for:

(1) outpatient services provided by a mental health center or clinic that is under contract with the county board and is certified under Minnesota Rules, parts ~~9520.0750~~ *9520.0010* to ~~9520.0870~~ *9520.0230*;

(2) day treatment services *for mental illness* provided under contract with the county board; ~~and~~

(3) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization~~.~~*;*

(4) case management services for a person with serious and persistent mental illness who would be eligible for medical assistance except that the person resides in an institution for mental diseases;

(5) psychological services, medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments for a person who would be eligible for medical assistance except that the person resides in an institution for mental diseases; and

(6) equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision.

(b) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary

services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. ~~The rates payable under this section must be calculated according to section 256B.031, subdivision~~ 4 *For payments made during fiscal year 1990 and later years, the commissioner shall contract with an independent actuary to establish prepayment rates.*

(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, 1985, to December 31, 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 general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than ten percent.

For the period January 1, 1986 to December 31, 1986, 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 20 percent; payments for all other inpatient hospital care may be reduced no more than 15 percent. Reductions below the payments allowable under general assistance medical care for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period January 1, 1987 to June 30, 1987, 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 15 percent; payments for all other inpatient hospital care may be reduced no more than ten percent. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1987, to June 30, 1988, 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 15 percent; payments for all other inpatient hospital care may be reduced no more than five percent. Reductions below

the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five percent.

For the period July 1, 1988, to June 30, 1989, 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 15 percent; payments for all other inpatient hospital care may not be reduced. Reductions below the payments allowable under medical assistance for the remaining general assistance medical care services allowable under this subdivision may be reduced no more than five 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 Laws 1986, chapter 394, sections 8 to 20, must not be reimbursed under general assistance medical care.

(f) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(g) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

Sec. 93. Minnesota Statutes 1988, section 297.13, subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT.] Revenues received from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner of revenue in a separate and special fund, designated as the tobacco tax revenue fund, in the state treasury and credited as follows:

(a) first to the general obligation special tax bond debt service account in each fiscal year the amount required to increase the balance on hand in the account on each December 1 to an amount equal to the full amount of principal and interest to come due on all outstanding bonds whose debt service is payable primarily from the proceeds of the tax to and including the second following July 1; and

(b) after the requirements of paragraph (a) have been met:

(1) the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota future resources account;

(2) the revenue produced by two mills of the tax on cigarettes weighing

not more than three pounds a thousand and four mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16, provided that, if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to the Minnesota state water pollution control fund created in section 116.16 less any amount credited to the general obligation special tax debt service account under paragraph (a), with respect to bonds issued for the prevention, control, and abatement of water pollution;

(3) ~~the revenue produced by one mill of the tax on cigarettes weighing not more than three pounds a thousand and two mills of the tax on cigarettes weighing more than three pounds a thousand must be credited to a public health fund, provided that if the tax on cigarettes imposed by United States Code, title 26, section 5701, as amended, is reduced after June 1, 1985, an additional two-tenths of one mill of the tax on cigarettes weighing not more than three pounds a thousand and an additional four-tenths of one mill of the tax on cigarettes weighing more than three pounds a thousand must be credited to the public health fund;~~

~~(4)~~ the balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be credited to the general fund.

Sec. 94. [STUDY AND REPORT ON NURSING HOME PROPERTY PAYMENTS VERSUS COSTS.] *(a) If a nursing home has rental per diem established by the commissioner under Minnesota Rules, part 9549.0060, for the rate year beginning July 1, 1989, that is inadequate to minimally cover their annual principle and interest payments, that nursing home must submit copies of their amortization schedules to the commissioner by June 30, 1989, for all debts except working capital debt. The term "inadequate to minimally cover their annual principle and interest" means the annual principle and interest payments on the nursing home's debt for its land, land improvements, buildings, attached fixtures, and depreciable equipment used directly for resident care are more than the July 1, 1989, rental per diem multiplied by the nursing home's resident days for the reporting year ending September 30, 1988. The information regarding the nursing home's amortization schedules which must be submitted to the commissioner for each debt shall include:*

(1) a monthly amortization schedule starting the later of October 1, 1983, or the date the debt was incurred, through the remaining term of the debt;

(2) the interest rate, if fixed;

(3) if the interest rate is variable, the current variable interest rate and the method by which the interest rate may be changed;

(4) the original amount borrowed;

(5) the assets or other collateral pledged as security for the debt;

(6) the cost of the assets purchased or the amount of the debt refinanced;

(7) a copy of the loan, bond, or mortgage agreement may be supplied or made available for inspection by the commissioner;

(8) sinking fund requirements and balances, if any;

(9) the lender's name and relationship to the nursing home's owners, if any; and

(10) other information that may be requested by the commissioner regarding the nursing home's debt upon review of the information provided in clauses (1) to (9).

(b) The commissioner shall contract with an independent financial consultant to review and analyze the financial data in paragraph (a) and to study the concept of a capital asset replacement fund, and the consultant shall assist the commissioner in the development of a report which must be submitted to the legislative commission on long-term care by January 1, 1990.

(c) The report shall identify the underlying reasons why each nursing home in paragraph (a) is unable to meet its annual debt obligations, possible actions or resources available to the nursing home that could be used to address its debt obligations such as the nursing home's efficiency incentive, investments, or related organization transactions or investments. The report shall include suggested solutions and recommendations for each nursing home. The report must also address the need for a capital asset replacement fund and the relative need for such a fund given the provision for capital reimbursement under the rental reimbursement system, the varying levels of property reimbursement among nursing homes, the various debt and financial structures of nursing homes, their actual property costs in terms of their annual principal and interest requirements, the cost of replacing or repairing capital assets under the reimbursement system, and the adequacy of the equipment allowance.

Sec. 95. [STUDY OF NURSING HOME WORKERS' COMPENSATION COSTS.]

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

Sec. 96. [STUDY.]

The commissioner of health shall review the provisions of Minnesota Statutes, chapter 144A, regarding the revocation, suspension, and nonrenewal of nursing home licenses and provisions relating to controlling persons and managerial employees. The results of the commissioner's review and any recommendations for change must be submitted to the legislature by February 15, 1990. The commissioner shall consult with consumer and nursing home provider organizations during this review.

Sec. 97. [TEMPORARY PROVISIONS RELATING TO INSTITUTIONS FOR MENTAL DISEASES.]

Subdivision 1. [ELIGIBILITY FOR GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTA SUPPLEMENTAL AID.] *For the period beginning January 1, 1989 and ending June 30, 1989, general assistance medical care and Minnesota supplemental aid may be paid for any person who is over age 18 and would be eligible for medical assistance except*

that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases.

Subd. 2. [COVERED SERVICES.] *For the period beginning January 1, 1989 and ending June 30, 1989, reimbursement under general assistance medical care includes, in addition to services covered under Minnesota Statutes 1988, section 256D.03, subdivision 4, the following services for a person who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases:*

(1) case management services for a person with serious and persistent mental illness;

(2) medical supplies and equipment; and

(3) psychological services.

Subd. 3. [EXCEPTION TO RESIDENTIAL FACILITY LIMITS.] *For the period beginning January 1, 1989 and ending June 30, 1989, a residential facility certified to participate in the medical assistance program, licensed as a boarding care home or nursing home, and determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases is exempt from the maximum negotiated rate in Minnesota Statutes, section 256D.37. The rate for eligible individuals residing in these facilities is the individual's medical assistance rate using the individual's assigned case mix classification. Counties must be reimbursed for payments made between January 1, 1989 and June 30, 1989, to certified nursing homes and boarding care homes declared institutions for mental diseases by January 1, 1989, on behalf of persons otherwise eligible for medical assistance. The reimbursement must not exceed the state share of supplemental aid funds expended for each person at the appropriate medical assistance rate.*

Sec. 98. [REPEALER.]

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

Subd. 2. [BRAIN INJURIES.] *Minnesota Statutes 1988, section 256B.0625, subdivision 21, is repealed.*

Subd. 3. [HEALTH CARE PROGRAMS.] *Minnesota Statutes 1988, sections 256.969, subdivisions 2a, 3, 4, 5, and 6; and 256B.69, subdivisions 12, 13, 14, and 15, are repealed.*

Subd. 4. Minnesota Statutes 1988, section 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8, are repealed.

Subd. 5. Minnesota Statutes 1988, section 256B.17, subdivision 7, is repealed effective October 1, 1989.

Sec. 99. [EFFECTIVE DATE.]

Sections 33, 34, and 35 are effective the day after final enactment, except that the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (a), is not effective until January 1,

1991 and the amendment in section 33, to Minnesota Statutes, section 256.936, subdivision 1, paragraph (c), striking "mental health and" is effective July 1, 1990. However, a child enrolled in the children's health plan who reached or will reach age nine between the date of initial implementation of the children's health plan and January 1, 1991, remains eligible for the plan after the child's ninth birth date until January 1, 1991, if the child meets all other program requirements.

Section 61 is effective the day after final enactment.

Section 46 is effective July 1, 1990.

Section 48, subdivision 2, is effective June 30, 1989.

Section 50 is effective October 1, 1989, for spousal income calculations for anyone who resides in an institution on or after that date.

Section 51 is effective October 1, 1989, for anyone who enters an institution on or after that date.

Section 1 is effective for claims filed with the insurer after June 30, 1989.

Section 52 is effective July 1, 1988, for all assets transferred on or after that date except for interspousal transfers under section 256B.17, subdivision 7.

Section 53 is effective April 1, 1990, for families who become ineligible for AFDC on or after that date.

Section 57 is effective September 1, 1989.

Section 89 is effective for all appeals that are filed after June 30, 1989.

Section 54 is effective July 1, 1990.

Section 81, except paragraph (f), is effective 30 days following final enactment. Section 81, paragraph (f), is effective the day following final enactment.

Section 89 is effective for all appeals that are filed after June 30, 1989.

Section 13 is effective the day following final enactment.

ARTICLE 4

MENTAL HEALTH

Section 1. Minnesota Statutes 1988, section 245.461, is amended to read:

245.461 [POLICY AND CITATION.]

Subdivision 1. [CITATION.] Sections 245.461 to 245.486 may be cited as the "Minnesota comprehensive *adult* mental health act."

Subd. 2. [MISSION STATEMENT.] The commissioner shall create and ensure a unified, accountable, comprehensive *adult* mental health service system that:

(1) recognizes the right of ~~people~~ *adults* with mental illness to control their own lives as fully as possible;

(2) promotes the independence and safety of ~~people~~ *adults* with mental illness;

(3) reduces chronicity of mental illness;

(4) ~~reduces~~ *eliminates* abuse of ~~people~~ *adults* with mental illness;

(5) provides services designed to:

(i) increase the level of functioning of ~~people~~ *adults* with mental illness or restore them to a previously held higher level of functioning;

(ii) stabilize ~~individuals~~ *adults* with mental illness;

(iii) prevent the development and deepening of mental illness;

(iv) support and assist ~~individuals~~ *adults* in resolving ~~emotional~~ *mental health* problems that impede their functioning;

(v) promote higher and more satisfying levels of emotional functioning; and

(vi) promote sound mental health; and

(6) provides a quality of service that is effective, efficient, appropriate, and consistent with contemporary professional standards in the field of mental health.

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, 1990, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Subd. 4. [HOUSING MISSION STATEMENT.] *The commissioner shall ensure that the housing services provided as part of a comprehensive mental health service system:*

(1) allow all persons with mental illness to live in stable, affordable housing, in settings that maximize community integration and opportunities for acceptance;

(2) allow persons with mental illness to actively participate in the selection of their housing from those living environments available to the general public; and

(3) provide necessary support regardless of where persons with mental illness choose to live.

Sec. 2. Minnesota Statutes 1988, section 245.462, is amended to read:

245.462 [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] The definitions in this section apply to sections 245.461 to 245.486.

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] "Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.

Subd. 3. [CASE MANAGEMENT ~~ACTIVITIES~~ *SERVICES.*] "Case management ~~activities~~ *services*" means activities that are coordinated with the community support services program as defined in subdivision 6 and are designed to help ~~people~~ *adults* with serious and persistent mental illness in gaining access to needed medical, social, educational, vocational, and other necessary services as they relate to the client's mental health needs.

Case management ~~activities~~ *services* include developing *a functional assessment,* an individual community support plan, referring *and assisting* the person to *obtain* needed mental health and other services, ensuring coordination of services, and monitoring the delivery of services.

Subd. 4. [CASE MANAGER.] "Case manager" means an individual employed by the county or other entity authorized by the county board to provide ~~the~~ case management ~~activities~~ *services* specified in ~~subdivision 3 and~~ sections 245.471 and 245.475. A case manager must have a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and have at least 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness, must be skilled in the process of identifying and assessing a wide range of client needs, and must be knowledgeable about local community resources and how to use those resources for the benefit of the client. The case manager shall meet in person with a mental health professional at least once each month to obtain clinical supervision of the case manager's activities. Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of services to ~~persons~~ *adults* with mental illness must complete 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of ~~persons~~ *adults* with serious and persistent mental illness and must receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of supervised experience is met. Clinical supervision must be documented in the client record.

Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to adult refugees with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person: (1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university; (2) completes 40 hours of training as specified in this subdivision; and (3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Subd. 4a. [CLINICAL SUPERVISION.] *"Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.*

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM.] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help ~~people~~ *adults* with serious and persistent mental illness to function and remain in the community. A community support services program includes:

(1) client outreach,

(2) medication ~~management~~ *monitoring*,

(3) assistance in independent living skills,

(4) development of employability and ~~supportive~~ work *related* opportunities,

(5) crisis assistance,

(6) psychosocial rehabilitation,

(7) help in applying for government benefits, and

(8) the development, identification, and monitoring of living arrangements.

The community support services program must be coordinated with the case management ~~activities~~ *services* specified in ~~subdivision 3 and sections 245.471 and 245.475~~ *section 245.4711*.

Subd. 7. [COUNTY BOARD.] "County board" means the county board of commissioners or board established pursuant to the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.

Subd. 8. [DAY TREATMENT SERVICES.] "Day treatment," "*day treatment* services," ~~means a structured program of intensive therapeutic and rehabilitative services at least one day a week for a minimum three-hour time block that is provided within a group setting by a multidisciplinary staff under the clinical supervision of a mental health professional. Day treatment services are not a part of inpatient or residential treatment services, but may be part of a community support services program.~~ *or "day treatment program" means a structured program of treatment and care provided to an adult in: (1) a hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55; (2) a community mental health center under section 245.62; or (3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4711, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475. Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided at least one day a week for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the adult's mental health status, providing mental health services, and developing and improving the adult's independent living and socialization skills. The goal of day treatment is to reduce or relieve mental illness and to enable the adult to live in the community. Day treatment services are not a part of inpatient or residential treatment services. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services.*

Subd. 9. [DIAGNOSTIC ASSESSMENT.] "Diagnostic assessment" means a written summary of the history, diagnosis, strengths, vulnerabilities, and general service needs of ~~a person~~ *an adult* with *a* mental illness using diagnostic, interview, and other relevant mental health techniques provided by a mental health professional used in developing an individual treatment plan or individual community support plan.

Subd. 10. [EDUCATION AND PREVENTION SERVICES.] "Education and prevention services" means services designed to educate the general public or special high-risk target populations about mental illness, to increase

the understanding and acceptance of problems associated with mental illness, to increase people's awareness of the availability of resources and services, and to improve people's skills in dealing with high-risk situations known to affect people's mental health and functioning. *The services include the distribution of information to individuals and agencies identified by the county board and the local mental health advisory council, on predictors and symptoms of mental disorders, where mental health services are available in the county, and how to access the services.*

Subd. 11. [EMERGENCY SERVICES.] "Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for persons having a psychiatric crisis, *a mental health crisis,* or emergency.

Subd. 11a. [FUNCTIONAL ASSESSMENT.] *"Functional assessment" means an assessment by the case manager of the adult's:*

(1) mental health symptoms as presented in the adult's diagnostic assessment;

(2) mental health needs as presented in the adult's diagnostic assessment;

(3) use of drugs and alcohol;

(4) vocational and educational functioning;

(5) social functioning, including the use of leisure time;

(6) interpersonal functioning, including relationships with the adult's family;

(7) self-care and independent living capacity;

(8) medical and dental health;

(9) financial assistance needs;

(10) housing and transportation needs; and

(11) other needs and problems.

Subd. 12. [INDIVIDUAL COMMUNITY SUPPORT PLAN.] "Individual community support plan" means a written plan developed by a case manager on the basis of a diagnostic assessment *and functional assessment.* The plan identifies specific services needed by ~~a person~~ *an adult* with serious and persistent mental illness to develop independence or improved functioning in daily living, health and medication management, social functioning, interpersonal relationships, financial management, housing, transportation, and employment.

Subd. 13. [INDIVIDUAL PLACEMENT AGREEMENT.] "Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of an individual ~~client~~ *adult* to provide residential treatment services.

Subd. 14. [INDIVIDUAL TREATMENT PLAN.] "Individual treatment plan" means a written plan of intervention, treatment, and services for ~~a person~~ *an adult* with mental illness that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individual responsible for providing treatment to

the ~~person~~ *adult* with mental illness.

Subd. 15. [LOCAL MENTAL HEALTH PROPOSAL.] "Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.463.

Subd. 16. [MENTAL HEALTH FUNDS.] "Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.

Subd. 17. [MENTAL HEALTH PRACTITIONER.] "Mental health practitioner" means a person providing services to persons with mental illness who is qualified in at least one of the following ways:

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of services to persons with mental illness;

(2) has at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of mental illness.

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse ~~with a master's degree in one of the behavioral sciences or related fields from an accredited college or university or its equivalent,~~ who is licensed under sections 148.171 to 148.285, ~~with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness~~ *and who is certified as a clinical specialist by the American nurses association*;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Subd. 19. [MENTAL HEALTH SERVICES.] "Mental health services" means at least all of the treatment services and case management activities that are provided to ~~persons~~ *adults* with mental illness and are described in sections 245.461 to 245.486.

Subd. 20. [MENTAL ILLNESS.] (a) "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III, and that seriously limits a person's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, and recreation.

(b) ~~A "person~~ *An "adult* with acute mental illness" means ~~a person~~ *an adult* who has a mental illness that is serious enough to require prompt intervention.

(c) For purposes of case management and community support services, a "person with serious and persistent mental illness" means ~~a person~~ *an adult* who has a mental illness and meets at least one of the following criteria:

(1) the ~~person~~ *adult* has undergone two or more episodes of inpatient care for a mental illness within the preceding 24 months;

(2) the ~~person~~ *adult* has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding 12 months;

(3) the ~~person~~ *adult*:

(i) has a diagnosis of schizophrenia, bipolar disorder, major depression, or borderline personality disorder;

(ii) indicates a significant impairment in functioning; and

(iii) has a written opinion from a mental health professional stating that the ~~person~~ *adult* is reasonably likely to have future episodes requiring inpatient or residential treatment, of a frequency described in clause (1) or (2), unless an ongoing community support services program is provided; or

(4) the ~~person~~ *adult* has been committed by a court as a mentally ill person under chapter 253B, or the ~~person's~~ *adult's* commitment has been stayed or continued.

Subd. 21. [OUTPATIENT SERVICES.] "Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to ~~persons~~ *adults* with ~~a~~ mental illness who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.

Subd. 22. [REGIONAL TREATMENT CENTER INPATIENT SERVICES.] "Regional treatment center inpatient services" means the *24-hour-a-day comprehensive* medical, nursing, or psychosocial services provided in a regional treatment center operated by the state.

Subd. 23. [RESIDENTIAL TREATMENT.] "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center *inpatient unit*, that must be licensed as a residential treatment ~~facility~~ *program* for ~~persons~~ *adults* with mental illness under Minnesota Rules, parts 9520.0500 to 9520.0690 ~~for adults, 9545.0900 to 9545.1090 for children,~~ or other ~~rule~~ *rules* adopted by the commissioner.

Subd. 24. [SERVICE PROVIDER.] "Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides *adult* mental health services funded by sections 245.461 to 245.486.

~~Subd. 25. [CLINICAL SUPERVISION.] "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, including that provided by the case manager. Clinical supervision must be accomplished by full or part-time employment of or contracts with mental health professionals. Clinical supervision must be documented by the mental health professional cosigning individual treatment plans and by entries in the client's record regarding supervisory activities.~~

Sec. 3. Minnesota Statutes 1988, section 245.463, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section ~~245.479~~ *245.478*, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of ~~persons~~ *adults* with mental illness residing in the county and extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.

Sec. 4. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

Subd. 3. The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Sec. 5. Minnesota Statutes 1988, section 245.464, is amended to read:

245.464 [COORDINATION OF MENTAL HEALTH SYSTEM.]

Subdivision 1. [~~SUPERVISION~~ *COORDINATION*.] The commissioner shall supervise the development and coordination of locally available *adult* mental health services by the county boards in a manner consistent with sections 245.461 to 245.486. The commissioner shall coordinate locally available services with those services available from the regional treatment center serving the area. The commissioner shall review local mental health

service proposals developed by county boards as specified in section 245.463 and provide technical assistance to county boards in developing and maintaining locally available mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's *adult* mental health proposals~~, quarterly reports,~~ and other information as required by sections 245.461 to 245.486.

Subd. 2. [PRIORITIES.] By January 1, 1990, the commissioner shall require that each of the treatment services and management activities described in sections 245.469 to 245.477 are developed for ~~persons~~ *adults* with mental illness within available resources based on the following ranked priorities:

(1) the provision of locally available emergency services;

(2) the provision of locally available services to all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;

(3) the provision of specialized services regionally available to meet the special needs of all ~~persons~~ *adults* with serious and persistent mental illness and all ~~persons~~ *adults* with acute mental illness;

(4) the provision of locally available services to ~~persons~~ *adults* with other mental illness; and

(5) the provision of education and preventive mental health services targeted at high-risk populations.

Sec. 6. Minnesota Statutes 1988, section 245.465, is amended to read:

245.465 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available *adult* mental health services in accordance with sections 245.461 to 245.486;

(2) provide for case management services to ~~persons~~ *adults* with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; ~~245.471~~; ~~245.475~~ *245.4711*; and 245.486;

(3) provide for screening of ~~persons~~ *adults* specified in section 245.476 upon admission to a residential treatment facility or acute care hospital inpatient, or informal admission to a regional treatment center; ~~and~~

(4) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; *and*

(5) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Sec. 7. Minnesota Statutes 1988, section 245.466, subdivision 1, is amended to read:

Subdivision 1. [DEVELOPMENT OF SERVICES.] The county board in each county is responsible for using all available resources to develop and

coordinate a system of locally available and affordable *adult* mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the local mental health services proposal approved by the commissioner under section 245.478.

Sec. 8. Minnesota Statutes 1988, section 245.466, subdivision 2, is amended to read:

Subd. 2. [*ADULT* MENTAL HEALTH SERVICES.] The *adult* mental health service system developed by each county board must include the following services:

(1) education and prevention services in accordance with section 245.468;

(2) emergency services in accordance with section 245.469;

(3) outpatient services in accordance with section 245.470;

(4) community support program services in accordance with ~~sections 245.471 and 245.475~~ *section 245.4711*;

(5) residential treatment services in accordance with section 245.472;

(6) acute care hospital inpatient treatment services in accordance with section 245.473;

(7) regional treatment center inpatient services in accordance with section 245.474;

(8) screening in accordance with section 245.476; and

(9) case management in accordance with sections 245.462, subdivision 3; ~~245.471;~~ and ~~245.475~~ *245.4711*.

Sec. 9. Minnesota Statutes 1988, section 245.466, subdivision 5, is amended to read:

Subd. 5. [LOCAL ADVISORY COUNCIL.] The county board, individually or in conjunction with other county boards, shall establish a local *adult* mental health advisory council or mental health subcommittee of an existing advisory council. The council's members must reflect a broad range of community interests. They must include at least one consumer, one family member of ~~a person~~ *an adult* with mental illness, one mental health professional, and one community support services program representative. The local *adult* mental health advisory council or mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local mental health system. Annually, the local *adult mental health* advisory council or mental health subcommittee of an existing advisory council shall:

(1) arrange for input from the regional treatment center's mental illness program unit regarding coordination of care between the regional treatment center and community-based services;

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.462, subdivision 10; and

(3) coordinate its review, evaluation, and recommendations regarding the local mental health system with the state advisory council on mental health.

The county board shall consider the advice of its local mental health advisory council or mental health subcommittee of an existing advisory council in carrying out its authorities and responsibilities.

Sec. 10. Minnesota Statutes 1988, section 245.466, subdivision 6, is amended to read:

Subd. 6. [OTHER LOCAL AUTHORITY.] The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.461 to 245.486 regarding local *adult* mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.461 to 245.486.

Sec. 11. Minnesota Statutes 1988, section 245.467, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All providers of outpatient *services, day treatment services*, residential treatment, acute care hospital inpatient treatment, and all regional treatment centers must develop an individual treatment plan for each of their *adult* clients. The individual treatment plan must be based on a diagnostic assessment. To the extent possible, the *adult* client shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten days of client intake and reviewed every 90 days thereafter.

Sec. 12. Minnesota Statutes 1988, section 245.467, subdivision 4, is amended to read:

Subd. 4. [REFERRAL FOR CASE MANAGEMENT.] Each provider of emergency services, *day treatment services,* outpatient treatment, community support services, residential treatment, acute care hospital inpatient treatment, or regional treatment center inpatient treatment must inform each of its clients with serious and persistent mental illness of the availability and potential benefits to the client of case management. If the client consents, the provider must refer the client by notifying the county employee designated by the county board to coordinate case management activities of the client's name and address and by informing the client of whom to contact to request case management. The provider must document compliance with this subdivision in the client's record.

Sec. 13. Minnesota Statutes 1988, section 245.467, subdivision 5, is amended to read:

Subd. 5. [INFORMATION FOR BILLING.] Each provider of outpatient treatment, community support services, *day treatment services,* emergency services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each client for whom services are included on a bill submitted to a county, if the client has consented to

the release of that information and if the county requests the information. Each provider shall attempt to obtain each client's consent and must explain to the client that the information can only be released with the client's consent and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the client's record.

Sec. 14. Minnesota Statutes 1988, section 245.468, is amended to read:

245.468 [EDUCATION AND PREVENTION SERVICES.]

By July 1, 1988, county boards must provide or contract for education and prevention services to ~~persons~~ *adults* residing in the county. Education and prevention services must be designed to:

(1) convey information regarding mental illness and treatment resources to the general public ~~or~~ *and* special high-risk target groups;

(2) increase understanding and acceptance of problems associated with mental illness;

(3) improve people's skills in dealing with high-risk situations known to have an impact on ~~people's~~ *adults'* mental health functioning; ~~and~~

(4) prevent development or deepening of mental illness*; and*

(5) refer adults with additional mental health needs to appropriate mental health services.

Sec. 15. Minnesota Statutes 1988, section 245.469, is amended to read:

245.469 [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] By July 1, 1988, county boards must provide or contract for enough emergency services within the county to meet the needs of ~~persons~~ *adults* in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee ~~based on their ability to pay~~ *according to section 245.481*. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:

(1) promote the safety and emotional stability of ~~people~~ *adults* with mental illness or emotional crises;

(2) minimize further deterioration of ~~people~~ *adults* with mental illness or emotional crises;

(3) help ~~people~~ *adults* with mental illness or emotional crises to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

Subd. 2. [SPECIFIC REQUIREMENTS.] The county board shall require that all service providers of emergency services *to adults with mental illness* provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or *until January 1, 1991*, a designated person with training in human services who receives clinical supervision from a mental health professional. Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional,

a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 16. Minnesota Statutes 1988, section 245.470, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] (a) By July 1, 1988, county boards must provide or contract for enough outpatient services within the county to meet the needs of ~~persons~~ *adults* with mental illness residing in the county. Clients may be required to pay a fee ~~based on their ability to pay~~ *according to section 245.481*. Outpatient services include:

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating ~~a person's~~ *an adult's* mental health needs through therapy;

(6) prescribing and managing medication *and evaluating the effectiveness of prescribed medication*; and

(7) preventing placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the client can best be served outside the county.

Sec. 17. [245.4711] [CASE MANAGEMENT AND COMMUNITY SUPPORT SERVICES.]

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] *(a) By January 1, 1989, the county board shall provide case management activities for all adults with serious and persistent mental illness residing in the county who request or consent to the services and to each adult for whom the court appoints a case manager. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.462, subdivision 4.*

(b) Case management services provided to adults with serious and persistent mental illness eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Subd. 2. [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] *The county board shall notify the client of the person's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.467, subdivision 4. The county board shall send a written notice to the client and the client's representative, if any, that identifies the designated case management providers.*

Subd. 3. [DUTIES OF CASE MANAGER.] *(a) The case manager shall promptly arrange for a diagnostic assessment of the applicant when one is not available as described in section 245.467, subdivision 2, to determine the applicant's eligibility as an adult with serious and persistent mental illness for community support services. The county board shall*

notify in writing the applicant and the applicant's representative, if any, if the applicant is determined ineligible for community support services.

(b) Upon a determination of eligibility for community support services, the case manager shall develop an individual community support plan for an adult according to subdivision 4, paragraph (a), review the client's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

Subd. 4. [INDIVIDUAL COMMUNITY SUPPORT PLAN.] *(a) The case manager must develop an individual community support plan for each adult that incorporates the client's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual community support plan. The individual community support plan must be developed within 30 days of client intake and reviewed every 90 days after it is developed. The case manager is responsible for developing the individual community support plan based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual community support plan. To the extent possible, the adult with serious and persistent mental illness, the person's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual or family community support plan.*

(b) The client's individual community support plan must state:

(1) the goals of each service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual community support plan.

Subd. 5. [COORDINATION BETWEEN CASE MANAGER AND COMMUNITY SUPPORT SERVICES.] *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the community support services program as well as other mental health services.*

Subd. 6. [AVAILABILITY OF COMMUNITY SUPPORT SERVICES.] *County boards must provide or contract for sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. The community support services program must be designed to improve the ability of adults with serious and persistent mental illness to:*

(1) work in a regular or supported work environment;

(2) handle basic activities of daily living;

(3) participate in leisure time activities;

(4) set goals and plans;

(5) obtain and maintain appropriate living arrangements; and

(6) reduce the use of more intensive, costly, or restrictive placements both in number of admissions and lengths of stay as determined by client need.

Subd. 7. [DAY TREATMENT SERVICES PROVIDED.] *(a) By July 1, 1989, day treatment services must be developed as a part of the community support services available to adults with serious and persistent mental illness residing in the county. Clients may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

(1) provide a structured environment for treatment;

(2) provide community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client need;

(4) coordinate with or be offered in conjunction with a local education agency's special education program; and

(5) operate on a continuous basis throughout the year.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) an alternative plan of care exists through the county's community support services for clients who would otherwise need day treatment services;

(2) day treatment, if included, would be duplicative of other components of the community support services; and

(3) county demographics and geography make the provision of day treatment services cost ineffective and infeasible.

Subd. 8. [BENEFITS ASSISTANCE.] *The county board must offer help to adults with serious and persistent mental illness in applying for federal benefits, including supplemental security income, medical assistance, and Medicare. The help must be offered as a part of the community support program available to adults with serious and persistent mental illness for whom the county is financially responsible and who may qualify for these benefits.*

Sec. 18. Minnesota Statutes 1988, section 245.472, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] By July 1, 1988, county boards must provide or contract for enough residential treatment services to meet the needs of all ~~persons~~ *adults* with mental illness residing in the county *and needing this level of care*. Residential treatment services include both intensive and structured residential treatment with length of stay based on client residential treatment need. Services must be as close to the county as possible. Residential treatment must be designed to:

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet client needs;

(2) help clients achieve the highest level of independent living;

(3) help clients gain the necessary skills to ~~be referred to a community support services program or outpatient services~~ *function in a less structured setting*; and

(4) stabilize crisis admissions.

Sec. 19. Minnesota Statutes 1988, section 245.472, is amended by adding a subdivision to read:

Subd. 3. [TRANSITION TO COMMUNITY.] *Residential treatment programs must plan for and assist clients in making a transition from residential treatment facilities to other community-based services. In coordination with the client's case manager, if any, residential treatment facilities must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the residential treatment facility must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.*

Sec. 20. Minnesota Statutes 1988, section 245.473, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF ACUTE CARE INPATIENT SERVICES.] By July 1, 1988, county boards must make available through contract or direct provision enough acute care hospital inpatient treatment services as close to the county as possible ~~to meet the needs of persons~~ *for adults* with mental illness residing in the county. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical *and mental health* condition ~~of people with acute or serious and persistent mental illness~~ *for which admission is required*;

(2) improve functioning *to the point where discharge to residential treatment or community-based mental health services is possible*; and

(3) facilitate appropriate referrals~~,~~ *for* follow-up~~, and placements~~ *mental health care in the community*.

Sec. 21. Minnesota Statutes 1988, section 245.474, is amended to read:

245.474 [REGIONAL TREATMENT CENTER INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF REGIONAL TREATMENT CENTER INPATIENT SERVICES.] By July 1, 1987, the commissioner shall make sufficient regional treatment center inpatient services available to ~~people~~ *adults* with mental illness throughout the state *who need this level of care*. Regional treatment centers are responsible to:

(1) stabilize the medical *and mental health* condition of the ~~person with mental illness~~ *adult requiring the admission*;

(2) improve functioning *to the point where discharge to community-based mental health services is possible*;

(3) strengthen family and community support; and

(4) facilitate appropriate discharge~~, aftercare,~~ and *referrals for* follow-up ~~placements~~ *mental health care* in the community.

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all ~~mentally ill patients~~ *adults with mental illness who are* served by regional treatment centers by administering a client-based evaluation system. The client-based evaluation system must include at least the following independent measurements: behavioral development assessment; habilitation program assessment; medical needs assessment; maladaptive behavioral assessment; and vocational behavior assessment.

The commissioner shall propose staff ratios to the legislature for the mental health and support units in regional treatment centers as indicated by the results of the client-based evaluation system. The proposed staffing ratios shall include professional, nursing, direct care, medical, clerical, and support staff based on the client-based evaluation system. The commissioner shall recompute staffing ratios and recommendations on a biennial basis.

Subd. 3. [TRANSITION TO COMMUNITY.] *Regional treatment centers must plan for and assist clients in making a transition from regional treatment centers to other community-based services. In coordination with the client's case manager, if any, regional treatment centers must also arrange for appropriate follow-up care in the community during the transition period. Before a client is discharged, the regional treatment center must notify the client's case manager, so that the case manager can monitor and coordinate the transition and arrangements for the client's appropriate follow-up care in the community.*

Sec. 22. Minnesota Statutes 1988, section 245.476, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] No later than January 1, ~~1991~~ *1992*, the county board shall screen all ~~persons~~ *adults* before they may be admitted for treatment of mental illness to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. Screening prior to admission must occur within ten days. If ~~a person~~ *an adult* is admitted for treatment of mental illness on an emergency basis to a residential facility or acute care hospital or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five days of the admission. ~~Persons~~ *Adults* must be screened within ten days before or within five days after admission to ensure that:

(1) an admission is necessary,

(2) the length of stay is as short as possible consistent with individual client need, and

(3) the case manager, if assigned, is developing an individual community support plan.

The screening process and placement decision must be documented in the client's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards specified in clauses (1) to (3).

Sec. 23. Minnesota Statutes 1988, section 245.476, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.] The county board shall enter into an individual placement agreement with a provider of residential *treatment* services to ~~a person~~ *an adult* eligible for services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.

Sec. 24. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 4. [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR ADULTS.] *The commissioner of human services shall appoint a task force on residential and inpatient treatment services for adults. The task force must include representatives from each of the mental health professional categories defined in section 245.462, subdivision 18, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the Minnesota mental health law project, the Minnesota association of mental health residential facilities, the Minnesota hospital association, department of human services staff, the department of education, the department of corrections, the ombudsman for mental health and mental retardation, and counties. The task force shall examine and evaluate existing mechanisms that have as their purpose review of appropriate admission and need for continued care for clients admitted to residential treatment, acute care hospital inpatient treatment, and regional treatment center inpatient treatment. These mechanisms shall include at least the following: precommitment screening, licensure and reimbursement rules, county monitoring, technical assistance, nursing home preadmission screening, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in subdivision 1.*

Sec. 25. Minnesota Statutes 1988, section 245.477, is amended to read:

245.477 [APPEALS.]

Any ~~person~~ *adult* who requests mental health services under sections 245.461 to 245.486 must be advised of services available and the right to appeal at the time of the request and each time the *individual* community ~~service~~ *support* plan *or individual treatment plan* is reviewed. Any ~~person~~ *adult* whose request for mental health services under sections 245.461 to 245.486 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated *by action or inaction for which the county board is responsible under sections 245.461 to 245.486* may contest that action *or inaction* before the state agency as specified in section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 26. Minnesota Statutes 1988, section 245.478, subdivision 2, is amended to read:

Subd. 2. [PROPOSAL CONTENT.] The local *adult* mental health proposal must include:

(1) the local *adult* mental health advisory council's or *adult* mental health subcommittee of an existing advisory council's report on unmet needs *of adults* and any other needs assessment used by the county board in preparing the local *adult* mental health proposal;

(2) a description of the local *adult* mental health advisory council's or the *adult* mental health subcommittee of an existing advisory council's involvement in preparing the local *adult* mental health proposal and methods used by the county board to ~~obtain~~ *ensure adequate and timely* participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of clients who received each of the mental health services listed in sections 245.468 to 245.476, and actual expenditures for each mental health service

and service waiting lists; and

(4) ~~for the first proposal period only, information for the year during which the proposal is being prepared:~~

~~(i) a description of the current mental health system identifying each mental health service listed in sections 245.468 to 245.476;~~

~~(ii) a description of each service provider, including a listing of the professional qualifications of the staff involved in service delivery, that is either the sole provider of one of the mental health services described in sections 245.468 to 245.476 or that provides over $10,000 of mental health services per year for the county;~~

~~(iii) a description of how the mental health services in the county are unified and coordinated;~~

~~(iv) the estimated number of clients receiving each mental health service;~~

~~(v) estimated expenditures for each mental health service; and~~

~~(5)~~ the following information describing how the county board intends to meet the requirements of sections 245.461 to 245.486 during the proposal period:

(i) specific objectives and outcome goals for each *adult* mental health service listed in sections ~~245.468~~ *245.461* to ~~245.476~~ *245.486*;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the *adult* mental health services described in sections ~~245.468~~ *245.461* to ~~245.476~~ *245.486* or to provide over $10,000 of *adult* mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the *adult* mental health services in the county will be unified and coordinated;

(iv) the estimated number of clients who will receive each *adult* mental health service; and

(v) estimated expenditures for each *adult* mental health service and revenues for the entire proposal.

Sec. 27. Minnesota Statutes 1988, section 245.478, subdivision 3, is amended to read:

Subd. 3. [PROPOSAL FORMAT.] The local *adult* mental health proposal must be made in a format prescribed by the commissioner.

Sec. 28. Minnesota Statutes 1988, section 245.479, is amended to read:

245.479 [COUNTY OF FINANCIAL RESPONSIBILITY.]

For purposes of sections 245.461 to 245.486 *and 245.487 to 245.4887*, the county of financial responsibility is determined under section 256G.02, subdivision 4. Disputes between counties regarding financial responsibility must be resolved by the commissioner in accordance with section 256G.09.

Sec. 29. Minnesota Statutes 1988, section 245.48, is amended to read:

245.48 [MAINTENANCE OF EFFORT.]

Counties must continue to spend for mental health services *specified in*

sections 245.461 to 245.486 and 245.487 to 245.4887, according to generally accepted budgeting and accounting principles, an amount equal to the total expenditures shown in the county's approved 1987 Community Social Services Act plan under "State CSSA, Title XX and County Tax" for services to persons with mental illness plus the comparable figure for Rule 5 facilities under target populations other than mental illness in the approved 1987 CSSA plan.

Sec. 30. [245.481] [FEES FOR MENTAL HEALTH SERVICES.]

A client or, in the case of a child, the child or the child's parent may be required to pay a fee for mental health services provided under sections 245.461 to 245.486 and 245.487 to 245.4887. The fee must be based on the person's ability to pay according to the fee schedule adopted by the county board. In adopting the fee schedule for mental health services, the county board may adopt the fee schedule provided by the commissioner or adopt a fee schedule recommended by the county board and approved by the commissioner. Agencies or individuals under contract with a county board to provide mental health services under sections 245.461 to 245.486 and 245.487 to 245.4887 must not charge clients whose mental health services are paid wholly or in part from public funds fees which exceed the county board's adopted fee schedule. This section does not apply to regional treatment center fees, which are governed by sections 246.50 to 246.55.

Sec. 31. Minnesota Statutes 1988, section 245.482, is amended to read:

245.482 [REPORTING AND EVALUATION.]

Subdivision 1. [FISCAL REPORTS.] The commissioner shall develop a unified format for quarterly fiscal reports that will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, *245.487 to 245.4887*, and section 256E.08. The county board shall submit a completed fiscal report in the required format no later than ~~15~~ *30* days after the end of each quarter.

Subd. 2. [PROGRAM REPORTS.] The commissioner shall develop ~~a~~ unified ~~format~~ *formats* for ~~an annual program report that~~ *reporting, which* will include information that the commissioner determines necessary to carry out sections 245.461 to 245.486, *245.487 to 245.4887*, and section 256E.10. The county board shall submit ~~a~~ completed program ~~report~~ *reports* in the required format ~~by March 15 of each year~~ *according to the reporting schedule developed by the commissioner*.

Subd. 3. [PROVIDER REPORTS.] The commissioner may develop ~~a format~~ *formats* and procedures for direct reporting from providers to the commissioner to include information that the commissioner determines necessary to carry out sections 245.461 to 245.486 *and 245.487 to 245.4887*. In particular, the provider reports must include aggregate information by county of residence about mental health services paid for by funding sources other than counties.

Subd. 4. [COMMISSIONER'S CONSOLIDATED REPORTING RECOMMENDATIONS.] *The commissioner's reports of February 15, 1990, required under sections 245.461, subdivision 3, and 245.487, subdivision 4, shall include recommended measures to provide coordinated, interdepartmental efforts to ensure early identification and intervention for children with, or at risk of developing, emotional disturbance, to improve the efficiency of the mental health funding mechanisms, and to standardize*

and consolidate fiscal and program reporting. The recommended measures must provide that client needs are met in an effective and accountable manner and that state and county resources are used as efficiently as possible. The commissioner shall consider the advice of the state advisory council and the children's subcommittee in developing these recommendations.

Subd. 4 *5.* [INACCURATE OR INCOMPLETE REPORTS.] The commissioner shall promptly notify a county or provider if a required report is clearly inaccurate or incomplete. The commissioner may delay all or part of a mental health fund payment if an appropriately completed report is not received as required by this section.

Subd. ~~5~~ *6.* [STATEWIDE EVALUATION.] The commissioner shall use the county and provider reports required by this section to complete the statewide report required in ~~section~~ *sections* 245.461 *and 245.487.*

Sec. 32. Minnesota Statutes 1988, section 245.483, is amended to read:

245.483 [TERMINATION OR RETURN OF AN ALLOCATION.]

Subdivision 1. [FUNDS NOT PROPERLY USED.] If the commissioner determines that a county is not meeting the requirements of sections 245.461 to 245.486 *and 245.487 to 245.4887*, or that funds are not being used according to the approved local proposal, all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board. The commissioner may require repayment of any funds not used according to the approved local proposal. If the commissioner receives a written appeal from the county board within the 30-day period, opportunity for a hearing under the Minnesota administrative procedure act, chapter 14, must be provided before the allocation is terminated or is required to be repaid. The 30-day period begins when the county board receives the commissioner's notice by certified mail.

Subd. 2. [USE OF RETURNED FUNDS.] The commissioner may reallocate the funds returned.

Subd. 3. [DELAYED PAYMENTS.] If the commissioner finds that a county board or its contractors are not in compliance with the approved local proposal or sections 245.461 to 245.486 *and 245.487 to 245.4887*, the commissioner may delay payment of all or part of the quarterly mental health and community social service act funds until the county board and its contractors meet the requirements. The commissioner shall not delay a payment longer than three months without first issuing a notice under subdivision 2 that all or part of the allocation will be terminated or required to be repaid. After this notice is issued, the commissioner may continue to delay the payment until completion of the hearing in subdivision 2.

Subd. 4. [STATE ASSUMPTION OF RESPONSIBILITY.] If the commissioner determines that services required by sections 245.461 to 245.486 *and 245.487 to 245.4887* will not be provided by the county board in the manner or to the extent required by sections 245.461 to 245.486 *and 245.487 to 245.4887*, the commissioner shall contract directly with providers to ensure that clients receive appropriate services. In this case, the commissioner shall use the county's community social service act and mental health funds to the extent necessary to carry out the county's responsibilities under sections 245.461 to 245.486 *and 245.487 to 245.4887*. The commissioner shall work with the county board to allow for a return of authority and responsibility to the county board as soon as compliance with sections 245.461 to 245.486 *and 245.487 to 245.4887* can be assured.

Sec. 33. Minnesota Statutes 1988, section 245.484, is amended to read:

245.484 [RULES.]

The commissioner shall adopt permanent rules as necessary to carry out ~~Laws 1987, chapter 403~~ *sections 245.461 to 245.486 and sections 1 to 53.*

Sec. 34. Minnesota Statutes 1988, section 245.485, is amended to read:

245.485 [NO RIGHT OF ACTION.]

Sections 245.461 to 245.484 *and 245.487 to 245.4887* do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

Sec. 35. Minnesota Statutes 1988, section 245.486, is amended to read:

245.486 [LIMITED APPROPRIATIONS.]

Nothing in sections 245.461 to 245.485 *and 245.487 to 245.4887* shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

Sec. 36. [245.4861] [PUBLIC/ACADEMIC LIAISON INITIATIVE.]

Subdivision 1. [ESTABLISHMENT OF LIAISON INITIATIVE.] *The commissioner of human services, in consultation with the appropriate post-secondary institutions, shall establish a public/academic liaison initiative to coordinate and develop brain research and education and training opportunities for mental health professionals in order to improve the quality of staffing and provide state-of-the-art services to residents in regional treatment centers and other state facilities.*

Subd. 2. [CONSULTATION.] *The commissioner of human services shall consult with the Minnesota department of health, the regional treatment centers, the post-secondary educational system, mental health professionals, and citizen and advisory groups.*

Subd. 3. [LIAISON INITIATIVE PROGRAMS.] *The liaison initiative, within the extent of available funding, shall plan, implement, and administer programs which accomplish the objectives of subdivision 1. These shall include but are not limited to:*

(1) encourage and coordinate joint research efforts between academic research institutions throughout the state and regional treatment centers, community mental health centers, and other organizations conducting research on mental illness or working with individuals who are mentally ill;

(2) sponsor and conduct basic research on mental illness and applied research on existing treatment models and community support programs;

(3) seek to obtain grants for research on mental illness from the National Institute of Mental Health and other funding sources;

(4) develop and provide grants for training, internship, scholarship, and fellowship programs for mental health professionals, in an effort to combine academic education with practical experience obtained at regional treatment centers and other state facilities, and to increase the number of mental health professionals working in the state.

Subd. 4. [PRIVATE AND FEDERAL FUNDING.] *The liaison initiative shall seek private and federal funds to supplement the appropriation provided by the state. Individuals, businesses, and other organizations may contribute to the liaison initiative. All money received shall be administered by the commissioner of human services to implement and administer the programs listed in subdivision 3.*

Subd. 5. [REPORT.] *By February 15 of each year, the commissioner of human services shall submit to the legislature a liaison initiative report. The annual report shall be part of the commissioner's February 15 report to the legislature required by section 245.487, subdivision 4.*

Sec. 37. [245.487] [CITATION; DECLARATION OF POLICY; MISSION.]

Subdivision 1. [CITATION.] *Sections 245.487 to 245.4887 may be cited as the "Minnesota comprehensive children's mental health act."*

Subd. 2. [FINDINGS.] *The legislature finds there is a need for further development of existing clinical services for emotionally disturbed children and their families and the creation of new services for this population. Although the services specified in sections 245.487 to 245.4887 are mental health services, sections 245.487 to 245.4887 emphasize the need for a child-oriented and family-oriented approach of therapeutic programming and the need for continuity of care with other community agencies. At the same time, sections 245.487 to 245.4887 emphasize the importance of developing special mental health expertise in children's mental health services because of the unique needs of this population.*

Nothing in this act shall be construed to abridge the authority of the court to make dispositions under chapter 260.

Subd. 3. [MISSION OF CHILDREN'S MENTAL HEALTH SERVICE SYSTEM.] *As part of the comprehensive children's mental health system established under sections 245.487 to 245.4887, the commissioner of human services shall create and ensure a unified, accountable, comprehensive children's mental health service system that is consistent with the provision of public social services for children as specified in section 256F.01 and that:*

(1) identifies children who are eligible for mental health services;

(2) makes preventive services available to all children;

(3) assures access to a continuum of services that:

(i) educate the community about the mental health needs of children;

(ii) address the unique physical, emotional, social, and educational needs of children;

(iii) are coordinated with the range of social and human services provided to children and their families by the departments of education, human services, health, and corrections;

(iv) are appropriate to the developmental needs of children; and

(v) are sensitive to cultural differences and special needs;

(4) includes early screening and prompt intervention to:

(i) identify and treat the mental health needs of children in the least restrictive setting appropriate to their needs; and

(ii) prevent further deterioration;

(5) provides mental health services to children and their families in the context in which the children live and go to school;

(6) addresses the unique problems of paying for mental health services for children, including:

(i) access to private insurance coverage; and

(ii) public funding;

(7) includes the child and the child's family in planning the child's program of mental health services, unless clinically inappropriate to the child's needs; and

(8) when necessary, assures a smooth transition from mental health services appropriate for a child to mental health services needed by a person who is at least 18 years of age.

Subd. 4. [IMPLEMENTATION.] *(a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by January 1, 1992.*

(b) Annually until February 15, 1992, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections.

Subd. 5. [CONTINUATION OF EXISTING MENTAL HEALTH SERVICES FOR CHILDREN.] *Counties shall make available case management, community support services, and day treatment to children eligible to receive these services under Minnesota Statutes 1988, section 245.471. No later than August 1, 1989, the county board shall notify providers in the local system of care of their obligations to refer children eligible for case management and community support services as of January 1, 1989. The notice shall indicate which children are eligible, a description of the services, and the name of the county employee designated to coordinate case management activities.*

Sec. 38. [245.4871] [DEFINITIONS.]

Subdivision 1. [DEFINITIONS.] *The definitions in this section apply to sections 245.487 to 245.4887.*

Subd. 2. [ACUTE CARE HOSPITAL INPATIENT TREATMENT.] *"Acute care hospital inpatient treatment" means short-term medical, nursing, and psychosocial services provided in an acute care hospital licensed under chapter 144.*

Subd. 3. [CASE MANAGEMENT SERVICES.] *"Case management services" means activities designed to help the child with severe emotional disturbance and the child's family obtain needed mental health services, social services, educational services, health services, vocational services, recreational services, and related services in the areas of volunteer services, advocacy, transportation, and legal services. Case management services include obtaining a comprehensive diagnostic assessment, developing a functional assessment, developing an individual family community support plan, and assisting the child and the child's family in obtaining needed services by coordination with other agencies and assuring continuity of*

care. Case managers must assess and reassess the delivery, appropriateness, and effectiveness of these services over time.

Subd. 4. [CASE MANAGER.] *(a) "Case manager" means an individual employed by the county or other entity authorized by the county board to provide case management services specified in subdivision 3 for the child with severe emotional disturbance and the child's family. A case manager must have experience and training in working with children.*

(b) A case manager must:

(1) have at least a bachelor's degree in one of the behavioral sciences or a related field from an accredited college or university;

(2) have at least 2,000 hours of supervised experience in the delivery of mental health services to children;

(3) have experience and training in identifying and assessing a wide range of children's needs; and

(4) be knowledgeable about local community resources and how to use those resources for the benefit of children and their families.

(c) The case manager may be a member of any professional discipline that is part of the local system of care for children established by the county board.

(d) The case manager must meet in person with a mental health professional at least once each month to obtain clinical supervision.

(e) Case managers with a bachelor's degree but without 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbance must:

(1) begin 40 hours of training approved by the commissioner of human services in case management skills and in the characteristics and needs of children with severe emotional disturbance before beginning to provide case management services; and

(2) receive clinical supervision regarding individual service delivery from a mental health professional at least once each week until the requirement of 2,000 hours of experience is met.

(f) Clinical supervision must be documented in the child's record. When the case manager is not a mental health professional, the county board must provide or contract for needed clinical supervision.

(g) The county board must ensure that the case manager has the freedom to access and coordinate the services within the local system of care that are needed by the child.

(h) Until June 30, 1991, a refugee who does not have the qualifications specified in this subdivision may provide case management services to child refugees with severe emotional disturbance of the same ethnic group as the refugee if the person:

(1) is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or related fields at an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of obtaining a bachelor's degree and 2,000 hours of supervised experience are met.

Subd. 5. [CHILD.] *"Child" means a person under 18 years of age.*

Subd. 6. [CHILD WITH SEVERE EMOTIONAL DISTURBANCE.] *For purposes of eligibility for case management and family community support services, "child with severe emotional disturbance" means a child who has an emotional disturbance and who meets one of the following criteria:*

(1) the child has been admitted within the last three years or is at risk of being admitted to inpatient treatment or residential treatment for an emotional disturbance; or

(2) the child is a Minnesota resident and is receiving inpatient treatment or residential treatment for an emotional disturbance through the interstate compact; or

(3) the child has one of the following as determined by a mental health professional:

(i) psychosis or a clinical depression; or

(ii) risk of harming self or others as a result of an emotional disturbance; or

(iii) psychopathological symptoms as a result of being a victim of physical or sexual abuse or of psychic trauma within the past year; or

(4) the child, as a result of an emotional disturbance, has significantly impaired home, school, or community functioning that has lasted at least one year or that, in the written opinion of a mental health professional, presents substantial risk of lasting at least one year.

The term "child with severe emotional disturbance" shall be used only for purposes of county eligibility determinations. In all other written and oral communications, case managers, mental health professionals, mental health practitioners, and all other providers of mental health services shall use the term "child eligible for mental health case management" in place of "child with severe emotional disturbance."

Subd. 7. [CLINICAL SUPERVISION.] *"Clinical supervision" means the oversight responsibility for individual treatment plans and individual mental health service delivery, including that provided by the case manager. Clinical supervision does not include authority to make or terminate court-ordered placements of the child. Clinical supervision must be accomplished by full-time or part-time employment of or contracts with mental health professionals. The mental health professional must document the clinical supervision by cosigning individual treatment plans and by making entries in the client's record on supervisory activities.*

Subd. 8. [COMMISSIONER.] *"Commissioner" means the commissioner of human services.*

Subd. 9. [COUNTY BOARD.] *"County board" means the county board of commissioners or board established under the joint powers act, section 471.59, or the human services board act, sections 402.01 to 402.10.*

Subd. 10. [DAY TREATMENT SERVICES.] *"Day treatment," "day treatment services," or "day treatment program" means a structured program of treatment and care provided to a child in:*

(1) an outpatient hospital accredited by the joint commission on accreditation of health organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity that is under contract with the county board to operate a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity that operates a program that meets the requirements of section 245.4881, subdivision 7, and Minnesota Rules, parts 9505.0170 to 9505.0475, that is under contract with an entity that is under contract with a county board.

Day treatment consists of group psychotherapy and other intensive therapeutic services that are provided for a minimum three-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Day treatment services are distinguished from day care by their structured therapeutic program of psychotherapy services. Day treatment services are not a part of inpatient hospital or residential treatment services. Day treatment services for a child are an integrated set of education, therapy, and family interventions.

A day treatment service must be available to a child at least five days a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

Subd. 11. [DIAGNOSTIC ASSESSMENT.] *"Diagnostic assessment" means a written evaluation by a mental health professional of:*

(1) a child's current life situation and sources of stress, including reasons for referral;

(2) the history of the child's current mental health problem or problems, including important developmental incidents, strengths, and vulnerabilities;

(3) the child's current functioning and symptoms;

(4) the child's diagnosis including a determination of whether the child meets the criteria of severely emotionally disturbed as specified in subdivision 6; and

(5) the mental health services needed by the child.

Subd. 12. [EARLY IDENTIFICATION AND INTERVENTION SERVICES.] *"Early identification and intervention services" means services that are designed to identify children who are at risk of needing or who need mental health services and that arrange for intervention and treatment.*

Subd. 13. [EDUCATION AND PREVENTION SERVICES.] *(a) "Education and prevention services" means services designed to:*

(1) educate the general public and groups identified as at risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) increase the understanding and acceptance of problems associated with emotional disturbances;

(3) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning; and

(4) refer specific children or their families with mental health needs to mental health services.

(b) The services include distribution to individuals and agencies identified by the county board and the local children's mental health advisory council of information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services.

Subd. 14. [EMERGENCY SERVICES.] *"Emergency services" means an immediate response service available on a 24-hour, seven-day-a-week basis for each child having a psychiatric crisis, a mental health crisis, or a mental health emergency.*

Subd. 15. [EMOTIONAL DISTURBANCE.] *"Emotional disturbance" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, memory, or behavior that:*

(1) is listed in the clinical manual of the International Classification of Diseases (ICD-9-CM), current edition, code range 290.0 to 302.99 or 306.0 to 316.0 or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD), current edition, Axes I, II, or III; and

(2) seriously limits a child's capacity to function in primary aspects of daily living such as personal relations, living arrangements, work, school, and recreation.

"Emotional disturbance" is a generic term and is intended to reflect all categories of disorder described in DSM-MD, current edition as "usually first evident in childhood or adolescence."

Subd. 16. [FAMILY.] *"Family" means a child and one or more of the following persons whose participation is necessary to accomplish the child's treatment goals: (1) a person related to the child by blood, marriage, or adoption; (2) a person who is the child's foster parent or significant other; (3) a person who is the child's legal representative.*

Subd. 17. [FAMILY COMMUNITY SUPPORT SERVICES.] *"Family community support services" means services provided under the clinical supervision of a mental health professional and designed to help each child with severe emotional disturbance to function and remain with the child's family in the community. Family community support services do not include acute care hospital inpatient treatment, residential treatment services, or regional treatment center services. Family community support services include:*

(1) client outreach to each child with severe emotional disturbance and the child's family;

(2) medication monitoring where necessary;

(3) assistance in developing independent living skills;

(4) assistance in developing parenting skills necessary to address the needs of the child with severe emotional disturbance;

(5) assistance with leisure and recreational activities;

(6) crisis assistance, including crisis placement and respite care;

(7) professional home-based family treatment;

(8) foster care with therapeutic supports;

(9) day treatment;

(10) assistance in locating respite care and special needs day care; and

(11) assistance in obtaining potential financial resources, including those benefits listed in section 245.4881, subdivision 10.

Subd. 18. [FUNCTIONAL ASSESSMENT.] *"Functional assessment" means an assessment by the case manager of the child's:*

(1) mental health symptoms as presented in the child's diagnostic assessment;

(2) mental health needs as presented in the child's diagnostic assessment;

(3) use of drugs and alcohol;

(4) vocational and educational functioning;

(5) social functioning, including the use of leisure time;

(6) interpersonal functioning, including relationships with the child's family;

(7) self-care and independent living capacity;

(8) medical and dental health;

(9) financial assistance needs;

(10) housing and transportation needs; and

(11) other needs and problems.

Subd. 19. [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.] *"Individual family community support plan" means a written plan developed by a case manager in conjunction with the family and the child with severe emotional disturbance on the basis of a diagnostic assessment and a functional assessment. The plan identifies specific services needed by a child and the child's family to:*

(1) treat the symptoms and dysfunctions determined in the diagnostic assessment;

(2) relieve conditions leading to emotional disturbance and improve the personal well-being of the child;

(3) improve family functioning;

(4) enhance daily living skills;

(5) improve functioning in education and recreation settings;

(6) improve interpersonal and family relationships;

(7) enhance vocational development; and

(8) assist in obtaining transportation, housing, health services, and employment.

Subd. 20. [INDIVIDUAL PLACEMENT AGREEMENT.] *"Individual placement agreement" means a written agreement or supplement to a service contract entered into between the county board and a service provider on behalf of a child to provide residential treatment services.*

Subd. 21. [INDIVIDUAL TREATMENT PLAN.] *"Individual treatment*

plan" means a written plan of intervention, treatment, and services for a child with an emotional disturbance that is developed by a service provider under the clinical supervision of a mental health professional on the basis of a diagnostic assessment. An individual treatment plan for a child must be developed in conjunction with the family unless clinically inappropriate. The plan identifies goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.

Subd. 22. [LEGAL REPRESENTATIVE.] *"Legal representative" means a guardian, conservator, or guardian ad litem of a child with an emotional disturbance authorized by the court to make decisions about mental health services for the child.*

Subd. 23. [LOCAL MENTAL HEALTH PROPOSAL.] *"Local mental health proposal" means the proposal developed by the county board, reviewed by the commissioner, and described in section 245.4872.*

Subd. 24. [LOCAL SYSTEM OF CARE.] *"Local system of care" means services that are locally available to the child and the child's family. The services are mental health, social services, correctional services, education services, health services, and vocational services.*

Subd. 25. [MENTAL HEALTH FUNDS.] *"Mental health funds" are funds expended under sections 245.73 and 256E.12, federal mental health block grant funds, and funds expended under sections 256D.06 and 256D.37 to facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690.*

Subd. 26. [MENTAL HEALTH PRACTITIONER.] *"Mental health practitioner" means a person providing services to children with emotional disturbances. A mental health practitioner must have training and experience in working with children. A mental health practitioner must be qualified in at least one of the following ways:*

(1) holds a bachelor's degree in one of the behavioral sciences or related fields from an accredited college or university and has at least 2,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;

(2) has at least 6,000 hours of supervised experience in the delivery of mental health services to children with emotional disturbances;

(3) is a graduate student in one of the behavioral sciences or related fields and is formally assigned by an accredited college or university to an agency or facility for clinical training; or

(4) holds a master's or other graduate degree in one of the behavioral sciences or related fields from an accredited college or university and has less than 4,000 hours post-master's experience in the treatment of emotional disturbance.

Subd. 27. [MENTAL HEALTH PROFESSIONAL.] *"Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:*

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in psychiatric or mental health nursing by the American nurses association;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Subd. 28. [MENTAL HEALTH SERVICES.] *"Mental health services" means at least all of the treatment services and case management activities that are provided to children with emotional disturbances and are described in sections 245.487 to 245.4887.*

Subd. 29. [OUTPATIENT SERVICES.] *"Outpatient services" means mental health services, excluding day treatment and community support services programs, provided by or under the clinical supervision of a mental health professional to children with emotional disturbances who live outside a hospital. Outpatient services include clinical activities such as individual, group, and family therapy; individual treatment planning; diagnostic assessments; medication management; and psychological testing.*

Subd. 30. [PARENT.] *"Parent" means the birth or adoptive mother or father of a child. This definition does not apply to a person whose parental rights have been terminated in relation to the child.*

Subd. 31. [PROFESSIONAL HOME-BASED FAMILY TREATMENT.] *"Professional home-based family treatment" means intensive mental health services provided to children (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement because of an emotional disturbance. Services are provided to the child and the child's family primarily in the child's home environment or other location appropriate to the child. Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child. Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed to meet the specific mental health needs of the child and the child's family. Services include family and individual therapy and family living skills training and must be coordinated with other service providers.*

Subd. 32. [RESIDENTIAL TREATMENT.] *"Residential treatment" means*

a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital or regional treatment center inpatient unit, that must be licensed as a residential treatment program for children with emotional disturbances under Minnesota Rules, parts 9545.0900 to 9545.1090, or other rules adopted by the commissioner.

Subd. 33. [SERVICE PROVIDER.] *"Service provider" means either a county board or an individual or agency including a regional treatment center under contract with the county board that provides children's mental health services funded under sections 245.487 to 245.4887.*

Subd. 34. [THERAPEUTIC SUPPORT OF FOSTER CARE.] *"Therapeutic support of foster care" means the mental health training and mental health support services and clinical supervision provided by a mental health professional to foster families caring for children with severe emotional disturbance to provide a therapeutic family environment and support for the child's improved functioning.*

Sec. 39. [245.4872] [PLANNING FOR A CHILDREN'S MENTAL HEALTH SYSTEM.]

Subdivision 1. [PLANNING EFFORT.] *Starting on the effective date of sections 245.487 to 245.4887 and ending January 1, 1992, the commissioner and the county agencies shall plan for the development of a unified, accountable, and comprehensive statewide children's mental health system. The system must be planned and developed by stages until it is operating at full capacity.*

Subd. 2. [TECHNICAL ASSISTANCE.] *The commissioner shall provide ongoing technical assistance to county boards to develop local mental health proposals as specified in section 245.4887, to improve system capacity and quality. The commissioner and county boards shall exchange information as needed about the numbers of children with emotional disturbances residing in the county and the extent of existing treatment components locally available to serve the needs of those persons. County boards shall cooperate with the commissioner in obtaining necessary planning information upon request.*

Subd. 3. [INFORMATION TO COUNTIES.] *By January 1, 1990, the commissioner shall provide each county with information about the predictors and symptoms of children's emotional disturbances and information about groups identified as at risk of developing emotional disturbance.*

Sec. 40. [245.4873] [COORDINATION OF CHILDREN'S MENTAL HEALTH SYSTEM.]

Subdivision 1. [STATE AND LOCAL COORDINATION.] *Coordination of the development and delivery of mental health services for children shall occur on the state and local levels to assure the availability of services to meet the mental health needs of children in a cost-effective manner.*

Subd. 2. [STATE LEVEL; COORDINATION.] *The commissioners or designees of commissioners of the departments of human services, health, education, state planning, and corrections, and a representative of the Minnesota district judges association juvenile committee, in conjunction with the commissioner of commerce or a designee of the commissioner shall meet at least quarterly through 1992 to:*

(1) educate each agency about the policies, procedures, funding, and

services for children with emotional disturbances of all agencies represented;

(2) develop mechanisms for interagency coordination on behalf of children with emotional disturbances;

(3) identify barriers including policies and procedures within all agencies represented that interfere with delivery of mental health services for children;

(4) recommend policy and procedural changes needed to improve development and delivery of mental health services for children in the agency or agencies they represent;

(5) identify mechanisms for better use of federal and state funding in the delivery of mental health services for children; and

(6) prepare an annual report on the policy and procedural changes needed to implement a coordinated, effective, and cost-efficient children's mental health delivery system.

This report shall be submitted to the legislature and the state mental health advisory council annually until February 15, 1992, as part of the report required under section 245.487, subdivision 4. The report shall include information from each department represented on:

(1) the number of children in each department's system who require mental health services;

(2) the number of children in each system who receive mental health services;

(3) how mental health services for children are funded within each system;

(4) how mental health services for children could be coordinated to provide more effectively appropriate mental health services for children; and

(5) recommendations for the provision of early screening and identification of mental illness in each system.

Subd. 3. [LOCAL LEVEL COORDINATION.] *(a) Each agency represented in the local system of care coordinating council, including mental health, social services, education, health, corrections, and vocational services as specified in section 245.4875, subdivision 6, is responsible for local coordination and delivery of mental health services for children. The county board shall establish a coordinating council that provides at least:*

(1) written interagency agreements with the providers of the local system of care to coordinate the delivery of services to children; and

(2) an annual report of the council to the local county board and the children's mental health advisory council about the unmet children's needs and service priorities.

(b) Each coordinating council shall collect information about the local system of care and report annually to the commissioner of human services on forms and in the manner provided by the commissioner. The report must include a description of the services provided through each of the service systems represented on the council, the various sources of funding for services and the amounts actually expended, a description of the numbers and characteristics of the children and families served during the previous

year, and an estimate of unmet needs. Each service system represented on the council shall provide information to the council as necessary to compile the report.

Subd. 4. [INDIVIDUAL CASE COORDINATION.] *The case manager designated under section 245.4881 is responsible for ongoing coordination with any other person responsible for planning, development, and delivery of social services, education, corrections, health, or vocational services for the individual child. The family community support plan developed by the case manager shall reflect the coordination among the local service system providers.*

Subd. 5. [DUTIES OF THE COMMISSIONER.] *The commissioner shall supervise the development and coordination of locally available children's mental health services by the county boards in a manner consistent with sections 245.487 to 245.4887. The commissioner shall review local mental health service proposals developed by county boards as specified in section 245.4872 and provide technical assistance to county boards in developing and maintaining locally available and coordinated children's mental health services. The commissioner shall monitor the county board's progress in developing its full system capacity and quality through ongoing review of the county board's children's mental health proposals and other information as required by sections 245.487 to 245.4887.*

Subd. 6. [PRIORITIES.] *By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities:*

(1) the provision of locally available mental health emergency services;

(2) the provision of locally available mental health services to all children with severe emotional disturbance;

(3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;

(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;

(5) the provision of locally available services to children with emotional disturbances; and

(6) the provision of education and preventive mental health services.

Sec. 41. [245.4874] [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services

to children and the cost effectiveness of their delivery;

(3) assure that mental health services delivered according to sections 245.487 to 245.4887 are appropriate to the child's diagnostic assessment and individual treatment plan;

(4) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(5) provide for case management services to each child with severe emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(6) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(7) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(8) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; and

(9) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age.

Sec. 42. [245.4875] [LOCAL SERVICE DELIVERY SYSTEM.]

Subdivision 1. [DEVELOPMENT OF CHILDREN'S SERVICES.] *The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. County boards shall demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the local children's mental health services proposal approved by the commissioner under section 245.4887.*

Subd. 2. [CHILDREN'S MENTAL HEALTH SERVICES.] *The children's mental health service system developed by each county board must include the following services:*

(1) education and prevention services according to section 245.4877;

(2) early identification and intervention services according to section 245.4878;

(3) emergency services according to section 245.4879;

(4) outpatient services according to section 245.488;

(5) family community support services according to section 245.4881;

(6) day treatment services according to section 245.4881, subdivision 7;

(7) residential treatment services according to section 245.4882;

(8) acute care hospital inpatient treatment services according to section 245.4883;

(9) screening according to section 245.4885;

(10) case management according to section 245.4881;

(11) therapeutic support of foster care according to section 245.4881, subdivision 9; and

(12) professional home-based family treatment according to section 245.4881, subdivision 9.

Subd. 3. [LOCAL CONTRACTS.] *The county board shall review all proposed county agreements, grants, or other contracts related to children's mental health services from any local, state, or federal governmental sources. Contracts with service providers must:*

(1) name the commissioner as a third party beneficiary;

(2) identify monitoring and evaluation procedures not in violation of the Minnesota government data practices act, chapter 13, which are necessary to ensure effective delivery of quality services;

(3) include a provision that makes payments conditional on compliance by the contractor and all subcontractors with sections 245.487 to 245.4887 and all other applicable laws, rules, and standards; and

(4) require financial controls and auditing procedures.

Subd. 4. [JOINT COUNTY MENTAL HEALTH AGREEMENTS.] *To efficiently provide the children's mental health services required by sections 245.487 to 245.4887, counties are encouraged to join with one or more county boards to establish a multicounty local children's mental health authority under the joint powers act, section 471.59, the human service board act, sections 402.01 to 402.10, community mental health center provisions, section 245.62, or enter into multicounty mental health agreements. Participating county boards shall establish acceptable ways of apportioning the cost of the services.*

Subd. 5. [LOCAL CHILDREN'S ADVISORY COUNCIL.] *(a) By October 1, 1989, the county board, individually or in conjunction with other county boards, shall establish a local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council or shall include persons on its existing mental health advisory council who are representatives of children's mental health interests. The following individuals must serve on the local children's mental health advisory council, the children's mental health subcommittee of an existing local mental health advisory council, or be included on an existing mental health advisory council: (1) at least one person who was in a mental health program as a child or adolescent; (2) at least one parent of a child or adolescent with severe emotional disturbance; (3) one children's mental*

health professional; (4) representatives of minority populations of significant size residing in the county; (5) a representative of the children's mental health local coordinating council; and (6) one family community support services program representative.

(b) The local children's mental health advisory council or children's mental health subcommittee of an existing advisory council shall meet at least quarterly to review, evaluate, and make recommendations regarding the local children's mental health system. Annually, the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council shall:

(1) arrange for input from the local system of care providers regarding coordination of care between the services; and

(2) identify for the county board the individuals, providers, agencies, and associations as specified in section 245.4877, clause (2).

(c) The county board shall consider the advice of its local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council in carrying out its authorities and responsibilities.

Subd. 6. [LOCAL SYSTEM OF CARE; COORDINATING COUNCIL.] *The county board shall establish, by January 1, 1990, a council representing all members of the local system of care including mental health services, social services, correctional services, education services, health services, and vocational services. The council shall include a representative of an Indian reservation authority where a reservation exists within the county. When possible, the council must also include a representative of juvenile court or the court responsible for juvenile issues and law enforcement. The members of the coordinating council shall meet at least quarterly to develop recommendations to improve coordination and funding of services to children with severe emotional disturbances. A county may use an existing child-focused interagency task force to fulfill the requirements of this subdivision if the representatives and duties of the existing task force are expanded to include those specified in this subdivision and section 245.4873, subdivision 3.*

Subd. 7. [OTHER LOCAL AUTHORITY.] *The county board may establish procedures and policies that are not contrary to those of the commissioner or sections 245.487 to 245.4887 regarding local children's mental health services and facilities. The county board shall perform other acts necessary to carry out sections 245.487 to 245.4887.*

Sec. 43. [245.4876] [QUALITY OF SERVICES.]

Subdivision 1. [CRITERIA.] *Children's mental health services required by sections 245.487 to 245.4887 must be:*

(1) based, when feasible, on research findings;

(2) based on individual clinical, cultural, and ethnic needs, and other special needs of the children being served;

(3) delivered in a manner that improves family functioning when clinically appropriate;

(4) provided in the most appropriate, least restrictive setting available

to the county board to meet the child's treatment needs;

(5) accessible to all age groups of children;

(6) appropriate to the developmental age of the child being served;

(7) delivered in a manner that provides accountability to the child for the quality of service delivered and continuity of services to the child during the years the child needs services from the local system of care;

(8) provided by qualified individuals as required in sections 245.487 to 245.4887;

(9) coordinated with children's mental health services offered by other providers;

(10) provided under conditions that protect the rights and dignity of the individuals being served; and

(11) provided in a manner and setting most likely to facilitate progress toward treatment goals.

Subd. 2. [DIAGNOSTIC ASSESSMENT.] *All residential treatment facilities and acute care hospital inpatient treatment services that provide mental health services for children must complete a diagnostic assessment for each of their child clients within five working days of admission. Providers of outpatient and day treatment services for children must complete a diagnostic assessment within ten working days of admission. In cases where a diagnostic assessment is available and has been completed within 90 days preceding admission, only updating is necessary.*

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] *All outpatient services, day treatment services, family community support services, professional home-based family treatment, residential treatment facilities, acute care hospital inpatient treatment facilities, and regional treatment centers that provide mental health facilities for children must develop an individual treatment plan for each child client. The individual treatment plan must be based on a diagnostic assessment. To the extent appropriate, the child shall be involved in all phases of developing and implementing the individual treatment plan. The individual treatment plan must be developed within ten working days of client intake or admission and reviewed every 90 days after that date, except that the administrative review of the treatment plan of a child placed in a residential facility shall be as specified in section 257.071, subdivisions 2 and 4.*

Subd. 4. [REFERRAL FOR CASE MANAGEMENT.] *Each provider of emergency services, outpatient treatment, community support services, family community support services, day treatment services, screening under section 245.4885, professional home-based family treatment services, residential treatment facilities, acute care hospital inpatient treatment facilities, or regional treatment center services must inform each child with severe emotional disturbance, and the child's parent or legal representative, of the availability and potential benefits to the child of case management. The information shall be provided as specified in subdivision 5. If consent is obtained according to subdivision 5, the provider must refer the child by notifying the county employee designated by the county board to coordinate case management activities of the child's name and address and by informing the child's family of whom to contact to request case management. The provider must document compliance with this subdivision in the child's record.*

Subd. 5. [CONSENT FOR SERVICES OR FOR RELEASE OF INFORMATION.] *(a) Although sections 245.487 to 245.4887 require each county board, within the limits of available resources, to make the mental health services listed in those sections available to each child residing in the county who needs them, the county board shall not provide any services, either directly or by contract, unless consent to the services is obtained under this subdivision. The case manager assigned to a child with a severe emotional disturbance shall not disclose to any person other than the case manager's immediate supervisor and the mental health professional providing clinical supervision of the case manager information on the child, the child's family, or services provided to the child or the child's family without informed written consent unless required to do so by statute or under the Minnesota government data practices act. Informed written consent must comply with section 13.05, subdivision 4, paragraph (d), and specify the purpose and use for which the case manager may disclose the information.*

(b) The consent or authorization must be obtained from the child's parent unless: (1) the parental rights are terminated; or (2) consent is otherwise provided under sections 144.341 to 144.347; 253B.04, subdivision 1; 260.133; 260.135; and 260.191, subdivision 1, the terms of appointment of a court-appointed guardian or conservator, or federal regulations governing chemical dependency services.

Subd. 6. [INFORMATION FOR BILLING.] *Each provider of outpatient treatment, family community support services, day treatment services, emergency services, professional home-based family treatment services, residential treatment, or acute care hospital inpatient treatment must include the name and home address of each child for whom services are included on a bill submitted to a county, if the release of that information under subdivision 5 has been obtained and if the county requests the information. Each provider must try to obtain the consent of the child's family. Each provider must explain to the child's family that the information can only be released with the consent of the child's family and may be used only for purposes of payment and maintaining provider accountability. The provider shall document the attempt in the child's record.*

Subd. 7. [RESTRICTED ACCESS TO DATA.] *The county board shall establish procedures to ensure that the names and addresses of children receiving mental health services and their families are disclosed only to:*

(1) county employees who are specifically responsible for determining county of financial responsibility or making payments to providers; and

(2) staff who provide treatment services or case management and their clinical supervisors.

Release of mental health data on individuals submitted under subdivisions 5 and 6, to persons other than those specified in this subdivision, or use of this data for purposes other than those stated in subdivisions 5 and 6, results in civil or criminal liability under section 13.08 or 13.09.

Sec. 44. [245.4877] [EDUCATION AND PREVENTION SERVICES.]

Education and prevention services must be available to all children residing in the county. Education and prevention services must be designed to:

(1) convey information regarding emotional disturbances, mental health

needs, and treatment resources to the general public and groups identified as at high risk of developing emotional disturbance under section 245.4872, subdivision 3;

(2) at least annually, distribute to individuals and agencies identified by the county board and the local children's mental health advisory council information on predictors and symptoms of emotional disturbances, where mental health services are available in the county, and how to access the services;

(3) increase understanding and acceptance of problems associated with emotional disturbances;

(4) improve people's skills in dealing with high-risk situations known to affect children's mental health and functioning;

(5) prevent development or deepening of emotional disturbances; and

(6) refer each child with emotional disturbance or the child's family with additional mental health needs to appropriate mental health services.

Sec. 45. [245.4878] [EARLY IDENTIFICATION AND INTERVENTION.]

By January 1, 1991, early identification and intervention services must be available to meet the needs of all children and their families residing in the county, consistent with section 245.4873. Early identification and intervention services must be designed to identify children who are at risk of needing or who need mental health services. The county board must provide intervention and offer treatment services to each child who is identified as needing mental health services. The county board must offer intervention services to each child who is identified as being at risk of needing mental health services.

Sec. 46. [245.4879] [EMERGENCY SERVICES.]

Subdivision 1. [AVAILABILITY OF EMERGENCY SERVICES.] *County boards must provide or contract for enough mental health emergency services within the county to meet the needs of children in the county who are experiencing an emotional crisis or emotional disturbance. A child or the child's parent may be required to pay a fee according to section 245.481. Emergency service providers shall not delay the timely provision of emergency service because of delays in determining this fee or because of the unwillingness or inability of the parent to pay the fee. Emergency services must include assessment, intervention, and appropriate case disposition. Emergency services must:*

(1) promote the safety and emotional stability of children with emotional disturbances or emotional crises;

(2) minimize further deterioration of the child with emotional disturbance or emotional crisis;

(3) help each child with an emotional disturbance or emotional crisis to obtain ongoing care and treatment; and

(4) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs.

Subd. 2. [SPECIFIC REQUIREMENTS.] *The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and*

holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional. When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available for at least telephone consultation within 30 minutes.

Sec. 47. [245.488] [OUTPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF OUTPATIENT SERVICES.] *(a) County boards must provide or contract for enough outpatient services within the county to meet the needs of each child with emotional disturbance residing in the county and the child's family. A child or a child's parent may be required to pay a fee based in accordance with section 245.481. Outpatient services include:*

(1) conducting diagnostic assessments;

(2) conducting psychological testing;

(3) developing or modifying individual treatment plans;

(4) making referrals and recommending placements as appropriate;

(5) treating the child's mental health needs through therapy; and

(6) prescribing and managing medication and evaluating the effectiveness of prescribed medication.

(b) County boards may request a waiver allowing outpatient services to be provided in a nearby trade area if it is determined that the child requires necessary and appropriate services that are only available outside the county.

(c) Outpatient services offered by the county board to prevent placement must be at the level of treatment appropriate to the child's diagnostic assessment.

Subd. 2. [SPECIFIC REQUIREMENTS.] *The county board shall require that a service provider of outpatient services to children:*

(1) meets the professional qualifications contained in sections 245.487 to 245.4887;

(2) uses a multidisciplinary mental health professional staff including, at a minimum, arrangements for psychiatric consultation, licensed consulting psychologist consultation, and other necessary multidisciplinary mental health professionals;

(3) develops individual treatment plans; and

(4) provides initial appointments within three weeks, except in emergencies where there must be immediate access as described in section 245.4879.

Sec. 48. [245.4881] [CASE MANAGEMENT AND FAMILY COMMUNITY SUPPORT SERVICES.]

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] *(a) By July 1, 1991, the county board shall provide case management activities for each child with severe emotional disturbance residing in the county and the child's family who request or consent to the services.*

Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Subd. 2. [NOTIFICATION OF CASE MANAGEMENT ELIGIBILITY.] *The county board shall notify, as appropriate, the child, child's parent, or legal representative of the child's potential eligibility for case management services within five working days after receiving a request from an individual or a referral from a provider under section 245.4876, subdivision 4.*

The county board shall send a written notice that identifies the designated case management providers. The county board shall send the notice, as appropriate, to the child, the child's parent, or the child's legal representative, if any.

Subd. 3. [DUTIES OF CASE MANAGER.] *(a) The case manager shall promptly arrange for a diagnostic assessment of the child when one is not available as described in section 245.4876, subdivision 2, to determine the child's eligibility as a child with severe emotional disturbance for family community support services. The county board shall notify in writing, as appropriate, the child, the child's parent, or the child's legal representative, if any, if the child is determined ineligible for family community support services.*

(b) Upon a determination of eligibility for family support services, the case manager shall develop an individual family community support plan for a child as specified in subdivision 4, review the child's progress, and monitor the provision of services. If services are to be provided in a host county that is not the county of financial responsibility, the case manager shall consult with the host county and obtain a letter demonstrating the concurrence of the host county regarding the provision of services.

The case manager shall perform a functional assessment and note in the client's record the services needed by the child and the child's family, the services requested by the family, services that are not available, and the child and family's unmet needs. The information required under section 245.4886 shall be provided in writing to the child and the child's family. The case manager shall note this provision in the client record.

Subd. 4. [INDIVIDUAL FAMILY COMMUNITY SUPPORT PLAN.] *(a) For each child, the case manager must develop an individual family community support plan that incorporates the child's individual treatment plan. The individual treatment plan may not be a substitute for the development of an individual family community support plan. The case manager is responsible for developing the individual family community support plan within 30 days of intake based on a diagnostic assessment and a functional assessment and for implementing and monitoring the delivery of services according to the individual family community support plan. The case manager must review the plan every 90 calendar days after it is developed. To the extent appropriate, the child with severe emotional disturbance, the child's family, advocates, service providers, and significant others must be involved in all phases of development and implementation of the individual family community support plan.*

Notwithstanding the lack of a community support plan, the case manager shall assist the child and family in accessing the needed services listed in subdivision 6.

(b) The child's individual family community support plan must state:

(1) the goals and expected outcomes of each service and criteria for evaluating the effectiveness and appropriateness of the service;

(2) the activities for accomplishing each goal;

(3) a schedule for each activity; and

(4) the frequency of face-to-face contacts by the case manager, as appropriate to client need and the implementation of the individual family community support plan.

Subd. 5. [COORDINATION BETWEEN CASE MANAGER AND FAMILY COMMUNITY SUPPORT SERVICES.] *The county board must establish procedures that ensure ongoing contact and coordination between the case manager and the family community support services as well as other mental health services for each child.*

Subd. 6. [AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.] *By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.*

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

(1) handle basic activities of daily living;

(2) improve functioning in school settings;

(3) participate in leisure time or community youth activities;

(4) set goals and plans;

(5) reside with the family in the community;

(6) participate in after school and summer activities;

(7) make a smooth transition between mental health services provided to children; and

(8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically

appropriate to the child's needs, and to reduce the use of placements more intensive, costly, or restrictive both in number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Subd. 7. [DAY TREATMENT SERVICES PROVIDED.] *(a) Day treatment services must be part of the family community support services available to each child with severe emotional disturbance residing in the county. A child or the child's parent may be required to pay a fee according to section 245.481. Day treatment services must be designed to:*

(1) provide a structured environment for treatment;

(2) provide family and community support;

(3) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's need;

(4) coordinate with or be offered in conjunction with the school's education program;

(5) provide therapy and family intervention for children that are coordinated with education services provided and funded by schools; and

(6) operate during all 12 months of the year.

(b) County boards may request a waiver from including day treatment services if they can document that:

(1) alternative services exist through the county's family community support services for each child who would otherwise need day treatment services; and

(2) county demographics and geography make the provision of day treatment services cost ineffective and unfeasible.

Subd. 8. [PROFESSIONAL HOME-BASED FAMILY TREATMENT PROVIDED.] *(a) By January 1, 1991, county boards must provide or contract for sufficient professional home-based family treatment within the county to meet the needs of each child with severe emotional disturbance who is at risk of out-of-home placement due to the child's emotional disturbance or who is returning to the home from out-of-home placement. The child or the child's parent may be required to pay a fee according to section 245.481. The county board shall require that all service providers of professional home-based family treatment set fee schedules approved by the county board that are based on the child's or family's ability to pay. The professional home-based family treatment must be designed to assist each child with severe emotional disturbance who is at risk of or who is returning from out-of-home placement and the child's family to:*

(1) improve overall family functioning in all areas of life;

(2) treat the child's symptoms of emotional disturbance that contribute to a risk of out-of-home placement;

(3) provide a positive change in the emotional, behavioral, and mental well-being of children and their families; and

(4) reduce risk of out-of-home placement for the identified child with severe emotional disturbance and other siblings or successfully reunify and reintegrate into the family a child returning from out-of-home placement due to emotional disturbance.

(b) Professional home-based family treatment must be provided by a team consisting of a mental health professional and others who are skilled in the delivery of mental health services to children and families in conjunction with other human service providers. The professional home-based family treatment team must maintain flexible hours of service availability and must provide or arrange for crisis services for each family, 24 hours a day, seven days a week. Case loads for each professional home-based family treatment team must be small enough to permit the delivery of intensive services and to meet the needs of the family. Professional home-based family treatment providers shall coordinate services and service

needs with case managers assigned to children and their families. Individual treatment plans must be developed that identify the specific treatment objectives for both the child and the family.

Subd. 9. [THERAPEUTIC SUPPORT OF FOSTER CARE.] *By January 1, 1992, county boards must provide or contract for foster care with therapeutic support as defined in section 245.4871, subdivision 34. Foster families caring for children with severe emotional disturbance must receive training and supportive services, as necessary, at no cost to the foster families within the limits of available resources.*

Subd. 10. [BENEFITS ASSISTANCE.] *The county board must offer help to a child with severe emotional disturbance and the child's family in applying for federal benefits, including supplemental security income, medical assistance, and Medicare.*

Sec. 49. [245.4882] [RESIDENTIAL TREATMENT SERVICES.]

Subdivision 1. [AVAILABILITY OF RESIDENTIAL TREATMENT SERVICES.] *County boards must provide or contract for enough residential treatment services to meet the needs of each child with emotional disturbance residing in the county and needing this level of care. Length of stay is based on the child's residential treatment need and shall be subject to the six-month review process established in section 257.071, subdivisions 2 and 4. Services must be made available as close to the county as possible. Residential treatment must be designed to:*

(1) prevent placement in settings that are more intensive, costly, or restrictive than necessary and appropriate to meet the child's needs;

(2) help the child improve family living and social interaction skills;

(3) help the child gain the necessary skills to return to the community;

(4) stabilize crisis admissions; and

(5) work with families throughout the placement to improve the ability of the families to care for children with emotional disturbance in the home.

Subd. 2. [SPECIFIC REQUIREMENTS.] *A provider of residential services to children must be licensed under applicable rules adopted by the commissioner and must be clinically supervised by a mental health professional.*

Subd. 3. [TRANSITION TO COMMUNITY.] *Residential treatment facilities and regional treatment centers serving children must plan for and assist those children and their families in making a transition to less restrictive community-based services. Residential treatment facilities must also arrange for*

appropriate follow-up care in the community. Before a child is discharged, the residential treatment facility or regional treatment center shall provide notification to the child's case manager, if any, so that the case manager can monitor and coordinate the transition and make timely arrangements for the child's appropriate follow-up care in the community.

Sec. 50. [245.4883] [ACUTE CARE HOSPITAL INPATIENT SERVICES.]

Subdivision 1. [AVAILABILITY OF ACUTE CARE HOSPITAL INPATIENT SERVICES.] *County boards must make available through contract or direct provision enough acute care hospital inpatient treatment services*

as close to the county as possible for children with emotional disturbances residing in the county needing this level of care. Acute care hospital inpatient treatment services must be designed to:

(1) stabilize the medical and mental health condition for which admission is required;

(2) improve functioning to the point where discharge to residential treatment or community-based mental health services is possible;

(3) facilitate appropriate referrals for follow-up mental health care in the community;

(4) work with families to improve the ability of the families to care for those children with emotional disturbances at home; and

(5) assist families and children in the transition from inpatient services to community-based services or home setting, and provide notification to the child's case manager, if any, so that the case manager can monitor the transition and make timely arrangements for the child's appropriate follow-up care in the community.

Subd. 2. [SPECIFIC REQUIREMENTS.] *Providers of acute care hospital inpatient services for children must meet applicable standards established by the commissioners of health and human services.*

Sec. 51. [245.4885] [SCREENING FOR INPATIENT AND RESIDENTIAL TREATMENT.]

Subdivision 1. [SCREENING REQUIRED.] *The county board shall ensure that all children are screened upon admission for treatment of emotional disturbance to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment of emotional disturbance or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five working days of admission. Screening shall determine whether the proposed treatment:*

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home;

(4) the length of stay is as short as possible consistent with the individual child's need; and

(5) the case manager, if assigned, is developing an individual family community support plan.

Screening shall be in compliance with section 256F.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process and placement decision must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (3).

Subd. 2. [QUALIFICATIONS.] *No later than January 1, 1992, screening of children for residential and inpatient services must be conducted by a mental health professional. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation in sparsely populated areas.*

Subd. 3. [INDIVIDUAL PLACEMENT AGREEMENT.] *The county board shall enter into an individual placement agreement with a provider of residential treatment services to a child eligible for county-paid services under this section. The agreement must specify the payment rate and terms and conditions of county payment for the placement.*

Subd. 4. [TASK FORCE ON RESIDENTIAL AND INPATIENT TREATMENT SERVICES FOR CHILDREN.] *The commissioner of human services shall appoint a task force on residential and inpatient treatment services for children that includes representatives from each of the mental health professional categories defined in section 245.4871, subdivision 27, the Minnesota mental health association, the Minnesota alliance for the mentally ill, the children's mental health initiative, the Minnesota mental health law project, the Minnesota district judges association juvenile committee, department of human services staff, the department of education, local community-based corrections, the department of corrections, the ombudsman for mental health and mental retardation, residential treatment facilities for children, inpatient hospital facilities for children, and counties. The task force shall examine and evaluate existing and available mechanisms that have as their purpose determination of and review of appropriate admission and need for continued care for all children with emotional disturbances who are admitted to residential treatment facilities or acute care hospital inpatient treatment. These mechanisms shall include at least the following: precommitment screening, preplacement screening for children, licensure and reimbursement rules, county monitoring, technical assistance, hospital preadmission certification, and hospital retrospective reviews. The task force shall report to the legislature by February 15, 1990, on how existing mechanisms may be changed to accomplish the goals of screening as described in section 245.4885, subdivision 1.*

Sec. 52. [245.4886] [APPEALS.]

A child or a child's family, as appropriate, who requests mental health services under sections 245.487 to 245.4887 must be advised of services available and the right to appeal as described in this section at the time of the request and each time the individual family community support plan or individual treatment plan is reviewed. A child whose request for mental health services under sections 245.487 to 245.4887 is denied, not acted upon with reasonable promptness, or whose services are suspended, reduced, or terminated by action or inaction for which the county board is responsible under sections 245.487 to 245.4887 may contest that action or inaction before the state agency according to section 256.045. The commissioner shall monitor the nature and frequency of administrative appeals under this section.

Sec. 53. [245.4887] [CHILDREN'S SECTION OF LOCAL MENTAL HEALTH PROPOSAL.]

Subdivision 1. [TIME PERIOD.] *The county board shall submit its first complete children's section of its local mental health proposal to the commissioner by November 15, 1989. Subsequent proposals must be on the same two-year cycle as community social service plans. If a proposal complies with sections 245.487 to 245.4887, it satisfies the requirement of the community social service plan for the emotionally disturbed target population as required by section 256E.09. The proposal must be made available upon request to all residents of the county at the same time it is submitted to the commissioner.*

Subd. 2. [PROPOSAL CONTENT.] *The children's section of the local mental health proposal must include:*

(1) a report of the local children's mental health advisory council or children's mental health subcommittee of the existing local mental health advisory council on unmet needs of children and any other needs assessment used by the county board in preparing the local mental health proposal, including the report of the local coordinating council or local interagency task force specified in section 245.4875, subdivision 6;

(2) a description of the involvement of the local children's mental health advisory council or the children's mental health subcommittee of the existing local mental health advisory council in preparing the local mental health proposal and methods used by the county board to ensure adequate and timely participation of citizens, mental health professionals, and providers in development of the local mental health proposal;

(3) information for the preceding year, including the actual number of children who received each of the mental health services listed in sections 245.487 to 245.4887, and actual expenditures for each mental health service and service waiting lists; and

(4) the following information describing how the county board intends to meet the requirements of sections 245.487 to 245.4887 during the proposal period:

(i) specific objectives and outcome goals for each mental health service listed in sections 245.487 to 245.4887;

(ii) a description of each service provider, including county agencies, contractors, and subcontractors, that is expected to either be the sole provider of one of the mental health services described in sections 245.487 to 245.4887 or to provide over $10,000 of mental health services per year, including a listing of the professional qualifications of the staff involved in service delivery for the county;

(iii) a description of how the mental health services in the county will be unified and coordinated, including the mechanism established by the county board providing for interagency coordination as specified in section 245.4875, subdivision 6;

(iv) the estimated number of children who will receive each mental health service; and

(v) estimated expenditures for each mental health service and revenues for the entire proposal.

Subd. 3. [PROPOSAL FORMAT.] *The children's section of the local mental health proposal must be made in a format prescribed by the commissioner.*

Subd. 4. [PROVIDER APPROVAL.] *The commissioner's review of the children's section of the local mental health proposal must include a review of the qualifications of each service provider required to be identified in the children's section of the local mental health proposal under subdivision 2. The commissioner may reject a county board's proposal for a particular provider if:*

(1) the provider does not meet the professional qualifications contained in sections 245.487 to 245.4887;

(2) the provider does not have adequate fiscal stability or controls to provide the proposed services as determined by the commissioner; or

(3) the provider is not in compliance with other applicable state laws or rules.

Subd. 5. [SERVICE APPROVAL.] *The commissioner's review of the children's section of the local mental health proposal must include a review of the appropriateness of the amounts and types of children's mental health services in the children's section of the local mental health proposal. The commissioner may reject the county board's proposal if the commissioner determines that the amount and types of services proposed are not cost effective, do not meet the child's needs, or do not comply with sections 245.487 to 245.4887.*

Subd. 6. [PROPOSAL APPROVAL.] *The commissioner shall review each children's section of the local mental health proposal within 90 days and work with the county board to make any necessary modifications to comply with sections 245.487 to 245.4887. After the commissioner has approved the proposal, the county board is eligible to receive an allocation of mental health and community social service act funds.*

Subd. 7. [PARTIAL OR CONDITIONAL APPROVAL.] *If the children's section of the local mental health proposal is in substantial compliance, but not in full compliance with sections 245.487 to 245.4887, and necessary modifications cannot be made before the proposal period begins, the commissioner may grant partial or conditional approval and withhold a proportional share of the county board's mental health and community social service act funds until full compliance is achieved.*

Subd. 8. [AWARD NOTICE.] *Upon approval of the county board proposal, the commissioner shall send a notice of approval for funding. The notice must specify any conditions of funding and is binding on the county board. Failure of the county board to comply with the approved proposal and funding conditions may result in withholding or repayment of funds according to section 245.483.*

Subd. 9. [PLAN AMENDMENT.] *If the county board finds it necessary to make significant changes in the approved children's section of the local mental health proposal, it must present the proposed changes to the commissioner for approval at least 30 days before the changes take effect. "Significant changes" means:*

(1) the county board proposes to provide a children's mental health service through a provider other than the provider listed for that service in the approved local proposal;

(2) the county board expects the total annual expenditures for any single children's mental health service to vary more than ten percent or $5,000, whichever is greater, from the amount in the approved local proposal;

(3) the county board expects a combination of changes in expenditures per children's mental health service to exceed more than ten percent of the total children's mental health services expenditures; or

(4) the county board proposes a major change in the specific objectives and outcome goals listed in the approved local children's mental health proposal.

Sec. 54. Minnesota Statutes 1988, section 245.62, subdivision 3, is amended to read:

Subd. 3. [CLINICAL ~~DIRECTOR~~ *SUPERVISOR.*] All community mental health center services shall be provided under the clinical ~~direction~~ *supervision* of a licensed consulting psychologist licensed under sections 148.88 to 148.98, or a physician who is board certified or eligible for board certification in psychiatry, and who is licensed under section 147.02.

Sec. 55. Minnesota Statutes 1988, section 245.696, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC DUTIES.] In addition to the powers and duties already conferred by law, the commissioner of human services shall:

(1) review and evaluate local programs and the performance of administrative and mental health personnel and make recommendations to county boards and program administrators;

(2) provide consultative staff service to communities and advocacy groups to assist in ascertaining local needs and in planning and establishing community mental health programs;

(3) employ qualified personnel to implement this chapter;

(4) ~~as part of the biennial budget process, report to the legislature on staff use and staff performance, including in the report a description of duties performed by each person in the mental health division;~~

~~(5)~~ adopt rules for minimum standards in community mental health services as directed by the legislature;

~~(6)~~ *(5)* cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

~~(7)~~ *(6)* convene meetings with the commissioners of corrections, health, education, and commerce at least four times each year for the purpose of coordinating services and programs for ~~children with mental illness and~~ children with emotional or behavioral disorders;

~~(8)~~ *(7)* evaluate the needs of people with mental illness as they relate to assistance payments, medical benefits, nursing home care, and other state and federally funded services;

~~(9)~~ *(8)* provide data and other information, as requested, to the advisory council on mental health;

~~(10)~~ *(9)* develop and maintain a data collection system to provide information on the prevalence of mental illness, the need for specific mental health services and other services needed by people with mental illness, funding sources for those services, and the extent to which state and local areas are meeting the need for services;

~~(11)~~ *(10)* apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering

mental health services;

~~(12)~~ *(11)* study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(13)~~ *(12)* provide technical assistance to county boards to improve fiscal management and accountability and quality of mental health services, and consult regularly with county boards, public and private mental health agencies, and client advocacy organizations for purposes of implementing this chapter;

~~(14)~~ *(13)* promote coordination between the mental health system and other human service systems in the planning, funding, and delivery of services; entering into cooperative agreements with other state and local agencies for that purpose as deemed necessary by the commissioner;

~~(15)~~ *(14)* conduct research regarding the relative effectiveness of mental health treatment methods as the commissioner deems appropriate, and for this purpose, enter treatment facilities, observe clients, and review records in a manner consistent with the Minnesota government data practices act, chapter 13; and

~~(16)~~ *(15)* enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 56. Minnesota Statutes 1988, section 245.697, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] A state advisory council on mental health is created. The council must have ~~25~~ *30* members appointed by the governor in accordance with federal requirements. The council must be composed of:

(1) the assistant commissioner of mental health for the department of human services;

(2) a representative of the department of human services responsible for the medical assistance program;

(3) one member of each of the four core mental health professional disciplines (psychiatry, psychology, social work, nursing);

(4) one representative from each of the following advocacy groups: mental health association of Minnesota, Minnesota alliance for the mentally ill, and Minnesota mental health law project;

(5) providers of mental health services;

(6) consumers of mental health services;

(7) family members of persons with mental illnesses;

(8) legislators;

(9) social service agency directors;

(10) county commissioners; and

(11) other members reflecting a broad range of community interests, as the United States Secretary of Health and Human Services may prescribe by regulation or as may be selected by the governor.

Terms, compensation, and removal of members and filling of vacancies are governed by section 15.059~~, except that members shall not receive a~~

~~per diem~~. The council ~~expires~~ *does not expire* as provided in section 15.059.

Sec. 57. Minnesota Statutes 1988, section 245.697, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The state advisory council on mental health shall:

(1) advise the governor, the legislature, and heads of state departments and agencies about policy, programs, and services affecting people with mental illness;

(2) advise the commissioner of human services on all phases of the development of mental health aspects of the biennial budget;

(3) advise the governor and the legislature about the development of innovative mechanisms for providing and financing services to people with mental illness;

(4) encourage state departments and other agencies to conduct needed research in the field of mental health;

(5) review recommendations of the subcommittee on children's mental health;

(6) educate the public about mental illness and the needs and potential of people with mental illness; ~~and~~

(7) review and comment on all grants dealing with mental health and on the development and implementation of state and local mental health plans*; and*

(8) coordinate the work of local children's and adult mental health advisory councils and subcommittees.

Sec. 58. Minnesota Statutes 1988, section 245.697, subdivision 2a, is amended to read:

Subd. 2a. [SUBCOMMITTEE ON CHILDREN'S MENTAL HEALTH.] The state advisory council on mental health (the "advisory council") must have a subcommittee on children's mental health. The subcommittee must make recommendations to the advisory council on policies, laws, regulations, and services relating to children's mental health. Members of the subcommittee must include:

(1) the commissioners or designees of the commissioners of the departments of human services, health, education, *state planning,* and corrections;

(2) the commissioner of commerce or a designee of the commissioner who is knowledgeable about medical insurance issues;

(3) at least one representative of an advocacy group for children with ~~mental illness~~ *emotional disturbances*;

(4) providers of children's mental health services, including at least one provider of services to preadolescent children, one provider of services to adolescents, and one hospital-based provider;

(5) parents of children who have ~~mental illness or~~ emotional ~~or behavioral disorders~~ *disturbances*;

(6) a present or former consumer of adolescent mental health services;

(7) educators ~~experienced in~~ *currently* working with emotionally disturbed children;

(8) people knowledgeable about the needs of emotionally disturbed children of minority races and cultures;

(9) people experienced in working with emotionally disturbed children who have committed status offenses;

(10) members of the advisory council; ~~and~~

(11) *one person from the local corrections department and one representative of the Minnesota district judges association juvenile committee; and*

(12) county commissioners and social services agency representatives.

The chair of the advisory council shall appoint subcommittee members described in clauses (3) to (11) through the process established in section 15.0597. The chair shall appoint members to ensure a geographical balance on the subcommittee. Terms, compensation, removal, and filling of vacancies are governed by subdivision 1, except that terms of subcommittee members who are also members of the advisory council are coterminous with their terms on the advisory council. The subcommittee shall meet at the call of the subcommittee chair who is elected by the subcommittee from among its members. The subcommittee expires with the expiration of the advisory council.

Sec. 59. Minnesota Statutes 1988, section 245.713, subdivision 2, is amended to read:

Subd. 2. [TOTAL FUNDS AVAILABLE; ALLOCATION.] Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals. Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed ~~ten~~ *five* percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the

commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(d) The amount required under federal law, for federally mandated expenditures.

(e) An amount not to exceed ~~ten~~ *15* percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

Sec. 60. Minnesota Statutes 1988, section 245.73, subdivision 4, is amended to read:

Subd. 4. [RULES; REPORTS.] The commissioner shall promulgate an emergency and permanent rule to govern grant applications, approval of applications, allocation of grants, and maintenance of service and financial records by grant recipients. The commissioner shall require collection of data for compliance, monitoring and evaluation purposes and shall require periodic reports to demonstrate the effectiveness of the services in helping adult mentally ill persons remain and function in their own communities. *As a part of the report required by section 245.461,* the commissioner shall report to the legislature ~~no later than December 31 of each even-numbered year~~ as to the effectiveness of this program and recommendations regarding continued funding.

Sec. 61. Minnesota Statutes 1988, section 245A.095, is amended to read:

245A.095 [REVIEW OF RULES FOR PROGRAMS SERVING PERSONS WITH MENTAL ILLNESSES.]

Subdivision 1. [LICENSE REQUIRED.] Residential programs ~~for~~ *with* five or more persons with a mental illness must be licensed under sections 245A.01 to 245A.16. To assure that this requirement is met, the commissioner of health, in cooperation with the commissioner of human services, shall monitor licensed boarding care homes, board and lodging houses, and supervised living facilities.

By January 1, 1989, the commissioner of health shall recommend to the legislature an appropriate method for enforcing this requirement.

Subd. 1a. [RULES.] *In developing rules for serving persons with mental illness, the commissioner of human services shall assure that persons with mental illness are provided with needed treatment or support in the least restrictive, most appropriate environment, that supportive residential care in small homelike settings is available for persons needing that care, and that a mechanism is developed to ensure that no person is placed in a care or treatment setting inappropriate for meeting the person's needs. To the maximum extent possible, the rule shall assure that length of stay is governed solely by client need and shall allow for a variety of innovative and flexible approaches in meeting residential and support needs of persons with mental illness.*

Subd. 2. [SPECIFIC REVIEW OF RULES.] The commissioner shall:

(1) provide in rule for ~~various levels of care~~ *additional types of programs and services, including but not limited to supportive small group residential care, semi-independent and apartment living services, and crisis and respite services,* to address the residential treatment *and support* needs of

persons with mental illness;

(2) review category I and II programs established in Minnesota Rules, parts 9520.0500 to 9520.0690 to ensure that the categories of programs provide a continuum of residential service programs for persons with mental illness, *including but not limited to programs meeting needs for intensive treatment, crisis and respite care, and rehabilitation and training*;

(3) provide in rule for a definition of the term "treatment" as used in relation to persons with mental illness;

(4) adjust funding mechanisms by rule as needed to reflect the requirements established by rule for services being provided;

(5) review and recommend staff educational requirements and staff training as needed; ~~and~~

(6) review and make changes in rules relating to residential care and service programs for persons with mental illness as the commissioner may determine necessary*; and*

(7) the commissioner shall report to the legislature by February 15, 1990, on the status of rulemaking with respect to clauses (1) to (6).

Subd. 3. [HOUSING SERVICES FOR PERSONS WITH MENTAL ILLNESS.] The commissioner of human services shall study the housing needs of people with mental illness and shall articulate a continuum of services from residential treatment as the most intensive service through housing programs as the least intensive. The commissioner shall develop recommendations for implementing the continuum of services and shall present the recommendations to the legislature by January 31, 1988.

Sec. 62. [246.0175] [OFFICE OF MEDICAL DIRECTOR.]

Subdivision 1. [ESTABLISHED.] *The office of medical director within the department of human services is established.*

Subd. 2. [MEDICAL DIRECTOR.] *The commissioner of human services shall appoint a medical director. The medical director must be a psychiatrist certified by the board of psychiatry.*

Subd. 3. [DUTIES.] *The medical director shall:*

(1) oversee the clinical provision of inpatient mental health services provided in the state's regional treatment centers;

(2) recruit and retain psychiatrists to serve on the state medical staff established in subdivision 4;

(3) consult with the commissioner of human services, the assistant commissioner of mental health, community mental health center directors, and the regional treatment center governing bodies to develop standards for treatment and care of patients in regional treatment centers and outpatient programs;

(4) develop and oversee a continuing education program for members of the regional treatment center medical staff;

(5) consult with the commissioner on the appointment of the chief executive officers for regional treatment centers; and

(6) participate and cooperate in the development and maintenance of a quality assurance program for regional treatment centers that assures that

residents receive quality inpatient care and continuous quality care once they are discharged or transferred to an outpatient setting.

Subd. 4. [REGIONAL TREATMENT CENTER MEDICAL STAFF] *(a) The commissioner of human services shall establish a regional treatment center medical staff which shall be under the clinical direction of the office of medical director.*

(b) The medical director, in conjunction with the regional treatment center medical staff, shall:

(1) establish standards and define qualifications for physicians who care for residents in regional treatment centers;

(2) monitor the performance of physicians who care for residents in regional treatment centers; and

(3) recommend to the commissioner changes in procedures for operating regional treatment centers that are needed to improve the provision of medical care in those facilities.

Sec. 63. [STUDY.]

The commissioner of human services shall, in cooperation with the commissioner of health, study and submit to the legislature by February 15, 1991, a report and recommendations regarding: (1) plans and fiscal projections for increasing the number of community-based beds, small community-based residential programs, and support services for persons with mental illness, including persons for whom nursing home services are inappropriate, to serve all persons in need of those programs; and (2) the projected fiscal impact of maximizing the availability of medical assistance coverage for persons with mental illness.

Sec. 64. [REPEALER.]

Minnesota Statutes 1988, sections 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; and 245A.095, subdivision 3, are repealed.

Sec. 65. [EFFECTIVE DATE.]

Section 37, subdivision 5, is effective the day following final enactment.

ARTICLE 5

INCOME MAINTENANCE AND WELFARE REFORM

Section 1. Minnesota Statutes 1988, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation, prosecution, criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system; *and to verify receipt of energy assistance for the telephone assistance plan;*

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons; or

(11) data maintained by residential facilities as defined in section 245A.02, subdivision 6, may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person.

(b) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1988, section 237.70, subdivision 7, is amended to read:

Subd. 7. [ADMINISTRATION.] The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the telephone companies. *The application must contain the applicant's social security number. Applications without a social security number will be denied.* Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS, AND YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE

CONTACT . . . . . .

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of an application form and shall continue to provide credits unless notified that the subscriber is ineligible. The company shall cease granting credits at the earliest possible billing cycle when notified by the department of human services that the subscriber is ineligible.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

(1) establish a uniform statewide surcharge in accordance with subdivision 6;

(2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;

(3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;

(4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and

(5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of public service with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of public service shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

Sec. 3. Minnesota Statutes 1988, section 237.701, subdivision 1, is amended to read:

Subdivision 1. [TELEPHONE ASSISTANCE FUND.] The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the department of administration representing

the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to telephone companies for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the administrative expenses of the department of human services ~~from January 1, 1988, to June 30, 1989,~~ to implement sections 237.69 to 237.71, not to exceed ~~$90,000~~ *$180,000 annually*; and

(3) reimbursement of the administrative expenses of the commission not to exceed $25,000 annually.

Sec. 4. Minnesota Statutes 1988, section 245.771, subdivision 3, is amended to read:

Subd. 3. [EMPLOYMENT AND TRAINING PROGRAMS.] *The commissioner of human services, in consultation with the commissioner of jobs and training, is authorized to implement and allocate money to food stamp employment and training programs in as many counties as is necessary to meet federal participation requirements and comply with federal laws and regulations.* The commissioner of human services may contract with the commissioner of jobs and training to implement and supervise employment and training programs for food stamp recipients that are required by federal regulations.

Sec. 5. Minnesota Statutes 1988, section 256.014, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF SYSTEMS.] The commissioner of human services shall establish and enhance computer systems necessary for the efficient operation of the programs the commissioner supervises, including:

(1) management and administration of the food stamp and income maintenance programs;

(2) ~~the central clearinghouse project for~~ *management and administration of* the child support enforcement program; and

(3) administration of medical assistance and general assistance medical care.

The commissioner shall distribute the nonfederal share of the costs of operating and maintaining the systems to the commissioner and to the counties participating in the system in a manner that reflects actual system usage, *except that the nonfederal share of the costs of the MAXIS computer system and child support enforcement systems shall be born entirely by the commissioner*. Development costs must not be assessed against local agencies.

Sec. 6. [256.031] [MINNESOTA FAMILY INVESTMENT PLAN.]

Subdivision 1. [CITATION.] *Sections 256.031 to 256.036 may be cited as the Minnesota family investment plan.*

Subd. 2. [LEGISLATIVE FINDINGS.] *The legislature recognizes the need to fundamentally change the way government supports families. The legislature finds that many features of the current system of public assistance do not help families carry out their two basic functions: the economic support of the family unit and the care and nurturing of children. The legislature*

recognizes that the Minnesota family investment plan is an investment strategy that will support and strengthen the family's social and financial functions. This investment in families will provide long-term benefits through stronger and more independent families.

Subd. 3. [AUTHORIZATION FOR THE DEMONSTRATION.] *The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the directors of the higher education coordinating board and the office of jobs policy, is authorized to proceed with the planning and designing of the Minnesota family investment plan and test policies, methods, and cost impact on an experimental basis by using field trials. Sections 256.031 to 256.033 describe the basic principles of the program. Sections 256.034 to 256.036 provide a basis for congressional action. Using sections 256.031 to 256.036, the commissioner shall seek congressional authority to implement the program in field trials. After obtaining congressional authority to implement the Minnesota family investment plan in field trials, the commissioner shall request specific appropriations from the legislature to implement field trials. The field trials must be conducted for as many years as necessary, and in different geographical settings, to provide reliable instruction about the desirability of expanding the program statewide.*

Subd. 4. [GOALS OF THE MINNESOTA FAMILY INVESTMENT PLAN.] *The commissioner shall design the program to meet the following goals:*

(1) to support families' transition to financial independence by emphasizing options, removing barriers to work and education, providing necessary support services, and building a supportive network of education, employment and training, health, social, counseling, and family-based services;

(2) to allow resources to be more effectively and efficiently focused on investing in families by removing the complexity of current rules and procedures and consolidating public assistance programs;

(3) to prevent long-term dependence on public assistance through paternity establishment, child support enforcement, emphasis on education and training, and early intervention with minor parents; and

(4) to provide families with an opportunity to increase their living standard by rewarding efforts aimed at transition to employment and by allowing families to keep a greater portion of earnings when they become employed.

Subd. 5. [FEDERAL WAIVERS.] *The commissioner of human services shall seek authority from Congress to implement the Minnesota family investment plan on a demonstration basis. If necessary, the commissioner shall seek waivers of compliance with requirements for: aid to families with dependent children under United States Code, title 42, sections 601 to 679a, as amended; medical assistance under United States Code, title 42, sections 1396 to 1396s, as amended; food stamps under United States Code, title 7, sections 2011 to 2030, as amended; and other federal requirements that would inhibit implementation of the Minnesota family investment plan. The commissioner shall seek terms from the federal government that are consistent with the goals of the Minnesota family investment plan. The commissioner shall also seek terms from the federal government that will maximize federal financial participation so that the extra costs to the state of implementing the program are minimized, to the extent that those terms are consistent with*

the goals of the Minnesota family investment plan. An agreement with the federal government under this section shall provide that the agreements may be canceled by the state or federal government upon six months' notice or immediately upon mutual agreement. If the agreements are canceled, families receiving assistance under the Minnesota family investment plan who are eligible for the aid to families with dependent children, general assistance, medical assistance, general assistance medical care, and the food stamp programs must be placed on those programs.

Sec. 7. [256.032] [DEFINITIONS.]

Subdivision 1. [SCOPE OF DEFINITIONS.] *The terms used in sections 256.031 to 256.036 have the meanings given them unless otherwise provided or indicated by the context.*

Subd. 2. [CAREGIVER.] *"Caregiver" means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for this program, "caregiver" also means any of the following individuals who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of "great" or "great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.*

Subd. 3. [CASE MANAGEMENT.] *"Case management" means the assessment of family needs and coordination of services necessary to support the family in its social and economic roles, in addition to the services described in section 256.736, subdivision 11.*

Subd. 4. [COMMISSIONER.] *"Commissioner" means the commissioner of human services or a designee.*

Subd. 5. [CONTRACT.] *"Contract" means a family self-sufficiency plan, described in section 256.035, subdivision 7, based on the case manager's assessment of the family's needs and abilities and developed, together with a parental caregiver, by a county agency or its designee.*

Subd. 6. [DEPARTMENT.] *"Department" means the department of human services.*

Subd. 7. [FAMILY.] *For purposes of determining eligibility for this program, "family" includes the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver as defined in subdivision 2. "Family" also includes a pregnant woman in the third trimester of pregnancy with no children.*

Subd. 8. [FAMILY WAGE LEVEL.] *"Family wage level" means 120 percent of the transitional standard, as defined in subdivision 13.*

Subd. 9. [ORIENTATION.] *"Orientation" means a presentation that meets the requirements of section 256.736, subdivision 10a, provides information to caregivers about the Minnesota family investment plan, and encourages parental caregivers to engage in activities that will stabilize the family and lead to self-sufficiency.*

Subd. 10. [PROGRAM.] *"Program" means the Minnesota family investment plan.*

Subd. 11. [SIGNIFICANT CHANGE.] *"Significant change" means a change of ten percent or $50, whichever is less, in monthly gross family earned income, or a change in family composition.*

Subd. 12. [TRANSITIONAL STATUS.] *"Transitional status" means the status of caregivers who are independently pursuing self-sufficiency or caregivers who are complying with the terms of a contract with a county agency or its designee.*

Subd. 13. [TRANSITIONAL STANDARD.] *"Transitional standard" means the sum of the AFDC standard of assistance and the full cash value of food stamps for a family of the same size and composition in effect when implementation of the Minnesota family investment plan begins. This standard applies to families in which the parental caregiver is in transitional status and to families in which the caregiver is exempt from having a contract or is exempt from complying with the terms of the contract. Full cash value of food stamps is the amount of the cash value of food stamps to which a family of a given size would be entitled for a month, determined by assuming unearned income equal to the AFDC standard for a family of that size and composition and subtracting the standard deduction and maximum shelter deduction from gross family income, as allowed under the Food Stamp Act of 1977, as amended, and Public Law Number 100-435. The assistance standard for a family consisting of a pregnant woman in the third trimester of pregnancy with no children must equal the assistance standard for one adult and one child.*

Sec. 8. [256.033] [ELIGIBILITY FOR THE MINNESOTA FAMILY INVESTMENT PLAN.]

Subdivision 1. [ELIGIBILITY CONDITIONS.] *A family is eligible for and entitled to assistance under the Minnesota family investment plan if:*

(1) the family's net income, after deducting an amount to cover taxes and actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii), does not exceed the applicable standard of assistance for that family as defined under section 256.032, subdivision 13; and

(2) the family's nonexcluded resources do not exceed $2,000.

Subd. 2. [DETERMINATION OF FAMILY INCOME.] *The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:*

(1) the disregard of the first $75 of gross earned income is replaced with a single disregard described in section 256.035, subdivision 4, paragraph (a);

(2) all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

(3) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with 42 United States Code, section 602(a)(8)(A)(viii);

(4) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded; and

(5) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded.

Subd. 3. [DETERMINATION OF FAMILY RESOURCES.] *When determining a family's resources, the following are excluded:*

(1) the family's home, together with the surrounding property not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than $1,500 for each member of the family;

(4) licensed automobiles, trucks, or vans up to a total equity value of $4,500;

(5) the value of personal property needed to produce earned income, including tools, implements, farm animals, and inventory;

(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and

(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Subd. 4. [TREATMENT OF SSI AND MSA.] *The monthly benefits and any other income received through the supplemental security income or Minnesota supplemental aid programs and any real or personal property of a person receiving supplemental security income or Minnesota supplemental aid must be excluded in determining the family's eligibility for the Minnesota family investment plan and the amount of assistance. In determining the amount of assistance to be paid to the family, the needs of the person receiving supplemental security income or Minnesota supplemental aid must not be taken into account.*

Subd. 5. [ABILITY TO APPLY FOR FOOD STAMPS.] *A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources may apply for, and if eligible receive, benefits under the food stamp program.*

Sec. 9. [256.034] [PROGRAM SIMPLIFICATION.]

Subdivision 1. [CONSOLIDATION OF TYPES OF ASSISTANCE.] ***Under the Minnesota family investment plan, assistance previously provided to families through the AFDC, food stamp, and general assistance programs must be combined into a single cash assistance program. If authorized by Congress, families receiving assistance through the Minnesota family investment plan are automatically eligible for and entitled to medical assistance under chapter 256B. Federal, state, and local funds that would otherwise be allocated for assistance to families under the AFDC, food stamp, and general assistance programs must be transferred to the Minnesota family investment plan. The provisions of the Minnesota family investment plan prevail over any provisions of sections 256.72 to 256.87 or 256D.01 to 256D.21 with which they are irreconcilable. The food stamp, general assistance, and work readiness programs for single persons and couples who are not responsible for the care of children are not replaced by the Minnesota family investment plan.***

Subd. 2. [COUPON OPTION.] *Families have the option to receive a portion of their assistance, designated by the commissioner, in the form of food coupons or vendor payments.*

Subd. 3. [MODIFICATION OF ELIGIBILITY TESTS.] *(a) A needy family is eligible and entitled to receive assistance under the program even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a family member who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.*

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency responsible for child support enforcement at the time of application all rights to child support and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless compliance is specifically required in a contract with the county agency.

Subd. 4. [SIMPLIFICATION OF BUDGETING PROCEDURES.] *The monthly amount of assistance provided by the Minnesota family investment plan must be calculated on a prospective basis taking into account actual income or circumstances that existed in a previous month and other relevant information to predict income and circumstances for the next month or months. When a family has a significant change in circumstances, the budgeting cycle must be interrupted and the amount of assistance for the payment month must be based on the county agency's best estimate of the family's income and circumstances for that month. Families may be required to report their income monthly, but income may be averaged over a period of more than one month.*

Subd. 5. [SIMPLIFICATION OF VERIFICATION PROCEDURES.] *Verification procedures must be reduced to the minimum that is workable and consistent with the goals and requirements of the Minnesota family investment plan.*

Sec. 10. [256.035] [INCOME SUPPORT AND TRANSITION.]

Subdivision 1. [EXPECTATIONS.] *All families eligible for assistance under the family investment plan are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:*

(a) For a family headed by a single adult parent, the expectation is that the parent will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.

(b) For a family with a minor parent, the expectation is that, concurrent with the receipt of assistance, the minor parent must be developing or have a contract with the county agency. The terms of the contract must include compliance with section 256.736, subdivision 3b.

(c) For a family with two adult parents, the expectation is that one or both parents will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or have a contract and comply with the terms of the contract with the county agency or its designee.

Subd. 2. [EXEMPTIONS.] *A caregiver is exempt from the requirement of developing a contract and complying with the terms of the contract developed with the county agency, or engaging in transitional activities, if:*

(1) the caregiver is not the natural or adoptive parent of a minor child; or

(2) in the case of a parental caregiver, the county agency determines that:

(i) individual circumstances prevent compliance;

(ii) support services necessary to enable compliance are not available;

(iii) activities identified in the contract are not available; or

(iv) a parental caregiver is willing to accept suitable employment but employment is not available.

Subd. 3. [SANCTIONS.] *A family whose parental caregiver is not exempt from the expectations in subdivision 1 and who is not complying with those expectations must have assistance reduced by a value equal to ten percent of the transitional standard as defined in section 256.032, subdivision 13. This reduction continues until the failure to comply ceases. The county agency must notify the parental caregiver of its intent to implement this sanction and the opportunity to have a conciliation conference, upon request, before the sanctions are implemented.*

Subd. 4. [TREATMENT OF INCOME.] *To help families during their transition from the Minnesota family investment plan to self-sufficiency, the following income supports are available:*

(a) The $30 and one-third and $75 disregards allowed under section 256.74,

subdivision 1, and the 20 percent earned income deduction allowed under the federal Food Stamp Act of 1977, as amended, are replaced with a single disregard of not less than 35 percent of gross earned income to cover taxes and other work-related expenses and to reward the earning of income. This single disregard is available for the entire time a family receives assistance through the Minnesota family investment plan.

(b) The dependent care deduction, as prescribed under section 256.74, subdivision 1, and United States Code, title 7, section 2014(e), is replaced for families with earned income who need assistance with dependent care with an entitlement to a dependent care subsidy from money earmarked for the Minnesota family investment plan.

(c) The family wage level, as defined in section 256.032, subdivision 8, allows families to supplement earned income with assistance received through the Minnesota family investment plan. If, after earnings are adjusted according to the disregard described in paragraph (a), earnings have raised family income to a level equal to or greater than the family wage level, the amount of assistance received through the Minnesota family investment plan must be reduced.

(d) The first $50 of any timely support payment for a month received by the public agency responsible for child support enforcement shall be paid to the family and disregarded in determining eligibility and the amount of assistance in accordance with United States Code, title 42, sections 602(a)(8)(A)(vi) and 657(b)(1). This paragraph applies regardless of whether the caregiver is in transitional status, is exempt from having or complying with the terms of a contract, or has had a sanction imposed under subdivision 3.

Subd. 5. [ORIENTATION.] *All caregivers receiving assistance through the Minnesota family investment plan must attend orientation.*

Subd. 6. [CONTRACT.] *(a) To receive the transitional standard of assistance, a single adult parent who is a member of a family that has received assistance through the Minnesota family investment plan for 24 months within the preceding 36 months, a minor parent receiving assistance through the Minnesota family investment plan, and one parent in a two-parent family that has received assistance through the Minnesota family investment plan for six months within the preceding 12 months, must comply with the terms of a contract with the county agency or its designee unless exempt under subdivision 2. Case management must be provided to a caregiver who is a parent to assist the caregiver in meeting established goals and to monitor the caregiver's progress toward achieving those goals. The parental caregiver and the county agency must finalize the contract as soon as possible, but in any event within a reasonable period of time after the deadline specified in subdivision 1, paragraph (a), (b), or (c), whichever applies.*

(b) A contract must identify the parental caregiver's employment goal and explain what steps the family must take to pursue self-sufficiency. Activities may include:

(1) orientation;

(2) employment;

(3) employment and training services as defined under section 256.736, subdivision 1a, paragraph (d);

(4) preemployment activities;

(5) participation in an educational program leading to a high school or general equivalency diploma and post-secondary education programs, excluding postbaccalaureate degrees as provided in section 256.736, subdivision 1a, paragraph (d);

(6) case management;

(7) social services; or

(8) other programs or services leading to self-sufficiency.

The contract must also identify the services that the county agency will provide to the family that the family needs to enable the parental caregiver to comply with the contract, including support services such as transportation and child care.

Subd. 7. [EMPLOYMENT BONUS.] *A family leaving the program as a result of increased earnings through employment is entitled to an employment bonus. This bonus is a one-time cash incentive, not more than the family's monthly payment standard, to cover initial expenses incurred by the family leaving the Minnesota family investment plan.*

Subd. 8. [CHILD CARE.] *The commissioner shall ensure that each Minnesota family investment plan caregiver who is a parent in transitional status and who needs assistance with child care costs to independently pursue self-sufficiency or comply with the terms of a contract with the county agency receives a child care subsidy through child care money earmarked for the Minnesota family investment plan. The subsidy must cover all actual child care costs for eligible hours up to the maximum rate allowed under sections 256H.15 and 256H.16. A caregiver who is a parent who leaves the program as a result of increased earnings from employment and who needs child care assistance to remain employed is entitled to extended child care assistance as provided under United States Code, title 42, section 602(g)(1)(A)(ii).*

Subd. 9. [HEALTH CARE.] *A family leaving the program as a result of increased earnings from employment is eligible for extended medical assistance as provided under Public Law Number 100-485, section 303, as amended.*

Sec. 11. [256.036] [PROTECTIONS.]

Subdivision 1. [SUPPORT SERVICES.] *If assistance with child care or transportation is necessary to enable a caregiver who is a parent to work, obtain training or education, attend orientation, or comply with the terms of a contract with the county agency, and the county determines that child care or transportation is not available, the family's applicable standard of assistance continues to be the transitional standard.*

Subd. 2. [VOLUNTEERS.] *For caregivers receiving assistance under the Minnesota family investment plan who are independently pursuing self-sufficiency, case management and support services other than child care are available to the extent that resources permit.*

Subd. 3. [NOTIFICATION REQUIREMENT.] *The county agency shall contact a family headed by a single adult parent when the family has received assistance through the Minnesota family investment plan for 18 months within the preceding 36 months. The county agency shall remind the family that beginning with the 24th month of assistance, receipt of the*

transitional standard is contingent upon transitional status. The county agency shall encourage the family to begin preparing for the change in expectations.

Subd. 4. [TIMELY ASSISTANCE.] *Applications must be processed in a timely manner according to the processing standards of the federal Food Stamp Act of 1977, as amended, and no later than 30 days following the date of application, unless the county agency has requested information that the applicant has not yet supplied. Financial assistance must be provided on no less than a monthly basis to eligible families.*

Subd. 5. [DUE PROCESS.] *Any family that applies for or receives assistance under the Minnesota family investment plan whose application for assistance is denied or not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, is entitled, upon request, to a hearing under section 256.045. A parental caregiver may request a conciliation conference, under section 256.736, subdivisions 4a and 11, when the caregiver disputes the contents of a contract developed under the Minnesota family investment plan or disputes a decision regarding failure or refusal to cooperate with the terms of a contract. The disputes are not subject to administrative review under section 256.045, unless they result in a denial, suspension, reduction, or termination, and the parental caregiver complies with section 256.045. A caregiver need not request a conciliation conference to request a hearing according to section 256.045.*

Subd. 6. [TREATMENT OF FOOD ASSISTANCE.] *The portion of cash assistance provided under the Minnesota family investment plan that the commissioner designates as representing food assistance must be disregarded for other local, state, or federal programs.*

Subd. 7. [ADJUSTMENT OF FOOD ASSISTANCE AMOUNT.] *The commissioner shall assure that increases in the federal food stamp allotments and deductions are reflected in the food assistance portion of the assistance provided under the Minnesota family investment plan.*

Subd. 8. [EXPEDITED BENEFITS.] *Provisions for expedited benefits under the Minnesota family investment plan may not be less restrictive than provisions for expedited benefits under the Food Stamp Act of 1977, as amended, and state food stamp policy and include either expediting issuance of a predesignated portion of assistance provided through the Minnesota family investment plan or through the existing food stamp program.*

Subd. 9. [SPECIAL RIGHTS OF MIGRANT AND SEASONAL FARM WORKERS AND HOMELESS PEOPLE.] *Federally prescribed procedures, means of applying for and obtaining assistance, reporting and verification requirements, and other similar provisions specifically for migrant and seasonal farmworkers or homeless people under the Food Stamp Act of 1977, as amended, continue to be available to eligible migrant, seasonal farmworker, or homeless families. The commissioner shall comply with the bilingual requirements of United States Code, title 7, section 2020(e)(1)(B).*

Subd. 10. [ASSESSMENT OF FAMILY IMPACT.] *The evaluation design of the field trials must include an assessment of the financial condition of a sample of families in the Minnesota family investment plan relative to what their financial condition would have been in the absence of the Minnesota family investment plan.*

Sec. 12. Minnesota Statutes 1988, section 256.045, subdivision 1, is

amended to read:

Subdivision 1. [POWERS OF THE STATE AGENCY.] The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, *3a,* 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

Sec. 13. Minnesota Statutes 1988, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] ~~(a)~~ Any person applying for, receiving or having received public assistance or a program of social services granted by *the state agency or* a local agency under sections *252.32, 256.031 to 256.036, and* 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, may contest that action or decision before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or decision, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

~~(b) All prepaid health plans under contract to the commissioner pursuant to chapter 256B or 256D must provide for a complaint system according to section 62D.11. The prepaid health plan must notify the ombudsman within three working days of any formal complaint made under section 62D.11 by persons enrolled in a prepaid health plan under chapter 256B or 256D. At the time a complaint is made, the prepaid health plan must notify the recipient of the name and telephone number of the ombudsman. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan shall issue a written resolution within 30 days of filing with the prepaid health plan. The ombudsman may waive the requirement that the complaint system procedures be exhausted prior to an appeal if the ombudsman determines that the complaint must be resolved expeditiously in order to provide care in an urgent situation.~~

~~(c) A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by an appellant is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner.~~

~~(d) In a notice of appeal from a ruling of a prepaid health plan, a recipient may request an expedited hearing. The ombudsman, after discussing with the recipient his or her condition and in consultation with a health practitioner who practices in the specialty area of the recipient's primary diagnosis, shall investigate and determine whether an expedited appeal is warranted. In making the determination, the ombudsman shall evaluate whether the medical condition of the recipient, if not expeditiously diagnosed and treated, could cause physical or mental disability, substantial deterioration of physical or mental health, continuation of severe pain, or~~

~~death. The ombudsman may order a second medical opinion from the prepaid health plan or order a second medical opinion from a nonprepaid health plan provider at prepaid health plan expense. If the ombudsman determines that an expedited appeal is warranted, the state welfare referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case. In urgent or emergency situations in which a prepaid health plan provider has prescribed treatment, and the prepaid health plan has denied authorization for that treatment, the referee may order the health plan to authorize treatment pending the outcome of the appeal.~~ *Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.*

Sec. 14. Minnesota Statutes 1988, section 256.045, is amended by adding a subdivision to read:

Subd. 3a. [PREPAID HEALTH PLAN APPEALS.] *(a) All prepaid health plans under contract to the commissioner under chapter 256B or 256D must provide for a complaint system according to section 62D.11. When a prepaid health plan denies, reduces, or terminates a health service, the prepaid health plan must notify the recipient of the right to file a complaint or an appeal. The notice must include the name and telephone number of the ombudsman and notice of the recipient's right to request a hearing under paragraph (b). When a complaint is filed, the prepaid health plan must notify the ombudsman within three working days. Recipients may request the assistance of the ombudsman in the complaint system process. The prepaid health plan must issue a written resolution of the complaint to the recipient within 30 days after the complaint is filed with the prepaid health plan. A recipient is not required to exhaust the complaint system procedures in order to request a hearing under paragraph (b).*

(b) Recipients enrolled in a prepaid health plan under chapter 256B or 256D may contest a prepaid health plan's denial, reduction, or termination of health services or the prepaid health plan's written resolution of a complaint by submitting a written request for a hearing according to subdivision 3. A state human services referee shall conduct a hearing on the matter and shall recommend an order to the commissioner of human services. The commissioner need not grant a hearing if the sole issue raised by a recipient is the commissioner's authority to require mandatory enrollment in a prepaid health plan in a county where prepaid health plans are under contract with the commissioner. The state human services referee may order a second medical opinion from the prepaid health plan or may order a second medical opinion from a nonprepaid health plan provider at the expense of the prepaid health plan. Recipients may request the assistance of the ombudsman in the appeal process.

(c) In the written request for a hearing to appeal from a prepaid health plan's denial, reduction, or termination of a health service or the prepaid health plan's written resolution to a complaint, a recipient may request an expedited hearing. If an expedited appeal is warranted, the state human services referee shall hear the appeal and render a decision within a time commensurate with the level of urgency involved, based on the individual circumstances of the case.

Sec. 15. Minnesota Statutes 1988, section 256.045, subdivision 4, is

amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] All hearings held pursuant to subdivision 3, *3a*, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. *Local agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the local agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, or former recipient objects.* The hearing shall not be held earlier than five days after filing of the required notice with the local or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient shall have the opportunity to examine the contents of the case file and all documents and records to be used by the local agency at the hearing at a reasonable time before the date of the hearing and during the hearing. *Upon request, the local agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal.* All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

Sec. 16. Minnesota Statutes 1988, section 256.045, subdivision 4a, is amended to read:

Subd. 4a. [CASE MANAGEMENT APPEALS.] Any recipient of case management services pursuant to section 256B.092, subdivisions 1 to 1b who contests the local agency's action or failure to act in the provision of those services, other than a failure to act with reasonable promptness or a suspension, reduction, denial, or termination of services, must submit a written request for review to the local agency. The local agency shall inform the commissioner of the receipt of a request for review when it is submitted and shall schedule a conciliation conference. The local agency shall notify the recipient, the commissioner, and all interested persons of the time, date, and location of the conciliation conference. The commissioner shall designate a representative to be present at the conciliation conference to assist in the resolution of the dispute without the need for a hearing. Within 30 days, the local agency shall conduct the conciliation conference and inform the recipient in writing of the action the local agency is going to take and when that action will be taken and notify the recipient of the right to a hearing under this subdivision. The conciliation conference shall be conducted in a manner consistent with the procedures for reconsideration of an individual service plan or an individual habilitation plan pursuant to Minnesota Rules, parts 9525.0075, subpart 5 and 9525.0105, subpart 6. If the county fails to conduct the conciliation conference and issue its report

within 30 days, or, at any time up to 90 days after the conciliation conference is held, a recipient may submit to the commissioner a written request for a hearing before a state human services referee to determine whether case management services have been provided in accordance with applicable laws and rules or whether the local agency has assured that the services identified in the recipient's individual service plan have been delivered in accordance with the laws and rules governing the provision of those services. The state human services referee shall recommend an order to the commissioner, who shall, in accordance with the procedure in subdivision 5, issue a final order within 60 days of the receipt of the request for a hearing, unless the commissioner refuses to accept the recommended order, in which event a final order shall issue within 90 days of the receipt of that request. The order may direct the local agency to take those actions necessary to comply with applicable laws or rules. *The commissioner may issue a temporary order prohibiting the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A, while a local agency review process or an appeal brought by a recipient under this subdivision is pending, or for the period of time necessary for the local agency to implement the commissioner's order. The commissioner shall not issue a final order staying the demission of a recipient of case management services from a residential or day habilitation program licensed under chapter 245A.*

Sec. 17. Minnesota Statutes 1988, section 256.045, subdivision 5, is amended to read:

Subd. 5. [ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.] *A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or local agency's action. A referee may take official notice of adjudicative facts.* The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan*. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan* of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the local agency and the applicant, recipient, ~~or~~ former recipient, *or prepaid health plan*.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued ~~in accordance with~~ *under* this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. *Any order of the commissioner is binding on the parties and must be implemented by the state agency or a local agency until the order is reversed by the district court, or unless the*

commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a local agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section.

Sec. 18. Minnesota Statutes 1988, section 256.045, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.] *(a)* The commissioner of human services may initiate a review of any action or decision of a local agency and direct that the matter be presented to a state human services referee for a hearing held ~~pursuant to~~ *under* subdivision 3, *3a,* or 4a. In all matters dealing with human services committed by law to the discretion of the local agency, the commissioner's judgment may be substituted for that of the local agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, *3a,* or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. *The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.*

(c) The commissioner may issue a temporary order staying a proposed demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending, or for the period of time necessary for the local agency to implement the commissioner's order.

Sec. 19. Minnesota Statutes 1988, section 256.045, subdivision 7, is amended to read:

Subd. 7. [JUDICIAL REVIEW.] Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, *the amended order, or order affirming the original order,* and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision. The commissioner may elect to become a party to the proceedings in the district court. Any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. *Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.*

Sec. 20. Minnesota Statutes 1988, section 256.045, subdivision 10, is amended to read:

Subd. 10. [PAYMENTS PENDING APPEAL.] If the commissioner of

human services or district court orders monthly assistance or aid or services paid or provided in any proceeding under this section, it shall be paid or provided pending appeal to the commissioner of human services, district court, court of appeals, or supreme court. *The state or local agency has a claim for food stamps and cash payments made to a recipient or former recipient while an appeal is pending if the recipient or former recipient is determined ineligible for the food stamps and cash payments as a result of the appeal.*

Sec. 21. Minnesota Statutes 1988, section 256.12, subdivision 14, is amended to read:

Subd. 14. [DEPENDENT CHILD.] *(a)* "Dependent child," as used in sections 256.72 to 256.87, means a child under the age of 18 years, or a child under the age of 19 years who is regularly attending as a full-time student, and is expected to complete before reaching age 19, a high school or a secondary level course of vocational or technical training designed to fit students for gainful employment, who is found to be deprived of parental support or care by reason of the death, continued absence from the home, physical or mental incapacity of a parent, or who is a child of an unemployed parent as that term is defined by the commissioner of human services, such definition to be consistent with and not to exceed minimum standards established by the Congress of the United States and the Secretary of Health and Human Services~~, and whose relatives,~~. *When defining "unemployed parent," the commissioner shall count up to four calendar quarters of full-time attendance in any of the following toward the requirement that a principal earner have six or more quarters of work in any 13 calendar quarter period ending within one year before application for aid to families with dependent children:*

(1) an elementary or secondary school;

(2) a federally approved vocational or technical training course designed to prepare the parent for gainful employment; or

(3) full-time participation in an education or training program established under the job training partnership act.

(b) Dependent child also means a child:

(1) whose relatives are liable under the law for the child's support *and* are not able to provide adequate care and support of the child~~,~~; and

(2) who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of these relatives as a home.

~~The term~~ " *(c)* Dependent child" also means a child who has been removed from the home of a relative after a judicial determination that continuance in the home would be contrary to the welfare and best interests of the child and whose care and placement in a foster home or a private licensed child care institution is, in accordance with the rules of the commissioner, the responsibility of the state or county agency under sections 256.72 to 256.87. This child is eligible for benefits only through the foster care and adoption assistance program contained in Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, and is not entitled to benefits under sections 256.72 to 256.87.

Sec. 22. [256.484] [SOCIAL ADJUSTMENT SERVICES TO REFUGEES.]

Subdivision 1. [SPECIAL PROJECTS.] *The commissioner of human services shall establish a grant program to provide social adjustment services to refugees residing in Minnesota who experience depression, emotional stress, and personal crises resulting from past trauma and refugee camp experiences.*

Subd. 2. [DEFINITIONS.] *For purposes of this section, the following terms have the meanings given them:*

(a) "Refugee" means a refugee or asylee status granted by the United States Immigration and Naturalization Service.

(b) "Social adjustment services" means treatment or services, including psychiatric assessment, chemical therapy, individual or family counseling, support group participation, after care or follow-up, information and referral, and crisis intervention.

Subd. 3. [PROJECT SELECTION.] *The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing bilingual social adjustment services to refugees. Project administrators must present evidence that the service provider's social adjustment services for targeted refugees has historically resolved major problems identified at the time of intake.*

Subd. 4. [PROJECT DESIGN.] *Project proposals selected under this section must:*

(1) use existing resources when possible;

(2) clearly specify program goals and timetables for project operation;

(3) identify available support services, social services, and referral procedures to be used in serving the targeted refugees;

(4) provide bilingual services; and

(5) identify the training and experience that enable project staff to provide services to targeted refugees, and identify the number of staff with bilingual service expertise.

Subd. 5. [ANNUAL REPORT.] *Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through social adjustment services, and recommendations for modifications in service delivery for the upcoming year.*

Sec. 23. [256.485] [CHILD WELFARE SERVICES TO MINOR REFUGEES.]

Subdivision 1. [SPECIAL PROJECTS.] *The commissioner of human services shall establish a grant program to provide specialized child welfare services to Asian and Amerasian refugees under the age of 18 who reside in Minnesota.*

Subd. 2. [DEFINITIONS.] *For the purpose of this section, the following terms have the meanings given them:*

(a) "Refugee" means refugee or asylee status granted by the United States Immigration and Naturalization Service.

(b) "Child welfare services" means treatment or services, including workshops or training regarding independent living skills, coping skills, and responsible parenting, and family or individual counseling regarding career planning, intergenerational relationships and communications, and emotional or psychological stress.

Subd. 3. [PROJECT SELECTION.] *The commissioner shall select projects for funding under this section. Projects selected must be administered by service providers who have experience in providing child welfare services to minor Asian and Amerasian refugees.*

Subd. 4. [PROJECT DESIGN.] *Project proposals selected under this section must:*

(1) use existing resources when possible;

(2) provide bilingual services;

(3) clearly specify program goals and timetables for project operation;

(4) identify support services, social services, and referral procedures to be used; and

(5) identify the training and experience that enable project staff to provide services to targeted refugees, as well as the number of staff with bilingual service expertise.

Subd. 5. [ANNUAL REPORT.] *Selected service providers must report to the commissioner by June 30 of each year on the number of refugees served, the average cost per refugee served, the number and percentage of refugees who are successfully assisted through child welfare services, and recommendations for modifications in service delivery for the upcoming year.*

Sec. 24. Minnesota Statutes 1988, section 256.73, subdivision 3a, is amended to read:

Subd. 3a. [PERSONS INELIGIBLE.] No assistance shall be given under sections 256.72 to 256.87:

(1) on behalf of any person who is receiving supplemental security income under title XVI of the Social Security Act unless permitted by federal regulations;

(2) for any month in which the assistance unit's gross income, without application of deductions or disregards, exceeds 185 percent of the standard of need for a family of the same size and composition; except that the earnings of a dependent child who is a full-time student may be disregarded for six calendar months per year and the earnings of a dependent child who is a full-time student that are derived from the jobs training and partnership act may be disregarded for six calendar months per year. If a stepparent's income is taken into account in determining need, the disregards specified in section 256.74, subdivision 1a shall be applied to determine income available to the assistance unit before calculating the unit's gross income for purposes of this paragraph;

(3) to any assistance unit for any month in which any caretaker relative with whom the child is living is, on the last day of that month, participating in a strike;

(4) on behalf of any other individual in the assistance unit, nor shall the individual's needs be taken into account for any month in which, on the

last day of the month, the individual is participating in a strike;

(5) ~~to an assistance unit if its eligibility is based on a parent's unemployment and the parent~~ *on behalf of any individual* who is the principal earner *in an assistance unit whose eligibility is based on the unemployment of a parent when the principal earner*, without good cause, fails or refuses to seek work, to participate in the ~~work incentive~~ *job search* program under section 256.736, *or a community work experience program under section 256.737* if this program is available *and participation is mandatory in the county*, to accept employment, or to register with a public employment office, unless the principal earner is exempt from these work requirements.

Sec. 25. Minnesota Statutes 1988, section 256.736, subdivision 3, is amended to read:

Subd. 3. [REGISTRATION.] (a) To the extent permissible under federal law, every caretaker or child is required to register for employment and training services, as a condition of receiving AFDC, unless the caretaker or child is:

(1) a child who is under age 16, a child age 16 or 17 who is attending elementary or secondary school or a secondary level vocational or technical school full time~~, or a full-time student age 18 who is attending a secondary school or a secondary level vocational or technical program and who is expected to complete the school or program before reaching age 19~~;

(2) ~~a caretaker who is~~ ill, incapacitated or age ~~55~~ *60* or older;

(3) a ~~caretaker~~ *person* for whom participation in an employment and training service would require a round trip commuting time by available transportation of more than two hours;

(4) a ~~caretaker~~ *person* whose presence in the home is required because of illness or incapacity of another member of the household;

(5) a caretaker or other caretaker relative of a child under the age of ~~six~~ *three* who personally provides full-time care for the child;

(6) *a caretaker or other caretaker relative personally providing care for a child under six years of age, except that when child care is arranged for or provided, the caretaker or caretaker relative may be required to register and participate in employment and training services up to a maximum of 20 hours per week;*

(7) a caretaker if another adult relative in the assistance unit is registered and has not, without good cause, failed or refused to participate or accept employment;

~~(7) a pregnant woman in the last trimester of pregnancy~~ *(8) a pregnant woman, if it has been medically verified that the child is expected to be born in the current month or within the next six months;*

(9) employed at least 30 hours per week; or

~~(8)~~ *(10)* a parent who is not the principal earner if the parent who is the principal earner is ~~not exempt under clauses (1) to (7).~~

~~Any individual in clauses (3) and (5) to (8) must be advised of any available employment and training services and must be informed of any available child care and other support services~~ *required to register*.

(b) To the extent permissible by federal law, applicants for benefits under

the AFDC program are registered for employment and training services by signing the application form. Applicants must be informed that they are registering for employment and training services by signing the form. Persons receiving benefits on *or after* July 1, 1987, shall register for employment and training services to the extent permissible by federal law. The caretaker has a right to a fair hearing under section 256.045 with respect to the appropriateness of the registration.

Sec. 26. Minnesota Statutes 1988, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. [MANDATORY *ASSESSMENT AND* SCHOOL ATTENDANCE FOR ~~MINOR~~ *CERTAIN CUSTODIAL* PARENTS.] *This subdivision applies to the extent permitted under federal law and regulation.*

(a) [DEFINITIONS.] The definitions in this paragraph apply to this subdivision.

(1) "~~Minor~~ *Custodial* parent" means a recipient of AFDC who is ~~under age 18, and who is~~ the natural or adoptive parent of a child living with the ~~minor~~ *custodial* parent.

(2) "School" means:

(i) an educational program which leads to a high school diploma. The program or coursework may be, but is not limited to, a program under the post-secondary enrollment options of section 123.3514, a regular or alternative program of an elementary or secondary school, a technical institute, or a college;

(ii) coursework for a general educational development (GED) diploma of not less than six hours of classroom instruction per week; or

(iii) any other post-secondary educational program that is approved by the public school or the local agency under subdivision 11.

(b) [ASSESSMENT AND PLAN; REQUIREMENT; CONTENT.] *The county agency must examine the educational level of each custodial parent under the age of 20 to determine if the recipient has completed a high school education or its equivalent. If the custodial parent has not completed a high school education or its equivalent and is not exempt from the requirement to attend school under paragraph (c), the county agency must complete an individual assessment for the custodial parent. The assessment must be performed as soon as possible but within 60 days of determining AFDC eligibility for the custodial parent. The assessment must provide an initial examination of the custodial parent's educational progress and needs, literacy level, child care and supportive service needs, family circumstances, skills,*

and work experience. In the case of a custodial parent under the age of 18, the assessment must also consider the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening, if available, and the effect of a child's development and educational needs on the parent's ability to participate in the program. The county agency must advise the parent that the parent's first goal must be to complete an appropriate educational option if one is identified for the parent through the assessment and, in consultation with educational agencies, must review the various school completion options with the parent and assist the parent in selecting the most appropriate option.

(c) [RESPONSIBILITY FOR ASSESSMENT AND PLAN.] *For custodial parents who are under age 18, the assessment and the employability plan must be completed by the county social services agency, as specified in section 257.33. For custodial parents who are age 18 or 19, the assessment and employability plan must be completed by the case manager. The social services agency or the case manager shall consult with representatives of educational agencies required to assist in developing educational plans under section 126.235.*

(d) [EDUCATION DETERMINED TO BE APPROPRIATE.] *If the case manager or county social services agency identifies an appropriate educational option, it must develop an employability plan in consultation with the custodial parent which reflects the assessment. The plan must specify that participation in an educational activity is required, what school or educational program is most appropriate, the services that will be provided, the activities the parent will take part in including child care and supportive services, the consequences to the custodial parent for failing to participate or comply with the specified requirements, and the right to appeal any adverse action. The employability plan must, to the extent possible, reflect the preferences of the participant.*

(e) [EDUCATION DETERMINED TO BE NOT APPROPRIATE.] *If the case manager determines that there is no appropriate educational option for a custodial parent who is age 18 or 19, the case manager shall indicate the reasons for the determination. The case manager shall then notify the county agency which must refer the custodial parent to case management services under subdivision 11 for completion of an employability plan and services. If the custodial parent fails to participate or cooperate with case management services and does not have good cause for the failure, the county agency shall apply the sanctions listed in subdivision 4, beginning with the first payment month after issuance of notice. If the county social services agency determines that school attendance is not appropriate for a custodial parent under age 18, the county agency shall refer the custodial parent to social services for services as provided in section 257.33.*

(f) [SCHOOL ATTENDANCE REQUIRED.] Notwithstanding subdivision 3, a ~~minor~~ *custodial* parent must attend school if all of the following apply:

(1) ~~the minor parent has no child living with the parent who is younger than six weeks of age~~ *the custodial parent is less than 20 years of age*;

(2) transportation services needed to enable the ~~minor~~ *custodial* parent to attend school are available;

(3) licensed or legal nonlicensed child care services needed to enable the ~~minor~~ *custodial* parent to attend school are available;

(4) the ~~minor~~ *custodial* parent has not already ~~graduated from high school and has not received a general educational development (GED) diploma~~ *received a high school diploma or its equivalent*; and

(5) the ~~minor~~ *custodial* parent ~~does not have good cause for failing to attend school, as provided in paragraph (d)~~ *is not exempt because the custodial parent:*

(i) is ill or incapacitated seriously enough to prevent him or her from attending school;

(ii) is needed in the home because of the illness or incapacity of another

member of the household; this includes a custodial parent of a child who is younger than six weeks of age;

(iii) works 30 or more hours a week; or

(iv) is pregnant if it has been medically verified that the child's birth is expected in the current month or within the next six months.

~~(c)~~ *(g)* [ENROLLMENT AND ATTENDANCE.] The ~~minor~~ *custodial* parent must be enrolled in school and meeting the school's attendance requirements. The ~~minor~~ *custodial* parent is considered to be attending when ~~the minor parent~~ *he or she* is enrolled but the school is not in regular session, including during holiday and summer breaks.

~~(d)~~ *(h)* [GOOD CAUSE FOR NOT ATTENDING SCHOOL.] *The local agency shall not impose the sanctions in subdivision 4 if it determines that a custodial parent has good cause for not being enrolled or for not meeting the school's attendance requirements.* The local agency shall determine whether good cause for not attending or not enrolling in school exists, according to this paragraph:

(1) ~~Good cause exists when the minor parent is ill or injured seriously enough to prevent the minor parent from attending school.~~

~~(2) Good cause exists when the minor parent's child is ill or injured and the minor parent's presence in the home is required to care for the child.~~

~~(3)~~ Good cause exists when the local agency has verified that the only available school program requires round trip commuting time from the ~~minor~~ *custodial* parent's residence of more than two hours by available means of transportation, excluding the time necessary to transport children to and from child care.

~~(4) Good cause exists when there is an interruption in availability of child care services.~~

~~(5)~~ *(2)* Good cause exists when the ~~minor~~ *custodial* parent has indicated a desire to attend school, but the public school system is not providing for ~~the minor parent's~~ *his or her* education and alternative programs are not available.

~~(6) Good cause exists when the school does not cooperate with the local agency in providing verification of the minor parent's education or attendance.~~

~~(7) Good cause exists when the minor parent or the minor parent's child has a medical appointment or an appointment with the local welfare agency, is required to appear in court during the minor parent's normal school hours, or has any other obligation consistent with the case management contract.~~

~~(8) For the minor parent of a child between six and 12 weeks of age, good cause exists when child care is not available on the premises of the school, or a medical doctor certifies that it would be better for the health of either the parent or the child for the parent to remain at home with the child for a longer period of time.~~

~~(e)~~ *(i)* [FAILURE TO COMPLY.] *The case manager and social services agency shall establish ongoing contact with appropriate school staff to monitor problems that custodial parents may have in pursuing their educational plan, and shall jointly seek solutions to prevent parents from failing to complete education.* If the school notifies the local agency that the ~~minor~~

custodial parent is not enrolled or is not meeting the school's attendance requirements, ~~and the local agency~~ *or appears to be facing barriers to completing education, the information must be conveyed to the case manager for a custodial parent age 18 or 19, or to the social services agency for a custodial parent under age 18. The case manager or social services agency shall reassess the appropriateness of school*

attendance as specified in paragraph (f). If after consultation, school attendance is still appropriate and the case manager or social services agency determines that the ~~minor~~ *custodial* parent *has failed to enroll or is not meeting the school's attendance requirements and the custodial parent* does not have good cause, the ~~local agency~~ *case manager or social services agency shall inform the custodial parent's financial worker who* shall apply the sanctions listed in subdivision 4 beginning with the first payment month after issuance of notice.

~~(f)~~ *(j)* [NOTICE AND HEARING.] A right to notice and fair hearing shall be provided in accordance with section 256.045 and the Code of Federal Regulations, title 45, section 205.10.

~~(g)~~ *(k)* [SOCIAL SERVICES.] When a ~~minor~~ *custodial* parent *under the age of 18* has failed to attend school, *is not exempt,* and does not have good cause, the local agency shall refer the ~~minor~~ *custodial* parent to *the* social services *agency* for services, as provided in section 257.33.

~~(h)~~ *(l)* [VERIFICATION.] No less often than quarterly, the ~~local agency~~ *financial worker* must verify that the ~~minor~~ *custodial* parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a ~~minor~~ *custodial* parent is subject to this subdivision, the school must furnish verification of school enrollment ~~and~~, attendance, *and progress*

to the local agency. *The county agency must not impose the sanctions in paragraph (i) if the school fails to cooperate in providing verification of the minor parent's education, attendance, or progress.*

Sec. 27. Minnesota Statutes 1988, section 256.736, subdivision 4, is amended to read:

Subd. 4. [CONDITIONS OF CERTIFICATION.] The commissioner of human services shall:

(1) Arrange for or provide any caretaker or child required to participate in employment and training services pursuant to this section with child-care services, transportation, and other necessary family services;

(2) ~~Pay ten percent of the cost of the work incentive program and any other costs that are required of that agency by federal regulation for employment and training services for recipients of aid to families with dependent children;~~

~~(3)~~ Provide that in determining a recipient's needs any monthly incentive training payment made to the recipient by the department of jobs and training is disregarded and the additional expenses attributable to participation in a program are taken into account in grant determination to the extent permitted by federal regulation; and

~~(4)~~ *(3)* Provide that the county board shall impose the sanctions in clause ~~(5) or (6)~~ *(4)* when the county board:

~~(a) is notified that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept a bona fide offer of public or other employment;~~

~~(b)~~ determines that a ~~minor~~ *custodial* parent *under the age of 16* who is required to attend school under subdivision 3b has, without good cause, failed to attend school;

~~(c)~~ *(b)* determines that subdivision 3c applies to a minor parent and the minor parent has, without good cause, failed to cooperate with development of a social service plan or to participate in execution of the plan, to live in a group or foster home, or to participate in a program that teaches skills in parenting and independent living; or

~~(d)~~ *(c)* determines that a caretaker has, without good cause, failed to attend orientation.

~~(5)~~ *(4)* To the extent permissible by federal law, *impose* the following sanctions ~~must be imposed~~ for a recipient's failure to participate in required ~~employment and training services,~~ education, orientation, or the requirements of subdivision 3c:

(a) For the first failure, 50 percent of the grant provided to the family for the month following the failure shall be made in the form of protective or vendor payments;

(b) For the second and subsequent failures, the entire grant provided to the family must be made in the form of protective or vendor payments. Assistance provided to the family must be in the form of protective or vendor payments until the recipient complies with the requirement; and

(c) When protective payments are required, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found.

~~(6) When the sanctions provided by clause (5) are not permissible under federal law, the following sanctions shall be imposed for a recipient's failure to participate in required employment and training services, education, orientation, or the requirements of subdivision 3c~~ *(5) Provide that the county board shall impose the sanctions in clause (6) when the county board:*

(a) determines that a caretaker or child required to participate in employment and training services has been found by the employment and training service provider to have failed without good cause to participate in appropriate employment and training services or to have failed without good cause to accept, through the job search program described in subdivision 14, or the community work experience program described in section 256.737, a bona fide offer of public or other employment; or

(b) determines that a custodial parent aged 16 to 19 who is required to attend school under subdivision 3b has, without good cause, failed to enroll or attend school.

(6) To the extent required by federal law, the following sanctions must be imposed for a recipient's failure to participate in required employment and training services, to accept a bona fide offer of public or other employment, or to enroll or attend school under subdivision 3b.

(a) ~~If the caretaker fails to participate, the caretaker's~~ *For the first failure,*

the needs *of the noncompliant individual* shall not be taken into account in making the grant determination, ~~and aid for any dependent child in the family will be made in the form of protective or vendor payments, except that when protective payments are made, the local agency may continue payments to the caretaker if a protective payee cannot reasonably be found. The standard of assistance for the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement~~ *until the individual complies with the requirements.*

(b) *For the second failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for three consecutive months, whichever is longer.*

(c) For subsequent failures, the needs of the noncompliant individual shall not be taken into account in making the grant determination until the individual complies with the requirement or for six consecutive months, whichever is longer.

(d) Aid with respect to a dependent child will be denied if a child who fails to participate is the only child receiving aid in the family.

~~(c) If there is more than one child receiving aid in the family, aid for the child who fails to participate will be denied and the child's needs will not be taken into account in making the grant determination.~~

~~(d) If the assistance unit's eligibility is based on the nonexempt principal earner's unemployment and this principal earner fails without good cause to participate or to accept employment, the entire assistance unit is ineligible for benefits under sections 256.72 to 256.87.~~

(e) If the noncompliant individual is a parent or other relative caretaker, payments of aid for any dependent child in the family must be made in the form of protective or vendor payments. When protective payments are required, the county agency may continue payments to the caretaker if a protective payee cannot reasonably be found. When protective payments are imposed on assistance units whose basis of eligibility is unemployed parent or incapacitated parent, cash payments may continue to the non-sanctioned caretaker in the assistance unit, subject to clause (f). After removing a caretaker's needs from the grant, the standard of assistance applicable to the remaining eligible members of the assistance unit is the standard that is used in other instances in which the caretaker is excluded from the assistance unit for noncompliance with a program requirement.

(f) If the noncompliant individual is a parent or other caretaker of a family whose basis of eligibility is the unemployment of a parent and the noncompliant individual's spouse is not participating in an approved employment and training service, the needs of the spouse must not be taken into account in making the grant determination;

(7) Request approval from the secretary of health and human services to use vendor payment sanctions for persons listed in paragraph (5), clause (b). If approval is granted, the commissioner must begin using vendor payment sanctions as soon as changes to the state plan are approved.

Sec. 28. Minnesota Statutes 1988, section 256.736, subdivision 10, is amended to read:

Subd. 10. [COUNTY DUTIES.] *(a)* To the extent of available state appropriations, county boards shall:

(1) refer all priority caretakers required to register under subdivision 3 to an employment and training service provider for participation in employment and training services;

(2) identify to the employment and training service provider caretakers who fall into the priority groups;

(3) provide all caretakers with an orientation which ~~(a) gives information on available employment and training services and support services, and (b) encourages clients to view AFDC as a temporary program providing grants and services to clients who set goals and develop strategies for supporting their families without AFDC assistance~~ *meets the requirements in subdivisions 10a and 10b*;

(4) work with the employment and training service provider to encourage voluntary participation by caretakers in the priority groups;

(5) work with the employment and training service provider to collect data as required by the commissioner;

(6) to the extent permissible under federal law, require all caretakers coming into the AFDC program to attend orientation;

(7) encourage nonpriority caretakers to develop a plan to obtain self-sufficiency;

(8) notify the commissioner of the caretakers required to participate in employment and training services;

(9) inform appropriate caretakers of opportunities available through the head start program and encourage caretakers to have their children screened for enrollment in the program where appropriate;

(10) provide transportation assistance using the employment special needs fund *or other available funds* to caretakers who participate in employment and training programs, with priority for services to caretakers in priority groups;

(11) ensure that orientation, employment search, and case management services are made available to appropriate caretakers under this section, except that payment for case management services is governed by subdivision 13; ~~and~~

(12) explain in its local service unit plan under section 268.88 how it will ensure that priority caretakers determined to be in need of social services are provided with such social services. The plan must specify how the case manager and the county social service workers will ensure delivery of needed services~~.~~*;*

(13) to the extent allowed by federal laws and regulations, provide a job search program as defined in subdivision 14 and at least one of the following employment and training services: community work experience program (CWEP) as defined in section 256.737, grant diversion as defined in section 268.86, on-the-job training as defined in section 256.738, or another work and training program approved by the commissioner and the secretary of the United States Department of Health and Human Services. Planning and approval for employment and training services listed in this clause must be obtained through submission of the local service unit plan

as specified under section 268.88. Each county is urged to adopt grant diversion as the second program required under this clause;

(14) provide an assessment of each AFDC recipient who is required or volunteers to participate in one of the employment and training services specified in clause (13), including job search, and to recipients who volunteer for participation in case management under subdivision 11. The assessment must include an evaluation of the participant's (i) educational, child care, and other supportive service needs; (ii) skills and prior work experience; and (iii) ability to secure and retain a job which, when wages are added to child support, will support the participant's family. The assessment must also include a

review of the results of the early and periodic screening, diagnosis and treatment (EPSDT) screening and preschool screening under chapter 123, if available; the participant's family circumstances; and, in the case of a custodial parent under the age of 18, a review of the effect of a child's development and educational needs on the parent's ability to participate in the program;

(15) develop an employability development plan for each recipient for whom an assessment is required under clause (14) which: (i) reflects the assessment required by clause 14; (ii) takes into consideration the recipient's physical capacity, skills, experience, health and safety, family responsibilities, place of residence, proficiency, child care and other supportive service needs; (iii) is based on available resources and local employment opportunities; (iv) specifies the services to be provided by the employment and training service provider; (v) specifies the activities the recipient will participate in; (vi) specifies necessary supportive services such as child care; (vii) to the extent possible, reflects the preferences of the participant; and (viii) specifies the recipient's employment goal; and

(16) assure that no work assignment under this section or sections 256.737 and 256.738 results in: (i) termination, layoff, or reduction of the work hours of an employee for the purpose of hiring an individual under this section or sections 256.737 and 256.738; (ii) the hiring of an individual if any other person is on layoff from the same or a substantially equivalent job; (iii) any infringement of the promotional opportunities of any currently employed individual; (iv) the impairment of existing contracts for services or collective bargaining agreements; or (v) a participant filling an established unfilled position vacancy.

(b) Funds available under this subdivision may not be used to assist, promote, or deter union organizing.

(c) A county board may provide other employment and training services that it considers necessary to help caretakers obtain self-sufficiency.

(d) Notwithstanding section 256G.07, when a priority caretaker relocates to another county to implement the provisions of the caretaker's case management contract or other written employability development plan approved by the county human service agency or its case manager, the county that approved the plan is responsible for the costs of case management, child care, and other services required to carry out the plan. The county agency's responsibility for the costs ends when all plan obligations have been met, when the caretaker loses AFDC eligibility for at least 30 days, or when approval of the plan is withdrawn for a reason stated in the

plan, whichever occurs first. A county human service agency may pay for the costs of case management, child care, and other services required in an approved employability development plan when the nonpriority caretaker relocates to another county or when a priority caretaker again becomes eligible for AFDC after having been ineligible for at least 30 days.

Sec. 29. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 10a. [ORIENTATION.] *(a) Each county agency must provide an orientation to all caretakers within its jurisdiction who are determined eligible for AFDC on or after July 1, 1989, and who are required to attend an orientation. The county agency shall require attendance at orientation of all caretakers*

except those who are:

(1) physically disabled, mentally ill, or developmentally disabled and whose condition has or is expected to continue for at least 90 days and will prevent participation in educational programs or employment and training services;

(2) aged 60 or older;

(3) currently employed in unsubsidized employment that is expected to continue at least 30 days and that provides an average of at least 30 hours of employment per week; or

(4) currently employed in subsidized employment that is expected to continue at least 30 days and that provides an average of at least 30 hours of employment per week and is expected to result in full-time permanent employment.

(b) The orientation must consist of a presentation that informs caretakers of:

(1) the identity, location, and phone numbers of employment and training and support services available in the county;

(2) the types and locations of child care services available through the county agency that are accessible to enable a caretaker to participate in educational programs or employment and training services;

(3) the availability of assistance for participants to help select appropriate child care services and that, on request, assistance will be provided to select appropriate child care services;

(4) the obligations of the county agency and service providers under contract to the county agency;

(5) the rights, responsibilities, and obligations of participants;

(6) the grounds for exemption from mandatory employment and training services or educational requirements;

(7) the consequences for failure to participate in mandatory services or requirements;

(8) the method of entering educational programs or employment and training services available through the county; and

(9) the availability and the benefits of the early and periodic, screening,

diagnosis and treatment (EPSDT) program and preschool screening under chapter 123.

(c) Orientation must encourage recipients to view AFDC as a temporary program providing grants and services to individuals who set goals and develop strategies for supporting their families without AFDC assistance. The content of the orientation must not imply that a recipient's eligibility for AFDC is time limited. Orientation may be provided through audio-visual methods, but the caretaker must be given an opportunity for face-to-face interaction with staff of the county agency or the entity providing the orientation, and an opportunity to express the desire to participate in educational programs and employment and training services offered through the county agency.

(d) County agencies shall not require caretakers to attend orientation for more than three hours during any period of 12 continuous months. The local agency shall also arrange for or provide needed transportation and child care to enable caretakers to attend.

Sec. 30. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 10b. [INFORMING.] *Each county agency must provide written information concerning the topics identified in subdivision 10a, paragraph (b), to all AFDC caretakers within the county agency's jurisdiction who are exempt from the requirement to attend orientation, except those under age 16, and to recipients who have good cause for failing to attend orientation as specified in rules adopted by the commissioner. The written materials must tell the individual how the individual may indicate the desire to participate in educational programs and employment and training services offered through the county. The written materials must be mailed or hand delivered to the recipient at the time the recipient is determined to be exempt or have good cause for failing to attend an orientation.*

Sec. 31. Minnesota Statutes 1988, section 256.736, subdivision 11, is amended to read:

Subd. 11. [CASE MANAGEMENT SERVICES.] (a) For clients described in subdivision 2a, the case manager shall:

(1) ~~Assess the education, skills, and ability of the caretaker to secure and retain a job which, when added to child support, will support the caretaker's family.~~ *Provide an assessment as described in subdivision 10, paragraph (a), clause (14). As part of the assessment, the case manager shall inform caretakers of the screenings available through the early periodic screening, diagnosis and treatment (EPSDT) program under chapter 256B and pre-school screening under chapter 123, and encourage caretakers to have their children screened.* The case manager must work with the caretaker in completing this task;

(2) ~~Set goals and develop a timetable for completing education and employment goals.~~ *Develop an employability development plan as described in subdivision 10, paragraph (a), clause (15).* The case manager must work with the caretaker in completing this task. For caretakers who are not literate or who have not completed high school, the first goal for the caretaker ~~must~~ *should* be to complete literacy training or a general ~~education~~ *equivalency* diploma. Caretakers who are literate and have completed high school shall be counseled to set realistic attainable goals, taking into account the long-term needs of both the caretaker and the caretaker's family;

(3) Coordinate services such as child care, transportation, and education assistance necessary to enable the caretaker to work toward the goals developed in clause (2). *The case manager shall refer caretakers to resource and referral services, if available, and shall assist caretakers in securing appropriate child care services.* When a client needs child care services in order to attend a Minnesota public or nonprofit college, university or technical institute, the case manager shall contact the appropriate agency to reserve child care funds for the client. A caretaker who needs child care services in order to complete high school or a general ~~education~~ *equivalency* diploma is eligible for child care under section 268.91;

(4) Develop, execute, and monitor a contract between the local agency and the caretaker. The contract must *be based upon the employability development plan described in subdivision 10, paragraph (a), clause (15), and must* include: (a) specific goals of the caretaker including stated measurements of progress toward each goal; (b) specific services provided by the county agency; and (c) conditions under which the county will withdraw the services provided;

The contract may include other terms as desired or needed by either party. In all cases, however, the case manager must ensure that the caretaker has set forth in the contract realistic goals consistent with the ultimate goal of self-sufficiency for the caretaker's family; and

(5) Develop and refer caretakers to counseling or peer group networks for emotional support while participating in work, education, or training.

(b) In addition to the duties in paragraph (a), for minor parents and pregnant minors, the case manager shall:

(1) Ensure that the contract developed under paragraph (a)(4) considers all factors set forth in section 257.33, subdivision 2;

(2) Assess the housing and support systems needed by the caretaker in order to provide the dependent children with adequate parenting. The case manager shall encourage minor parents and pregnant minors who are not living with friends or relatives to live in a group home or foster care setting. If minor parents and pregnant minors are unwilling to live in a group home or foster care setting or if no group home or foster care setting is available, the case manager shall assess their need for training in parenting and independent living skills and when appropriate shall refer them to available counseling programs designed to teach needed skills; and

(3) Inform minor parents or pregnant minors of, and assist them in evaluating the appropriateness of, the high school graduation incentives program under section 126.22, including post-secondary enrollment options, and the employment-related and community-based instruction programs.

(c) A caretaker may request a conciliation conference to attempt to resolve disputes regarding the contents of a contract developed under this section or a housing and support systems assessment conducted under this section. The caretaker may request a hearing pursuant to section 256.045 to dispute the contents of a contract or assessment developed under this section. The caretaker need not request a conciliation conference in order to request a hearing pursuant to section 256.045.

Sec. 32. Minnesota Statutes 1988, section 256.736, subdivision 14, is amended to read:

Subd. 14. [~~EMPLOYMENT~~ *JOB* SEARCH.] (a) The commissioner of

human services shall establish ~~an employment~~ *a job* search program under ~~United States Code, title 42, section 602(a)(35)~~ *Public Law 100-485*. The principal wage earner in an AFDC-UP assistance unit must ~~participate~~ *be referred to and must begin participation* in the ~~employment~~ *job* search program within four months of being determined eligible for AFDC-UP unless:

(1) the caretaker is already participating in another approved employment and training service;

(2) the caretaker's employability plan specifies other activities; ~~or~~

(3) *the caretaker is exempt from registration under subdivision 3; or*

(4) the caretaker is unable to secure employment due to inability to communicate in the English language, *is participating in an English as a second language course, and is making satisfactory progress towards completion of the course. If an English as a second language course is not available to the caretaker, the caretaker is exempt from participation until a course becomes available.*

~~The employment and training service provider shall refer caretakers unable to communicate in the English language to English as a second language courses.~~

(b) The ~~employment~~ *job* search program must provide the following services:

(1) an initial period of up to four weeks of job search activities for not more than 32 hours per week. The employment and training service provider shall specify for each participating caretaker the number of weeks and hours of job search to be conducted and shall report to the county board if the caretaker fails to cooperate with the employment search requirement; and

(2) an additional period of job search following the first period at the discretion of the employment and training service provider. The total of these two periods of job search may not exceed eight weeks *for any 12 consecutive month period beginning with the month of application*.

(c) The employment search program may provide services to non-AFDC-UP caretakers.

Sec. 33. Minnesota Statutes 1988, section 256.736, subdivision 16, is amended to read:

Subd. 16. [ALLOCATION AND USE OF MONEY.] (a) State money appropriated for employment and training services under this section must be allocated to counties as follows:

(1) Forty percent of the state money must be allocated based on the average monthly number of caretakers receiving AFDC in the county who are under age 21 and the average monthly number of AFDC cases open in the county for 24 or more consecutive months and residing in the county for the 12-month period ending ~~March~~ *December* 31 of the previous fiscal year.

(2) Twenty percent of the state money must be allocated based on the average monthly number of nonpriority caretakers receiving AFDC in the county for the period ending ~~March~~ *December* 31 of the previous fiscal year. Funds may be used to develop employability plans for nonpriority

caretakers if resources allow.

(3) Twenty-five percent of the state money must be allocated based on the average monthly number of assistance units in the county receiving AFDC-UP for the period ending ~~March~~ *December* 31 of the previous fiscal year.

(4) Fifteen percent of the state money must be allocated at the discretion of the commissioner based on participation levels for priority group members in each county.

(b) No more than 15 percent of the money allocated under paragraph (a) may be used for administrative activities.

(c) Except as provided in paragraph (d), at least 70 percent of the money allocated to counties must be used for case management services and employment and training services for caretakers in the priority groups. Up to 30 percent of the money may be used for employment search activities and employment and training services for nonpriority caretakers.

(d) A county ~~whose proportion of the statewide average monthly AFDC-UP caseload exceeds its proportion of the statewide AFDC caseload~~ *having a high proportion of nonpriority caretakers that interferes with the county's ability to meet the 70 percent spending requirement of paragraph (c)* may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for ~~employment search activities~~ *orientation* and employment and training services for nonpriority caretakers.

(e) *Money appropriated to cover the nonfederal share of costs for bilingual case management services to refugees for the employment and training programs under this section are allocated to counties based on each county's proportion of the total statewide number of AFDC refugee cases. However, counties with less than one percent of the statewide number of AFDC refugee cases do not receive an allocation.*

(f) Counties and the department of jobs and training shall bill the commissioner of human services for any expenditures incurred by the county, the county's employment and training service provider, or the department of jobs and training that may be reimbursed by federal money. The commissioner of human services shall bill the United States Department of Health and Human Services *and the United States Department of Agriculture* for the reimbursement and appropriate the reimbursed money to the county or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

(g) The commissioner of human services shall review county expenditures of case management and employment and training block grant money at the end of the fourth quarter of the biennium and each quarter after that, and may reallocate unencumbered or unexpended money allocated under this section to those counties that can demonstrate a need for additional money. Reallocation of funds must be based on the formula set forth in paragraph (a), excluding the counties that have not demonstrated a need for additional funds.

Sec. 34. Minnesota Statutes 1988, section 256.736, is amended by adding a subdivision to read:

Subd. 18. [PROGRAM OPERATION BY INDIAN TRIBES.] *(a) The*

commissioner may enter into agreements with any federally recognized Indian tribe with a reservation in the state to provide employment and training programs under this section to members of the Indian tribe receiving AFDC. For purposes of this section, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and for which a reservation exists as is consistent with Public Law Number 100-485, as amended.

(b) Agreements entered into under this subdivision must require the governing body of the Indian tribe to fulfill all county responsibilities required under this section in operation of the employment and training services covered by the contract, excluding the county share of costs in subdivision 13 and any county function related to AFDC eligibility determination or grant payment. The commissioner may enter into an agreement with a consortium of Indian tribes providing the governing body of each Indian tribe in the consortium agrees to these conditions.

(c) Agreements entered into under this subdivision must require the Indian tribe to operate the employment and training services within a geographic service area not to exceed the counties within which a border of the reservation falls. Indian tribes may also operate services in Hennepin and Ramsey counties or other geographic areas as approved by the commissioner of human services in consultation with the commissioner of jobs and training.

(d) Agreements entered into under this section must require the Indian tribe to operate a federal jobs program under Public Law Number 100-485, section 482(i).

(e) Agreements entered into under this section must require conformity with section 13.46 and any applicable federal regulations in the use of data about AFDC recipients.

(f) Agreements entered into under this section must require financial and program participant activity record keeping and reporting in the manner and using the forms and procedures specified by the commissioner and that federal reimbursement received must be used to expand operation of the employment and training services.

(g) Agreements entered into under this section must require that the Indian tribe coordinate operation of the programs with county employment and training programs, Indian Job Training Partnership Act programs, and educational programs in the counties in which the tribal unit's program operates.

(h) Agreements entered into under this section must require the Indian tribe to allow inspection of program operations and records by representatives of the department.

(i) Agreements entered into under this subdivision must require the Indian tribe to contract with an employment and training service provider certified by the commissioner of jobs and training for operation of the programs, or become certified itself.

(j) Agreements entered into under this subdivision must require the Indian tribe to specify a starting date for each program with a procedure to enable tribal members participating in county-operated employment and training

services to make the transition to the program operated by the tribal unit. Programs must begin on the first day of a month specified by the agreement.

(k) If the commissioner and Indian tribe enter into an agreement, the commissioner may immediately reallocate county case management and employment and training block grant money from the counties in the Indian tribe's service area to the Indian tribe, prorating each county's annual allocations according to that percentage of the number of tribal unit members receiving AFDC residing in the county compared to the total number of AFDC recipients residing in the county and also prorating the annual allocation according to the month in which the Indian tribe program starts. If the Indian tribe cancels the agreement or fails, in the commissioner's judgment, to fulfill any requirement of the agreement, the commissioner shall reallocate money back to the counties in the Indian tribe's service area.

(l) Indian tribe members receiving AFDC and residing in the service area of an Indian tribe operating employment and training services under an agreement with the commissioner must be referred by county agencies in the service area to the Indian tribe for employment and training services.

(m) The Indian tribe shall bill the commissioner of human services for services performed under the contract. The commissioner shall bill the United States Department of Health and Human Services for reimbursement. Federal receipts are appropriated to the commissioner to be provided to the Indian tribe that submitted the original bill.

Sec. 35. Minnesota Statutes 1988, section 256.737, is amended to read:

256.737 [COMMUNITY WORK EXPERIENCE PROGRAM.]

Subdivision 1. [~~PILOT PROGRAMS~~ *ESTABLISHMENT AND PURPOSE.*] In order that persons receiving aid under this chapter may be assisted in achieving self-sufficiency by enhancing their employability through meaningful work experience and training and the development of job search skills, the commissioner of human services ~~may~~ *shall* continue the pilot community work experience demonstration programs that were approved by January 1, 1984. ~~No new pilot community work experience demonstration programs may be established under this subdivision~~ *The commissioner may establish additional community work experience programs in as many counties as necessary to comply with the participation requirements of the family support act of 1988, Public Law Number 100-485. Programs established on or after July 1, 1989, must be operated on a volunteer basis.*

Subd. 1a. [COMMISSIONER'S DUTIES.] The commissioner shall: (a) assist counties in the design~~,~~ and implementation~~, and evaluation~~ of these ~~demonstration~~ programs; (b) promulgate, in accordance with chapter 14, emergency rules necessary for the implementation of this section, except that the time restrictions of section 14.35 shall not apply and the rules may be in effect until ~~the termination of the demonstration programs~~ *June 30, 1990 unless superseded by permanent rules*; ~~and~~ (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law~~. The commissioner shall~~; *and (d)* prohibit *the* use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, ~~1985~~ *1989*. The exclusive bargaining representative shall be notified no less than 14 days in advance of any placement by the community work

experience program. Concurrence with respect to job duties of persons placed under the community work experience program shall be obtained from the appropriate exclusive bargaining representative. The appropriate oversight committee shall be given monthly lists of all job placements under a community work experience program.

~~As the commissioner phases in case management and other employment and training services under section 256.736, and no later than June 30, 1989, the commissioner may phase out projects under this section.~~

Subd. 2. [~~ADDITIONAL PROGRAMS~~ *PROGRAM REQUIREMENTS.*] ~~In addition to the pilot programs established in subdivision 1, the commissioner may approve the application of up to eight additional counties to enter into a community work experience program. The programs under this subdivision are governed by subdivision 1 except as in paragraphs (a) and (b).~~ *(a) Programs under this section are limited to projects that serve a useful public service such as: health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety and child care. To the extent possible, the prior training, skills, and experience of a recipient must be used in making appropriate work experience assignments.*

~~(a)~~ *(b)* As a condition to placing a person receiving aid to families with dependent children in a program under this subdivision, the county *agency* shall first provide the recipient the opportunity to participate in the following services:

(1) placement in suitable subsidized or unsubsidized employment *through participation in job search under section 256.736, subdivision 14*; or

(2) basic educational or vocational or occupational training for an identifiable job opportunity.

~~(b)~~ *(c)* If the recipient refuses suitable employment and a training program, the county *agency* may, *subject to subdivision 1*, require the recipient to participate in a community work experience program as a condition of eligibility.

(d) The county agency shall limit the maximum number of hours any participant under this section may be required to work in any month to a number equal to the amount of the aid to families with dependent children payable to the family divided by the greater of the federal minimum wage or the applicable state minimum wage.

(e) After a participant has been assigned to a position under this section for nine months, the participant may not be required to continue in that assignment unless the maximum number of hours a participant is required to work is no greater than the amount of the aid to families with dependent children payable with respect to the family divided by the higher of (1) the federal minimum wage or the applicable state minimum wage, whichever is greater, or (2) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(f) After each six months of a recipient's participation in an assignment, and at the conclusion of each assignment under this section. The county agency shall reassess and revise, as appropriate, each participant's employability development plan.

(g) The county agency shall apply the grant reduction sanctions specified in section 256.736, subdivision 4, clause (6), when it is determined that

a mandatory participant has failed, without good cause, to participate in the program.

Sec. 36. [256.738] [ON-THE-JOB TRAINING.]

(a) County agencies may, in accordance with section 256.736, subdivision 10, develop on-the-job training programs that permit voluntary participation by AFDC recipients. A county agency that chooses to provide on-the-job training as one of its optional employment and training services may make payments to employers for on-the-job training costs that, during the period of the training, must not exceed 50 percent of the wages paid by the employer to the participant. The payments are deemed to be in compensation for the extraordinary costs associated with training participants under this section and in compensation for the costs associated with the lower productivity of the participants during training.

(b) County agencies shall limit the length of training based on the complexity of the job and the recipient's previous experience and training. Placement in an on-the-job training position with an employer is for the purpose of training and employment with the same employer, who has agreed to retain the person upon satisfactory completion of training.

(c) Placement of any recipient in an on-the-job training position must be compatible with the assessment and employability development plan established for the recipient under section 256.736, subdivision 10, paragraph (a), clauses (14) and (15).

(d) Provision of an on-the-job training program under the job training partnership act, in and of itself, does not qualify as an on-the-job training program under section 256.736, subdivision 10, paragraph (a), clause (13).

Sec. 37. Minnesota Statutes 1988, section 256.74, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] The amount of assistance which shall be granted to or on behalf of any dependent child and mother or other needy eligible relative caring for the dependent child shall be determined by the county agency in accordance with rules promulgated by the commissioner and shall be sufficient, when added to all other income and support available to the child, to provide the child with a reasonable subsistence compatible with decency and health. The amount shall be based on the method of budgeting required in Public Law Number 97-35, section 2315, United States Code, title 42, section 602, as amended and federal regulations at Code of Federal Regulations, title 45, section 233. Nonrecurring lump sum income received by an assistance unit must be budgeted in the normal retrospective cycle. The number of months of ineligibility is determined by dividing the amount of the lump sum income and all other income, after application of the applicable disregards, by the standard of need for the assistance unit. An amount remaining after this calculation is income in the first month of eligibility. If the total monthly income including the lump sum income is larger than the standard of need for a single month the first month of ineligibility is the payment month that corresponds with the budget month in which the lump sum income was received. In making its determination the county agency shall disregard the following from family income:

(1) all of the earned income of each dependent child receiving aid to families with dependent children who is a full-time student or part-time

student, and not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit students for gainful employment as well as all the earned income derived from the job training and partnership act (JTPA) for a dependent child for six calendar months per year, together with unearned income derived from the job training and partnership act;

(2) all educational grants and loans;

(3) the first ~~$75~~ *$90* of each individual's earned income. For self-employed persons, the expenses directly related to producing goods and services and without which the goods and services could not be produced shall be disregarded pursuant to rules promulgated by the commissioner;

(4) ~~an amount equal to the actual expenditures but not to exceed $160 for the care of each dependent child or incapacitated individual living in the same home and receiving aid. In the case of a person not engaged in full-time employment or not employed throughout the month, the commissioner shall prescribe by rule a lesser amount to be disregarded;~~

~~(5)~~ thirty dollars plus one-third ~~of the remainder~~ of each individual's earned income ~~not already disregarded~~ for individuals found otherwise eligible to receive aid or who have received aid in one of the four months before the month of application. With respect to any month, the county welfare agency shall not disregard under this clause any earned income of any person who has: (a) reduced earned income without good cause within 30 days preceding any month in which an assistance payment is made; ~~or~~ (b) refused without good cause to accept an offer of suitable employment; ~~or~~ (c) left employment or reduced earnings without good cause and applied for assistance so as to be able later to return to employment with the advantage of the income disregard; or (d) failed without good cause to make a timely report of earned income in accordance with rules promulgated by the commissioner of human services. Persons who are already employed and who apply for assistance shall have their needs computed with full account taken of their earned and other income. If earned and other income of the family is less than need, as determined on the basis of public assistance standards, the county agency shall determine the amount of the grant by applying the disregard of income provisions. The county agency shall not disregard earned income for persons in a family if the total monthly earned and other income exceeds their needs, unless for any one of the four preceding months their needs were met in whole or in part by a grant payment. The disregard of $30 and one-third ~~of the remainder~~ of earned income ~~described~~ in *this* clause ~~(5)~~ shall be applied to the individual's income for a period not to exceed four consecutive months. Any month in which the individual loses this disregard because of the provisions of *sub* clauses ~~(5)~~ (a) to ~~(5)~~ (d) shall be considered as one of the four months. An additional $30 work incentive must be available for an eight-month period beginning in the month following the last month of the combined $30 and one-third work incentive. This period must be in effect whether or not the person has earned income or is eligible for AFDC. To again qualify for the earned income disregards under *this* clause ~~(d)~~, the individual must not be a recipient of aid for a period of 12 consecutive months. When an assistance unit becomes ineligible for aid due to the fact that these disregards are no longer applied to income, the assistance unit shall be eligible for medical assistance benefits for a 12-month period beginning with the first month of AFDC ineligibility;

(5) an amount equal to the actual expenditures for the care of each dependent child or incapacitated individual living in the same home and receiving aid, not to exceed: (a) $175 for each individual age two and older, and $200 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is employed for 30 or more hours per week; or (b) $174 for each individual age two or older, and $199 for each individual under the age of two, when the family member whose needs are included in the eligibility determination is not employed throughout the month or when employment is less than 30 hours per week. The dependent care disregard must be applied after all other disregards under this subdivision have been applied;

(6) the first $50 per assistance unit of the monthly support obligation collected by the support and recovery (IV-D) unit; ~~and~~. *The first $50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit must be paid to the assistance unit within 15 days after the end of the month in which the collection of the periodic support payments occurred and must be disregarded when determining the amount of assistance;*

(7) that portion of an insurance settlement earmarked and used to pay medical expenses, funeral and burial costs, or to repair or replace insured property; *and*

(8) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments by an employer.

~~The first $50 of periodic support payments collected by the public authority responsible for child support enforcement from a person with a legal obligation to pay support for a member of the assistance unit shall be paid to the assistance unit within 15 days after the end of the month in which the collection of such periodic support payments occurred and shall be disregarded in determining the amount of assistance.~~

Sec. 38. Minnesota Statutes 1988, section 256.74, subdivision 1a, is amended to read:

Subd. 1a. [STEPPARENT'S INCOME.] In determining income available, the county agency shall take into account the remaining income of the dependent child's stepparent who lives in the same household after disregarding:

(1) the first $75 of the stepparent's gross earned income. ~~The commissioner shall prescribe by rule lesser amounts to be disregarded for stepparents who are not engaged in full-time employment or not employed throughout the month~~;

(2) an amount for support of the stepparent and any other individuals whom the stepparent claims as dependents for *determining federal personal income* tax ~~purposes~~ *liability* and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.72 to 256.87. The amount equals the standard of need for a family of the same composition as the stepparent and these other individuals;

(3) amounts the stepparent actually paid to individuals not living in the same household but whom the stepparent claims as dependents for *determining federal personal income* tax ~~purposes~~ *liability*; and

(4) alimony or child support, or both, paid by the stepparent for individuals not living in the same household.

Sec. 39. Minnesota Statutes 1988, section 256.74, is amended by adding a subdivision to read:

Subd. 1b. [REVIEW OF STANDARD OF NEED.] *The commissioner of human services shall develop a household budget sufficient to maintain a family in Minnesota. The budget must be based on a market survey of the cost of items needed by families raising children to the extent these factors are consistent with the requirements of federal regulations. The commissioner shall develop recommendations for an AFDC standard of need and level of payment that are based on the budget. The commissioner shall submit to the legislature by January 1, 1990, a report identifying the methods proposed for the conduct of the market survey, the funds required for the survey, and a timetable for completion of the survey, establishment of a family budget, and recommendation of an AFDC standard of need.*

Sec. 40. Minnesota Statutes 1988, section 256.85, is amended to read:

256.85 [LIBERAL CONSTRUCTION.]

Sections *256.031 to 256.036 and* 256.72 to 256.87 shall be liberally construed with a view to accomplishing their purpose, which is to enable the state and its several counties to cooperate with responsible primary caretakers of children in rearing future citizens, when the cooperation is necessary on account of relatively permanent conditions, in order to keep the family together in the same household, reasonably safeguard the health of the children's primary caretaker and secure personal care and training to the children during their tender years.

Sec. 41. [256.983] [FRAUD PREVENTION INVESTIGATIONS.]

(a) Within the limits of available appropriations, and to the extent either required or authorized by applicable federal regulations, the commissioner of human services shall select and fund not less than four pilot projects for a two-year period to test the effectiveness of fraud prevention investigations conducted at the point of application for assistance. County agencies must be selected to be involved in the pilot projects based on their response to requests for proposals issued by the commissioner. One of the county agencies selected must be located in either Hennepin or Ramsey county, one must be from a county in the seven-county metropolitan area other than Hennepin and Ramsey counties, and two must be located outside the metropolitan area.

(b) If proposals are not submitted, the commissioner may select the county agencies to be involved. The county agencies must be selected from the locations described in paragraph (a).

Sec. 42. Minnesota Statutes 1988, section 256D.01, subdivision 1, is amended to read:

Subdivision 1. [POLICY.] The objectives of sections 256D.01 to 256D.21 are to provide a sound administrative structure for public assistance programs; to maximize the use of federal money for public assistance purposes; ~~and~~ to provide an integrated public assistance program for all persons in the state without adequate income or resources to maintain a subsistence reasonably compatible with decency and health*; and to provide work readiness services to help employable and potentially employable persons prepare for and attain self-sufficiency and obtain permanent work.*

It is declared to be the policy of this state that persons unable to provide for themselves and not otherwise provided for by law and who meet the eligibility requirements of sections 256D.01 to 256D.21 are entitled to receive grants of general assistance necessary to maintain a subsistence reasonably compatible with decency and health. Providing this assistance is a matter of public concern and a necessity in promoting the public health and welfare.

Sec. 43. Minnesota Statutes 1988, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. [STANDARDS.] ~~(1)~~ *(a)* A principal objective in providing general assistance is to provide for persons ineligible for federal programs who are unable to provide for themselves. The minimum standard of assistance determines the total amount of the general assistance grant without separate standards for shelter, utilities, or other needs.

~~(2)~~ *(b)* The commissioner shall set the standard of assistance for an assistance unit consisting of an adult recipient who is childless and unmarried or living apart from children and spouse and who does not live with a parent or parents or a legal custodian. When the other standards specified in this subdivision increase, this standard ~~shall~~ *must* also be increased by the same percentage.

~~(3)~~ *(c)* For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance ~~shall be equal to~~ *is* the amount that the aid to families with dependent children standard of assistance would increase if the recipient were added as an additional minor child to an assistance unit consisting of the recipient's parent and all of that parent's family members, ~~provided~~ *except* that the standard ~~shall~~ *may* not exceed the standard for a general assistance recipient living alone. Benefits received by a responsible relative of the assistance unit under the supplemental security income program, a workers' compensation program, the Minnesota supplemental aid program, or any other program based on the responsible relative's disability, and any benefits received by a responsible relative of the assistance unit under the social security retirement program, ~~shall~~ *may* not be counted in the determination of eligibility or benefit level for the assistance unit. *Except as provided below,* the assistance unit is ineligible for general assistance if the available resources or the countable income of the assistance unit and the parent or parents with whom the assistance unit lives are such that a family consisting of the assistance unit's parent or parents, the parent or parents' other family members and the assistance unit as the only or additional minor child would be financially ineligible for general assistance. For the purposes of calculating the countable income of the assistance unit's parent or parents, ~~use~~ the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple *must be used.*

~~(4)~~ *(d)* For an assistance unit consisting of a childless couple, the standards of assistance ~~shall be equal to~~ *are the same as* the first and second adult standards of the aid to families with dependent children program. If one member of the couple is not included in the general assistance grant, ~~then~~ the standard of assistance for the other ~~shall be equal to~~ *is* the second adult standard of the aid to families with dependent children program~~, except that, when one member of the couple is not included in the general~~

~~assistance grant because that member is not categorically eligible for general assistance under section 256D.05, subdivision 1, and has exhausted work readiness eligibility under section 256D.051, subdivision 4 or 5, for the period of time covered by the general assistance grant, then the standard of assistance for the remaining member of the couple shall be equal to the first adult standard of the aid to families with dependent children program~~.

~~(5)~~ *(e)* For an assistance unit consisting of all members of a family, the standards of assistance ~~shall be~~ *are* the same as the standards of assistance ~~applicable~~ *that apply* to a family under the aid to families with dependent children program if that family had the same number of parents and children as the assistance unit under general assistance and if all members of that family were eligible for the aid to families with dependent children program. If one or more members of the family are not included in the assistance unit for general assistance, the standards of assistance for the remaining members ~~shall be equal to~~ *are the same as* the standards of assistance ~~applicable~~ *that apply* to an assistance unit composed of the entire family, less the standards of assistance ~~applicable to~~ *for* a family of the same number of parents and children as those members of the family who are not in the assistance unit for general assistance. ~~Notwithstanding the foregoing~~ *However*, if an assistance unit consists solely of the minor children because their parent or parents have been sanctioned from receiving benefits from the aid to families with dependent children program, the standard for the assistance unit ~~shall be equal to~~ *is the same as* the special child standard of the aid to families with dependent children program. A child ~~shall~~ *may* not be excluded from the assistance unit unless income intended for its benefit is received from a federally aided categorical assistance program or supplemental security income. The income of a child who is excluded from the assistance unit ~~shall~~ *may* not be counted in the determination of eligibility or benefit level for the assistance unit.

Sec. 44. Minnesota Statutes 1988, section 256D.01, subdivision 1b, is amended to read:

Subd. 1b. [RULES.] The commissioner may adopt emergency rules and shall adopt permanent rules to set standards of assistance and methods of calculating payment to conform with subdivision 1a. The minimum standards of assistance shall authorize the payment of rates negotiated by ~~local~~ *county* agencies for recipients living in a room and board arrangement *according to sections 256I.01 to 256I.07*. ~~Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement must not exceed the limits established under the Minnesota supplemental aid program. In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available. The commissioner shall provide by rule for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.~~ *When a recipient is a resident of a regional treatment center, or a residence with a negotiated rate, the recipient is not eligible for a full general assistance standard.*

The state standard of assistance for those recipients is the personal needs allowance authorized for medical assistance recipients under section 256B.35.

Sec. 45. Minnesota Statutes 1988, section 256D.01, subdivision 1c, is amended to read:

Subd. 1c. [*GENERAL ASSISTANCE* PAYMENTS ~~TO FACILITIES~~.] *(a)* The commissioner shall ~~make~~ *authorize the payment of rates negotiated by local agencies for recipients living in a room and board arrangement. Except for payments made to a secure crisis shelter under section 256D.05, subdivision 3, monthly general assistance payments for rates negotiated by a local agency on behalf of recipients living in a room and board, boarding care, supervised living, or adult foster care arrangement may not exceed the limits established under the Minnesota supplemental aid program.* No payments under ~~subdivision 1b~~ *this paragraph may be made* to ~~facilities~~ *a facility* licensed after August 1, 1987, ~~which have~~ *that has* more than four residents with a diagnosis of mental illness ~~except for facilities~~ *unless the facility is* specifically licensed to serve persons with mental illness. The commissioner of health shall monitor newly-licensed facilities and shall report to the commissioner of human services facilities that are not in compliance with this section.

(b) In order to maximize the use of federal funds, the commissioner shall adopt rules, to the extent permitted by federal law, for eligibility for the emergency assistance program under aid to families with dependent children, and under the terms of sections 256D.01 to 256D.21 for general assistance, to require use of the emergency program under aid to families with dependent children as the primary financial resource when available.

(c) The commissioner shall adopt rules for eligibility for general assistance of persons with seasonal income, and may attribute seasonal income to other periods not in excess of one year from receipt by an applicant or recipient.

(d) General assistance payments may not be made for foster care, child welfare services, or other social services.

(e) Vendor payments and vouchers may be issued only as authorized in sections 256D.05, subdivision 6, and 256D.09.

Sec. 46. Minnesota Statutes 1988, section 256D.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] *For purposes of sections 256D.01 to 256D.21,* the terms defined in this section ~~shall~~ have the meanings given them unless otherwise provided or indicated by the context.

Sec. 47. Minnesota Statutes 1988, section 256D.02, subdivision 4, is amended to read:

Subd. 4. [GENERAL ASSISTANCE.] "General assistance" means cash payments to persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided for under the laws of this state or the United States. ~~General assistance shall not include payments for foster care, child welfare services, or other social services. Vendor payments and vouchers may be issued only as provided for in section 256D.09.~~

Sec. 48. Minnesota Statutes 1988, section 256D.02, is amended by adding a subdivision to read:

Subd. 12a. [RESIDENT.] *For purposes of eligibility for general assistance under section 256D.05, and work readiness payments under section 256D.051, a "resident" is a person living in the state with the intention of making his or her home here and not for any temporary purpose. All applicants for these programs are required to demonstrate the requisite intent and can do so in any of the following ways:*

(1) by showing that the applicant maintains a residence at a verified address, other than a place of public accommodation. An applicant may verify a residence address by presenting a valid state driver's license, a state identification card, a voter registration card, a rent receipt, a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address, or other form of verification approved by the commissioner;

(2) by providing written documentation that the applicant came to the state in response to an offer of employment;

(3) by providing verification that the applicant has been a long-time resident of the state or was formerly a resident of the state for at least 365 days and is returning to the state from a temporary absence, as those terms are defined in rules to be adopted by the commissioner; or

(4) by providing other persuasive evidence to show that the applicant is a resident of the state, according to rules adopted by the commissioner.

Sec. 49. Minnesota Statutes 1988, section 256D.03, subdivision 2, is amended to read:

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017. Subsequent to July 1 of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, state aid shall be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all ~~general assistance grants~~ *work readiness assistance* if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section ~~256D.05, subdivision 1, paragraph (a), clause (15)~~ *256D.051*.

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance *and work readiness assistance*: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or~~,~~ (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, *or 256D.051* but for

whom the aid would further the purposes established in the general assistance *or work readiness* program in accordance with rules ~~promulgated~~ *adopted* by the commissioner pursuant to the administrative procedure act.

Sec. 50. Minnesota Statutes 1988, section 256D.05, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] (a) Each person or family whose income and resources are less than the standard of assistance established by the commissioner *and who is a resident of the state* shall be eligible for and entitled to general assistance if the person or family is:

(1) a person who is suffering from a *medically certified* permanent or temporary illness, injury, or incapacity which is ~~medically certified~~ *expected to continue for more than 30 days* and which prevents the person from obtaining or retaining employment;

(2) a person whose presence in the home on a substantially continuous basis is required because of the *medically* certified illness, injury, incapacity, or the age of another member of the household;

(3) a person who has been placed in, *and is residing in,* a licensed or certified facility for purposes of physical or mental health or rehabilitation, or in an approved chemical dependency domiciliary facility, if the placement is based on illness or incapacity and is pursuant to a plan developed or approved by the local agency through its director or designated representative;

(4) a person who resides in a shelter facility described in subdivision 3;

(5) ~~a person who is or may be eligible for displaced homemaker services, programs, or assistance under section 268.96, but only if that person is enrolled as a full-time student;~~

~~(6) a person who is unable to secure suitable employment due to inability to communicate in the English language, provided that the person is not an illegal alien, and who, if assigned to a language skills program by the local agency, is participating in that program;~~

~~(7)~~ a person not described in clause (1) or (3) who is diagnosed by a licensed physician ~~or~~, licensed ~~consulting~~ psychologist, *or other qualified professional,* as mentally retarded or mentally ill, and that condition prevents the person from obtaining or retaining employment;

~~(8)~~ *(6)* a person who has an application pending for the social security disability program or the program of supplemental security income for the aged, blind, and disabled, *provided that within 60 days of the initial denial of the application by the social security administration, the person produces medical evidence in support of the person's application;* or *a person* who has been terminated from either program and has an appeal from that termination pending~~;~~. *A person whose benefits are terminated for failure to produce any medical evidence within 60 days of the denial of the application, is eligible as soon as medical evidence in support of the application for the social security disability program or the program of supplemental security income for the aged, blind, and disabled is produced. Except for a person whose application is based in whole or in part on mental illness or chemical dependency, a person whose application for either program is denied and who does not pursue an appeal is eligible under this paragraph based on a new application only if the new application concerns a different disability or alleges new or aggravated symptoms of the original disability;*

~~(9)~~ *(7)* a person who is unable to obtain or retain employment because advanced age significantly affects the person's ability to seek or engage in substantial work;

~~(10) a person completing a secondary education program;~~

~~(11) a family with one or more minor children; provided that, if all the children are six years of age or older, all the adult members of the family register for and cooperate in the work readiness program under section 256D.051; and provided further that, if one or more of the children are under the age of six and if the family contains more than one adult member, all the adult members except one adult member register for and cooperate in the work readiness program under section 256D.051. The adult members required to register for and cooperate with the work readiness program are not eligible for financial assistance under section 256D.051, except as provided in section 256D.051, subdivision 6, and shall be included in the general assistance grant. If an adult member fails to cooperate with requirements of section 256D.051, the local agency shall not take that member's needs into account in making the grant determination. The time limits of section 256D.051, subdivisions 4 and 5, do not apply to people eligible under this clause;~~

~~(12) a person who has substantial barriers to employment, including but not limited to factors relating to work or training history, as determined by the local agency in accordance with permanent or emergency rules adopted by the commissioner after consultation with the commissioner of jobs and training;~~

~~(13) a person who is certified by the commissioner of jobs and training before August 1, 1985, as lacking work skills or training or as being unable to obtain work skills or training necessary to secure employment, as defined in a permanent or emergency rule adopted by the commissioner of jobs and training in consultation with the commissioner;~~

(8) a person who has been assessed by a qualified professional or a vocational specialist as not being likely to obtain permanent employment. The assessment must consider the recipient's age, physical and mental health, education, trainability, prior work experience, and the local labor market;

~~(14)~~ *(9)* a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be learning disabled;

~~(15) a person who is determined by the local agency, in accordance with emergency and permanent rules adopted by the commissioner, to be functionally illiterate, provided that the person complies with literacy training requirements set by the local agency under section 256D.052. A person who is terminated for failure to comply with literacy training requirements may not reapply for assistance under this clause for 60 days. The local agency must provide an oral explanation to the person of the person's responsibilities under this clause, the penalties for failure to comply, the agency's duties under section 256D.0505, subdivision 2, and the person's right to appeal (1) at the time an application is approved based on this clause, and (2) at the time the person is referred to literacy training; or~~

~~(16)~~ *(10)* a child under the age of 18 who is not living with a parent, stepparent, or legal custodian, but only if: the child is legally emancipated or living with an adult with the consent of an agency acting as a legal

custodian; the child is at least 16 years of age and the general assistance grant is approved by the director of the local agency or a designated representative as a component of a social services case plan for the child; or the child is living with an adult with the consent of the child's legal custodian and the local agency~~.~~;

~~(b) The following persons or families with income and resources that are less than the standard of assistance established by the commissioner are eligible for and entitled to a maximum of six months of general assistance during any consecutive 12-month period, after registering with and completing six months in a work readiness program under section 256D.051:~~

~~(1) a person who has borderline mental retardation; and~~

~~(2) a person who exhibits perceptible symptoms of mental illness as certified by a qualified professional but who is not eligible for general assistance under paragraph (a), because the mental illness interferes with the medical certification process; provided that the person cooperates with social services, treatment, or other plans developed by the local agency to address the illness.~~

~~In order to retain eligibility under this paragraph, a recipient must continue to cooperate with work and training requirements as determined by the local agency.~~

(11) a woman in the last trimester of pregnancy who does not qualify for aid to families with dependent children. A woman who is in the last trimester of pregnancy who is currently receiving aid to families with dependent children may be granted emergency general assistance to meet emergency needs;

(12) a person whose need for general assistance will not exceed 30 days;

(13) a person who lives more than two hours round-trip traveling time from any potential suitable employment; and

(14) a person who is involved with protective or court-ordered services that prevent the applicant or recipient from working at least four hours per day.

(b) Persons or families who are not state residents but who are otherwise eligible for general assistance may receive emergency general assistance to meet emergency needs.

Sec. 51. Minnesota Statutes 1988, section 256D.05, is amended by adding a subdivision to read:

Subd. 6. [ASSISTANCE FOR PERSONS WITHOUT A VERIFIED RESIDENCE.] *(a) For applicants or recipients of general assistance, emergency general assistance, or work readiness assistance who do not have a verified residence address, the local agency may provide assistance using one or more of the following methods:*

(1) the local agency may provide assistance in the form of vouchers or vendor payments and provide separate vouchers or vendor payments for food, shelter, and other needs;

(2) the local agency may divide the monthly assistance standard into weekly payments, whether in cash or by voucher or vendor payment; or, if actual need is greater than the standards of assistance established under section 256D.01, subdivision 1a, issue assistance based on actual need.

Nothing in this clause prevents the local agency from issuing voucher or vendor payments for emergency general assistance in an amount less than the standards of assistance; and

(3) the local agency may determine eligibility and provide assistance on a weekly basis. Weekly assistance can be issued in cash or by voucher or vendor payment and can be determined either on the basis of actual need or by prorating the monthly assistance standard.

(b) An individual may verify a residence address by providing a driver's license; a state identification card; a statement by the landlord, apartment manager, or homeowner verifying that the individual is residing at the address; or other written documentation approved by the commissioner.

(c) If the local agency elects to provide assistance on a weekly basis, the agency may not provide assistance for a period during which no need is claimed by the individual. The individual must be notified, each time weekly assistance is provided, that subsequent weekly assistance will not be issued unless the individual claims need. The advance notice required under section 256D.10 does not apply to weekly assistance issued under this paragraph.

(d) The local agency may not issue assistance on a weekly basis to an applicant or recipient who has medically certified mental illness or mental retardation or a related condition, or to an assistance unit that includes minor children, unless requested by the assistance unit.

Sec. 52. Minnesota Statutes 1988, section 256D.051, subdivision 1, is amended to read:

Subdivision 1. [WORK REGISTRATION.] *(a)* A person, family, or married couple *who are residents of the state and* whose income and resources are less than the standard of assistance established by the commissioner, but who are not eligible ~~to receive general assistance~~ under section 256D.05, subdivision 1, are eligible for ~~a~~ *the* work readiness program. ~~Upon registration, a registrant is eligible to receive assistance in an amount equal to general assistance under section 256D.05, subdivision 1, for a maximum of six months during any consecutive 12-month period, subject to subdivision 3. The local agency shall pay work readiness assistance in monthly payments beginning at the time of registration.~~

(b) Persons, families, and married couples who are not state residents but who are otherwise eligible for work readiness assistance may receive emergency assistance to meet emergency needs.

Sec. 53. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 1a. [WORK READINESS PAYMENTS.] *Grants of work readiness shall be determined using the standards of assistance, exclusions, disregards, and procedures which are used in the general assistance program. Work readiness shall be granted in an amount that, when added to the nonexempt income actually available to the assistance unit, the total amount equals the applicable standard of assistance.*

Work readiness payments must be provided to persons determined eligible for the work readiness program as provided in this subdivision except when the special payment provisions in subdivision 1b are utilized. The initial payment must be prorated to provide assistance for the period beginning with the date the completed application is received by the county

agency or the date the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the final day of that month. The amount of the first payment must be determined by dividing the number of days to be covered under the payment by the number of days in the month, to determine the percentage of days in the month that are covered by the payment, and multiplying the monthly payment amount by this percentage. Subsequent payments must be paid monthly on the first day of each month.

There shall be an initial certification period which shall begin on the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b).

Sec. 54. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 1b. [SPECIAL PAYMENT PROVISIONS.] *A county agency may, at its option, provide work readiness payments as provided under section 256D.05, subdivision 6, during the initial certification period. The initial certification period shall cover the time from the date the completed application is received by the county agency or the date that the assistance unit meets all work readiness eligibility factors, whichever is later, and ending on the date that mandatory registrants in the assistance unit must attend a work readiness orientation. This initial certification period may not cover a period in excess of 30 calendar days. All mandatory registrants in the assistance unit must be informed of the period of certification, the requirement to attend orientation, and that work readiness eligibility will end at the end of the certification period unless the registrants attend orientation. A registrant who fails to comply with requirements during the certification period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). If all mandatory registrants attend orientation, an additional grant of work readiness assistance must be issued to cover the period beginning the day after the scheduled orientation and ending on the final day of that month. Subsequent payments of work readiness shall be governed by subdivision 1a or section 256D.05, subdivision 6. If one or more mandatory registrants from the assistance unit fail to attend the orientation, those who failed to attend orientation will be removed from the assistance unit without further notice and shall be ineligible for additional assistance. Subsequent assistance to such persons shall be dependent upon the person completing application for assistance and being determined eligible.*

A local agency that utilizes the provisions in this subdivision must implement the provisions consistently for all applicants or recipients in the county. A local agency must pay emergency general assistance to a registrant whose prorated work readiness payment does not meet emergency

needs. A local agency which elects to pay work readiness assistance on a prorated basis under this subdivision may not provide payments under section 256D.05, subdivision 6, for the same time period.

Sec. 55. Minnesota Statutes 1988, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [LOCAL AGENCY DUTIES.] (a) The local agency shall provide to registrants ~~under subdivision 1~~ a work readiness program. The work readiness program must include:

(1) *orientation to the work readiness program;*

(2) an *individualized* employability assessment and development plan ~~in which the local agency~~ *that includes assessment of literacy, ability to communicate in the English language, eligibility for displaced homemaker services under section 268.96, educational history, and that* estimates the length of time it will take the registrant to obtain employment. *The employability assessment and development plan must assess the registrant's assets, barriers, and strengths, and must identify steps necessary to overcome barriers to employment;*

(3) referral to available accredited remedial or skills training programs designed to address registrant's barriers to employment;

~~(2)~~ *(4)* referral to available ~~employment assistance~~ programs including the Minnesota employment and economic development program;

~~(3)~~ *(5)* a job search program, *including job seeking skills training*; and

~~(4)~~ *(6)* other activities, *including public employment experience programs to the extent of available resources* designed by the local agency to prepare the registrant for permanent employment.

In order to allow time for job search, the local agency ~~shall~~ *may* not require an individual to participate in the work readiness program for more than 32 hours a week. The local agency shall require an individual to spend at least eight hours a week in job search or other work readiness program activities.

(b) ~~The local agency may provide a work readiness program to recipients under section 256D.05, subdivision 1, paragraph (b) and shall provide a work readiness program to recipients referred under section 256D.052, subdivision 5, paragraph (b).~~ *The local agency shall prepare an annual plan for the operation of its work readiness program. The plan must be submitted to and approved by the commissioner of jobs and training. The plan must include:*

(1) a description of the services to be offered by the local agency;

(2) a plan to coordinate the activities of all public entities providing employment-related services in order to avoid duplication of effort and to provide services more efficiently;

(3) a description of the factors that will be taken into account when determining a client's employability development plan; and

(4) provisions to assure that applicants and recipients are evaluated for eligibility for general assistance prior to termination from the work readiness program.

Sec. 56. Minnesota Statutes 1988, section 256D.051, subdivision 3, is

amended to read:

Subd. 3. [REGISTRANT DUTIES.] In order to receive work readiness assistance, a registrant shall: *(1)* cooperate with the local agency in all aspects of the work readiness program ~~and shall~~; *(2)* accept any suitable employment, including employment offered through the job training partnership act, Minnesota employment and economic development act, and other employment and training options; *and (3) participate in work readiness activities assigned by the local agency*. The local agency may terminate assistance to a registrant who fails to cooperate in the work readiness program, *as provided in subdivision 3b*. ~~A registrant who is terminated for failure to cooperate is not eligible, for a period of two months, for any remaining or additional work readiness assistance for which the registrant would otherwise be eligible.~~

Sec. 57. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3a. [PERSONS REQUIRED TO REGISTER FOR AND PARTICIPATE IN THE WORK READINESS PROGRAM.] *Each person in a work readiness assistance unit who is 18 years old or older must register for and participate in the work readiness program. A child in the assistance unit who is at least 16 years old but less than 19 years old and who is not a full-time secondary school student is required to register and participate. A student who was enrolled as a full-time student during the last school term must be considered a full-time student during summers and school holidays. If an assistance unit includes children under age six and suitable child care is not available at no cost to the family, one adult member of the assistance unit is exempt from registration for and participation in the work readiness program. The local agency shall designate the adult who must register. The registrant must be the adult who is the principal wage earner, having earned the greater of the incomes, except for income received in-kind, during the 24 months immediately preceding the month of application for assistance. When there are no earnings or when earnings are identical for each parent, the applicant must designate the principal wage earner, and that designation must not be transferred after program eligibility is determined as long as assistance continues without interruption.*

Sec. 58. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3b. [WORK READINESS PARTICIPATION REQUIREMENTS.] *A work readiness registrant meets the work readiness participation requirements if the registrant:*

(1) completes the specific tasks or assigned duties that were identified by the county agency in the notice required under section 256D.101, subdivision 1, paragraph (a); and

(2) meets the requirements in subdivisions 3 and 8.

Sec. 59. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 3c. [WORK READINESS DISQUALIFICATION PERIOD.] *Mandatory registrants who fail without good cause to meet the work readiness participation requirements will be terminated and disqualified from work readiness. If after the initial certification period the county agency determines that a registrant has failed without good cause to meet the work*

readiness participation requirements, the agency will notify the registrant of its determination according to section 256D.101, subdivision 1, paragraph (b). For the first time in a six-month period after the initial certification period that the registrant has failed without good cause to comply with program requirements, the notification shall inform the registrant of the particular actions that must be taken by the registrant by a date certain to achieve compliance. Failure to take the required action by the specified date will result in termination and disqualification from work readiness. Failure to comply a second or subsequent time during a six-month period shall result in termination and disqualification without opportunity for corrective action. The first time in a six-month period that a registrant is terminated from work readiness for failure to comply with participation requirements, that person is disqualified from receiving work readiness for one month. If less than six months have passed since the end of a disqualification period and the registrant is terminated from work readiness for failure to comply with participation requirements, the person is disqualified from receiving work readiness for two months. If an assistance unit includes more than one mandatory work readiness participant and it is determined that one or more, but not all, of the mandatory participants have failed to comply with work readiness requirements, those who failed to comply shall be removed from the assistance unit for the appropriate time period, subject to the notice and appeal rights in section 256D.101. If an assistance unit includes persons who are exempt from participation in work readiness activities and all of the mandatory registrants have been terminated for failure to participate, the county agency shall remove the terminated registrants from the assistance unit after notice and an opportunity to be heard, and provide assistance to the remaining persons using vendor or protective payments.

Sec. 60. Minnesota Statutes 1988, section 256D.051, subdivision 6, is amended to read:

Subd. 6. [~~LOCAL AGENCY OPTIONS~~ *SERVICE COSTS.*] ~~The local agency may, at its option, provide up to $200~~ *The commissioner shall reimburse 92 percent of local agency expenditures for providing work readiness services including direct participation expenses and administrative costs. Reimbursement must not exceed an average of $260 each year* for each registrant who has completed an employment development plan for direct expenses incurred by the registrant for transportation, clothes, and tools necessary for employment. After paying direct expenses as needed by individual registrants, the local agency may use any remaining money to provide additional services as needed by any registrant including *employability assessments and employability development plans,* education, orientation, *employment search assistance,* placement, other work experience, on-the-job training, and other appropriate activities *and the administrative costs incurred providing these services.*

Sec. 61. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 6b. [FEDERAL REIMBURSEMENT.] *Federal financial participation from the United States Department of Agriculture for work readiness expenditures that are eligible for reimbursement through the food stamp employment and training program are dedicated funds and are annually appropriated to the commissioner of human services for the operation of the work readiness program. Federal financial participation for the nonstate portion of work readiness costs must be paid to the county agency*

that incurred the costs.

Sec. 62. Minnesota Statutes 1988, section 256D.051, subdivision 8, is amended to read:

Subd. 8. [VOLUNTARY QUIT.] A person is not eligible for work readiness payments or services if, without good cause, the person refuses a legitimate offer of suitable employment within 60 days before the date of application. A person who, without good cause, voluntarily quits suitable employment or refuses a legitimate offer of suitable employment while receiving work readiness payments or services shall be *terminated from the work readiness program and* disqualified for two months according to rules adopted by the commissioner.

Sec. 63. Minnesota Statutes 1988, section 256D.051, subdivision 13, is amended to read:

Subd. 13. [RIGHT TO NOTICE AND HEARING.] *(a)* The local agency shall provide notice and opportunity for hearings ~~for adverse actions~~ *as required* under this section according to ~~sections 256D.10 and~~ *section* 256D.101, *for adverse actions based on a determination that a recipient has failed to participate in work readiness activities, or 256D.10 for all other adverse actions.* A determination made under subdivision 1, that a person is not eligible for general assistance is a denial of general assistance for purposes of notice, appeal, and hearing requirements. The local agency must notify the person that this determination will result in a ~~limit on the number of months of assistance for which the person will be eligible~~ *requirement that the person participate in the work readiness program as a condition of receiving assistance.*

Sec. 64. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 15. [GENERAL ASSISTANCE REQUIREMENTS APPLY.] *The laws and rules that apply to general assistance also apply to the work readiness program, unless superseded by a specific inconsistent provision in this section or section 256D.101.*

Sec. 65. Minnesota Statutes 1988, section 256D.051, is amended by adding a subdivision to read:

Subd. 16. [START WORK GRANTS.] *Within the limit of available appropriations, the local agency may make grants necessary to enable work readiness recipients to accept bona fide offers of employment. The grants may be made for costs directly related to starting employment, including transportation costs, clothing, tools and equipment, license or other fees, and relocation. Start work grants are available once in any 12-month period to a recipient. The commissioner shall allocate money appropriated for start work grants to counties based on each county's work readiness caseload in the 12 months ending in March for each following state fiscal year and may reallocate any unspent amounts.*

Sec. 66. Minnesota Statutes 1988, section 256D.052, subdivision 1, is amended to read:

Subdivision 1. [OCCUPATIONAL AND VOCATIONAL PROGRAMS.] The local agency must work with local educational institutions and job training programs in the identification, development, and utilization of

occupational and vocational literacy programs for ~~general assistance recipients~~ *work readiness registrants who are functionally illiterate*. Occupational and vocational literacy programs are programs which provide literacy training to adults who lack formal education or job skills. The programs emphasize particular language and reading skills needed for successful job performance.

Sec. 67. Minnesota Statutes 1988, section 256D.052, subdivision 2, is amended to read:

Subd. 2. [ASSESSMENT AND ASSIGNMENT.] The local agency must:

(1) assess existing reading level, learning disabilities, reading potential, and vocational or occupational interests of ~~people eligible under section 256D.05, subdivision 1, paragraph (a), clause (15)~~ *work readiness registrants who are functionally illiterate*;

(2) assign suitable recipients to openings in occupational and vocational literacy programs;

(3) if no openings are available in accessible occupational or vocational literacy programs, assign suitable recipients to openings in other accessible literacy training programs; ~~and~~

(4) reassign to another accessible literacy program any recipient who does not complete an assigned program and who wishes to try another program~~.~~*; and*

(5) within the limits of funds available contract with technical institutes or other groups who have literacy instructors trained in occupational literacy methods, to provide literacy training sessions so that county registrants eligible for literacy training will have the opportunity to attend training.

Sec. 68. Minnesota Statutes 1988, section 256D.052, subdivision 3, is amended to read:

Subd. 3. [SERVICES PROVIDED.] The local agency must provide child care and transportation to enable people to participate in literacy training under this section. *The state shall reimburse local agencies for the costs of providing transportation under this section. Counties must make every effort to ensure that child care is available as needed by recipients who are pursuing literacy training.*

Sec. 69. Minnesota Statutes 1988, section 256D.052, subdivision 4, is amended to read:

Subd. 4. [PAYMENT OF ~~GENERAL ASSISTANCE~~ *WORK READINESS*.] The local agency must provide assistance under section ~~256D.05, subdivision 1, paragraph (a), clause (15)~~ *256D.051* to ~~people~~ *persons* who:

(1) participate in a literacy program assigned under subdivision 2. To "participate" means to attend regular classes, complete assignments, and make progress toward literacy goals; *or*

(2) ~~despite participation for a period of six months or more, fail to progress in assigned literacy programs;~~

~~(3)~~ are not assigned to literacy training because there is no program available or accessible to them~~; or~~

~~(4) have failed for good cause to complete an assigned literacy program~~.

Work readiness payments may be terminated for persons who fail to attend the orientation and participate in the assessment and development of the employment development plan.

Sec. 70. Minnesota Statutes 1988, section 256D.101, is amended to read:

256D.101 [FAILURE TO COMPLY WITH WORK REQUIREMENTS; NOTICE.]

Subdivision 1. [~~DISQUALIFICATION~~ *NOTICE REQUIREMENTS.*] *(a) At the time a registrant is registered for the work readiness program, and at least every 30 days after that, the local agency shall provide, in advance, a clear, written description of the specific tasks and assigned duties the registrant must complete to receive work readiness pay. The notice must explain that the registrant will be terminated from the work readiness program unless the registrant has completed the specific tasks and assigned duties. The notice must inform the registrant that if the registrant fails without good cause to comply with work readiness requirements more than once every six months, the registrant will be terminated from the work readiness program and disqualified from receiving assistance for one month if it is the registrant's first disqualification within the preceding six months, or for two months if the registrant has been previously disqualified within the preceding six months.*

(b) If *after the initial certification period* the local agency determines that a registrant has failed to comply with ~~the~~ *work readiness* requirements ~~of section 256D.051~~, the local agency shall notify the registrant of the determination. *Notice must be hand delivered or mailed to the registrant within three days after the agency makes the determination but no later than the date work readiness pay was scheduled to be paid. For a recipient who has failed to provide the local agency with a mailing address, the recipient must be assigned a schedule by which a recipient is to visit the agency to pick up any notices. For a recipient without a mailing address, notices must be deemed delivered on the date of the registrant's next scheduled visit with the local agency.* The notification shall be in writing and shall state the facts that support the local agency's determination. For the first ~~two times~~ *time* in a six-month period that the registrant has failed without good cause to comply with program requirements, the notification shall *inform the registrant that the registrant may lose eligibility for work readiness pay and must* specify the particular actions that must be taken by the registrant to achieve compliance~~; shall~~ *and reinstate work readiness payments. The notice must* state that the recipient must take the specified actions by a date certain, which must be at least ~~ten~~ *five working* days following the date the notification is mailed or delivered to the registrant; ~~shall~~ *must* explain the ramifications of the registrant's failure to take the required actions by the specified date; and ~~shall~~ *must* advise the registrant that the registrant may request and have a conference with the local agency to discuss the notification. A registrant who fails without good cause to comply with requirements of the program more than ~~two times~~ *once* in a six-month period must be notified of termination.

Subd. 2. [NOTICE OF ~~GRANT REDUCTION, SUSPENSION, OR~~ TERMINATION.] The notice of ~~grant reduction, suspension, or~~ termination on the ground that a registrant has failed to comply with ~~section 256D.051~~ *work readiness requirements* shall be mailed or hand delivered by the local agency concurrently with the notification required by subdivision 1, *paragraph (b)*. Prior to giving the notification, the local agency

must assess the registrant's eligibility for general assistance under section 256D.05 to the extent possible using information contained in the case file, and determine that the registrant is not eligible under that section. The determination that the registrant is not eligible ~~shall~~ *must* be stated in the notice of ~~grant reduction, suspension, or~~ termination. *The notice of termination shall indicate the applicable disqualification period.*

Subd. 3. [BENEFITS AFTER NOTIFICATION.] Assistance payments otherwise due to the registrant under section 256D.051 ~~shall~~ *may* not be paid after the notification required in subdivision 1 has been provided to the registrant unless, before the date stated in the notification, the registrant takes the specified action necessary to achieve compliance or, within five days after the effective date stated in the notice, files an appeal of the grant reduction, suspension, or termination. If, by the required date, the registrant does take the specified action necessary to achieve compliance, both the notification required by subdivision 1 and the notice required by subdivision 2 shall be canceled and all benefits due to the registrant shall be paid promptly. If, by the required date, the registrant files an appeal of the grant ~~reduction, suspension, or~~ termination, benefits otherwise due to the registrant shall be continued pending the outcome of the appeal. *An appeal of a proposed termination shall be brought under section 256.045, except that the timelines specified in this section shall apply, notwithstanding the requirements of section 256.045, subdivision 3. Appeals of proposed terminations from the work readiness program shall be heard within 30 days of the date that the appeal was filed.*

Sec. 71. Minnesota Statutes 1988, section 256D.111, subdivision 5, is amended to read:

Subd. 5. [RULEMAKING.] The commissioner shall adopt rules and is authorized to adopt emergency rules:

(a) providing for the disqualification from the receipt of ~~general assistance or~~ work readiness assistance for a recipient who has been ~~finally~~ determined to have failed to comply with work requirements or the requirements of the work readiness program;

(b) providing for the use of vouchers or vendor payments with respect to the family of a ~~recipient described in clause (a) or section 256D.09, subdivision~~ 4 *disqualified recipient*; and

(c) providing that at the time of the approval of an application for assistance, the local agency gives to the recipient a written notice in plain and easily understood language describing the recipient's job registration, search, and acceptance obligations, and the disqualification that will be imposed for a failure to comply with those obligations.

Sec. 72. [256D.33] [CITATION.]

Sections 256D.33 to 256D.54 may be cited as the Minnesota supplemental aid act.

Sec. 73. [256D.34] [POLICY.]

The purpose of sections 256D.33 to 256D.54 is to (1) provide a sound administrative structure for public assistance programs; (2) maximize the use of federal funds for public assistance purposes; and (3) provide an integrated public assistance program for all Minnesota residents who are recipients of supplemental security income or who, except for excess income, would be receiving supplemental security income and who are found to

have maintenance needs as determined by application of state standards of assistance according to section 256D.44.

Sec. 74. Minnesota Statutes 1988, section 256D.35, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] ~~For the purposes of Laws 1974, chapter 487,~~ The terms defined in this section shall have the meanings given them. *The definitions in this section apply to sections 256D.33 to 256D.54.*

Sec. 75. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 2a. [AGED.] *"Aged" means having reached age 65 or reaching the age of 65 during the month of application.*

Sec. 76. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 3a. [ASSISTANCE UNIT.] *"Assistance unit" means the individual applicant or recipient.*

Sec. 77. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 4a. [BLIND.] *"Blind" means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. A person who receives supplemental security income based on other visual disabilities may also be eligible for the Minnesota supplemental aid program.*

Sec. 78. Minnesota Statutes 1988, section 256D.35, subdivision 7, is amended to read:

Subd. 7. "~~Local~~ *County* agency" means the county welfare boards in the several counties of the state except that it may also include any multicounty welfare boards or departments where those have been established in accordance with law.

Sec. 79. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8a. [DISABILITY.] *"Disability" means disability as determined under the criteria used by the Title II program of the Social Security Act.*

Sec. 80. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8b. [EMERGENCY.] *"Emergency" means circumstances that demand immediate action to safeguard against threats to health or safety of an individual.*

Sec. 81. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8c. [FINANCIALLY RESPONSIBLE RELATIVE.] *"Financially responsible relative" means a spouse or a parent of a minor child.*

Sec. 82. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 8d. [GOOD CAUSE.] *"Good cause" means a reason for taking*

an action or failing to take an action that is reasonable and justified when viewed in the context of surrounding circumstances.

Sec. 83. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 10. [GROSS INCOME.] *"Gross income" means the total amount of earned and unearned money received in a month before any deductions or disregards are applied.*

Sec. 84. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 11. [IN-KIND INCOME.] *"In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid asset. In-kind income includes goods, produce, services, privileges, or payments on behalf of a person by a third party.*

Sec. 85. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 12. [LUMP SUM.] *"Lump sum" means money received on an irregular or unexpected basis.*

Sec. 86. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 13. [MAINTENANCE BENEFIT.] *"Maintenance benefit" means cash payments, other than Minnesota supplemental aid, provided under law or rule. Maintenance benefit includes workers' compensation, unemployment compensation, railroad retirement, veterans benefits, supplemental security income, social security disability insurance, or other benefits identified by the county agency that provide periodic benefits that can be used to meet the basic needs of the assistance unit.*

Sec. 87. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 14. [NEGOTIATED RATE.] *"Negotiated rate" means a monthly rate for payment for room and board for an individual living in a group living arrangement according to sections 256I.01 to 256I.07. This rate may be fully or partially paid from the Minnesota supplemental aid program depending on the net income of the assistance unit.*

Sec. 88. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 15. [NET INCOME.] *"Net income" means monthly income remaining after allowable deductions and disregards are subtracted from gross income.*

Sec. 89. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 16. [OVERPAYMENT.] *"Overpayment" means an amount of Minnesota supplemental aid paid to a recipient that exceeds the amount to which the recipient is entitled for that month.*

Sec. 90. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 17. [POTENTIAL ELIGIBILITY.] *"Potential eligibility" means a determination by a county agency that an assistance unit or a financially responsible relative appears to meet the eligibility requirements of another*

maintenance benefit program.

Sec. 91. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 18. [RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE.] *"Retirement, survivors, and disability insurance" means benefits paid under the federal program for retired, disabled, and surviving spouses of retired or disabled individuals under Title II of the Social Security Act.*

Sec. 92. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 19. [SHELTER COSTS.] *"Shelter costs" means monthly costs for rent, mortgage payments, contract for deed payments, property taxes, and insurance on real or personal property, and utilities, for the home in which the recipient lives and for which the recipient is legally responsible.*

Sec. 93. Minnesota Statutes 1988, section 256D.35, is amended by adding a subdivision to read:

Subd. 20. [SUPPLEMENTAL SECURITY INCOME.] *"Supplemental security income" means benefits paid under the federal program of supplemental security income for the aged, blind, and disabled under Title XVI of the Social Security Act.*

Sec. 94. Minnesota Statutes 1988, section 256D.36, subdivision 1, is amended to read:

Subdivision 1. [STATE PARTICIPATION.] Commencing January 1, 1974, the commissioner shall certify to each local agency the names of all county residents who were eligible for and did receive aid during December, 1973, pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. *Each year* for the period from January 1 to June 30, the state shall pay 85 percent and the county shall pay 15 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. ~~Subsequent to July 1~~ *After June 30* of each year, the state agency shall reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, the state agency shall pay 100 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income, except as provided for in section 256.017. The amount of supplemental aid for each individual eligible under this section shall be calculated ~~pursuant~~ *according* to the formula ~~prescribed~~ in title II, section 212 (a) (3) of Public Law Number 93-66, as amended.

Sec. 95. Minnesota Statutes 1988, section 256D.36, is amended by adding a subdivision to read:

Subd. 1a. A negotiated rate payment made according to sections 256I.01 to 256I.07, for a person who is eligible for Minnesota supplemental aid, under sections 256D.33 to 256D.54, is a Minnesota supplemental aid payment for purposes of meeting the total expenditures test under the supplemental security income program state supplement program.

Sec. 96. Minnesota Statutes 1988, section 256D.37, subdivision 1, is amended to read:

Subdivision 1. ~~(a) For all 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)~~ When a recipient is ~~an adult with mental illness in a facility licensed under Minnesota Rules, parts 9520.0500 to 9520.0690,~~ a resident of a ~~state hospital~~ *nursing home, regional treatment center,* or a ~~dwelling~~ *residence* 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 for a licensed facility must not exceed $800. The maximum negotiated rate does not apply to a facility that, on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690 or a facility that, on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a supplemental aid negotiated rate facility under this chapter. The following facilities are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:~~

~~(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 does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080. Beginning July 1, 1987, the facilities under clause (1) are subject to applicable supplemental aid limits, and 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 consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less. From 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. 97. [256D.385] [RESIDENCE.]

To be eligible for Minnesota supplemental aid, a person must be a resident of Minnesota and (1) a citizen of the United States, (2) an alien lawfully admitted to the United States for permanent residence, or (3) otherwise permanently residing in the United States under color of law as defined by the supplemental security income program.

Sec. 98. [256D.395] [APPLICATION PROCEDURES.]

Subdivision 1. [INFORMATION.] *The county agency shall provide information about the program and application procedures to a person who inquires about Minnesota supplemental aid.*

Subd. 2. [FILING OF APPLICATION.] *The county agency must immediately provide an application form to any person requesting Minnesota supplemental aid. Application for Minnesota supplemental aid must be in writing on a form prescribed by the commissioner. The county agency must determine an applicant's eligibility for Minnesota supplemental aid as soon as the required verifications are received by the county agency and within 30 days after a signed application is received by the county agency for the aged or blind or within 60 days for the disabled. The amount of the first grant of Minnesota supplemental aid awarded to an applicant must be computed to cover the time period starting with the first day of the month in which the county agency received the signed and dated application or the first day of the month in which all eligibility factors were met, whichever is later.*

Sec. 99. [256D.405] [VERIFICATION AND REPORTING REQUIREMENTS.]

Subdivision 1. [VERIFICATION.] *The county agency shall request, and applicants and recipients shall provide and verify, all information necessary to determine initial and continuing eligibility and assistance payment amounts. If necessary, the county agency shall assist the applicant or recipient in obtaining verifications. If the applicant or recipient refuses or fails without good cause to provide the information or verification, the county agency shall deny or terminate assistance.*

Subd. 2. [REDETERMINATION OF ELIGIBILITY.] *The eligibility of each recipient must be redetermined at least once every 12 months.*

Subd. 3. [REPORTS.] *Recipients must report changes in circumstances that affect eligibility or assistance payment amounts within ten days of the change. Recipients with earned income, and recipients who have income allocated to them from a financially responsible relative with whom the recipient resides, must complete a monthly household report form. If the report form is not received before the end of the month in which it is due, the county agency must terminate assistance. The termination shall be effective on the first day of the month following the month in which the report was due. If a complete report is received within the month the assistance was terminated, the assistance unit is considered to have continued its application for assistance, effective the first day of the month the assistance was terminated.*

Sec. 100. [256D.415] [RESIDENCE; COUNTY OF FINANCIAL

RESPONSIBILITY.]

The county of financial responsibility is the county specified in section 256G.02, subdivision 4.

Sec. 101. [256D.425] [ELIGIBILITY CRITERIA.]

Subdivision 1. [PERSONS ENTITLED TO RECEIVE AID.] *A person who is aged, blind, or 18 years of age or older and disabled, whose income is less than the standards of assistance in section 256D.44 and whose resources are less than the limits in subdivision 2 is eligible for and entitled to Minnesota supplemental aid. A person found eligible by the Social Security Administration for supplemental security income under Title XVI on the basis of age, blindness, or disability meets these requirements. A person who would be eligible for the supplemental security income program except for income that exceeds the limit of that program but that is within the limits of the Minnesota supplemental aid program, must have blindness or disability determined by the state medical review team.*

Subd. 2. [RESOURCE STANDARDS.] *The resource standards and restrictions for supplemental aid under this section shall be those used to determine eligibility for disabled individuals in the supplemental security income program.*

Subd. 3. [TRANSFERS.] *The transfer policies and procedures of the Minnesota supplemental aid program are those used by the medical assistance program under section 256B.17.*

Sec. 102. [256D.435] [INCOME.]

Subdivision 1. [EXCLUSIONS.] *The following is excluded from income in determining eligibility for Minnesota supplemental aid:*

(1) the value of food stamps;

(2) home-produced food used by the household;

(3) Indian claim payments made by the United States Congress to compensate members of Indian tribes for the taking of tribal lands by the federal government;

(4) cash payments to displaced persons who face relocation as a result of the Housing Act of 1965, the Housing and Urban Development Act of 1965, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(5) one-third of child support payments received by an eligible child from an absent parent;

(6) displaced homemaker payments;

(7) reimbursement received for maintenance costs of providing foster care to adults or children;

(8) benefits received under Title IV and Title VII of the Older Americans Act of 1965;

(9) Minnesota renter or homeowner property tax refunds;

(10) infrequent, irregular income that does not total more than $20 per person in a month;

(11) reimbursement payments received from the VISTA program;

(12) in-kind income;

(13) payments received for providing volunteer services under Title I, Title II, and Title III of the Domestic Volunteer Service Act of 1973;

(14) loans that have to be repaid;

(15) federal low-income heating assistance program payments;

(16) any other type of funds excluded as income by state law;

(17) student financial aid, as allowed for the supplemental security income program; and

(18) other income excluded by the supplemental security income program.

Subd. 2. [SELF-SUPPORT PLANS.] *The county agency shall, for up to 36 months, disregard amounts of an individual's income and resources that are needed to fulfill a plan of self-support approved by the county agency, but only for the period during substantially all of which the individual is actually undergoing vocational rehabilitation. If an individual has a plan for self-support approved by the Social Security Administration, the county agency shall disregard income and resources in the amount and for the time approved in that plan.*

Subd. 3. [APPLICATION FOR FEDERALLY FUNDED BENEFITS.] *Persons for whom the applicant or recipient has financial responsibility and who have unmet needs must apply for and, if eligible, accept AFDC and other federally funded benefits. If the persons are determined potentially eligible for AFDC by the county agency, the applicant or recipient may not allocate earned or unearned income to those persons while an AFDC application is pending, or after the persons are determined eligible for AFDC. If the persons are determined potentially eligible for other federal benefits, the applicant or recipient may only allocate income to those persons until they are determined eligible for those other benefits unless the amount of those benefits is less than the amount in subdivision 4.*

Subd. 4. [ALLOCATION OF INCOME.] *The rate of allocation to relatives for whom the applicant or recipient is financially responsible is one-half the individual supplemental security income standard of assistance, except as restricted in subdivision 3.*

If the applicant or recipient shares a residence with another person who has financial responsibility for the applicant or recipient, the income of that person is considered available to the applicant or recipient after allowing: (1) the deductions in subdivisions 7 and 8; and (2) a deduction for the needs of the financially responsible relative and others in the household for whom that relative is financially responsible. The rate allowed to meet the needs of each of these people is one-half the individual supplemental security income standard.

Subd. 5. [GENERAL INCOME DISREGARD.] *The local agency shall disregard the first $20 of the assistance unit's unearned or earned income from the assistance unit's gross earned income.*

Subd. 6. [EARNED INCOME DISREGARDS.] *From the assistance unit's gross earned income, the local agency shall disregard $65 plus one-half of the remaining income.*

Subd. 7. [EARNED INCOME DEDUCTIONS.] *From the assistance unit's*

gross earned income, the local agency shall subtract work expenses allowed by the supplemental security income program.

Subd. 8. [SELF-EMPLOYMENT EARNINGS.] *A local agency must determine gross earned income from self-employment by subtracting business costs from gross receipts.*

Subd. 9. [RENTAL PROPERTY.] *Income from rental property is considered self-employment income for each month that the owner of the property who is the assistance unit or a responsible relative of the assistance unit does an average of at least ten hours a week of labor. When no labor is expended, income from rental property is considered unearned income and an additional deduction is allowed for actual, reasonable, and necessary labor costs for upkeep and repair.*

Subd. 10. [LUMP SUMS.] *Lump sum payments are considered income in the month received.*

Sec. 103. [256D.44] [STANDARDS OF ASSISTANCE.]

Subdivision 1. [USE OF STANDARDS; INCREASES.] *The state standards of assistance for shelter, basic needs, and special need items that establish the total amount of maintenance need for an applicant for or recipient of Minnesota supplemental aid, are used to determine the assistance unit's eligibility for Minnesota supplemental aid. The state standards of assistance for basic needs must increase by an amount equal to the dollar value, rounded up to the nearest dollar, of any cost of living increases in the supplemental security income program.*

Subd. 2. [STANDARD OF ASSISTANCE FOR SHELTER.] *The state standard of assistance for shelter provides for the recipient's shelter costs. The monthly state standard of assistance for shelter must be determined according to paragraphs (a) to (c).*

(a) If the recipient does not reside with another person, the state standard of assistance is the actual cost for shelter items or $124, whichever is less.

(b) If the recipient resides with another person, the state standard of assistance is the actual costs for shelter items or $93, whichever is less.

(c) Actual shelter costs for applicants or recipients are determined by dividing the total monthly shelter costs by the number of persons who share the residence.

Subd. 3. [STANDARD OF ASSISTANCE FOR BASIC NEEDS.] *The state standard of assistance for basic needs provides for the applicant's or recipient's maintenance needs, other than actual shelter costs. Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:*

(a) For an applicant or recipient who does not reside with another person, the state standard of assistance is $305.

(b) For an individual who resides with another person or persons, the state standard of assistance is $242.

Subd. 4. [TEMPORARY ABSENCE DUE TO ILLNESS.] *For the purposes of this subdivision, "home" means a residence owned or rented by a recipient or the recipient's spouse. Home does not include a negotiated rate facility. Assistance payments for recipients who are temporarily absent from their home due to hospitalization for illness must continue at the*

same level of payment during their absence if the following criteria are met:

(1) a physician certifies that the absence is not expected to continue for more than three months;

(2) a physician certifies that the recipient will be able to return to independent living; and

(3) the recipient has expenses associated with maintaining a residence in the community.

Subd. 5. [SPECIAL NEEDS.] *Notwithstanding subdivisions 1 to 4, payments are allowed for the following special needs of recipients of Minnesota supplemental aid:*

(a) The local agency shall pay a monthly allowance for medically prescribed diets payable under the AFDC program if the cost of those additional dietary needs cannot be met through some other maintenance benefit.

(b) Payment for nonrecurring special needs must be allowed for necessary home repairs or necessary repairs or replacement of household furniture and appliances using the payment standard of the AFDC program for these expenses, as long as other funding sources are not available.

(c) A fee for guardian or conservator service is allowed at a reasonable rate negotiated by the county or approved by the court. This rate shall not exceed five percent of the assistance unit's gross monthly income up to a maximum of $100 per month. If the guardian or conservator is a member of the county agency staff, no fee is allowed.

(d) The county agency shall continue to pay a monthly allowance of $68 for restaurant meals for a person who was receiving a restaurant meal allowance on June 1, 1990, and who eats two or more meals in a restaurant daily. The allowance must continue until the person has not received Minnesota supplemental aid for one full calendar month or until the person's living arrangement changes and the person no longer meets the criteria for the restaurant meal allowance, whichever occurs first.

Subd. 6. [COUNTY AGENCY STANDARDS OF ASSISTANCE.] *The county agency may establish standards of assistance for shelter, basic needs, special needs, clothing and personal needs, and negotiated rates that exceed the corresponding state standards of assistance. State aid is not available for costs above state standards.*

Sec. 104. [256D.45] [PAYMENT PERIOD.]

Subdivision 1. [PROSPECTIVE BUDGETING.] *A calendar month is the payment period for Minnesota supplemental aid. The monthly payment to a recipient must be determined prospectively.*

Subd. 2. [GROSS INCOME TEST.] *The local agency shall apply a gross income test prospectively for each month of program eligibility. An assistance unit is ineligible when nonexcluded income, before applying any disregards or deductions, exceeds 300 percent of the supplemental security income standard for an individual.*

Subd. 3. [AMOUNT OF ASSISTANCE.] *The amount of assistance is the difference between the recipient's net income and the applicable standards of assistance in section 256D.44, subdivisions 2 to 4, for persons living independently.*

Sec. 105. [256D.46] [EMERGENCY MINNESOTA SUPPLEMENTAL AID.]

Subdivision 1. [ELIGIBILITY.] *Emergency Minnesota supplemental aid must be granted if the recipient is without adequate resources to resolve an emergency that, if unresolved, will threaten the health or safety of the recipient.*

Subd. 2. [INCOME AND RESOURCE TEST.] *All income and resources available to the recipient during the month in which the need for emergency Minnesota supplemental aid arises must be considered in determining the recipient's ability to meet the emergency need. Property that can be liquidated in time to resolve the emergency and income that is normally disregarded or excluded under the Minnesota supplemental aid program must be considered available to meet the emergency need.*

Subd. 3. [PAYMENT AMOUNT.] *The amount of assistance granted under emergency Minnesota supplemental aid is limited to the amount necessary to resolve the emergency.*

Sec. 106. [256D.47] [PAYMENT METHODS.]

Minnesota supplemental aid payments must be issued to the recipient, a protective payee, or a conservator or guardian of the recipient's estate in the form of county warrants immediately redeemable in cash, electronic benefits transfer, or by direct deposit into the recipient's account in a financial institution. Minnesota supplemental aid payments must be issued regularly on the first day of the month. The supplemental aid warrants must be mailed only to the address at which the recipient resides, unless another address has been approved in advance by the local agency. Vendor payments must not be issued by the local agency except for nonrecurring emergency need payments; at the request of the recipient; for special needs, other than special diets; or when the agency determines the need for protective payments exist.

Sec. 107. [256D.48] [PROTECTIVE PAYMENTS.]

Subdivision 1. [NEED FOR PROTECTIVE PAYEE.] *The county agency shall determine whether a recipient needs a protective payee when a physical or mental condition renders the recipient unable to manage funds and when payments to the recipient would be contrary to the recipient's welfare. Protective payments must be issued when there is evidence of: (1) repeated inability to plan the use of income to meet necessary expenditures; (2) repeated observation that the recipient is not properly fed or clothed; (3) repeated failure to meet obligations for rent, utilities, food, and other essentials; (4) evictions or a repeated incurrence of debts; or (5) lost or stolen checks. The determination of representative payment by the Social Security Administration for the recipient is sufficient reason for protective payment of Minnesota supplemental aid payments.*

Subd. 2. [ESTABLISHING PROTECTIVE PAYMENT.] *When the county agency determines that a recipient needs a protective payee, the county agency shall appoint a payee according to the procedures in paragraphs (a) and (b).*

(a) The county agency shall consider the recipient's preference of protective payee. The protective payee must have an interest in or concern for the welfare of the recipient. The protective payee must be capable of

and willing to provide the required assistance. A vendor of goods or services, including the recipient's landlord, shall not serve as protective payee.

(b) The county agency shall reconsider the need for a protective payee at least annually. The criteria used to determine a person's continuing need for a protective payee are the criteria used in the supplemental security income program to determine if a person is incapable of managing or directing the management of the person's money. If the need for protective payment is likely to continue beyond two years, the county agency shall seek judicial appointment of a guardian or other legal representative.

Subd. 3. [PROTECTIVE PAYEE FOR PAYMENTS MADE BY THE SOCIAL SECURITY ADMINISTRATION.] *If the assistance unit receives benefits from the social security administration, the county agency shall also petition the social security administration to establish a representative payee for those benefits.*

Sec. 108. [256D.49] [PAYMENT CORRECTION.]

Subdivision 1. [WHEN.] *When the county agency finds that the recipient has received less than or more than the correct payment of Minnesota supplemental aid benefits, the county agency shall issue a corrective payment or initiate recovery under subdivision 3, as appropriate.*

Subd. 2. [UNDERPAYMENT OF MONTHLY GRANTS.] *When the county agency determines that an underpayment of the recipient's monthly payment has occurred, it shall, during that same month, issue a corrective payment. Corrective payments must be excluded when determining the applicant's or recipient's income and resources for the month of payment.*

Subd. 3. [OVERPAYMENT OF MONTHLY GRANTS.] *When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less. Residents of nursing homes, regional treatment centers, and facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.*

Sec. 109. [256D.50] [NOTICE.]

Subdivision 1. [TEN-DAY NOTICE.] *The county agency shall give recipients ten days' advance notice when the agency intends to terminate, suspend, or reduce a grant. The ten-day notice must be in writing on a form prescribed by the commissioner. The notice must be mailed or given to the recipient not later than ten days before the effective date of the action. The notice must clearly state the action the county agency intends to take, the reasons for the action, the right to appeal the action, and the conditions under which assistance can be continued while an appeal is pending.*

Subd. 2. [FIVE-DAY NOTICE.] *Five days' advance notice is sufficient when the county agency has verified and documented that the case facts require termination, suspension, or reduction of the grant for probable fraud by a recipient. If the last day of the five-day period falls on a weekend or holiday, the effective date of the action is the next working day.*

Subd. 3. [ADEQUATE NOTICE.] *Notice must be given no later than the effective date of the action when: (1) the county agency has factual information confirming the death of a person included in the grant; (2) the county agency receives a clear written statement, signed by a recipient, that the recipient no longer wishes assistance; (3) the county agency receives a clear statement, signed by a recipient, reporting information that the recipient acknowledges will require termination of or a reduction in the grant; (4) a recipient has been placed in a skilled nursing home, intermediate care, or a long-term hospitalization facility; (5) a recipient has been admitted to or committed to an institution; or (6) a recipient's whereabouts are unknown and the county agency mail to the recipient has been returned by the post office showing no forwarding address.*

Sec. 110. [256D.51] [APPEALS.]

Subdivision 1. [RIGHT TO APPEAL.] *Applicants and recipients may appeal under section 256.045 if they are aggrieved by an action or by inaction of the county agency.*

Subd. 2. [CONTINUATION OF PAYMENT PENDING APPEAL DECISION.] *When assistance is reduced, suspended, or terminated, the client has the right to choose to have the grant continued while an appeal is pending if the appellant files the appeal within ten days after the date the notice is mailed or before the effective date of the proposed action, whichever is later.*

Sec. 111. [256D.52] [FRAUD.]

A person who obtains or tries to obtain, or aids or abets any person in obtaining assistance to which the person is not entitled by a willfully false statement or representation, or by the intentional withholding or concealment of a material fact, or by impersonation, or other fraudulent device, violates section 256.98 and is subject to both the criminal and civil penalties in that section.

Sec. 112. [256D.53] [DUTIES OF THE COMMISSIONER.]

In addition to other duties imposed by law, the commissioner shall:

(1) supervise the administration of Minnesota supplemental aid by county agencies as provided in sections 256D.33 to 256D.54;

(2) adopt permanent rules consistent with law for carrying out and enforcing the provisions of sections 256D.33 to 256D.54, so that Minnesota supplemental aid may be administered as uniformly as possible throughout the state;

(3) immediately upon adoption, give rules to all county agencies and other interested persons;

(4) establish necessary administrative and fiscal procedures; and

(5) allocate money appropriated for Minnesota supplemental aid to county agencies.

Sec. 113. [256D.54] [APPLICATION FOR OTHER BENEFITS.]

Subdivision 1. [POTENTIAL ELIGIBILITY.] *An applicant or recipient who is otherwise eligible for supplemental aid and who is potentially eligible for maintenance benefits from any other source shall (1) apply for those benefits within 30 days of the county's determination of potential*

eligibility for those benefits; and (2) execute an interim assistance authorization agreement on a form as directed by the commissioner.

Subd. 2. [RECOVERY OF SUPPLEMENTAL AID UNDER AN INTERIM ASSISTANCE AGREEMENT.] *If a recipient is eligible for benefits from other sources, and receives a payment from another source for a period during which supplemental aid was also issued, the recipient shall reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of supplemental aid paid during the time period to which the other maintenance benefits apply. Reimbursement shall not exceed the state standard that applies to that time period. Reimbursement may be sought directly from the other source of maintenance income but remains the primary obligation of the recipient when an interim assistance agreement has been executed.*

Subd. 3. [INTERIM ASSISTANCE ADVOCACY INCENTIVE PROGRAM.] *From the amount recovered under an interim assistance agreement, county agencies may retain 25 percent plus actual reasonable fees, costs, and disbursements of appeals, litigation, and advocacy assistance given to the recipient for the recipient's claim for supplemental security income. The money kept under this section is from the state share of the recovery. The county agency may contract with qualified persons to provide the special assistance. The methods by which a county agency identifies, refers, and assists recipients who may be eligible for benefits under federal programs for the aged, blind, or disabled are those methods used by the general assistance interim assistance advocacy incentive program.*

Sec. 114. Minnesota Statutes 1988, section 256G.03, subdivision 1, is amended to read:

Subdivision 1. [STATE RESIDENCE.] For purposes of this chapter, ~~"state residence" is coincidental with residence in a Minnesota county. The establishment of county residence serves as proof of residence in Minnesota~~ *a resident of any Minnesota county is considered a state resident. For purposes of eligibility for general assistance or work readiness, residency must be substantiated according to section 256D.02, subdivision 12a.*

Sec. 115. [256I.01] [CITATION.]

Sections 256I.01 to 256I.06 shall be cited as the "negotiated rate act."

Sec. 116. [256I.02] [PURPOSE.]

The negotiated rate act establishes a comprehensive system of rates and payments for persons who reside in a negotiated rate residence and who meet the eligibility criteria of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54.

Sec. 117. [256I.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For the purposes of sections 256I.01 to 256I.06, the terms defined in this section have the meanings given them.*

Subd. 2. [NEGOTIATED RATE.] *"Negotiated rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for individuals eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54. Negotiated rate does not include payments*

for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. However, the negotiated rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate. The rate is negotiated by the county agency or the state according to the provisions of sections 256I.01 to 256I.06.

Subd. 3. [NEGOTIATED RATE RESIDENCE.] *"Negotiated rate residence" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. To receive payment for a negotiated rate, the residence must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children are not negotiated rate residences.*

Subd. 4. [REPRESENTATIVE PAYEE.] *"Representative payee" means a person selected to receive and manage general assistance or Minnesota supplemental aid benefits provided by the county agency on behalf of a general assistance or Minnesota supplemental aid recipient.*

Sec. 118. [256I.04] [ELIGIBILITY FOR NEGOTIATED RATE PAYMENT.]

Subdivision 1. [ELIGIBILITY REQUIREMENTS.] *To be eligible for a negotiated rate payment, the individual must be eligible for general assistance under sections 256D.01 to 256D.21, or supplemental aid under sections 256D.33 to 256D.54. If the individual is in the negotiated rate residence due to illness or incapacity, the individual must be in the residence under a plan developed or approved by the county agency. Residence in other negotiated rate residences must be approved by the county agency.*

Subd. 2. [DATE OF ELIGIBILITY.] *For a person living in a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, payment shall be made from the date a signed application form is received by the county agency or the date the applicant meets all eligibility factors, whichever is later. For a person living in a negotiated rate residence who is eligible for supplemental aid under sections 256D.33 to 256D.54, payment shall be made from the first of the month in which an approved application is received by a county agency.*

Sec. 119. [256I.05] [PAYMENT RATES.]

Subdivision 1. [MONTHLY RATES.] *Monthly payments for rates negotiated by a county agency on behalf of a recipient living in a negotiated rate residence may be paid at the rates in effect on March 1, 1985, not to exceed $919.80 in 1989. These rates must be increased annually according to subdivision 7.*

Subd. 2. [MONTHLY RATES; EXEMPTIONS.] *(a) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of health only as a boarding care home, certified by the commissioner of health as an intermediate care facility, and licensed by the commissioner of human services under Minnesota Rules, parts 9520.0500 to 9520.0690. For residences in this clause that have less than five percent of their licensed boarding care capacity reimbursed by the medical assistance program, rate increases shall be provided according to section 256B.431, subdivision 4, paragraph (c).*

(b) The maximum negotiated rate does not apply to a residence that on August 1, 1984, was licensed by the commissioner of human services under Minnesota Rules, parts 9525.0520 to 9525.0660, but funded as a negotiated rate residence under general assistance or Minnesota supplemental aid. Rate increases for these residences are subject to the provisions of subdivision 7.

(c) The following residences are exempt from the limit on negotiated rates and must be reimbursed for documented actual costs, until an alternative reimbursement system covering services excluding room and board maintenance services is developed by the commissioner:

(1) a residence that is not certified to participate in the medical assistance program, that was licensed as a boarding care facility by March 1, 1985, and does not receive supplemental program funding under Minnesota Rules, parts 9535.2000 to 9535.3000 or 9553.0010 to 9553.0080;

(2) a residence certified to participate in the medical assistance program, licensed as a boarding care facility or a nursing home, and declared to be an institution for mental disease by January 1, 1989. Effective January 1, 1989, the actual documented cost for these residences is the individual's appropriate medical assistance case mix rate until the commissioner develops a comprehensive system of rates and payments for persons in all negotiated rate residences. The exclusion from the rate limit for residences under this clause expires July 1, 1991. The commissioner of human services, in consultation with the counties in which these residences are located, shall review the status of each certified nursing home and board and care facility declared to be an institution for mental disease. This review shall include the cost effectiveness of continued payment for residents through general assistance or Minnesota supplemental aid; the appropriateness of placement of general assistance or supplemental aid clients in these facilities; the effects of Public Law Number 100-203 on these facilities; and the role of these facilities in the mental health service delivery system. The commissioner shall make recommendations to the legislature by January 1, 1990, regarding the need to continue the exclusion of these facilities from the negotiated rate maximum and the future role of these facilities in serving persons with mental illness.

Subd. 3. [LIMITS ON RATES.] *When a negotiated rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a negotiated rate under this chapter.*

Subd. 4. [CERTAIN RESIDENCES NOT ELIGIBLE.] *The commissioner shall make no payments under this section to residences licensed after August 1, 1987, that have more than four residents with a diagnosis of mental illness, except for residences specifically licensed to serve persons with mental illness or residences excluded from licensure under chapter 245A. The commissioner of health shall monitor newly licensed residences and shall report to the commissioner of human services residences that do not comply with this section.*

Subd. 5. [ADULT FOSTER CARE RATES.] *The commissioner shall annually establish statewide maintenance and difficulty of care rates for adults in foster care. The commissioner shall adopt rules to implement statewide rates. In adopting rules, the commissioner shall consider existing maintenance and difficulty of care rates so that, to the extent possible, an adult for whom a maintenance or difficulty of care rate is established will*

not be adversely affected.

Subd. 6. [STATEWIDE RATE SETTING SYSTEM.] *The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in residences with negotiated rates to be effective January 1, 1992, or as soon as possible after that date. The commissioner may adopt rules to establish this rate setting system.*

Subd. 7. [RATE INCREASES.] *The negotiated rate must be adjusted by the annual percentage change in the consumer price index (CPI-U U.S. city average), as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100) or 2.5 percent, whichever is less.*

Subd. 8. [STATE PARTICIPATION.] *For a resident of a negotiated rate residence who is eligible for general assistance under sections 256D.01 to 256D.21, state participation in the negotiated rate is determined according to section 256D.03, subdivision 2. For a resident of a negotiated rate facility who is eligible under sections 256D.33 to 256D.54, state participation in the negotiated rate is determined according to section 256D.36.*

Subd. 9. [PERSONAL NEEDS ALLOWANCE.] *In addition to the negotiated rate paid for the room and board costs, a person residing in a negotiated rate residence shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.*

Sec. 120. [256I.06] [PAYMENT METHODS.]

When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may be issued as a voucher or vendor payment. When a negotiated rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.

Sec. 121. Minnesota Statutes 1988, section 268.0111, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT AND TRAINING SERVICES.] "Employment and training services" means programs, activities, and services related to job training, job placement, and job creation including job service programs, job training partnership act programs, wage subsidies, ~~work incentive programs,~~ work readiness programs, ~~employment~~ *job* search, counseling, *case management,* community work experience programs, displaced homemaker programs, disadvantaged job training programs, grant diversion, employment experience programs, youth employment programs, conservation corps, apprenticeship programs, community investment programs, supported work programs, community development corporations, economic development programs, and opportunities industrialization centers.

Sec. 122. Minnesota Statutes 1988, section 268.0111, is amended by adding a subdivision to read:

Subd. 5a. [INDIAN TRIBE.] *For purposes of employment and training services, "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and for which a reservation exists as is consistent*

with Public Law Number 100-485, as amended.

Sec. 123. Minnesota Statutes 1988, section 268.0122, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] The commissioner of jobs and training shall:

(1) administer and supervise all forms of unemployment insurance provided for under federal and state laws that are vested in the commissioner;

(2) administer and supervise all employment and training services assigned to the department of jobs and training under federal or state law;

(3) review and comment on local service unit plans and community investment program plans and approve or disapprove the plans;

(4) establish and maintain administrative units necessary to perform administrative functions common to all divisions of the department;

(5) supervise the county boards of commissioners, local service units, and any other units of government designated in federal or state law as responsible for employment and training programs;

(6) establish administrative standards and payment conditions for providers of employment and training services;

(7) act as the agent of, and cooperate with, the federal government in matters of mutual concern, including the administration of any federal funds granted to the state to aid in the performance of functions of the commissioner; ~~and~~

(8) obtain reports from local service units and service providers for the purpose of evaluating the performance of employment and training services; *and*

(9) review and comment on plans for Indian tribe employment and training services and approve or disapprove the plans.

Sec. 124. Minnesota Statutes 1988, section 268.0122, subdivision 3, is amended to read:

Subd. 3. [DUTIES AS A STATE AGENCY.] The commissioner shall:

(1) administer the unemployment insurance laws and related programs;

(2) administer the aspects of aid to families with dependent children, general assistance, work readiness, and food stamps that relate to employment and training services, subject to the contract under section 268.86, subdivision 2;

(3) administer wage subsidies and the discretionary employment and training fund;

(4) administer a national system of public employment offices as prescribed by United States Code, title 29, chapter 4B, the Wagner-Peyser Act, and other federal employment and training programs;

(5) cooperate with the federal government and its employment and training agencies in any reasonable manner as necessary to qualify for federal aid for employment and training services and money;

(6) enter into agreements with other departments of the state and local units of government as necessary;

(7) certify employment and training service providers and decertify service providers that fail to comply with performance criteria according to standards established by the commissioner;

(8) provide consistent, integrated employment and training services across the state;

(9) establish the standards for all employment and training services administered under this chapter;

(10) develop standards for the contents and structure of the local service unit plans *and plans for Indian tribe employment and training services*;

(11) provide current state and substate labor market information and forecasts, in cooperation with other agencies;

(12) identify underserved populations, unmet service needs, and funding requirements;

(13) consult with the council for the blind on matters pertaining to programs and services for the blind and visually impaired; ~~and~~

(14) submit to the governor, the commissioners of human services and finance, and the chairs of the senate finance and house appropriations committees a semiannual report that:

(a) reports, by client classification, an unduplicated count of the kinds and number of services furnished through each program administered or supervised by the department or coordinated with it;

(b) reports on the number of job openings listed, developed, available, and obtained by clients;

(c) identifies the number of cooperative agreements in place, the number of individuals being served, and the kinds of service provided them;

(d) evaluates the performance of services, such as wage subsidies, community investments, work readiness, and grant diversions; and

(e) explains the effects of current employment levels, unemployment rates, and program performance on the unemployment insurance fund and general assistance, work readiness, and aid to families with dependent children caseloads and program expenditures*; and*

(15) enter into agreements with Indian tribes as necessary to provide employment and training services as funds become available.

Sec. 125. Minnesota Statutes 1988, section 268.86, subdivision 2, is amended to read:

Subd. 2. [INTERAGENCY AGREEMENTS.] By October 1, 1987, the commissioner and the commissioner of human services shall enter into a written contract for the design, delivery, and administration of employment and training services for applicants for or recipients of food stamps or aid to families with dependent children and work readiness, including AFDC employment and training programs, grant diversion, and supported work. The contract must be approved by the coordinator and must address:

(1) specific roles and responsibilities of each department;

(2) assignment and supervision of staff for interagency activities including any necessary interagency employee mobility agreements under the administrative procedures of the department of employee relations;

(3) mechanisms for determining the conditions under which individuals participate in services, their rights and responsibilities while participating, and the standards by which the services must be administered;

(4) procedures for providing technical assistance to local service units, *Indian tribes*, and employment and training service providers;

(5) access to appropriate staff for ongoing development and interpretation of policy, rules, and program standards;

(6) procedures for reimbursing appropriate agencies for administrative expenses; and

(7) procedures for accessing available federal funds.

Sec. 126. Minnesota Statutes 1988, section 268.871, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] Each employment and training service provider under contract with a local service unit *or an Indian tribe* to deliver employment and training services must submit an annual report by March 1 to the local service unit *or the Indian tribe*. The report must specify:

(1) the types of services provided;

(2) the number of priority and nonpriority AFDC recipients served, the number of work readiness assistance recipients served, and the number of other clients served;

(3) how resources will be prioritized to serve priority and nonpriority public assistance recipients and other clients; and

(4) the manner in which state employment and training funds and programs are being coordinated with federal and local employment and training funds and programs.

Sec. 127. Minnesota Statutes 1988, section 268.88, is amended to read:

268.88 [LOCAL SERVICE UNIT PLANS.]

(a) Local service units shall prepare and submit to the commissioner by April 15 of each year an annual plan for the subsequent ~~calendar~~ *fiscal* year. The commissioner shall notify each local service unit ~~by May 1 of each year~~ if *within 60 days of receipt of* its plan *that the plan* has been approved or disapproved. The plan must include:

(1) a statement of objectives for the employment and training services the local service unit administers;

(2) the establishment of public assistance caseload reduction goals and the strategies and programs that will be used to achieve these goals;

(3) a statement of whether the goals from the preceding year were met and an explanation if the local service unit failed to meet the goals;

(4) the amount proposed to be allocated to each employment and training service;

(5) the proposed types of employment and training services the local service unit plans to utilize;

(6) a description of how the local service unit will use funds provided under section 256.736 to meet the requirements of that section. The description must include *the two work programs required by section 256.736*,

subdivision 10, paragraph (a), clause (13), what services will be provided, number of clients served, per service expenditures, *type of clients served,* and projected outcomes;

(7) a report on the use of wage subsidies, grant diversions, community investment programs, ~~sliding fee day care,~~ and other services administered under this chapter;

(8) an annual update of the community investment program plan according to standards established by the commissioner;

(9) a performance review of the employment and training service providers delivering employment and training services for the local service unit; ~~and~~

(10) a copy of any contract between the local service unit and an employment and training service provider including expected outcomes and service levels for public assistance clients; *and*

(11) a copy of any other agreements between educational institutions, family support services, and child care providers.

(b) In counties with a city of the first class, the county and the city shall develop and submit a joint plan. The plan may not be submitted until agreed to by both the city and the county. The plan must provide for the direct allocation of employment and training money to the city and the county unless waived by either. If the county and the city cannot concur on a plan, the commissioner shall resolve their dispute. *In counties in which a federally recognized Indian tribe is operating an employment and training program under an agreement with the commissioner of human services, the plan must provide that the county will coordinate its employment and training programs, including developing a system for referrals, sanctions, and the provision of supporting services such as access to child care funds and transportation with programs operated by the Indian tribe. The plan may not be given final approval by the commissioner until the tribal unit and county have submitted written agreement on these provisions in the plan. If the county and Indian tribe cannot agree on these provisions, the local service unit shall notify the commissioner of jobs and training and the commissioners of jobs and training and human services shall resolve the dispute.*

(c) The commissioner may withhold the distribution of employment and training money from a local service unit that does not submit a plan to the commissioner by the date set by this section, and shall withhold the distribution of employment and training money from a local service unit whose plan has been disapproved by the commissioner until an acceptable amended plan has been submitted.

(d) ~~For 1987, local service unit plans must be submitted by October 1, 1987. The plan must include the implementation plan for aid to families with dependent children employment and training services as required under Laws 1987, chapter 403, article 3, section 91.~~ *Notwithstanding Minnesota Statutes 1988, section 268.88, local service units shall prepare and submit to the commissioner by June 1, 1989, an annual plan for fiscal year 1990. The commissioner shall notify each local service unit within 30 days of receipt of its plan if its plan has been approved or disapproved.*

Sec. 128. [268.881] [INDIAN TRIBE PLANS.]

The commissioner, in consultation with the commissioner of human services, shall review and comment on Indian tribe plans submitted to the commissioner for provision of employment and training services. The plan must be submitted by April 15 for the state fiscal year ending June 30, 1990. For subsequent years, the plan must be submitted at least 60 days before the program commences. The commissioner shall approve or disapprove the plan for the state fiscal year ending June 30, 1990, within 30 days of receipt. The commissioner shall notify the Indian tribe of approval or disapproval of plans for subsequent years within 60 days of submission of the plans. The grant proposal must contain information that has been established by the commissioner and the commissioner of human services for the employment and training services grant program for Indian tribes.

Sec. 129. Laws 1987, chapter 403, article 3, section 98, is amended to read:

Sec. 98. [REPEALER.]

Minnesota Statutes 1986, sections 257.34, subdivision 2; and section 268.86, subdivisions 1, 3, 4, and 5, are repealed. Section 95 is repealed effective ~~June 30, 1989~~ *October 1, 1990.*

Sec. 130. [IMPLEMENTATION.]

The commissioner is authorized to proceed with the planning and designing of the Minnesota family investment plan, according to the requirements of Minnesota Statutes, sections 256.031 to 256.036. Sections 256.031 to 256.036 may not be implemented or enforced until the legislature authorizes a specific date for implementation either statewide or on a field trial basis. The definition of family in section 256.032, subdivision 7, shall not be construed to define what an assistance unit or filing unit is in the Minnesota family investment plan on and after the effective date of sections 256.031 to 256.036, this section, and amendments to section 256.045, subdivision 3, in section 13. The commissioner shall study the relevance of these concepts for the Minnesota family investment plan and include recommendations in the Minnesota family investment plan and funding request. The commissioner shall include in the Minnesota family investment plan a mechanism to empower the parental caregiver in a dispute regarding the contents of a contract. This mechanism shall be available before the caregiver is given a notice of intent to implement sanctions as required under section 256.035, subdivision 3. This mechanism may be a hearing under section 256.045.

Sec. 131. [MIGRANT ISSUES TASK FORCE.]

The department of human services, in coordination with the Minnesota housing finance agency, shall convene a task force to consider issues relating to public assistance and housing for migrant farm workers. The task force shall include migrant workers, representatives of communities in which migrant workers reside, employers of migrant workers, particularly agricultural employers, representatives of housing agencies, and representatives of advocacy groups. The task force shall report back to the legislature by February 1, 1990, with recommendations.

Sec. 132. [PLAN AND FUNDING REQUEST.]

After securing federal approval to implement the Minnesota family investment plan on a field trial basis, the commissioner shall submit a plan and funding request to the legislature for specific appropriations for the

implementation of field trials.

Sec. 133. [REPEALER.]

Subdivision 1. [WELFARE REFORM.] *Minnesota Statutes 1988, sections 256D.051, subdivision 6a, and 268.86, subdivision 7, are repealed.*

Subd. 2. [AFDC AND MSA SIMPLIFICATION.] *(a) Sections 256D.01, subdivision 1c; and 256D.06, subdivisions 3, 4, and 6, are repealed.*

(b) Sections 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; and 256D.43, are repealed.

Subd. 3. [GENERAL ASSISTANCE AND WORK READINESS.] *Minnesota Statutes 1988, sections 256D.06, subdivisions 3, 4, 6, and 6a; and 256D.052, subdivisions 5, 6, and 7, are repealed effective October 1, 1990.*

Sec. 134. [EFFECTIVE DATES.]

Sections 21; 42; 43; the changes in section 44 relating to the general assistance and work readiness programs; 45, subdivision 1c, paragraphs (b), (c), (d), and (e); 46 to 61; and 63 to 71, are effective October 1, 1990. Section 37 is effective October 1, 1989. Sections 92; 103, subdivisions 1, 2, 3, and 5; and 104, subdivision 3, are effective July 1, 1990. Section 129 is effective the day following final enactment.

ARTICLE 6

REGIONAL TREATMENT CENTERS

Section 1. [FINDING.]

The legislature finds that it is beneficial to encourage the placement of persons requiring residential, health care, and treatment services in community-based facilities and in the regional treatment centers. It is the policy of the state to:

(1) carry out measures that encourage the delivery of these services in a manner that ensures fair and equitable arrangements to protect the interests of the affected residents, family members, employees, providers, and communities; and

(2) provide adequate staff and funding at regional treatment centers and all state facilities to ensure that existing programs and new programs that may be developed meet all licensing and certification standards and contemporary standards of care.

Sec. 2. [245.073] [TECHNICAL TRAINING ASSISTANCE TO COMMUNITY-BASED PROGRAMS.]

In conjunction with the discharge of persons from regional treatment centers and their admission to state-operated and privately operated community-based programs, the commissioner may provide technical training assistance to the community-based programs. The commissioner may apply for and accept money from any source including reimbursement charges from the community-based programs for reasonable costs of training. Money received must be deposited in the general fund and is appropriated annually to the commissioner of human services for training under this section.

Sec. 3. Minnesota Statutes 1988, section 245.463, is amended by adding a subdivision to read:

Subd. 3. [REVIEW OF FUNDING.] *The commissioner shall complete a review of funding for mental health services and make recommendations for any changes needed. The commissioner shall submit a report on the review and recommendations to the legislature by January 31, 1991.*

Sec. 4. Minnesota Statutes 1988, section 245.476, is amended by adding a subdivision to read:

Subd. 4. [REPORT ON PREADMISSION SCREENING.] *The commissioner shall review the statutory preadmission screening requirements for psychiatric hospitalization, both in the regional treatment centers and other hospitals, to determine if changes in preadmission screening are needed. The commissioner shall deliver a report of the review to the legislature by January 31, 1990.*

Sec. 5. [245.652] [CHEMICAL DEPENDENCY SERVICES FOR REGIONAL TREATMENT CENTERS.]

Subdivision 1. [PURPOSE.] *The regional treatment centers shall provide services designed to end a person's reliance on chemical use or a person's chemical abuse and increase effective and chemical-free functioning. Clinically effective programs must be provided in accordance with section 246.64.*

Subd. 2. [SERVICES OFFERED.] *Services provided must include, but are not limited to, the following:*

(1) primary and extended residential care, including residential treatment programs of varied duration intended to deal with a person's chemical dependency or chemical abuse problems;

(2) follow-up care to persons discharged from regional treatment center programs;

(3) outpatient treatment programs; and

(4) other treatment services, as appropriate and as provided under contract or shared service agreements.

Subd. 3. [PERSONS SERVED.] *The regional treatment centers shall provide services primarily to adolescent and adult residents of the state.*

Subd. 4. [SYSTEM LOCATIONS.] *Programs shall be located in Anoka, Brainerd, Fergus Falls, Moose Lake, St. Peter, and Willmar.*

Sec. 6. Minnesota Statutes 1988, section 246.18, is amended by adding a subdivision to read:

Subd. 3a. [CONTINGENCY FUND.] *A separate interest-bearing account must be established in accordance with subdivision 3 for use by the commissioner of human services in contingency situations related to chemical dependency programs operated by the regional treatment centers or state nursing homes. Within the limits of appropriations made available for this purpose, money must be provided to each regional treatment center to enable each center to continue to provide chemical dependency services.*

Sec. 7. Minnesota Statutes 1988, section 246.18, subdivision 4, is amended to read:

Subd. 4. [COLLECTIONS DEPOSITED IN MEDICAL ASSISTANCE ACCOUNT.] Except as provided in subdivision 2, all receipts from collection efforts for the regional treatment centers ~~and~~, state nursing homes,

and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the medical assistance account and are appropriated for that purpose. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this paragraph.

Sec. 8. Minnesota Statutes 1988, section 246.36, is amended to read:

246.36 [ACCEPTANCE OF VOLUNTARY, UNCOMPENSATED SERVICES.]

For the purpose of carrying out a duty, the commissioner of human services shall have authority to accept uncompensated and voluntary services and to enter into contracts or agreements with private or public agencies, or persons, for uncompensated and voluntary services, as the commissioner may deem practicable. *Uncompensated and voluntary services do not include services mandated by licensure and certification requirements for health care facilities.* The volunteer agencies, organizations, or persons who provide services to residents of state ~~hospitals~~ ~~shall~~ *facilities operated under the authority of the commissioner are* not ~~be~~ subject to the procurement requirements of chapters 16A and 16B. The agencies, organizations, or persons may purchase supplies, services, and equipment to be used in providing services to residents of state ~~hospitals~~ *facilities* through the department of administration.

Sec. 9. Minnesota Statutes 1988, section 246.57, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] The commissioner of human services may authorize any ~~regional center or state operated nursing home~~ *state facility operated under the authority of the commissioner* to enter into agreement with other governmental entities and both nonprofit and ~~profit health service~~ *for-profit* organizations for participation in shared service agreements that would be of mutual benefit to the state, other governmental entities and ~~health service~~ organizations involved, and the public. Notwithstanding section 16B.06, subdivision 2, the commissioner of human services may delegate the execution of shared services contracts to the chief executive officers of the regional centers or state operated nursing homes. No additional employees shall be added to the legislatively approved complement for any regional center or state nursing home as a result of entering into any shared service agreement. However, positions funded by a shared service agreement may be authorized by the commissioner of finance for the duration of the shared service agreement. The charges for the services shall be on an actual cost basis ~~and~~. All receipts ~~shall be deposited in the general fund. The receipts are appropriated to the commissioner of human services for the duration of the shared service agreement to make expenditures under the agreement that are not covered by other appropriations~~ *for shared services may be retained by the regional treatment center or state-operated nursing home that provided the services, in addition to other funding the regional treatment center or state-operated nursing home receives.*

Sec. 10. [246.70] [SERVICES TO FAMILIES.]

(a) The commissioner shall publicize the planned changes to the facilities operated by the commissioner. A parent, other involved family member, or private guardian of a resident of a facility must be notified of the changes planned for each facility. When new services developed for a person require

the person to move, the commissioner shall provide each parent, family member, and guardian of that person with the following:

(1) names and telephone numbers of the state and county contacts;

(2) information on types of services to be developed;

(3) information on how the individual planning process works, including how alternative placements will be determined, and how family members can be involved;

(4) information on the process to be followed when a parent, other family member, or guardian disagrees with the proposed services; and

(5) a list of additional resources such as advocates, local volunteer coordinators, and family groups.

(b) At least one staff person in each facility must be available to provide information about:

(1) community placements;

(2) the opportunity for interested family members and guardians to participate in program planning; and

(3) family support groups.

Sec. 11. Minnesota Statutes 1988, section 251.011, subdivision 4, is amended to read:

Subd. 4. [OAK TERRACE NURSING HOME.] Any portion or unit of Glen Lake Sanitarium not used for the treatment of tuberculosis patients may be used by the commissioner of human services for the care of geriatric patients, under the name of Oak Terrace Nursing Home.

The commissioner of administration may lease any portion or unit of Oak Terrace Nursing Home for the purpose of providing food and shelter for the homeless.

The facility at Oak Terrace must be closed as soon as a reasonable plan for relocation of its residents can be safely implemented and employee mitigation measures completed, but no later than July 1, 1992. Relocation of persons must be carefully planned and take into account any remaining ties the person has to family or community, available capacity in private and state-operated nursing homes, and personal choices and needs of the resident. Relocation must be implemented according to Minnesota Rules, parts 4655.6810 to 4655.6830 and 9546.0010 to 9546.0060.

Sec. 12. Minnesota Statutes 1988, section 251.011, is amended by adding a subdivision to read:

Subd. 4a. [NURSING HOME BEDS AT REGIONAL TREATMENT CENTERS.] *The commissioner shall operate the following number of nursing home beds at regional treatment centers in addition to current capacity: at Brainerd, 105 beds; at Cambridge, 70 beds; and at Fergus Falls, 85 beds. The commissioner may operate nursing home beds at other regional treatment centers as necessary to provide an appropriate level of care for persons served at those centers.*

Sec. 13. [251.012] [PROVISION OF NURSING HOME SERVICES.]

Subdivision 1. [NURSING HOME CARE.] *(a) The commissioner shall provide nursing home care to a person requiring and eligible for that level*

of care when the person:

(1) is medically fragile or clinically challenging;

(2) exhibits severe or challenging behaviors; or

(3) requires treatment for an underlying mental illness.

(b) A person may be accepted for admission only after nursing home preadmission screening by the county.

Subd. 2. [TECHNICAL ASSISTANCE.] *Within the limits of appropriations, the commissioner may expand the provision of technical assistance to community providers in handling the behavior problems of their residents, and with community placements for younger persons who have heavy nursing needs and behavior problems. Technical assistance may include site visits, consultation with providers, or provider training.*

Subd. 3. [AUXILIARY SERVICES.] *The nursing homes may enter into agreements according to section 246.57 to provide other services needed in the region that build on the services provided by the regional nursing homes and that are offered in conjunction with a community or community group.*

Subd. 4. [RESPITE CARE.] *Respite care may be offered when space is available if payment for the cost of care is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the nursing home, and if the individual meets the facility's admission criteria.*

Sec. 14. Minnesota Statutes 1988, section 252.025, is amended by adding a subdivision to read:

Subd. 4. [STATE-PROVIDED SERVICES.] *(a) It is the policy of the state to capitalize and recapitalize the regional treatment centers as necessary to prevent depreciation and obsolescence of physical facilities and to ensure they retain the physical capability to provide residential programs. Consistent with that policy and with section 252.50, and within the limits of appropriations made available for this purpose, the commissioner may establish, by June 30, 1991, the following state-operated, community-based programs for the least vulnerable regional treatment center residents: at Brainerd regional services center, two residential programs and two day programs; at Cambridge regional treatment center, four residential programs and two day programs; at Faribault regional treatment center, ten residential programs and six day programs; at Fergus Falls regional treatment center, two residential programs and one day program; at Moose Lake regional treatment center, four residential programs and two day programs; and at Willmar regional treatment center, two residential programs and one day program.*

(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar, as follows:

(1) by July 1, 1998, continued regional treatment center capacity to serve 350 persons with developmental disabilities as follows: at Brainerd, 80 persons; at Cambridge, 12 persons; at Faribault, 110 persons; at Fergus Falls, 60 persons; at Moose Lake, 12 persons; at St. Peter, 35 persons; at

Willmar, 25 persons; and up to 16 crisis beds in the Twin Cities metropolitan area; and

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57 persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at Moose Lake, 12 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

Sec. 15. [252.032] [ADMINISTRATIVE STRUCTURE.]

Subdivision 1. [REGIONAL STRUCTURE.] *The administrative structure of the state-operated system must be regional in character.*

Subd. 2. [STAFF; LOCATION OF FACILITIES.] *The administrative and professional staffs of the regional treatment centers must be based on campus. Community-based facilities and services must be located and operated so they facilitate the delivery of professional and administrative staff services from the regional treatment center campus. The regional treatment center professional staff and all other staff may deliver services that they deliver on campus throughout the catchment area.*

Sec. 16. [252.035] [REGIONAL TREATMENT CENTER CATCHMENT AREAS.]

The commissioner may administratively designate catchment areas for regional treatment centers and state nursing homes. Catchment areas may vary by client group served. Catchment areas in effect on January 1, 1989, may not be modified until the commissioner has consulted with the regional planning committees of the affected regional treatment centers and with the chairs of the senate health and human services finance division and the house of representatives health and human services appropriation division.

Sec. 17. [252.038] [PROVISION OF RESIDENTIAL SERVICES.]

Subdivision 1. [RESIDENTIAL CARE.] *The commissioner of human services may continue to provide residential care in regional treatment centers.*

Subd. 2. [TECHNICAL ASSISTANCE.] *To the extent of available money, the commissioner of human services may expand the capacity to provide technical assistance to community providers in handling the behavior problems of their patients. Technical assistance may include site visits, consultation with providers, or provider training.*

Subd. 3. [RESPITE CARE.] *Respite care may be provided in a regional treatment center when space is available if (1) payment for 20 percent of the prevailing facility per diem is guaranteed by the person, the person's family or legal representative, or a source other than a direct state appropriation to the regional treatment center and (2) provision of respite care to the individual meets the facility's admission criteria and licensing standards. The parent or guardian must consent to admission and sign a waiver of liability. Respite care is limited to 30 days within a calendar year. No preadmission screening process is required for a respite care stay under this subdivision.*

Sec. 18. Minnesota Statutes 1988, section 252.291, subdivision 2, is

amended to read:

Subd. 2. [EXCEPTIONS.] *(a)* The commissioner of human services in coordination with the commissioner of health may approve a newly constructed or newly established publicly or privately operated community intermediate care facility for six or fewer persons with mental retardation or related conditions only when ~~the following circumstances exist~~:

~~(a) when~~ *(1)* the facility is developed in accordance with a request for proposal approved by the commissioner of human services;

~~(b) when~~ *(2)* the facility is necessary to serve the needs of identified persons with mental retardation or related conditions who are seriously behaviorally disordered or who are seriously physically or sensorily impaired. ~~At least 50~~ *No more than 40* percent of the capacity ~~of the facility~~ *specified in the proposal submitted to the commissioner* must be used for persons ~~coming~~ *being discharged* from regional treatment centers; and

~~(c) when~~ *(3)* the commissioner determines that the need for increased service capacity cannot be met by the use of alternative resources or the modification of existing facilities.

(b) The percentage limitation in paragraph (a), clause (2), does not apply to state-operated, community-based facilities.

Sec. 19. Minnesota Statutes 1988, section 252.31, is amended to read:

252.31 [ADVISORY TASK FORCE.]

The commissioner of human services may appoint an advisory task force for *services to* persons with mental retardation, related conditions, or physical handicaps. The task force shall advise the commissioner relative to those laws ~~for~~ which the commissioner is responsible to administer and enforce relating to mental retardation or related conditions and physical disabilities. *The commissioner also may request the task force for advice on implementing a comprehensive plan of services necessary to provide for the transition of persons with mental retardation or related conditions from regional treatment centers services to community-based programs.* The task force shall consist of persons who are providers or consumers of service for persons with mental retardation, related conditions, or physical handicaps, or who are interested citizens. The task force shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Sec. 20. Minnesota Statutes 1988, section 252.41, subdivision 9, is amended to read:

Subd. 9. [VENDOR.] "Vendor" means a nonprofit legal entity that:

(1) is licensed under sections ~~245.781~~ *245A.01* to ~~245.812~~ *245A.16* and 252.28, subdivision 2, to provide day training and habilitation services to adults with mental retardation and related conditions; and

(2) does not have a financial interest in the legal entity that provides residential services to the same person or persons to whom it provides day training and habilitation services. This clause does not apply to regional *treatment* centers, *state-operated, community-based programs operating according to section 252.50 until July 1, 2000,* or vendors licensed prior to April 15, 1983.

Sec. 21. Minnesota Statutes 1988, section 252.50, is amended to read:

252.50 [STATE-OPERATED, ~~COMMUNITY-BASED RESIDENTIAL~~ PROGRAMS.]

Subdivision 1. [~~RESIDENTIAL~~ *COMMUNITY-BASED* PROGRAMS ESTABLISHED.] The commissioner ~~may~~ *shall* establish a system of ~~non-institutional,~~ state-operated, community-based ~~residential services~~ *programs* for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based ~~residential facility~~ *program*" means a ~~residential~~ program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the ~~facilities~~ *programs* must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based ~~residential facilities~~ *programs* must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental retardation or related conditions. ~~Services~~ *State-operated, community-based programs* may include, but are not limited to, community group homes, foster care, supportive living ~~arrangements~~ *services, day training and habilitation programs,* and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and ~~may~~ *shall*, within the limits of available appropriations, establish additional state-operated, community-based ~~services~~ *programs* for ~~regional treatment center residents~~ *persons* with mental retardation or related conditions. ~~Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program.~~ *State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with mental retardation or related conditions who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.*

Subd. 2. [AUTHORIZATION TO BUILD OR PURCHASE.] Within the limits of available appropriations, the commissioner may build, purchase, or lease suitable buildings for state-operated, community-based ~~residential facilities~~ *programs*. ~~Facilities~~ *Programs* must be ~~homelike and~~ adaptable to the needs of persons with mental retardation or related conditions *and residential programs must be homelike.*

Subd. 3. [ALTERNATIVE FUNDING MECHANISMS.] To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional *treatment* centers.

Subd. 4. [COUNTIES.] State-operated, community-based ~~residential facilities~~ *programs* may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation *or related conditions*. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with

county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Subd. 5. [LOCATION OF PROGRAMS.] *(a) In determining the location of state-operated, community-based programs, the needs of the individual client shall be paramount. The commissioner shall also take into account:*

(1) the personal preferences of the persons being served and their families as determined by Minnesota Rules, parts 9525.0015 to 9525.0165;

(2) location of the support services established by the individual service plans of the persons being served;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

(b) State-operated, community-based programs must be located according to section 252.28.

Subd. 6. [RATES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL RETARDATION.] *State-operated, community-based programs that meet the definition of a facility in Minnesota Rules, part 9553.0020, subpart 19, must be reimbursed consistent with Minnesota Rules, parts 9553.0010 to 9553.0080. State-operated, community-based programs that meet the definition of vendor in section 252.41, subdivision 9, must be reimbursed consistent with the rate setting procedures in sections 252.41 to 252.47 and Minnesota Rules, parts 9525.1200 to 9525.1330. This subdivision does not operate to abridge the statutorily created pension rights of state employees or collective bargaining agreements reached pursuant to chapter 179A.*

Subd. 7. [CRISIS SERVICES.] *Within the limits of appropriations, state-operated regional technical assistance must be available in each region to assist counties, residential and day programming staff, and families to prevent or resolve crises that could lead to a change in placement. Crisis capacity must be provided on all regional treatment center campuses serving persons with developmental disabilities. In addition, crisis capacity may be developed to serve 16 persons in the Twin Cities metropolitan area. Technical assistance and consultation must also be available in each region to providers and counties. Staff must be available to provide:*

(1) individual assessments;

(2) program plan development and implementation assistance;

(3) analysis of service delivery problems; and

(4) assistance with transition planning, including technical assistance to counties and providers to develop new services, site the new services, and assist with community acceptance.

Subd. 8. [SPIRITUAL CARE SERVICES.] *An organized means for providing spiritual care services and follow-up may be established as part of the comprehensive health care, congruent with the operational philosophy*

of the department of human services, to residents of state-operated residential facilities and former residents discharged to private facilities, by persons certified for ministry in specialized settings.

Subd. 9. [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] *The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services, including state-operated programs for persons with developmental disabilities.*

The commissioner shall evaluate the progress of the development and quality of community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1991, and January 31, 1993.

Subd. 10. [RULES AND LICENSURE.] *Each state-operated residential and day habilitation service site shall be separately licensed and movement of residents between them shall be governed by applicable rules adopted by the commissioner.*

Subd. 11. [AGREEMENT AUTHORIZED.] *The agreement between the commissioner of human services, the state negotiator, and the bargaining representatives of state employees, dated March 10, 1989, concerning the department of human services plan to restructure the regional treatment centers, is ratified, subject to approval by the legislative commission on employee relations.*

Sec. 22. [252.51] [COMMUNITY PLANNING.]

Each community where there is a regional treatment center shall establish a group to work with and advise the commissioner and the counties to:

(1) ensure community input in the development of community services for persons with developmental disabilities;

(2) assure consideration of family concern about choice of service settings;

(3) assist counties in recruiting new providers, capitalizing, and siting new day services and residential programs;

(4) work with the surrounding counties to coordinate development of services for persons with developmental disabilities;

(5) facilitate community education concerning services to persons with developmental disabilities;

(6) assist in recruiting potential supported employment opportunities;

(7) assist in developing shared services agreements among providers of service;

(8) coordinate with the development of state-operated services; and

(9) seek to resolve local transportation issues for people with developmental disabilities.

Funds appropriated to the department of human services for this purpose shall be transferred to the city in which the regional treatment center is located upon receipt of evidence from the city that such a group has been constituted and designated. The funds shall be used to defray the expenses of the group.

The membership of each community group must reflect a broad range

of community interests, including, at a minimum, families of persons with developmental disabilities, state employee unions, providers, advocates, and counties.

Sec. 23. Minnesota Statutes 1988, section 252A.03, is amended by adding a subdivision to read:

Subd. 4. [ALTERNATIVES.] *Public guardianship or conservatorship may be imposed only when no acceptable, less restrictive form of guardianship or conservatorship is available. The commissioner shall seek parents, near relatives, and other interested persons to assume private guardianship for persons with developmental disabilities who are currently under public guardianship. If a person seeks to become a private guardian or conservator, costs to the person may be reimbursed under section 525.703, subdivision 3, paragraph (b). The commissioner must provide technical assistance to parents, near relatives, and interested persons seeking to become private guardians or conservators.*

Sec. 24. Minnesota Statutes 1988, section 253.015, is amended to read:

253.015 [LOCATION; MANAGEMENT; COMMITMENT; CHIEF EXECUTIVE OFFICER.]

Subdivision 1. [STATE HOSPITALS FOR PERSONS WITH MENTAL ILLNESS.] The state hospitals located at Anoka, *Brainerd*, Fergus Falls, ~~Hastings,~~ Moose Lake, ~~Rochester,~~ St. Peter, and Willmar shall constitute the state hospitals for ~~mentally ill~~ *persons with mental illness*, and shall be maintained under the general management of the commissioner of human services. The commissioner of human services shall determine to what state hospital persons with mental illness shall be committed from each county and notify the probate judge thereof, and of changes made from time to time. The chief executive officer of each hospital for persons with mental illness shall be known as the chief executive officer.

Subd. 2. [PLAN FOR NEEDED REGIONAL TREATMENT CENTER SERVICES.] *(a) By January 30, 1990, the commissioner shall develop and submit to the legislature a plan to implement a program for persons in southeastern Minnesota who are mentally ill.*

(b) By January 1, 1990, the commissioner shall develop a plan to establish a comprehensive brain injury treatment program at the Faribault regional center site to meet the needs of people with brain injuries in Minnesota. The program shall provide post-acute, community integration and family support services for people with brain injuries which have resulted in behavior, cognitive, emotional, communicative and mobility impairments or deficits. The plan shall include development of a brain injury residential unit, a functional evaluation outpatient clinic and an adaptive equipment center within the outpatient clinic. Health care services already available at the regional center or from the Faribault community must be utilized, and the plan shall include provisions and cost estimates for capital improvements, staff retraining, and program start-up costs.

(c) By January 1, 1990, the commissioner shall develop a plan to establish 35 auxiliary beds at Brainerd regional treatment center for the Minnesota security hospital.

Sec. 25. [253.016] [PURPOSE OF REGIONAL TREATMENT CENTERS.]

The primary mission of the regional treatment centers for persons with

major mental illness is to provide inpatient psychiatric hospital services. The regional treatment centers are part of a comprehensive mental health system. Regional treatment center services must be integrated into an array of services based on assessment of individual needs.

Sec. 26. [253.017] [TREATMENT PROVIDED BY REGIONAL TREATMENT CENTERS.]

Subdivision 1. [ACTIVE PSYCHIATRIC TREATMENT.] *The regional treatment centers shall provide active psychiatric treatment according to contemporary professional standards. Treatment must be designed to:*

(1) stabilize the individual and the symptoms that required hospital admission;

(2) restore individual functioning to a level permitting return to the community;

(3) strengthen family and community support; and

(4) facilitate discharge, after care, and follow-up as patients return to the community.

Subd. 2. [NEED FOR SERVICES.] *The commissioner shall determine the need for the psychiatric services provided by the department based upon individual needs assessments of persons in the regional treatment centers as required by section 245.474, subdivision 2, and an evaluation of: (1) regional treatment center programs, (2) programs needed in the region for persons who require hospitalization, and (3) available epidemiologic data. Throughout its planning and implementation, the assessment process must be discussed with the state advisory council on mental health in accordance with its duties under section 245.697. Continuing assessment of this information must be considered in planning for and implementing changes in state-operated programs and facilities for persons with mental illness. By January 31, 1990, the commissioner shall submit a proposal for renovation or new construction of the facilities at Anoka, Brainerd, Moose Lake, and Fergus Falls. Expansion may be considered only after a thorough analysis of need and in conjunction with a comprehensive mental health plan.*

Subd. 3. [DISSEMINATION OF ADMISSION AND STAY CRITERIA.] *The commissioner shall periodically disseminate criteria for admission and continued stay in a regional treatment center and security hospital. The commissioner shall disseminate the criteria to the courts of the state and counties.*

Sec. 27. [253.018] [PERSONS SERVED.]

The regional treatment centers shall primarily serve adults. Programs treating children and adolescents who require the clinical support available in a psychiatric hospital may be maintained on present campuses until adequate state-operated alternatives are developed off campus according to the criteria of section 253.28, subdivision 2.

Sec. 28. [253.28] [STATE-OPERATED, COMMUNITY-BASED PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.]

Subdivision 1. [PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] *Beginning July 1, 1991, the commissioner may establish a system*

of state-operated, community-based programs for persons with mental illness. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in community settings to persons with mental illness. Employees of the programs must be state employees under chapters 43A and 179A. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with mental illness. Services may include, but are not limited to, community residential treatment facilities for children and adults.

Subd. 2. [LOCATION OF PROGRAMS FOR PERSONS WITH MENTAL ILLNESS.] *In determining the location of state-operated, community-based programs, the needs of the individual clients shall be paramount. The commissioner shall take into account:*

(1) the personal preferences of the persons being served and their families;

(2) location of the support services needed by the persons being served as established by an individual service plan;

(3) the appropriate grouping of the persons served;

(4) the availability of qualified staff;

(5) the need for state-operated, community-based programs in the geographical region of the state; and

(6) a reasonable commuting distance from a regional treatment center or the residences of the program staff.

Subd. 3. [EVALUATION OF COMMUNITY-BASED SERVICES DEVELOPMENT.] *The commissioner shall develop an integrated approach to assessing and improving the quality of community-based services including state-operated programs to persons with mental illness. The commissioner shall evaluate the progress of the development and quality of the community-based services to determine if further development can proceed. The commissioner shall report results of the evaluation to the legislature by January 31, 1993.*

Sec. 29. Minnesota Statutes 1988, section 256B.092, subdivision 7, is amended to read:

Subd. 7. [SCREENING TEAMS ESTABLISHED.] *(a)* 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 the level of care provided by an intermediate care facility for persons with mental retardation or related conditions or for whom there is a reasonable indication that they might require the level of care provided by an intermediate care facility. The screening team shall make an evaluation of need within 15 working days of the date that the assessment is completed or within 60 working days of a request for service by a person with mental retardation or related conditions, whichever is the earlier, and within five working days of an emergency admission of an individual to an intermediate care facility for persons with mental retardation or related conditions. The screening team shall consist of the case manager, the client, a parent or guardian, a qualified mental retardation professional, as defined in the Code of Federal Regulations, title 42, section 442.401, as amended through December 31, 1987. For individuals determined to have overriding health care needs, a registered nurse must be designated as either the case manager or the qualified mental

retardation professional. The case manager shall consult with the client's physician, other health professionals or other persons as necessary to make this evaluation. The case manager, with the concurrence of the client or the client's legal representative, may invite other persons 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.

(b) In addition to the requirements of paragraph (a), the following conditions apply to the discharge of persons with mental retardation or a related condition from a regional treatment center:

(1) For a person under public guardianship, at least two weeks prior to each screening team meeting the case manager must notify in writing parents, near relatives, and the ombudsman established under section 245.92 or a designee, and invite them to attend. The notice to parents and near relatives must include: (i) notice of the provisions of section 252A.03, subdivision 4, regarding assistance to persons interested in assuming private guardianship; (ii) notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7); and (iii) information about advocacy services available to assist parents and near relatives of persons with mental retardation or related conditions. In the case of an emergency screening meeting, the notice must be provided as far in advance as practicable.

(2) Prior to the discharge, a screening must be conducted under subdivision 8 and a plan developed under subdivision 1a. For a person under public guardianship, the county shall encourage parents and near relatives to participate in the screening team meeting. The screening team shall consider the opinions of parents and near relatives in making its recommendations. The screening team shall determine that the services outlined in the plan are available in the community before recommending a discharge. The case manager shall provide a copy of the plan to the person, legal representative, parents, near relatives, the ombudsman established under section 245.92, and the protection and advocacy system established under United States Code, title 42, section 6042, at least 30 days prior to the date the proposed discharge is to occur. The information provided to parents and near relatives must include notice of the rights of parents and near relatives to object to a proposed discharge by requesting a review as provided in clause (7). If a discharge occurs, the case manager and a staff person from the regional treatment center from which the person was discharged must conduct a monitoring visit as required in Minnesota Rules, part 9525.0115, within 90 days of discharge and provide an evaluation within 15 days of the visit to the person, legal representative, parents, near relatives, ombudsman, and the protection and advocacy system established under United States Code, title 42, section 6042.

(3) In order for a discharge or transfer from a regional treatment center to be approved, the concurrence of a majority of the screening team members is required. The screening team shall determine that the services outlined in the discharge plan are available and accessible in the community before the person is discharged. The recommendation of the screening team cannot be changed except by subsequent action of the team and is binding on the county and on the commissioner. If the commissioner or the county determines that the decision of the screening team is not in the best interests of the person, the commissioner or the county may seek judicial review of the screening team recommendation. A person or legal representative may appeal under section 256.045, subdivision 3 or 4a.

(4) For persons who have overriding health care needs or behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, the following additional conditions must be met:

(i) For a person with overriding health care needs, either a registered nurse or a licensed physician shall review the proposed community services to assure that the medical needs of the person have been planned for adequately. For purposes of this paragraph, "overriding health care needs" means a medical condition that requires daily clinical monitoring by a licensed registered nurse.

(ii) For a person with behaviors that cause injury to self or others, or cause damage to property that is an immediate threat to the physical safety of the person or others, a qualified mental retardation professional, as defined in paragraph (a), shall review the proposed community services to assure that the behavioral needs of the person have been planned for adequately. The qualified mental retardation professional must have at least one year of experience in the areas of assessment, planning, implementation, and monitoring of individual habilitation plans that have used behavior intervention techniques.

(5) No person with mental retardation or a related condition may be discharged from a regional treatment center before an appropriate community placement is available to receive the person.

(6) A resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than 15 beds. Effective July 1, 1993, a resident of a regional treatment center may not be discharged to a community intermediate care facility with a licensed capacity of more than ten beds.

(7) If the person, legal representative, parent, or near relative of the person proposed to be discharged from a regional treatment center objects to the proposed discharge, the individual who objects to the discharge may request a review under section 256.045, subdivision 4a, and may request reimbursement as allowed under section 256.045. The person must not be transferred from a regional treatment center while a review or appeal is pending. Within 30 days of the request for a review, the local agency shall conduct a conciliation conference and inform the individual who requested the review in writing of the action the local agency plans to take. The conciliation conference must be conducted in a manner consistent with section 256.045, subdivision 4a. A person, legal representative, parent, or near relative of the person proposed to be discharged who is not satisfied with the results of the conciliation conference may submit to the commissioner a written request for a hearing before a state human services referee under section 256.045, subdivision 4a. The person, legal representative, parent, or near relative of the person proposed to be discharged may appeal the order to the district court of the county responsible for furnishing assistance by serving a written copy of a notice of appeal on the commissioner and any adverse party of record within 30 days after the day the commissioner issued the order and by filing the original notice and proof of service with the court administrator of the district court. Judicial review must proceed under section 256.045, subdivisions 7 to 10. For a person under public guardianship, the ombudsman established under section 245.92 may object to a proposed discharge by requesting a review or hearing or by appealing to district court as provided in this clause. The

person must not be transferred from a regional treatment center while a conciliation conference or appeal of the discharge is pending.

Sec. 30. Minnesota Statutes 1988, section 256B.092, subdivision 8, is amended to read:

Subd. 8. [SCREENING TEAM DUTIES.] The screening team shall:

(a) review diagnostic data;

(b) review health, social, and developmental assessment data using a uniform screening tool specified by the commissioner;

(c) identify the level of services ~~needed~~ *appropriate* to maintain the person in the most normal and least restrictive setting that is consistent with *the person's* treatment needs;

(d) identify other noninstitutional public assistance or social service that may prevent or delay long-term residential placement;

(e) assess whether a client is in ~~serious~~ need of long-term residential care;

(f) make recommendations regarding placement and payment for: (1) social service or public assistance support to maintain a client in the client's own home or other place of residence; (2) training and habilitation service, vocational rehabilitation, and employment training activities; (3) community residential placement; (4) ~~state hospital~~ *regional treatment center* placement; or (5) a home and community-based alternative to community residential placement or state hospital placement;

(g) *evaluate the availability, location, and quality of the services listed in paragraph (f), including the impact of placement alternatives on the client's ability to maintain or improve existing patterns of contact and involvement with parents and other family members;*

(h) identify the cost implications of recommendations in *paragraph* (f)~~, above~~;

~~(h)~~ *(i)* make recommendations to a court as may be needed to assist the court in making commitments of mentally retarded persons; and

~~(i)~~ *(j)* inform clients that appeal may be made to the commissioner pursuant to section 256.045.

Sec. 31. [256E.14] [GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

For the biennium ending June 30, 1991, the commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:

(1) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and

(2) one-half of the appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed.

Sec. 32. [STUDY OF PARENTAL INVOLVEMENT.]

The commissioner of human services shall determine the number of persons transferred from public to private guardianship, and the increased involvement of parents and near relatives in the activities of screening teams established under Minnesota Statutes, section 256B.092, subdivision 7, as a result of the adoption of sections 23, 29, and 30, and report the results of the study to the legislature by December 15, 1990.

Sec. 33. [STUDY OF REGIONAL TREATMENT CENTER DISCHARGES.]

The commissioner shall contract for a study of the progress of selected citizens who have been discharged from regional treatment centers since 1985 and shall report to the legislature on or before July 1, 1990. The study must be supervised and directed by the commissioner of human services."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for human services, jobs and training, corrections, health, veterans nursing homes, and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 2; 16B.06, by adding a subdivision; 43A.27, subdivision 2; 62A.045; 62A.046; 62D.041, subdivision 1, and by adding a subdivision; 62D.042, subdivision 1; 62D.05, subdivision 6; 144.122; 144.50, subdivision 6, and by adding a subdivision; 144.562, subdivisions 2 and 3; 144.651, subdivision 2; 144.698, subdivision 1; 144.701; 144.702, subdivision 2, and by adding subdivisions; 144A.01, subdivision 5, and by adding subdivisions; 144A.04, subdivision 7, and by adding subdivisions; 144A.071, subdivision 3; 144A.073, subdivision 1; 144A.10, by adding subdivisions; 144A.11, subdivision 3, and by adding a subdivision; 144A.12, subdivision 1; 144A.15, subdivision 1, and by adding subdivisions; 144A.45, subdivision 2; 144A.46; 144A.61; 144A.611; 145.38, subdivision 1; 145.39, subdivision 1; 145.61, subdivision 5; 145.63; 145.882, subdivisions 1, 3, and 7; 145.894; 146.13; 147.02, subdivision 1; 148B.23, subdivision 1; 148B.27, subdivision 2; 148B.32, subdivision 2; 148B.40, subdivision 3; 149.02; 149.06; 153A.13, subdivision 4; 153A.15, subdivision 3; 153A.16; 157.14; 176.136, subdivisions 1 and 5; 214.04, subdivision 3; 214.06, subdivision 1; 237.70, subdivision 7; 237.701, subdivision 1; 245.461; 245.462; 245.463, subdivision 2, and by adding subdivisions; 245.464; 245.465; 245.466, subdivisions 1, 2, 5, and 6; 245.467, subdivisions 3, 4, and 5; 245.468; 245.469; 245.470, subdivision 1; 245.472, subdivision 1, and by adding a subdivision; 245.473, subdivision 1; 245.474; 245.476, subdivisions 1, 3, and by adding subdivisions; 245.477; 245.478, subdivisions 2 and 3; 245.479; 245.48; 245.482; 245.483; 245.484; 245.485; 245.486; 245.62, subdivision 3; 245.696, subdivision 2; 245.697, subdivisions 1, 2, and 2a; 245.713, subdivision 2; 245.73, subdivisions 1, 2, and 4; 245.771, subdivision 3; 245.91, by adding a subdivision; 245.94, subdivision 1, and by adding a subdivision; 245A.02, subdivisions 3, 9, 10, 14, and by adding subdivisions; 245A.03, subdivisions 1, 2, and 3; 245A.04, subdivisions 1, 3, 5, 6, 7, and by adding subdivisions; 245A.06, subdivisions 1, 5, and by adding a subdivision; 245A.07, subdivision 2; 245A.08, subdivision 5; 245A.095; 245A.12; 245A.13; 245A.14, subdivision 3, and by adding subdivisions; 245A.16, subdivision 1; 246.18, subdivision 4, and by adding a subdivision; 246.36; 246.50, subdivisions 3, 4, and 5; 246.51, by adding a subdivision; 246.54; 246.57, subdivision 1; 251.011, subdivision 4, and

by adding a subdivision; 252.025, by adding a subdivision; 252.27, subdivision 1; 252.291, subdivision 2; 252.31; 252.41, subdivision 9; 252.46, subdivisions 1, 2, 3, 4, 6, and 12; 252.47; 252.50; 252A.03, by adding a subdivision; 253.015; 253B.03, subdivision 6a; 254A.08, subdivision 2; 254B.02, subdivision 1; 254B.03, subdivisions 1 and 4; 254B.04, by adding a subdivision; 254B.06, subdivision 1; 254B.09, subdivisions 1, 4, and 5; 256.01, subdivision 2, and by adding a subdivision; 256.014, subdivision 1; 256.018; 256.045, subdivisions 1, 3, 4, 4a, 5, 6, 7, 10, and by adding a subdivision; 256.12, subdivision 14; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 11, 14, 16, and by adding subdivisions; 256.737; 256.74, subdivisions 1, 1a, and by adding a subdivision; 256.85; 256.87, subdivision 1a; 256.936, subdivisions 1, 2, and 4; 256.969; 256.974; 256.9741, subdivisions 3, 5, and by adding a subdivision; 256.9742; 256.9744, subdivision 1; 256.975, subdivision 2; 256B.031, subdivision 5; 256B.04, subdivision 14, and by adding a subdivision; 256B.055, subdivisions 7 and 8; 256B.056, subdivisions 3, 4, and 5; 256B.062; 256B.0625, subdivisions 2, 13, 17, and by adding subdivisions; 256B.091, subdivision 3; 256B.092, subdivisions 7 and 8; 256B.14; 256B.25, by adding a subdivision; 256B.421, subdivision 14; 256B.431, subdivisions 2b, 2e, 2i, 3a, 3f, 3g, 4, and by adding subdivisions; 256B.47, subdivision 3; 256B.48, subdivisions 1, 6, and 8; 256B.501, subdivisions 3, 3g, and by adding a subdivision; 256B.69, subdivisions 4, 5, 11, and by adding a subdivision; 256C.28, subdivision 3, and by adding subdivisions; 256D.01, subdivisions 1, 1a, 1b, and 1c; 256D.02, subdivisions 1, 4, and by adding a subdivision; 256D.03, subdivisions 2, 3, and 4; 256D.05, subdivision 1, and by adding a subdivision; 256D.051, subdivisions 1, 2, 3, 6, 8, 13, and by adding subdivisions; 256D.052, subdivisions 1, 2, 3, and 4; 256D.101; 256D.111, subdivision 5; 256D.35, subdivisions 1, 7, and by adding subdivisions; 256D.36, subdivision 1, and by adding a subdivision; 256D.37, subdivision 1; 256E.03, subdivision 2; 256E.05, subdivision 3; 256E.08, subdivision 5; 256E.09, subdivisions 1 and 3; 256F.05, subdivisions 2, 3, and 4; 256G.03, subdivision 1; 256H.01, subdivisions 1, 2, 7, 8, 11, and 12; 256H.02; 256H.03; 256H.05; 256H.07, subdivision 1; 256H.08; 256H.09; 256H.10, subdivision 3, and by adding a subdivision; 256H.11; 256H.12; 256H.15; 256H.18; 256H.20, subdivision 3; 257.071, subdivision 7; 257.55, subdivision 1; 257.57, subdivision 1; 257.62, subdivision 5; 259.47, subdivision 5; 259.49, subdivision 2; 260.251, subdivision 1; 268.0111, subdivision 4, and by adding a subdivision; 268.0122, subdivisions 2 and 3; 268.08, subdivision 1; 268.31; 268.37, by adding a subdivision; 268.86, subdivision 2; 268.871, subdivision 5; 268.88; 287.12; 297.13, subdivision 1; 326.78, subdivision 2; 327C.02, subdivision 2; 357.021, subdivisions 2 and 2a; 517.08, subdivisions 1b and 1c; 518.54, subdivision 6; 518.551, subdivision 10, and by adding a subdivision; 518.611, subdivision 4; 518.613, subdivisions 1, 2, 4, and by adding subdivisions; 540.08; 609.378; 626.556, subdivisions 2 and 10e; and 626.558; Laws 1984, chapter 654, article 5, section 57, subdivision 1, as amended; Laws 1987, chapter 403, article 3, section 98; Laws 1988, chapter 689, article 2, sections 248 and 269, subdivision 2; Laws 1988, chapter 719, article 8, section 32; proposing coding for new law in Minnesota Statutes, chapters 144; 144A; 145; 157; 196; 245; 246; 251; 252; 253; 254A; 256; 256B; 256D; 256E; 256F; 256H; 259; 268; and 626; proposing coding for new law as Minnesota Statutes, chapter 256I; repealing Minnesota Statutes 1988, sections 144A.10, subdivision 4a; 144A.61, subdivision 6; 245.462, subdivision 25; 245.471; 245.475; 245.64; 245.698; 245.83; 245.84; 245.85; 245.871; 245.872; 245.873; 245A.095, subdivision 3; 246.50, subdivisions 3a, 4a, and 9;

254B.09, subdivision 3; 254B.10; 256.87, subdivision 4; 256.969, subdivisions 2a, 3, 4, 5, and 6; 256B.0625, subdivision 21; 256B.17, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 256B.69, subdivisions 12, 13, 14, and 15; 256D.01, subdivision 1c; 256D.051, subdivision 6a; 256D.052, subdivisions 5, 6, and 7; 256D.06, subdivisions 3, 4, 6, and 6a; 256D.35, subdivisions 2, 3, 4, and 8; 256D.36, subdivision 2; 256D.37, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 12, 13, and 14; 256D.38; 256D.39; 256D.41; 256D.42; 256D.43; 256E.05, subdivision 1; 256H.04; 256H.05, subdivision 4; 256H.06; 256H.07, subdivisions 2, 3, and 4; 256H.13; 268.86, subdivision 7; 518.613, subdivision 5; Laws 1987, chapter 403, article 5, section 1; Laws 1988, chapter 689, article 2, section 269, subdivision 4; Laws 1988, chapter 719, article 8, section 34."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Lee Greenfield, Peter Rodosovich, Mary Murphy, Loren G. Jennings, Bob Anderson

Senate Conferees: (Signed) Don Samuelson, Howard A. Knutson, Marilyn M. Lantry, Pat Piper, Linda Berglin

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1759 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1759 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Frank moved that the name of Mr. Solon be added as a co-author to S.F. No. 1018. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 59, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 59 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 59

A bill for an act relating to public safety; authorizing bonding for capital improvements; appropriating money to convert a regional treatment center for use as an adult correctional facility and to operate the facility; appropriating money for a variety of correctional and treatment programs; revising and increasing penalties for controlled substance crimes; authorizing increased sentences and juvenile court reference for controlled substance crimes committed within a drug free school or park zone; increasing penalties for a variety of other crimes; providing for life imprisonment without supervised release for persons convicted of first degree murder or a third criminal sexual conduct offense; providing for sex offender treatment programs; providing that an inmate who completes a sex offender treatment program is eligible for an adjustment to the supervised release date; providing for the collection and admissibility of DNA evidence; modifying certain forfeiture provisions; permitting a school-sponsored alcohol awareness program; requiring reporting of newborns with signs of controlled substance exposure and reporting of certain controlled substance use by pregnant women; providing for toxicology testing; requiring an education program to protect unborn children from such prenatal exposure; providing for civil commitment of pregnant women for certain controlled substance use; establishing a community crime prevention grant program; providing a soft body armor reimbursement program; creating a drug abuse prevention resource council; establishing a child protection system study commission; providing for a community resources program for cities of the first class; appropriating money; amending Minnesota Statutes 1988, sections 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.15, subdivision 4a; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 243.05, subdivision 1; 244.05, subdivisions 1, 4, 5, and by adding a subdivision; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 256.01, by adding a subdivision; 260.125, subdivision 3; 260.161, subdivision 1; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.19; 609.195; 609.205; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.2665; 609.267; 609.323, subdivision 1; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision 1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2;

609.86, subdivision 3; 611A.038; 624.701; 624.712, subdivision 5; and 626.556, subdivisions 2, 3, and 10; proposing coding for new law in Minnesota Statutes, chapters 116K; 121; 144; 152; 241; 242; 244; 299A; 299C; 466A; 609; 626; 634; and 638; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55.

May 19, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 59, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 59 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [BOND SALE; APPROPRIATION FOR CAPITAL IMPROVEMENT.]

Subdivision 1. [APPROPRIATION; BOND SALE.] *$10,755,000 is appropriated from the state building fund to the department of administration to convert portions of the regional treatment center at Faribault for use as a medium security correctional facility for adult males.*

To provide the money appropriated by this section from the state building fund, the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $10,755,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Subd. 2. [DEBT SERVICE.] *The commissioner of finance shall schedule the sale of state general obligation bonds authorized to be issued under this section so that, during the biennium ending June 30, 1991, no more than $1,553,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on them, in addition to limits in other law placed on debt service on state general obligation bonds for the biennium or either fiscal year of it. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.*

Sec. 2. [CRIME AND CORRECTIONS; APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or any other fund named, to the agencies and for the purposes specified in the following sections of this act, to be available for the fiscal years indicated for each purpose. The figures "1990" and "1991," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30,

1990, or June 30, 1991, respectively.

SUMMARY BY FUND

	1990	1991	TOTAL
General	$31,265,000	$28,499,000	$59,764,000

	APPROPRIATIONS Available for the Year Ending June 30, 1990	1991
Sec. 3. COMMISSIONER OF CORRECTIONS		
Subdivision 1. Appropriation by Fund		
General Fund	$22,647,000	$26,251,000
The amounts that may be spent from the appropriations for each program and activity are more specifically described in the following subdivisions.		
Subd. 2. Correctional Institutions	14,470,000	16,519,000
Of this amount $5,713,000 in fiscal year 1990 and $9,337,000 in fiscal year 1991 are to pay operating costs of the facility at Faribault. The department's complement is increased by up to 245 positions in both years of the biennium.		
Of this amount $1,957,000 is to pay start-up costs associated with conversion of portions of the regional treatment center at Faribault to a medium-security correctional facility.		
Of this amount, $63,000 in fiscal year 1990 and $332,000 in fiscal year 1991 are to establish and operate two additional sex offender programs within state correctional facilities. The department's complement is increased by one position in 1990 and up to eight positions in 1991.		
Any unexpended money in the fiscal year 1990 appropriation for conversion and operation of the facility at Faribault is available in fiscal year 1991.		
During the biennium ending June 30, 1991, the commissioner shall give preference in recruiting, training, and hiring to employees of the department of human services whose positions are eliminated by implementation of the regional treatment center restructuring plan when filling correctional facility positions located on regional treatment center campuses.		

Agreements between the commissioner of corrections and the commissioner of human services concerning operation of a correctional facility on a campus of a regional treatment center shall include provisions for operation of the kitchen and laundry facilities by the commissioner of human services. The department of human services shall operate the kitchen and laundry facilities until the department of human services has completed its restructuring plan at the regional treatment center.

Rogers Hall at Faribault regional treatment center may be used by the department of human services for developmentally disabled persons and may not be used by the department of corrections until the legislature specifically authorizes another use for the building.

The commissioner may enter into agreements with the appropriate officials of any state, political subdivision, or the United States, for housing prisoners in Minnesota correctional facilities. Money received under the agreements is appropriated to the commissioner for correctional purposes.

Subd. 3. Community Services	7,734,000	9,020,000

Of this amount, $40,000 each year is for the West Central Juvenile Center, $50,000 in 1990 and $100,000 in 1991 is for the Central Juvenile Center, and $5,000 each year is for the Leech Lake Youth Center for grants under Minnesota Statutes, section 241.022.

Of this amount, $75,000 in each year is to be used as a grant to an existing statewide coalition of sexual assault programs, providers, and agencies. Grant money may be used to promote the availability of services to all sexual assault victims throughout the state; to educate the general public and professionals in related fields about victimization issues through programs, publications, and the media; to provide training on issues of common concern to sexual assault service programs through conferences, workshops, and forums; and to offer an opportunity for providers, programs, and

agencies to share expertise, experience, and knowledge about sexual assault issues.

Of this amount, $75,000 in 1990 is a one-time appropriation to the St. Louis County Task Force on Children and Youth to conduct a study with the following objectives: to examine and identify causes of problems faced by children and youth in St. Louis County; to identify resources and gaps in services in the existing service system for children and youth; to make recommendations regarding possible prevention and early intervention initiatives; to improve coordination efforts among agencies, organizations, and systems serving youth in St. Louis County; and to contribute to greater public awareness and recognition of the needs, problems, and concerns of children and youth.

Of this amount, $150,000 in each year is for residential and outpatient sex offender treatment and after care when required for conditional release or as a condition of supervised release.

Of this amount, $1,000,000 in 1991 is for juvenile and adult sex offender treatment pilot programs.

The commissioner may transfer unencumbered grant money to fund the department's fiscal year 1989 general fund shortage.

Subd. 4. Management Services	443,000	712,000
Sec. 4. SENTENCING GUIDELINES COMMISSION	20,000	38,000

Of this amount, $38,000 in 1991 is to study the mandatory minimum sentencing law. The commission shall submit a report to the legislature by February 1, 1991, summarizing its findings and recommending any changes necessary to improve the mandatory minimum sentencing law.

Of this amount, $20,000 in 1990 is for the local correctional resource data collection study.

Sec. 5. COMMISSIONER OF STATE PLANNING	7,129,000	0

This appropriation is for the community resources program. Any unencumbered balance remaining in the first year does

not cancel but is available for the second year.

Sec. 6. COMMISSIONER OF PUBLIC SAFETY	1,169,000	1,610,000

Of this amount, $419,000 in 1990 and $860,000 in 1991 is appropriated to the bureau of criminal apprehension to establish and operate a laboratory to perform DNA analysis and to establish a system for collecting and maintaining DNA analysis data and human biological specimens. The staff complement of the bureau is increased by up to ten positions.

Of this amount, $100,000 in each year is to be used for grants to establish community crime reduction pilot projects.

Of this amount, $125,000 in each year is for community drug prevention and education grants, and $25,000 in each year is for multidisciplinary chemical abuse prevention teams.

Of this amount, $175,000 in each year is appropriated to the bureau of criminal apprehension for the drug abuse resistance education training program. The staff complement is increased by up to three positions.

Of this amount, $175,000 in each year is for the office of drug policy and the drug abuse prevention resource council. The staff complement of the office of drug policy is not more than two positions. The staff complement of the council is not more than three positions.

Of this amount, $150,000 in each year is for the soft body armor reimbursement program.

Sec. 7. COMMISSIONER OF HUMAN SERVICES	300,000	600,000

This appropriation is for grants to agencies providing chemical dependency treatment to pregnant women and mothers.

ARTICLE 2

SENTENCING PROVISIONS

Section 1. Minnesota Statutes 1988, 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 placement and supervision of inmates serving a supervised release term*, 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 97A.051; (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 occupational safety and health standards provided in section 182.655.

Sec. 2. Minnesota Statutes 1988, section 243.05, subdivision 1, is amended to read:

Subdivision 1. [CONDITIONAL RELEASE.] The commissioner of corrections may parole any person sentenced to confinement in any state correctional facility for adults under the control of the commissioner of corrections, provided that:

(a) no inmate serving a life sentence for *committing* murder *before May 1, 1980,* other than murder committed in violation of clause (1) of section 609.185 who has not been previously convicted of a felony shall be paroled without having served 20 years, less the diminution that would have been allowed for good conduct had the sentence been for 20 years;

(b) no inmate serving a life sentence for *committing* murder *before May 1, 1980,* who has been previously convicted of a felony or though not previously convicted of a felony is serving a life sentence for murder in the first degree committed in violation of clause (1) of section 609.185 shall be paroled without having served 25 years, less the diminution which would have been allowed for good conduct had the sentence been for 25 years;

(c) any inmate sentenced prior to September 1, 1963 who would be eligible for parole had the inmate been sentenced after September 1, 1963, shall be eligible for parole; and

(d) any new rule or policy or change of rule or policy adopted by the commissioner of corrections which has the effect of postponing eligibility for parole has prospective effect only and applies only with respect to persons committing offenses after the effective date of the new rule or policy or change. Upon being paroled and released, an inmate is and remains in the legal custody and under the control of the commissioner, subject at any time to be returned to a facility of the department of corrections established by law for the confinement or treatment of convicted persons and the parole rescinded by the commissioner. The written order of the commissioner of corrections, is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on parole or supervised release, but any state parole and probation agent may, without order of warrant, when it appears necessary in order to prevent escape or enforce discipline, take and detain a parolee or

person on supervised release or work release to the commissioner for action. The written order of the commissioner of corrections is sufficient authority for any peace officer or state parole and probation agent to retake and place in actual custody any person on probation under the supervision of the commissioner pursuant to section 609.135, but any state parole and probation agent may, without an order, when it appears necessary in order to prevent escape or enforce discipline, retake and detain a probationer and bring the probationer before the court for further proceedings under section 609.14. Persons conditionally released, and those on probation under the supervision of the commissioner of corrections pursuant to section 609.135 may be placed within or outside the boundaries of the state at the discretion of the commissioner of corrections or the court, and the limits fixed for these persons may be enlarged or reduced according to their conduct.

In considering applications for conditional release or discharge, the commissioner is not required to hear oral argument from any attorney or other person not connected with an adult correctional facility of the department of corrections in favor of or against the parole or release of any inmates, but the commissioner may institute inquiries by correspondence, taking testimony or otherwise, as to the previous history, physical or mental condition, and character of the inmate, and to that end shall have authority to require the attendance of the chief executive officer of any state adult correctional facility and the production of the records of these facilities, and to compel the attendance of witnesses. The commissioner is authorized to administer oaths to witnesses for these purposes.

Sec. 3. [243.16] [NOTICE OF SEX OFFENDER'S ADDRESS.]

Subdivision 1. [TERMS.] *(a) For purposes of this section, the following terms have the meanings given.*

(b) "Law enforcement authority" means with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

(c) "Sex offender" means a person who has been convicted and sentenced under section 12, section 609.185, clause (2), section 609.342, 609.343, 609.344, or 609.345 and is serving or is being released to serve the supervised release portion of the sentence imposed or is on probation for that conviction unless the person is placed in a residential community-based facility.

Subd. 2. [LOCATION REPORT REQUIRED.] *A probation officer shall report in writing to the appropriate law enforcement authority the address of a sex offender who is assigned to that probation officer:*

(1) when the sex offender is released from a state correctional institution to serve the supervised release term or is released from a residential community-based facility; and

(2) when the sex offender changes addresses. A sex offender is deemed to change addresses when the sex offender remains at a new address for longer than two weeks and evinces an intent to take up residence there.

Subd. 3. [USE OF INFORMATION.] *The information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes. When the sex offender is discharged from supervised release or probation, the probation officer shall inform all law enforcement agencies notified under*

this section. Each agency shall then destroy the data.

Sec. 4. Minnesota Statutes 1988, section 243.18, is amended to read:

243.18 [DIMINUTION OF SENTENCE.]

Subdivision 1. [GOOD TIME.] Every inmate sentenced for any term other than life, confined in a state adult correctional facility or on parole therefrom, may diminish the term of sentence one day for each two days during which the inmate has not violated any facility rule or discipline.

The commissioner of corrections, in view of the aggravated nature and frequency of offenses, may take away any or all of the good time previously gained, and, in consideration of mitigating circumstances or ignorance on the part of the inmate, may afterwards restore the inmate, in whole or in part, to the standing the inmate possessed before such good time was taken away.

Subd. 2. [WORK REQUIRED.] *An inmate for whom a work assignment is available may not earn good time under subdivision 1 for any day on which the inmate does not perform the work assignment. The commissioner may excuse an inmate from work only for illness, physical disability, or to participate in an education or treatment program.*

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 2, is amended to read:

Subd. 2. [RULES.] The commissioner of corrections shall ~~promulgate rules for the placement and supervision of inmates serving a supervised release term. The rules shall also provide~~ *adopt by rule* standards and procedures for the revocation of supervised release, and shall specify the period of revocation for each violation of supervised release. Procedures for the revocation of supervised release shall provide due process of law for the inmate.

Sec. 6. Minnesota Statutes 1988, section 244.05, subdivision 4, is amended to read:

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] *An inmate serving a mandatory life sentence under section 10 must not be given supervised release under this section. An inmate serving a mandatory life sentence for conviction of murder in the first degree under section 609.185 must not be given supervised release under this section without having served a minimum term of 30 years.* An inmate serving a mandatory life sentence ~~shall~~ *under section 609.385 must* not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 7. Minnesota Statutes 1988, section 244.05, subdivision 5, is amended to read:

Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence *under section 609.185 or 609.385* after the inmate has served the minimum term of imprisonment specified in subdivision 4.

Sec. 8. Minnesota Statutes 1988, section 244.09, subdivision 5, is amended to read:

Subd. 5. The commission shall, on or before January 1, 1980, promulgate

sentencing guidelines for the district court. The guidelines shall be based on reasonable offense and offender characteristics. The guidelines promulgated by the commission shall be advisory to the district court and shall establish:

(1) The circumstances under which imprisonment of an offender is proper; and

(2) A presumptive, fixed sentence for offenders for whom imprisonment is proper, based on each appropriate combination of reasonable offense and offender characteristics. The guidelines may provide for an increase or decrease of up to 15 percent in the presumptive, fixed sentence.

The sentencing guidelines promulgated by the commission may also establish appropriate sanctions for offenders for whom imprisonment is not proper. Any guidelines promulgated by the commission establishing sanctions for offenders for whom imprisonment is not proper shall make specific reference to noninstitutional sanctions, including but not limited to the following: payment of fines, day fines, restitution, community work orders, work release programs in local facilities, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation and the conditions thereof.

In establishing *and modifying* the sentencing guidelines, the *primary consideration of the* commission shall ~~take into substantial consideration~~ *be public safety. The commission shall also consider* current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities.

The provisions of sections 14.01 to 14.69 do not apply to the promulgation of the sentencing guidelines, and the sentencing guidelines, including severity levels and criminal history scores, are not subject to review by the legislative commission to review administrative rules. However, on or before January 1, 1986, the commission shall adopt rules pursuant to sections 14.01 to 14.69 which establish procedures for the promulgation of the sentencing guidelines, including procedures for the promulgation of severity levels and criminal history scores, and these rules shall be subject to review by the legislative commission to review administrative rules.

Sec. 9. [609.152] [INCREASED SENTENCES FOR CERTAIN DANGEROUS AND CAREER OFFENDERS.]

Subdivision 1. [DEFINITIONS.] *(a) As used in this section, the following terms have the meanings given.*

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344;

609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; or any provision of chapter 152 that is punishable by a maximum term of imprisonment of 15 years or more.

Subd. 2. [INCREASED SENTENCES; DANGEROUS OFFENDERS.] *Whenever a person is convicted of a violent crime, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:*

(1) the offender has two or more prior convictions for violent crimes; and

(2) the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:

(i) the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or

(ii) the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the sentencing guidelines.

Subd. 3. [INCREASED SENTENCES; CAREER OFFENDERS.] *Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has more than four prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct from which a substantial portion of the offender's income was derived.*

Sec. 10. [609.184] [HEINOUS CRIMES.]

Subdivision 1. [TERMS.] *(a) A "heinous crime" is a violation of section 609.185, 609.19, 609.195, or a violation of section 609.342 or 609.343, if the offense was committed with force or violence.*

(b) "Previous conviction" means a conviction in Minnesota of a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.

Subd. 2. [LIFE WITHOUT RELEASE.] *The court shall sentence a person to life imprisonment without possibility of release when the person is convicted of first degree murder under section 609.185 and the person has one or more previous convictions for a heinous crime.*

Sec. 11. Minnesota Statutes 1988, section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent

to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, ~~or~~ escape from custody, *or any felony violation of chapter 152 involving the unlawful sale of a controlled substance*;

(4) causes the death of a peace officer or a guard employed at a Minnesota state correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties; or

(5) causes the death of a minor under circumstances other than those described in clause (1) or (2) while committing or attempting to commit child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.377, or 609.378.

Sec. 12. [609.196] [MANDATORY PENALTY FOR CERTAIN MURDERERS.]

When a person is convicted of violating section 609.19 or 609.195, the court shall sentence the person to the statutory maximum term of imprisonment for the offense if the person was previously convicted of a heinous crime as defined in section 10 and 15 years have not elapsed since the person was discharged from the sentence imposed for that conviction. The court may not stay the imposition or execution of the sentence, notwithstanding section 609.135.

Sec. 13. Minnesota Statutes 1988, section 609.346, subdivision 2, is amended to read:

Subd. 2. [SUBSEQUENT *SEX* OFFENSE; PENALTY.] *Except as provided in section 14,* if a person is convicted ~~of a second or subsequent offense~~ under sections 609.342 to 609.345, within 15 years of ~~the prior~~ *a previous sex offense* conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135. The court may stay the execution of the sentence imposed under this ~~section~~ *subdivision* only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation: (1) incarceration in a local jail or workhouse; and (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.

Sec. 14. Minnesota Statutes 1988, section 609.346, is amended by adding a subdivision to read:

Subd. 2a. [MAXIMUM SENTENCE IMPOSED.] *(a) The court shall sentence a person to a term of imprisonment of 37 years, notwithstanding the statutory maximum sentences under sections 609.342 and 609.343 if:*

(1) the person is convicted under section 609.342 or 609.343; and

(2) the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.

(b) Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and subdivision 2, the court may not stay imposition of the sentence required by this subdivision.

Sec. 15. Minnesota Statutes 1988, section 609.346, subdivision 3, is amended to read:

Subd. 3. [~~PRIOR~~ *PREVIOUS SEX OFFENSE* CONVICTIONS ~~UNDER SIMILAR STATUTES~~.] For the purposes of this section, ~~an offense~~ *a conviction* is considered a ~~second or subsequent~~ *previous sex* offense *conviction* if ~~conviction of the actor for the offense follows or coincides with a conviction of~~ the ~~actor under~~ *person was convicted of a sex offense, before the commission of the present offense of conviction. A person has two previous sex offense convictions only if the person was convicted and sentenced for a sex offense committed after the person was earlier convicted and sentenced for a sex offense, both convictions preceded the commission of the present offense of conviction, and 15 years have not elapsed since the person was discharged from the sentence imposed for the second conviction. A "sex offense" is a violation of* sections 609.342 to 609.345 or ~~under~~ any similar statute of the United States, or this or any other state.

Sec. 16. Minnesota Statutes 1988, section 611A.038, is amended to read:

611A.038 [RIGHT TO SUBMIT STATEMENT AT SENTENCING.]

~~Subdivision 1. [IMPACT STATEMENT.]~~ A victim has the right to submit an impact statement~~, either orally or in writing,~~ to the court at the time of sentencing or disposition hearing. *The impact statement may be presented to the court orally or in writing, at the victim's option.* If the victim requests, the prosecutor must orally present the statement to the court.

Statements may include the following, subject to reasonable limitations as to time and length:

(1) a summary of the harm or trauma suffered by the victim as a result of the crime;

(2) a summary of the economic loss or damage suffered by the victim as a result of the crime; and

(3) a victim's reaction to the proposed sentence or disposition.

Sec. 17. [DIRECTIVES TO GUIDELINES COMMISSION.]

Subdivision 1. [INTENTIONAL SECOND DEGREE MURDER.] *The sentencing guidelines commission shall increase the presumptive sentence of imprisonment for intentional second degree murder to 306 months for an offender with a criminal history score of zero. The commission shall*

proportionally increase the presumptive sentences for higher criminal history scores and for attempted first degree murder.

Subd. 2. [UNINTENTIONAL SECOND DEGREE MURDER AND THIRD DEGREE MURDER.] *The sentencing guidelines commission shall adjust the presumptive sentence of imprisonment for unintentional second degree murder and for third degree murder proportionally to reflect the increased presumptive sentence established under subdivision 1.*

Sec. 18. [EFFECTIVE DATE.]

Sections 6, 7, and 10 to 15 are effective August 1, 1989, and apply to crimes committed on or after that date. The court shall consider convictions occurring before August 1, 1989, as prior convictions in sentencing offenders under sections 9, 10, and 12 to 15. Section 9 is effective August 1, 1990, and applies to crimes committed on or after that date.

ARTICLE 3

CONTROLLED SUBSTANCE CRIMES

Section 1. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 5. [HALLUCINOGEN.] *"Hallucinogen" means any hallucinogen listed in section 152.02, subdivision 2, clause (3), or Minnesota Rules, part 6800.4210, item C, except marijuana and Tetrahydrocannabinols.*

Sec. 2. Minnesota Statutes 1988, section 152.01, subdivision 7, is amended to read:

Subd. 7. [~~MANUFACTURING~~ *MANUFACTURE.*] "~~Manufacturing~~ *Manufacture*", in places other than a pharmacy, means and includes the production, *cultivation,* quality control, and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Sec. 3. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 9a. [MIXTURE.] *"Mixture" means a preparation, compound, mixture, or substance containing a controlled substance, regardless of purity.*

Sec. 4. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 12a. [PARK ZONE.] *"Park zone" means an area designated as a public park by the federal government, the state, a local unit of government, a park district board, or a park and recreation board in a city of the first class. "Park zone" includes the area within 300 feet or one city block, whichever distance is greater, of the park boundary.*

Sec. 5. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 14a. [SCHOOL ZONE.] *"School zone" means:*

(1) any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123.932, subdivision 3, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or

where extracurricular or cocurricular activities are regularly provided;

(2) the area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and

(3) the area within a school bus when that bus is being used to transport one or more elementary or secondary school students.

Sec. 6. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 15a. [SELL.] *"Sell" means to sell, give away, barter, deliver, exchange, distribute or dispose of to another; or to offer or agree to do the same; or to manufacture.*

Sec. 7. Minnesota Statutes 1988, section 152.01, is amended by adding a subdivision to read:

Subd. 16a. [SUBSEQUENT CONTROLLED SUBSTANCE CONVICTION.] *"Subsequent controlled substance conviction" means that before commission of the offense for which the person is convicted under this chapter, the person was convicted in Minnesota of a felony violation of this chapter or a felony-level attempt or conspiracy to violate this chapter, or convicted elsewhere for conduct that would have been a felony under this chapter if committed in Minnesota. An earlier conviction is not relevant if ten years have elapsed since: (1) the person was restored to civil rights; or (2) the sentence has expired, whichever occurs first.*

Sec. 8. [152.021] [CONTROLLED SUBSTANCE CRIME IN THE FIRST DEGREE.]

Subdivision 1. [SALE CRIMES.] *A person is guilty of controlled substance crime in the first degree if:*

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing ten grams or more of cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 200 or more dosage units; or

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 2. [POSSESSION CRIMES.] *A person is guilty of a controlled substance crime in the first degree if:*

(1) the person unlawfully possesses one or more mixtures containing 25 grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 500 grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures of a total

weight of 500 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 500 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 100 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 3. [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 30 years or to payment of a fine of not more than $1,000,000, or both.*

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than four years nor more than 40 years or to payment of a fine of not more than $1,000,000, or both.

Sec. 9. [152.022] [CONTROLLED SUBSTANCE CRIME IN THE SECOND DEGREE.]

Subdivision 1. [SALE CRIMES.] *A person is guilty of controlled substance crime in the second degree if:*

(1) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures containing three grams or more of cocaine base;

(2) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of ten grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 50 or more dosage units;

(4) on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols; or

(5) the person unlawfully sells any amount of a Schedule I or II narcotic drug, and:

(i) the person unlawfully sells the substance to a person under the age of 18, or conspires with or employs a person under the age of 18 to unlawfully sell the substance; or

(ii) the sale occurred in a school zone or a park zone.

Subd. 2. [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the second degree if:*

(1) the person unlawfully possesses one or more mixtures containing six grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures of a total weight of 50 grams or more containing methamphetamine, amphetamine, phencyclidine, or hallucinogen or, if the controlled substance is packaged in dosage units, equaling 100 or more dosage units; or

(4) the person unlawfully possesses one or more mixtures of a total weight of 50 kilograms or more containing marijuana or Tetrahydrocannabinols.

Subd. 3. [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 25 years or to payment of a fine of not more than $500,000, or both.*

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than three years nor more than 40 years or to payment of a fine of not more than $500,000, or both.

Sec. 10. [152.023] [CONTROLLED SUBSTANCE CRIME IN THE THIRD DEGREE.]

Subdivision 1. [SALE CRIMES.] *A person is guilty of controlled substance crime in the third degree if:*

(1) the person unlawfully sells one or more mixtures containing a narcotic drug;

(2) the person unlawfully sells one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units;

(3) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols, to a person under the age of 18; or

(4) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing a controlled substance listed in Schedule I, II, or III, except a Schedule I or II narcotic drug, marijuana or Tetrahydrocannabinols.

Subd. 2. [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the third degree if:*

(1) the person unlawfully possesses one or more mixtures containing three grams or more of cocaine base;

(2) the person unlawfully possesses one or more mixtures of a total weight of ten grams or more containing a narcotic drug;

(3) the person unlawfully possesses one or more mixtures containing a narcotic drug with the intent to sell it;

(4) the person unlawfully possesses one or more mixtures containing a narcotic drug, it is packaged in dosage units, and equals 50 or more dosage units; or

(5) the person unlawfully possesses any amount of a Schedule I or II narcotic drug in a school zone or a park zone.

Subd. 3. [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than $250,000, or both.*

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than two years nor more than 30 years or to payment of a fine of not more than $250,000, or both.

Sec. 11. [152.024] [CONTROLLED SUBSTANCE CRIME IN THE FOURTH DEGREE.]

Subdivision 1. [SALE CRIMES.] *A person is guilty of controlled substance crime in the fourth degree if:*

(1) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols;

(2) the person unlawfully sells one or more mixtures containing marijuana or Tetrahydrocannabinols to a person under the age of 18;

(3) the person conspires with or employs a person under the age of 18 to unlawfully sell one or more mixtures containing marijuana or Tetrahydrocannabinols;

(4) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV or V to a person under the age of 18; or

(5) the person conspires with or employs a person under the age of 18 to unlawfully sell a controlled substance classified in Schedule IV or V.

Subd. 2. [POSSESSION CRIMES.] *A person is guilty of controlled substance crime in the fourth degree if:*

(1) the person unlawfully possesses one or more mixtures containing phencyclidine or hallucinogen, it is packaged in dosage units, and equals ten or more dosage units; or

(2) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, or III, except marijuana or Tetrahydrocannabinols, with the intent to sell it.

Subd. 3. [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $100,000, or both.*

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than one year nor more than 30 years or to payment of a fine of not more than $100,000, or both.

Sec. 12. [152.025] [CONTROLLED SUBSTANCE CRIME IN THE FIFTH DEGREE.]

Subdivision 1. [SALE CRIMES.] *A person is guilty of controlled substance crime in the fifth degree if:*

(1) the person unlawfully sells one or more mixtures containing marijuana or Tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in Schedule IV.

Subd. 2. [POSSESSION AND OTHER CRIMES.] *A person is guilty of controlled substance crime in the fifth degree if:*

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

Subd. 3. [PENALTY.] *(a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.*

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be sentenced to imprisonment for not less than six months nor more than ten years or to payment of a fine of not more than $20,000, or both.

Sec. 13. [152.026] [MANDATORY SENTENCES.]

A defendant convicted and sentenced to a mandatory sentence under sections 8 to 12 is not eligible for probation, parole, discharge, or supervised release until that person has served the full mandatory minimum term of imprisonment as provided by law, notwithstanding sections 242.19, 243.05, 609.12, and 609.135.

Sec. 14. [152.027] [OTHER CONTROLLED SUBSTANCE OFFENSES.]

Subdivision 1. [SALE OF SCHEDULE V CONTROLLED SUBSTANCE.] *A person who unlawfully sells one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.*

Subd. 2. [POSSESSION OF SCHEDULE V CONTROLLED SUBSTANCE.] *A person who unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule V may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. The court may order that a person who is convicted under this subdivision and placed on probation be required to take part in a drug education program as specified by the court.*

Subd. 3. [POSSESSION OF MARIJUANA IN A MOTOR VEHICLE.] *A person is guilty of a misdemeanor if the person is the owner of a private motor vehicle, or is the driver of the motor vehicle if the owner is not present, and possesses on the person, or knowingly keeps or allows to be kept within the area of the vehicle normally occupied by the driver or passengers, more than 1.4 grams of marijuana. This area of the vehicle does not include the trunk of the motor vehicle if the vehicle is equipped with a trunk, or another area of the vehicle not normally occupied by the driver or passengers if the vehicle is not equipped with a trunk. A utility or glove compartment is deemed to be within the area occupied by the driver and passengers.*

Subd. 4. [POSSESSION OR SALE OF SMALL AMOUNTS OF MARIJUANA.] *(a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor punishable by a fine of up to $200*

and participation in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.

(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.

Sec. 15. [152.028] [PERMISSIVE INFERENCE OF KNOWING POSSESSION.]

Subdivision 1. [RESIDENCES.] *The presence of a controlled substance in open view in a room, other than a public place, under circumstances evincing an intent by one or more of the persons present to unlawfully mix, compound, package, or otherwise prepare for sale the controlled substance permits the factfinder to infer knowing possession of the controlled substance by each person in close proximity to the controlled substance when the controlled substance was found. The permissive inference does not apply to any person if:*

(1) one of them legally possesses the controlled substance; or

(2) the controlled substance is on the person of one of the occupants.

Subd. 2. [PASSENGER AUTOMOBILES.] *The presence of a controlled substance in a passenger automobile permits the factfinder to infer knowing possession of the controlled substance by the driver or person in control of the automobile when the controlled substance was in the automobile. This inference may only be made if the defendant is charged with violating section 8, 9, or 10. The inference does not apply:*

(1) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of the operator's trade;

(2) to any person in the automobile if one of them legally possesses a controlled substance; or

(3) when the controlled substance is concealed on the person of one of the occupants.

Sec. 16. [152.029] [PUBLIC INFORMATION: SCHOOL ZONES AND PARK ZONES.]

The attorney general shall disseminate information to the public relating to the penalties for committing controlled substance crimes in park zones and school zones. The attorney general shall draft a plain language version of sections 9, 10 and 25 that describes in a clear and coherent manner using words with common and everyday meanings the contents of those sections. The attorney general shall publicize and disseminate the plain language version as widely as practicable, including distributing the version to school boards and local governments.

Sec. 17. Minnesota Statutes 1988, section 152.096, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; PENALTIES.] Any person who conspires to commit any act prohibited by ~~section 152.09~~ *this chapter*, except possession or distribution for no remuneration of a small amount of marijuana as defined in section 152.01, subdivision 16, is guilty of a felony and upon conviction may be imprisoned, fined, or both, up to the maximum amount authorized by law for the act the person conspired to commit.

Sec. 18. Minnesota Statutes 1988, section 152.097, is amended by adding a subdivision to read:

Subd. 4. [PENALTY.] *A person who violates this section may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $20,000, or both. Sentencing for a conviction for attempting to sell, transfer, or deliver a noncontrolled substance in violation of this section is governed by section 609.17, subdivision 4.*

Sec. 19. Minnesota Statutes 1988, section 152.151, is amended to read:

152.151 [REPORT TO LEGISLATURE.]

The state alcohol and drug authority shall ~~build into~~ *evaluate* the drug education program required by section ~~152.15, subdivision 2, proper evaluation~~ *14* and report directly each legislative session to the legislative standing committees having jurisdiction over the subject matter.

Sec. 20. [152.152] [STAYED SENTENCE LIMITED.]

If a person is convicted under section 8, 9, or 10 and the sentencing guidelines grid calls for a presumptive prison sentence for the offense, the court may stay imposition or execution of the sentence only as provided in this section. The sentence may be stayed based on amenability to probation only if the offender presents adequate evidence to the court that the offender has been accepted by, and can respond to, a treatment program that has been approved by the commissioner of human services. The court may impose a sentence that is a mitigated dispositional departure on any other ground only if the court includes as a condition of probation incarceration in a local jail or workhouse.

Sec. 21. Minnesota Statutes 1988, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person is found guilty of a violation of section ~~152.09, subdivision 1, clause (2)~~ *11, 12, or 14 for possession of a controlled substance*, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment provided for such violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge the person from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of probation such person does not violate any of the conditions

of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against that person. Discharge and dismissal hereunder shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the department of public safety solely for the purpose of use by the courts in determining the merits of subsequent proceedings against such person. The court shall forward a record of any discharge and dismissal hereunder to the department of public safety who shall make and maintain the nonpublic record thereof as hereinbefore provided. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

Sec. 22. Minnesota Statutes 1988, section 152.20, is amended to read:

152.20 [PENALTIES UNDER OTHER LAWS.]

Any penalty imposed for violation of ~~Laws 1971, chapter 937~~ *this chapter* is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

Sec. 23. Minnesota Statutes 1988, section 152.21, subdivision 6, is amended to read:

Subd. 6. [EXEMPTION FROM CRIMINAL SANCTIONS.] For the purposes of this section, the following are not violations ~~listed in section 152.09 or 152.15~~ *under this chapter*:

(1) use or possession of THC, or both, by a patient in the research program;

(2) possession, prescribing use of, administering, or dispensing THC, or any combination of these actions, by the principal investigator or by any clinical investigator; and

(3) possession or distribution of THC, or both, by a pharmacy registered to handle schedule I substances which stores THC on behalf of the principal investigator or a clinical investigator.

THC obtained and distributed pursuant to this section is not subject to forfeiture under sections 609.531 to 609.5316.

For the purposes of this section, THC is removed from schedule I contained in section 152.02, subdivision 2, and inserted in schedule II contained in section 152.02, subdivision 3.

Sec. 24. Minnesota Statutes 1988, section 243.55, subdivision 1, is amended to read:

Subdivision 1. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or state hospital, or within or upon the grounds belonging to or land or controlled by any such facility or hospital, any controlled substance as defined in section 152.01, subdivision 4, or any firearms, weapons or explosives of any kind, without the consent of the chief executive officer thereof, shall be guilty of a felony and, upon conviction thereof, punished by imprisonment for a term of not ~~less than three, nor~~ more than ~~five,~~ *ten* years. Any person who brings, sends, or in any manner causes to be introduced into any state correctional facility or within or upon the grounds belonging to or land controlled by the facility, any intoxicating or alcoholic liquor or malt beverage of any kind without the consent of the chief executive officer thereof, shall be guilty of a gross misdemeanor. The provisions of this section shall not

apply to physicians carrying drugs or introducing any of the above described liquors into such facilities for use in the practice of their profession; nor to sheriffs or other peace officers carrying revolvers or firearms as such officers in the discharge of duties.

Sec. 25. [244.095] [SENTENCING GUIDELINES MODIFICATION; UPWARD DEPARTURE FOR CERTAIN DRUG OFFENSES.]

Subdivision 1. [DEFINITIONS.] *(a) As used in this section, "park zone" and "school zone" have the meanings given them in sections 4 and 5.*

(b) As used in this section, "controlled substance" has the meaning given in section 152.01, subdivision 4, but does not include a narcotic drug listed in schedule I or II.

Subd. 2. [AGGRAVATING FACTOR FOR DRUG OFFENSES COMMITTED IN PARK ZONES AND IN SCHOOL ZONES.] *The commission shall modify the list of aggravating factors contained in the sentencing guidelines so as to authorize the sentencing judge to depart from the presumptive sentence with respect to either disposition or duration when the following circumstances are present:*

(1) the defendant was convicted of unlawfully selling or possessing controlled substances in violation of chapter 152; and

(2) the crime was committed in a park zone or in a school zone.

This aggravating factor shall not apply to a person convicted of unlawfully possessing controlled substances in a private residence located within a school zone or a park zone if no person under the age of 18 was present in the residence when the offense was committed.

Subd. 3. [REPORT TO LEGISLATURE.] *The commission shall collect data on the number and types of cases involving a sentencing departure based on the aggravating factor created in subdivision 2, and shall report its findings to the legislature on or before February 1, 1991.*

Sec. 26. Minnesota Statutes 1988, section 260.125, subdivision 3, is amended to read:

Subd. 3. A prima facie case that the public safety is not served or that the child is not suitable for treatment shall have been established if the child was at least 16 years of age at the time of the alleged offense and:

(1) Is alleged by delinquency petition to have committed an aggravated felony against the person and (a) in committing the offense, the child acted with particular cruelty or disregard for the life or safety of another; or (b) the offense involved a high degree of sophistication or planning by the juvenile; or

(2) Is alleged by delinquency petition to have committed murder in the first degree; or

(3) Is alleged by delinquency petition (a) to have committed the delinquent act of escape from confinement to a state juvenile correctional facility and (b) to have committed an offense as part of, or subsequent to, escape from custody that would be a felony listed in section 609.11, subdivision 9, if committed by an adult; or

(4) Has been found by the court, pursuant to an admission in court or after trial, to have committed an offense within the preceding 24 months

which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed murder in the second or third degree, manslaughter in the first degree, criminal sexual conduct in the first degree or assault in the first degree; or

(5) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed manslaughter in the second degree, kidnapping, criminal sexual conduct in the second degree, arson in the first degree, aggravated robbery, or assault in the second degree; or

(6) Has been found by the court, pursuant to an admission in court or after trial, to have committed two offenses, not in the same behavioral incident, within the preceding 24 months, one or both of which would be the felony of burglary of a dwelling if committed by an adult, and the child is alleged by the delinquency petition to have committed another burglary of a dwelling. For purposes of this subdivision, "dwelling" means a building which is, in whole or in part, usually occupied by one or more persons living there at night; or

(7) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed three offenses, none in the same behavioral incident, within the preceding 24 months which would be felonies if committed by an adult, and is alleged by delinquency petition to have committed any felony other than those described in clause (2), (4), or (5); or

(8) Is alleged by delinquency petition to have committed an aggravated felony against the person, other than a violation of section 609.713, in furtherance of criminal activity by an organized gang*; or*

(9) Has previously been found by the court, pursuant to an admission in court or after trial, to have committed an offense which would be a felony if committed by an adult, and is alleged by delinquency petition to have committed a felony-level violation of chapter 152 involving the unlawful sale or possession of a schedule I or II controlled substance, while in a public park zone or a school zone as defined in sections 4 and 5. This clause does not apply to a juvenile alleged to have unlawfully possessed a controlled substance in a private residence located within the school zone or park zone.

For the purposes of this subdivision, "aggravated felony against the person" means a violation of any of the following provisions: section 609.185; 609.19; 609.195; 609.20, subdivision 1 or 2; 609.221; 609.222; 609.223; 609.245; 609.25; 609.342; 609.343; 609.344, subdivision 1, clause (c) or (d); 609.345, subdivision 1, clause (c) or (d); 609.561; 609.582, subdivision 1, clause (b) or (c); or 609.713.

For the purposes of this subdivision, an "organized gang" means an association of five or more persons, with an established hierarchy, formed to encourage members of the association to perpetrate crimes or to provide support to members of the association who do commit crimes.

Sec. 27. Minnesota Statutes 1988, section 609.11, subdivision 7, is amended to read:

Subd. 7. [PROSECUTOR SHALL ESTABLISH.] Whenever reasonable

grounds exist to believe that the defendant or an accomplice used a firearm or other dangerous weapon or had in possession a firearm, at the time of commission of an offense listed in subdivision 9, the prosecutor shall, at the time of trial or at the plea of guilty, present *on the record* all evidence tending to establish that fact unless it is otherwise admitted on the record. The question of whether the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm shall be determined by the court *on the record* at the time of a verdict or finding of guilt at trial or the entry of a plea of guilty based upon the record of the trial or the plea of guilty. The court shall determine *on the record* at the time of sentencing whether the defendant has been convicted of a second or subsequent offense in which the defendant or an accomplice, at the time of commission of an offense listed in subdivision 9, used a firearm or other dangerous weapon or had in possession a firearm.

Sec. 28. Minnesota Statutes 1988, section 609.11, subdivision 9, is amended to read:

Subd. 9. [APPLICABLE OFFENSES.] The crimes for which mandatory minimum sentences shall be served before eligibility for probation, parole, or supervised release as provided in this section are: murder in the first, second, or third degree; assault in the first, second, or third degree; burglary; kidnapping; false imprisonment; manslaughter in the first or second degree; aggravated robbery; simple robbery; criminal sexual conduct under the circumstances described in sections 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); and 609.344, subdivision 1, clauses (a) to (e) and (h) to (j); escape from custody; arson in the first, second, or third degree; *a felony violation of chapter 152;* or any attempt to commit any of these offenses.

Sec. 29. Minnesota Statutes 1988, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5316, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, *the suburban Hennepin regional park district park rangers,* or a city or airport police department.

(f) "Designated offense" includes:

(1) For weapons used: any violation of this chapter;

(2) For all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322~~, subdivision 1 or 2~~; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, and 5; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; or 617.246.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 30. Minnesota Statutes 1988, section 609.5311, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.] (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is ~~$500~~ *$25* or more *and the conveyance device is associated with a felony-level controlled substance crime.*

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance is ~~$5,000~~ *$1,000* or more.

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

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

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Notwithstanding paragraphs (d) and (e), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property if the owner or secured party took reasonable steps to terminate use of the property by the offender.

Sec. 31. Minnesota Statutes 1988, section 609.5314, subdivision 1, is amended to read:

Subdivision 1. [PROPERTY SUBJECT TO ADMINISTRATIVE FORFEITURE; PRESUMPTION.] (a) The following are presumed to be subject to administrative forfeiture under this section:

(1) all money, precious metals, and precious stones found in proximity to:

(i) controlled substances;

(ii) forfeitable drug manufacturing or distributing equipment or devices;

or

(iii) forfeitable records of manufacture or distribution of controlled substances; and

(2) all conveyance devices containing controlled substances with a retail value of ~~$500~~ *$100* or more *if possession or sale of the controlled substance would be a felony under chapter 152.*

(b) A claimant of the property bears the burden to rebut this presumption.

Sec. 32. Minnesota Statutes 1988, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITION.] If the court finds under section 609.5313 or 609.5314 that the property is subject to forfeiture, it ~~may~~ *shall* order the appropriate agency to:

(1) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5;

(2) take custody of the property and remove it for disposition in accordance with law;

(3) forward the property to the federal drug enforcement administration;

(4) disburse money as provided under subdivision 5; or

(5) keep property other than money for official use by the agency and the prosecuting agency.

Sec. 33. Minnesota Statutes 1988, section 609.685, is amended by adding a subdivision to read:

Subd. 1a. [GROSS MISDEMEANOR.] *(a) Whoever sells tobacco to a person under the age of 18 years is guilty of a gross misdemeanor.*

(b) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

Sec. 34. Minnesota Statutes 1988, section 609.685, subdivision 2, is amended to read:

Subd. 2. [~~CRIME~~ *MISDEMEANOR.*] Whoever furnishes tobacco or tobacco related devices to a person under the age of 18 years is guilty of a misdemeanor.

Sec. 35. [SENTENCING GUIDELINES COMMISSION; STUDY OF MANDATORY MINIMUM SENTENCING LAW.]

The sentencing guidelines commission shall study sentencing practices under section 609.11 to determine the following issues:

(1) whether prosecutors are complying with the statute's requirement to place on the record any evidence tending to show that a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;

(2) whether courts are complying with the statute's requirement to determine on the record the question of whether a gun or dangerous weapon was used to commit an offense listed in section 609.11, subdivision 9;

(3) the number of cases in which a prosecutor files a motion under

section 609.11, subdivision 8, seeking waiver of the mandatory minimum sentence, the reasons given in these cases to support the motion, and the disposition of these motions; and

(4) the number of cases in which the court, on its own motion, sentences a defendant without regard to the mandatory minimum sentence, the reasons given in these cases for the court's departure, and the sentences pronounced by the court.

The commission shall submit a written report to the legislature on or before February 1, 1991, summarizing its findings on this study and recommending any changes necessary to improve the operation of section 609.11.

Sec. 36. [LOCAL CORRECTIONAL RESOURCES; DATA COLLECTION; NEEDS ASSESSMENT.]

Subdivision 1. [DUTIES OF THE SENTENCING GUIDELINES COMMISSION, COUNTIES, AND COMMISSIONER OF CORRECTIONS.] *The sentencing guidelines commission, with the assistance of the supreme court, the state planning agency, corrections administrators, and the commissioner of corrections, shall determine how more detailed information can be gathered on a routine basis on local sentencing practices, usage of local correctional resources, and local alternatives to incarceration for convicted felons. The corrections administrator for each county or group of counties participating in Minnesota Statutes, chapter 401, shall furnish data and information to assist the sentencing guidelines commission in making its determinations under this subdivision as the determinations pertain to the county or counties served by each administrator. In a like manner the commissioner of corrections shall furnish pertinent data on those counties which do not participate in Minnesota Statutes, chapter 401.*

Subd. 2. [NONIMPRISONMENT GUIDELINES PILOT PROJECT.] *The commissioner of corrections shall report to the sentencing guidelines commission on the results of its nonimprisonment guidelines pilot project when the project is completed. If the pilot project is not completed by July 1, 1990, the commissioner shall provide an interim report to the commission on or before that date.*

Subd. 3. [REPORT.] *The sentencing guidelines commission shall report to the legislature on or before February 1, 1991, describing what improvements have been made to address subdivision 1 and whether any legislative action is necessary to implement further improvements.*

Sec. 37. [REPEALER.]

Minnesota Statutes 1988, sections 152.09; and 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5, are repealed.

Sec. 38. [EFFECTIVE DATE.]

Sections 1 to 24, 26 to 32, and 37 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date. Sections 33 and 34 are effective July 1, 1989, and apply to crimes committed on or after that date.

ARTICLE 4

SEX OFFENDERS

Section 1. [241.67] [SEX OFFENDER TREATMENT; PROGRAMS; STANDARDS; DATA.]

Subdivision 1. [SEX OFFENDER TREATMENT.] *A sex offender treatment system is established under the administration of the commissioner of corrections to provide and finance a range of sex offender treatment programs for eligible adults and juveniles. Eligible offenders are:*

(1) adults and juveniles committed to the custody of the commissioner;

(2) adult offenders for whom treatment is required by the court as a condition of probation; and

(3) juvenile offenders who have been found delinquent or received a stay of adjudication, for whom the juvenile court has ordered treatment.

Subd. 2. [TREATMENT PROGRAM STANDARDS.] *By July 1, 1991, the commissioner shall adopt rules under chapter 14 for the certification of adult and juvenile sex offender treatment programs in state and local correctional facilities. The rules shall require that sex offender treatment programs be at least four months in duration. After July 1, 1991, a correctional facility may not operate a sex offender treatment program unless the program has met the standards adopted by and been certified by the commissioner of corrections. As used in this subdivision, "correctional facility" has the meaning given it in section 241.021, subdivision 1, clause (5).*

Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] *(a) The commissioner shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, within the state adult correctional facility system. Participation in any treatment program is voluntary and is subject to the rules and regulations of the department of corrections. Nothing in this section requires the commissioner to accept or retain an offender in a treatment program. Nothing in this section creates a right of an offender to treatment.*

(b) The commissioner shall provide for residential and outpatient sex offender treatment and aftercare when required for conditional release under section 12 or as a condition of supervised release.

Subd. 4. [PROGRAMS FOR JUVENILE OFFENDERS COMMITTED TO THE COMMISSIONER.] *The commissioner shall provide for sex offender treatment programs for juveniles committed to the commissioner by the courts under section 260.185, as provided under section 2.*

Subd. 5. [PILOT PROGRAMS TO INCREASE ADULT AND JUVENILE SEX OFFENDER TREATMENT.] *(a) The commissioner shall designate three or more pilot programs to increase sex offender treatment for:*

(1) adults convicted of a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.746, 609.79, 617.23, 617.246, or 617.247 who are sentenced by the court to incarceration in a local correctional facility or to sex offender treatment as a condition of probation; and

(2) juveniles found delinquent or receiving a stay of adjudication for a violation of one of those sections for whom the juvenile court has ordered sex offender treatment.

(b) At least one pilot program must be in the seven-county metropolitan area, at least one program must be outside the seven-county metropolitan area, at least one program must be in a community corrections act county, and at least one program must be in a noncommunity corrections act county.

(c) A public human services or community corrections agency may apply to the commissioner for a pilot program grant. The application must be submitted in a form approved by the commissioner and must include:

(1) a proposal to increase treatment availability for sex offenders sentenced by the district court in the county;

(2) evidence of participation by local correctional, human services, court, and treatment professionals in identifying the current treatment funding level in the county and unmet sex offender treatment needs; and

(3) any other content the commissioner may require.

The commissioner may appoint an advisory task force to assist in the review of applications and the award of grants.

Subd. 6. [SPECIALIZED CORRECTIONS AGENTS AND PROBATION OFFICERS; SEX OFFENDER SUPERVISION.] *By January 1, 1990, the commissioner of corrections shall develop in-service training for state and local corrections agents and probation officers who supervise adult and juvenile sex offenders on probation or supervised release. The commissioner shall make the training available to all current and future corrections agents and probation officers who supervise or will supervise sex offenders on probation or supervised release.*

After January 1, 1991, a state or local corrections agent or probation officer may not supervise adult or juvenile sex offenders on probation or supervised release unless the agent or officer has completed the in-service sex offender supervision training. The commissioner may waive this requirement if the corrections agent or probation officer has completed equivalent training as part of a post-secondary educational curriculum.

After January 1, 1991, when an adult sex offender is placed on supervised release or is sentenced to probationary supervision, and when a juvenile offender is found delinquent by the juvenile court for a sex offense and placed on probation or is paroled from a juvenile correctional facility, a corrections agent or probation officer may not be assigned to the offender unless the agent or officer has completed the in-service sex offender supervision training.

Sec. 2. [242.195] [JUVENILE SEX OFFENDERS.]

Subdivision 1. [TREATMENT PROGRAMS.] *The commissioner of corrections shall provide for a range of sex offender treatment programs, including intensive sex offender treatment, for juveniles within state juvenile correctional facilities and through purchase of service from county and private residential and outpatient juvenile sex offender treatment programs.*

Subd. 2. [SECURE CONFINEMENT.] *If a juvenile sex offender committed to the custody of the commissioner is in need of secure confinement, the commissioner shall provide for the appropriate level of sex offender treatment within a secure facility or unit in a state juvenile correctional facility.*

Subd. 3. [DISPOSITIONS.] *When a juvenile is committed to the commissioner of corrections by a juvenile court, upon a finding of delinquency for a sex offense, the commissioner may, for the purposes of treatment and rehabilitation:*

(1) order the child confined to a state juvenile correctional facility that provides the appropriate level of juvenile sex offender treatment;

(2) purchase sex offender treatment from a county and place the child in the county's qualifying juvenile correctional facility;

(3) purchase sex offender treatment from a qualifying private residential juvenile sex offender treatment program and place the child in the program;

(4) purchase outpatient juvenile sex offender treatment for the child from a qualifying county or private program and order the child released on parole under treatment and other supervisions and conditions the commissioner believes to be appropriate;

(5) order reconfinement or renewed parole, revoke or modify any order, or discharge the child under the procedures provided in section 242.19, subdivision 2, paragraphs (c), (d), and (e); or

(6) refer the child to a county welfare board or licensed child-placing agency for placement in foster care, or when appropriate, for initiation of child in need of protection or services proceedings under section 242.19, subdivision 2, paragraph (f).

Subd. 4. [QUALIFYING FACILITIES; TREATMENT PROGRAMS.] *The commissioner may not place a juvenile in a correctional facility under this section unless the facility has met the requirements of section 241.021, subdivision 2.*

Sec. 3. Minnesota Statutes 1988, section 244.04, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION OF SENTENCE.] Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.346, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate, *except that the period of supervised release for a sex offender sentenced and conditionally released by the commissioner under section 10, subdivision 5, is governed by that provision.*

Except as otherwise provided in subdivision 2, if an inmate violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of the term of imprisonment after the violation without earning good time.

Sec. 4. Minnesota Statutes 1988, section 244.05, subdivision 1, is amended to read:

Subdivision 1. [SUPERVISED RELEASE REQUIRED.] Except as provided in subdivisions 4 and 5, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. *Except for a sex*

offender conditionally released under section 10, subdivision 5, the supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Sec. 5. Minnesota Statutes 1988, section 244.05, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS FOR VIOLATION.] If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner may:

(1) continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) revoke the inmate's supervised release and reimprison the inmate for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence, *except that for a sex offender sentenced and conditionally released under section 10, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the original sentence imposed less good time earned under section 244.04, subdivision 1.*

Sec. 6. Minnesota Statutes 1988, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) A child placing agency; or

(2) The county welfare board; or

(3) A reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245.781 to 245.812; or

(4) ~~Except for children found to be delinquent as defined in section 260.015, subdivision 5, clauses (c) and (d),~~ A county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) A county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) ~~Except for children found to be delinquent as defined in section~~

~~260.015, subdivision 5, clauses (c) and (d).~~ Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to $700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342, 609.343, 609.344, or 609.345, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered; and

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

~~This subdivision applies to dispositions of juveniles found to be delinquent as defined in section 260.015, subdivision 5, clause (c) or (d) made prior to, on, or after January 1, 1978.~~

Sec. 7. [299C.155] [STANDARDIZED EVIDENCE COLLECTION; DNA ANALYSIS DATA AND RECORDS.]

Subdivision 1. [DEFINITION.] *As used in this section, "DNA analysis" means the process through which deoxyribonucleic acid (DNA) in a human biological specimen is analyzed and compared with DNA from another human biological specimen for identification purposes.*

Subd. 2. [UNIFORM EVIDENCE COLLECTION.] *The bureau shall develop uniform procedures and protocols for collecting evidence in cases of alleged or suspected criminal sexual conduct, including procedures and*

protocols for the collection and preservation of human biological specimens for DNA analysis. Law enforcement agencies and medical personnel who conduct evidentiary exams shall use the uniform procedures and protocols in their investigation of criminal sexual conduct offenses.

Subd. 3. [DNA ANALYSIS AND DATA BANK.] *The bureau shall adopt uniform procedures and protocols to maintain, preserve, and analyze human biological specimens for DNA. The bureau shall establish a centralized system to cross-reference data obtained from DNA analysis.*

Subd. 4. [RECORDS.] *The bureau shall perform DNA analysis and make data obtained available to law enforcement officials in connection with criminal investigations in which human biological specimens have been recovered. Upon request, the bureau shall also make the data available to the prosecutor and the subject of the data in any subsequent criminal prosecution of the subject.*

Sec. 8. Minnesota Statutes 1988, section 526.10, is amended to read:

526.10 [LAWS RELATING TO MENTALLY ILL PERSONS DANGEROUS TO THE PUBLIC TO APPLY TO PSYCHOPATHIC PERSONALITIES; *TRANSFER TO CORRECTIONS.*]

Subdivision 1. [PROCEDURE.] Except as otherwise provided ~~herein~~ *in this section* or in chapter 253B, the provisions of chapter 253B, pertaining to persons mentally ill and dangerous to the public shall apply with like force and effect to persons having a psychopathic personality, to persons alleged to have such personality, and to persons found to have such personality, respectively. Before such proceedings are instituted, the facts shall first be submitted to the county attorney, who, if satisfied that good cause exists therefor, shall prepare the petition to be executed by a person having knowledge of the facts and file the same with the judge of the probate court of the county in which the "patient," as defined in such statutes, has a settlement or is present. The judge of probate shall thereupon follow the same procedures set forth in chapter 253B, for judicial commitment. The judge may exclude the general public from attendance at such hearing. If, upon completion of the hearing and consideration of the record, the court finds the proposed patient has a psychopathic personality, the court shall commit such person to a public hospital or a private hospital consenting to receive the person, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as provided for in chapter 253B for persons found to be mentally ill and dangerous to the public. The patient shall thereupon be entitled to all of the rights provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public, and all of the procedures provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public shall apply to such patient *except as otherwise provided in subdivision 2.*

Subd. 2. [TRANSFER TO CORRECTIONAL FACILITY.] *Unless the provisions of section 9 apply, if a person has been committed under this section and also has been committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:*

(1) the person's unamenability to treatment;

(2) the person's unwillingness or failure to follow treatment recommendations;

(3) the person's lack of progress in treatment at the public or private hospital;

(4) the danger posed by the person to other patients or staff at the public or private hospital; and

(5) the degree of security necessary to protect the public.

Sec. 9. [609.1351] [PETITION FOR CIVIL COMMITMENT.]

When a court sentences a person under section 10, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section 526.10 may be appropriate. If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney. If the person is subsequently committed under section 526.10, the person shall serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence the person shall be transferred to a facility designated by the commissioner of human services.

Sec. 10. [609.1352] [PATTERNED SEX OFFENDERS; SPECIAL SENTENCING PROVISION.]

Subdivision 1. [SENTENCING AUTHORITY.] *A court may sentence a person to a term of imprisonment of not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, to a term of imprisonment equal to the statutory maximum, if:*

(1) the court is imposing an executed sentence, based on a sentencing guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 2 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

Subd. 2. [PREDATORY CRIME.] *A predatory crime is a felony violation*

of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.221, 609.222, 609.223, 609.24, 609.245, 609.25, 609.255, 609.342, 609.343, 609.344, 609.345, 609.365, 609.498, 609.561, or 609.582, subdivision 1.

Subd. 3. [DANGER TO PUBLIC SAFETY.] *The court shall base its finding that the offender is a danger to public safety on either of the following factors:*

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines; or

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224, including an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 if committed by an adult.

Subd. 4. [DEPARTURE FROM GUIDELINES.] *A sentence imposed under subdivision 1 is a departure from the sentencing guidelines.*

Subd. 5. [CONDITIONAL RELEASE.] *At the time of sentencing under subdivision 1, the court may provide that after the offender has completed one-half of the full pronounced sentence imposed, without regard to good time, the commissioner of corrections may place the offender on conditional release for the remainder of the statutory maximum period or for ten years, whichever is longer, if the commissioner finds that:*

(1) the offender is amenable to treatment and has made sufficient progress in a sex offender treatment program available in prison to be released to a sex offender treatment program operated by the department of human services or a community sex offender treatment and reentry program; and

(2) the offender has been accepted in a program approved by the commissioner that provides treatment, aftercare, and phased reentry into the community.

The conditions of release must include successful completion of treatment and aftercare in a program approved by the commissioner and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced and the victim of the offender's crime, where available, of the terms of the offender's conditional release. Release may be revoked and the stayed sentence executed in its entirety less good time if the offender fails to meet any condition of release. The commissioner shall not dismiss the offender from supervision before the sentence expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Subd. 6. [COMMISSIONER OF CORRECTIONS.] *The commissioner shall pay the cost of treatment of a person released under subdivision 5. This section does not require the commissioner to accept or retain an offender in a treatment program.*

Sec. 11. Minnesota Statutes 1988, section 609.341, subdivision 11, is amended to read:

Subd. 11. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a)

to (e), and (h) to ~~(j)~~ *(k)*, includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by coercion or the use of a position of authority, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or the use of a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

Sec. 12. Minnesota Statutes 1988, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~20~~ *25* years or to a payment of a fine of not more than ~~$35,000~~ *$40,000*, or both.

Sec. 13. Minnesota Statutes 1988, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~15~~ *20* years or to a payment of a fine of not more than ~~$30,000~~ *$35,000*, or both.

Sec. 14. Minnesota Statutes 1988, section 609.344, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to a payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 15. Minnesota Statutes 1988, section 609.345, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] A person convicted under subdivision 1 may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to a payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Sec. 16. [609.3461] [DNA ANALYSIS OF SEX OFFENDERS REQUIRED.]

When a court sentences a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or the juvenile court adjudicates a person a delinquent child for violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, it shall order the person to provide a biological specimen for the purpose of DNA analysis as defined in section 7. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 7. If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, and committed to the custody of the commissioner of corrections for a term of imprisonment has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Sec. 17. Minnesota Statutes 1988, section 628.26, is amended to read:

628.26 [LIMITATIONS.]

(a) Indictments or complaints for murder may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for violation of section 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(c) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within seven years after the commission of the offense *or, if the victim failed to report the offense within this limitation period, within two years after the offense was reported to law enforcement authorities, but in no event may an indictment or complaint be found or made after the victim attains the age of 25 years.*

(d) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3)(c) shall be found or made and filed in the proper court within six years after the commission of the offense.

(e) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than $35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(f) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(g) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense; but the time during which the defendant shall not be an inhabitant of, or usually resident within, this state, shall not constitute any part of the limitations imposed by this section.

Sec. 18. [634.25] [ADMISSIBILITY OF RESULTS OF DNA ANALYSIS.]

In a civil or criminal trial or hearing, the results of DNA analysis, as defined in section 10, are admissible in evidence without antecedent expert testimony that DNA analysis provides a trustworthy and reliable method of identifying characteristics in an individual's genetic material upon a showing that the offered testimony meets the standards for admissibility set forth in the Rules of Evidence.

Sec. 19. [634.26] [STATISTICAL PROBABILITY EVIDENCE.]

In a civil or criminal trial or hearing, statistical population frequency evidence, based on genetic or blood test results, is admissible to demonstrate the fraction of the population that would have the same combination of genetic markers as was found in a specific human biological specimen. "Genetic marker" means the various blood types or DNA types that an individual may possess.

Sec. 20. [CHILD PROTECTION SYSTEM STUDY COMMISSION.]

Subdivision 1. [MEMBERSHIP.] *A child protection system study commission is created consisting of five members of the house of representatives appointed by the speaker of the house and five members of the senate appointed by the senate subcommittee on subcommittees. The commission shall select from its membership a chair or co-chairs and other officers it considers necessary.*

Subd. 2. [STUDIES.] *The commission shall study:*

(1) the current structure and operation of the child protection system at the state and county level;

(2) the current operation of the child abuse reporting act, including whether the reporting act should be expanded to mandate reports of emotional harm and threatened harm, and whether its definitions of physical and sexual abuse should be expanded to include threatened harm;

(3) the ways in which the child protection system can provide more effective intervention and prevention services for sexually aggressive and sexually abused children; and

(4) other ways in which the child protection system and the child abuse reporting act can be improved.

Subd. 3. [REPORT.] *The commission shall report to the legislature on its findings and recommendations not later than February 15, 1990, and ceases to function after that date.*

Subd. 4. [COMPENSATION.] *Members of the commission must be compensated in the same manner as for other legislative meetings.*

Sec. 21. [EVALUATION OF SEX OFFENDER TREATMENT FUNDING.]

Subdivision 1. [EVALUATION.] *The commissioner of corrections and the commissioner of human services shall evaluate funding mechanisms for existing sex offender treatment programs. The commissioners must evaluate the funding of sex offender treatment programs for adults and juveniles and make findings concerning:*

(1) the extent to which sex offender treatment programs are used on a statewide basis; and

(2) the effectiveness and adequacy of existing funding mechanisms.

Subd. 2. [PILOT PROGRAM EVALUATION.] *The commissioner of corrections and the commissioner of human services shall evaluate the pilot programs designated under section 1, subdivision 5, and include an analysis of the programs in the report required under this section.*

Subd. 3. [REPORT.] *The commissioner of corrections and the commissioner of human services shall report to the legislature by January 1, 1991, their findings and recommendations to improve funding equity and statewide availability of treatment programs, including recommendations to increase funding.*

Sec. 22. [EFFECTIVE DATE.]

Sections 1, 2, 7 to 9, 11, 18, and 19 are effective August 1, 1989. Sections 3 to 6, 10, and 12 to 15 are effective August 1, 1989 and apply to offenses committed on or after that date, but a court may consider acts committed before the effective date in determining whether an offender is a danger to public safety under section 10, subdivision 3. Section 17 is effective August 1, 1989, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the crime did not expire before August 1, 1989. Section 16 is effective January 1, 1990, and applies to persons sentenced or released from incarceration on or after that date.

ARTICLE 5

PRENATAL EXPOSURE TO CERTAIN CONTROLLED SUBSTANCES

Section 1. [121.883] [PROGRAM FOR PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY.]

Subdivision 1. [PUBLIC EDUCATION REGARDING THE EFFECTS OF CONTROLLED SUBSTANCE AND ALCOHOL USE DURING PREGNANCY.] *The commissioner of education, in consultation with the commissioner of health, shall assist school districts in developing and implementing programs to prevent and reduce the risk of harm to unborn children exposed to controlled substance and alcohol use by their mother during pregnancy. Each district program must, at a minimum:*

(1) use planning materials, guidelines, and other technically accurate and updated information;

(2) maintain a comprehensive, technically accurate, and updated curriculum;

(3) be directed at adolescents, especially those who may be at high risk of pregnancy coupled with controlled substance or alcohol use;

(4) provide in-service training for appropriate district staff; and

(5) collaborate with appropriate state and local agencies and organizations.

Sec. 2. Minnesota Statutes 1988, section 253B.02, subdivision 2, is amended to read:

Subd. 2. [CHEMICALLY DEPENDENT PERSON.] "Chemically dependent person" means any person (a) determined as being incapable of self-management or management of personal affairs by reason of the habitual and excessive use of alcohol or drugs; and (b) whose recent conduct as a result of habitual and excessive use of alcohol or drugs poses a substantial likelihood of physical harm to self or others as demonstrated by (i) a recent

attempt or threat to physically harm self or others, (ii) evidence of recent serious physical problems, or (iii) a failure to obtain necessary food, clothing, shelter, or medical care. *"Chemically dependent person" also means a pregnant woman who has engaged during the pregnancy in habitual or excessive use, for a nonmedical purpose, of any of the following controlled substances or their derivatives: cocaine, heroin, phencyclidine, methamphetamine, or amphetamine.*

Sec. 3. Minnesota Statutes 1988, section 253B.02, subdivision 10, is amended to read:

Subd. 10. [INTERESTED PERSON.] "Interested person" means an adult, including but not limited to, a public official, *including a local welfare agency acting under section 5*, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

Sec. 4. Minnesota Statutes 1988, section 626.556, 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 content indicates otherwise:

(a) "Sexual abuse" means the subjection by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (1) mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, or (2) impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, or medical care, a duty to provide that care. *"Neglect" includes prenatal exposure to a controlled substance, as defined in section 5, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.* Neglect also means "medical neglect" as defined in section 260.015, subdivision ~~10~~ *2a*, clause ~~(c)~~ *(5)*.

(d) "Physical abuse" means any physical injury inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

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

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

Sec. 5. [626.5561] [REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.]

Subdivision 1. [REPORTS REQUIRED.] *A person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.*

Subd. 2. [LOCAL WELFARE AGENCY.] *If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.*

Subd. 3. [RELATED PROVISIONS.] *Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 7, 8, and 11.*

Subd. 4. [CONTROLLED SUBSTANCES.] *For purposes of this section and section 6, "controlled substance" means a controlled substance classified in schedule I, II, or III under chapter 152.*

Sec. 6. [626.5562] [TOXICOLOGY TESTS REQUIRED.]

Subdivision 1. [TEST; REPORT.] *A physician shall administer a toxicology test to a pregnant woman under the physician's care to determine whether there is evidence that she has ingested a controlled substance, if*

the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 5. A negative test result does not eliminate the obligation to report under section 5, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. [NEWBORNS.] *A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose prior to the birth. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.*

Subd. 3. [REPORT TO DEPARTMENT OF HEALTH.] *Physicians shall report to the department of health the results of tests performed under subdivisions 1 and 2. A report shall be made on February 1 and August 1 of each year, beginning February 1, 1990. The reports are medical data under section 13.42.*

Subd. 4. [IMMUNITY FROM LIABILITY.] *Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.*

Subd. 5. [RELIABILITY OF TESTS.] *A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory licensed by the department of health. The confirmatory test must meet the standards established under section 181.953, subdivision 1, and the rules adopted under it.*

ARTICLE 6

PENALTY INCREASES

Section 1. Minnesota Statutes 1988, section 169.09, subdivision 14, is amended to read:

Subd. 14. [PENALTIES.] (a) The driver of any vehicle who violates subdivision 1 or 6 and who caused the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ten years, or to payment of a fine of not more than $20,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than $10,000, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver is guilty of a felony

and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both.

(b) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) if the accident results in the death of any person, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than $5,000, or both;

(2) if the accident results in great bodily harm to any person, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and one day~~ *two years*, or to payment of a fine of not more than ~~$3,000~~ *$4,000*, or both; or

(3) if the accident results in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

(c) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both.

(d) Any person who violates subdivision 3, clause (b) is guilty of a petty misdemeanor.

(e) Any person who violates subdivision 2, 3, clause (a), 4, 5, 7, 8, 10, 11, or 12 is guilty of a misdemeanor.

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.

Sec. 2. Minnesota Statutes 1988, section 297D.09, subdivision 1a, is amended to read:

Subd. 1a. [CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.] In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both.

Sec. 3. Minnesota Statutes 1988, section 299F.80, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, whoever possesses explosives without a valid license or permit may be sentenced to imprisonment for not more than ~~three~~ *five* years.

Sec. 4. Minnesota Statutes 1988, section 325D.56, subdivision 2, is amended to read:

Subd. 2. Any person who is found to have willfully committed any of the acts enumerated in section 325D.53 shall be guilty of a felony and subject to a fine of not more than $50,000 or imprisonment in the state penitentiary for not more than ~~five~~ *seven* years, or both.

Sec. 5. Minnesota Statutes 1988, section 609.205, is amended to read:

609.205 [MANSLAUGHTER IN THE SECOND DEGREE.]

A person who causes the death of another by any of the following means is guilty of manslaughter in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~$14,000~~ *$20,000*, or both:

(1) by the person's culpable negligence whereby the person creates an unreasonable risk, and consciously takes chances of causing death or great bodily harm to another; or

(2) by shooting another with a firearm or other dangerous weapon as a result of negligently believing the other to be a deer or other animal; or

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the victim provoked the animal to cause the victim's death.

Sec. 6. Minnesota Statutes 1988, section 609.21, subdivision 1, is amended to read:

Subdivision 1. [RESULTING IN DEATH.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Sec. 7. Minnesota Statutes 1988, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN INJURY.] Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ *five* years or the payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 8. Minnesota Statutes 1988, section 609.221, is amended to read:

609.221 [ASSAULT IN THE FIRST DEGREE.]

Whoever assaults another and inflicts great bodily harm may be sentenced to imprisonment for not more than ~~ten~~ *20* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 9. Minnesota Statutes 1988, section 609.222, is amended to read:

609.222 [ASSAULT IN THE SECOND DEGREE.]

Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both.

Sec. 10. Minnesota Statutes 1988, section 609.223, is amended to read:

609.223 [ASSAULT IN THE THIRD DEGREE.]

Whoever assaults another and inflicts substantial bodily harm may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 11. Minnesota Statutes 1988, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law and inflicts demonstrable bodily harm is guilty of a felony and may be sentenced to imprisonment for not more than ~~one year and a day~~ *two years* or to payment of a fine of not more than ~~$3,000~~ *$4,000*, or both.

Sec. 12. Minnesota Statutes 1988, section 609.255, subdivision 3, is amended to read:

Subd. 3. [UNREASONABLE RESTRAINT OF CHILDREN.] A parent, legal guardian, or caretaker who intentionally subjects a child under the age of 18 years to unreasonable physical confinement or restraint by means including but not limited to, tying, locking, caging, or chaining for a prolonged period of time and in a cruel manner which is excessive under the circumstances, is guilty of unreasonable restraint of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the confinement or restraint results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 13. Minnesota Statutes 1988, section 609.2665, is amended to read:

609.2665 [MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.]

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~$14,000~~ *$20,000*, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

Sec. 14. Minnesota Statutes 1988, section 609.267, is amended to read:

609.267 [ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.]

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 15. Minnesota Statutes 1988, section 609.323, subdivision 1, is amended to read:

Subdivision 1. Whoever, while acting other than as a prostitute or patron, intentionally receives profit, knowing or having reason to know that it is derived from the prostitution, or the promotion of the prostitution, of an individual under the age of 13 years, may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~$20,000~~ *$30,000*, or both.

Sec. 16. Minnesota Statutes 1988, section 609.377, is amended to read:

609.377 [MALICIOUS PUNISHMENT OF A CHILD.]

A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. If the punishment results in substantial bodily harm, that person may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of *a fine of* not more than ~~$5,000~~ *$10,000*, or both.

Sec. 17. Minnesota Statutes 1988, section 609.445, is amended to read:

609.445 [FAILURE TO PAY OVER STATE FUNDS.]

Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 18. Minnesota Statutes 1988, section 609.48, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] Whoever violates this section may be sentenced as follows:

(1) If the false statement was made upon the trial of a felony charge, or upon an application for an explosives license or use permit, to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both; or

(2) In all other cases, to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 19. Minnesota Statutes 1988, section 609.487, subdivision 4, is amended to read:

Subd. 4. [FLEEING AN OFFICER; DEATH; BODILY INJURY.] Whoever flees or attempts to flee by means of a motor vehicle a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, and who in the course of fleeing causes the death of a human being not constituting murder or manslaughter or any bodily injury to any person other than the perpetrator may be sentenced to imprisonment as follows:

(a) If the course of fleeing results in death, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both; or

(b) If the course of fleeing results in great bodily harm, to imprisonment for not more than ~~five~~ *seven* years or to payment of a fine of not more than ~~$10,000~~ *$14,000*, or both; or

(c) If the course of fleeing results in substantial bodily harm, to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Sec. 20. Minnesota Statutes 1988, section 609.576, is amended to read:

609.576 [NEGLIGENT FIRES.]

Whoever is culpably negligent in causing a fire to burn or get out of control thereby causing damage or injury to another, and as a result thereof:

(a) a human being is injured and great bodily harm incurred, is guilty of a crime and may be sentenced to imprisonment of not more than ~~three~~ *five* years or to a fine of not more than ~~$5,000~~ *$10,000*, or both; or

(b) property of another is injured, thereby, is guilty of a crime and may be sentenced as follows:

(1) to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both, if the value of the property damage is under $300;

(2) to imprisonment for not more than one year, or to a fine of $3,000 or both, if the value of the property damaged is at least $300 but is less than $10,000;

(3) to imprisonment for not less than 90 days nor more than three years, or to a fine of not more than $5,000, or both, if the value of the property damaged is $10,000 or more.

Sec. 21. Minnesota Statutes 1988, section 609.62, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever, with intent to defraud, does any of the following may be sentenced to imprisonment for not more than ~~two~~ *three* years or to payment of a fine of not more than ~~$4,000~~ *$6,000*, or both:

(1) Conceals, removes, or transfers any personal property in which the actor knows that another has a security interest; or

(2) Being an obligor and knowing the location of the property refuses to disclose the same to an obligee entitled to possession thereof.

Sec. 22. Minnesota Statutes 1988, section 609.86, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits commercial bribery may be sentenced as follows:

(1) To imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both, if the value of the benefit, consideration, compensation or reward is greater than $500;

(2) In all other cases where the value of the benefit, consideration, compensation or reward is $500 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700; provided, however, in any prosecution of the value of the benefit, consideration, compensation or reward received by the defendant within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed, or all of the offenses aggregated under this clause.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 22 are effective August 1, 1989, and apply to crimes committed on or after that date.

ARTICLE 7

MISCELLANEOUS CRIMINAL PROVISIONS

Section 1. Minnesota Statutes 1988, section 340A.701, is amended to read:

340A.701 [FELONIES.]

Subdivision 1. [UNLAWFUL ACTS.] It is a felony:

(1) to manufacture alcoholic beverages in violation of this chapter;

(2) to transport or import alcoholic beverages into the state in violation of this chapter for purposes of resale; or

(3) to sell or give away for beverage purposes poisonous alcohol, methyl alcohol, denatured alcohol, denaturing material, or any other alcoholic substance capable of causing serious physical or mental injuries to a person consuming it~~.~~*; or*

(4) for a person other than a licensed retailer of alcoholic beverages, a bottle club permit holder, a municipal liquor store, or an employee or agent of any of these who is acting within the scope of employment, to violate

the provisions of section 340A.503, subdivision 2, clause (1), by selling alcoholic beverages if the underage purchaser of the alcoholic beverage becomes intoxicated and causes or suffers death or great bodily harm as a result of the intoxication.

Subd. 2. [PRESUMPTIVE SENTENCE.] *In determining an appropriate disposition for a violation of subdivision 1, clause (4), the court shall presume that a stay of execution with a 90-day period of incarceration as a condition of probation shall be imposed unless the defendant's criminal history score determined according to the sentencing guidelines indicates a presumptive executed sentence, in which case the presumptive executed sentence shall be imposed unless the court departs from the sentencing guidelines under section 244.10. A stay of imposition of sentence may be granted only if accompanied by a statement on the record of the reasons for it.*

Sec. 2. Minnesota Statutes 1988, section 340A.702, is amended to read:

340A.702 [GROSS MISDEMEANORS.]

It is a gross misdemeanor:

(1) to sell an alcoholic beverage without a license authorizing the sale;

(2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;

(3) to violate the provisions of sections 340A.301 to 340A.313;

(4) to violate the provisions of section 340A.508;

(5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;

(6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;

(7) to violate the provisions of section 340A.502;

(8) *except as otherwise provided in section 340A.701*, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);

(9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;

(10) to obstruct or mislead the commissioner in the execution of the commissioner's duties; or

(11) to swear falsely concerning any matter stated under oath.

Sec. 3. Minnesota Statutes 1988, section 609.26, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS.] Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to visitation or custody where the action manifests an intent to substantially deprive that person of rights to visitation or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260 to the commissioner of human services, a child placing agency, or the county welfare board;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to visitation or custody; ~~or~~

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child visitation or custody but prior to the issuance of an order determining custody or visitation rights, where the action manifests an intent substantially to deprive that parent of parental rights~~.~~*; or*

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions.

Sec. 4. Minnesota Statutes 1988, section 609.26, subdivision 6, is amended to read:

Subd. 6. [PENALTY.] Except as otherwise provided in subdivision 5, whoever violates this section may be sentenced ~~to imprisonment for not more than two years or to payment of a fine of $4,000, or both.~~ *as follows:*

(1) to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both; or

(2) to imprisonment for not more than four years or to payment of a fine of not more than $8,000, or both, if the court finds that:

(i) the defendant committed the violation while possessing a dangerous weapon or caused substantial bodily harm to effect the taking;

(ii) the defendant abused or neglected the child during the concealment, detention, or removal of the child;

(iii) the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause the parent or lawful custodian to discontinue criminal prosecution;

(iv) the defendant demanded payment in exchange for return of the child or demanded to be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

(v) the defendant has previously been convicted under this section or a similar statute of another jurisdiction.

Sec. 5. Minnesota Statutes 1988, section 609.52, is amended to read:

609.52 [THEFT.]

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by

pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing, or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, setoff, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "Motor vehicle" means a self-propelled device for moving persons or property or pulling implements from one place to another, whether the

device is operated on land, rails, water, or in the air.

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the

consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law

Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; ~~or~~

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it~~.~~*; or*

(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.

Subd. 3. [SENTENCE.] Whoever commits theft may be sentenced as follows:

(1) to imprisonment for not more than 20 years or to payment of a fine of not more than $100,000, or both, if the value of the property or services stolen is more than $35,000 and the conviction is for a violation of subdivision 2, clause (3), (4), (15), or (16); or

(2) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the value of the property or services stolen exceeds $2,500, or if the property stolen was *an article representing a trade secret, an explosive or incendiary device, or* a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or

(3) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, if:

(a) the value of the property or services stolen is more than $500 but not more than $2,500; or

(b) the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than $200 but not more than $500 and the person has been convicted within the preceding

five years for an offense under this section, section 256.98; 268.18, subdivision 3; 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; 609.631; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

~~(4) to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both, notwithstanding~~

(d) the value of the property or services stolen is not more than ~~$200, if~~ *$500, and* any of the following circumstances exist:

~~(a)~~ *(i)* the property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

~~(b)~~ *(ii)* the property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

~~(c)~~ *(iii)* the property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

~~(d)~~ *(iv)* the property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

~~(e)~~ *(v)* the property is a firearm; or

~~(f)~~ *(vi)* the property stolen ~~was~~ *is* a motor vehicle ~~as defined in section 609.55~~; or

~~(5) to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or~~

~~(6)~~ *(4)* to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both, if the value of the property or services stolen is more than $200 but not more than $500; or

~~(7)~~ *(5)* in all other cases where the value of the property or services stolen is $200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both, provided, however, in any prosecution under subdivision 2, clauses (1), (2), (3), (4), and (13), the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Sec. 6. [609.526] [PRECIOUS METAL DEALERS; RECEIVING STOLEN PROPERTY.]

Any precious metal dealer as defined in section 325E.731, subdivision 2, or any person employed by a precious metal dealer as defined in section 325E.731, subdivision 2, who receives, possesses, transfers, buys, or conceals any stolen property or property obtained by robbery, knowing or

having reason to know the property was stolen or obtained by robbery, may be sentenced as follows:

(1) if the value of the property received, bought, or concealed is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $50,000, or both;

(2) if the value of the property received, bought, or concealed is less than $1,000 but more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $40,000, or both;

(3) if the value of the property received, bought, or concealed is $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both.

Any person convicted of violating this section a second or subsequent time within a period of one year may be sentenced as provided in clause (1).

Sec. 7. Minnesota Statutes 1988, section 609.53, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] *Except as otherwise provided in section 6,* any person who receives, possesses, transfers, buys or conceals any stolen property or property obtained by robbery, knowing or having reason to know the property was stolen or obtained by robbery, may be sentenced ~~as follows:~~

~~(1) if the value of the property is $1,000 or more, to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both;~~

~~(2) if the value of the property is less than $1,000, but more than $300, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;~~

~~(3) if the value of the property is $300 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than $700, or both;~~

~~(4) notwithstanding the value of the property, if the property is a firearm, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both~~ *in accordance with the provisions of section 609.52, subdivision 3.*

Sec. 8. Minnesota Statutes 1988, section 609.53, subdivision 4, is amended to read:

Subd. 4. [CIVIL ACTION; TREBLE DAMAGES.] Any person who has been injured by a violation of ~~subdivisions~~ *subdivision* 1 or ~~3~~ *section 6* may bring an action for three times the amount of actual damages~~,~~ sustained by the plaintiff or $1,500, whichever is greater, *and* the costs of suit and reasonable attorney's fees.

Sec. 9. [609.546] [MOTOR VEHICLE TAMPERING.]

A person is guilty of a misdemeanor who intentionally:

(1) rides in or on a motor vehicle knowing that the vehicle was taken and is being driven by another without the owner's permission; or

(2) tampers with or enters into or on a motor vehicle without the owner's permission.

Sec. 10. Minnesota Statutes 1988, section 609.631, subdivision 2, is amended to read:

Subd. 2. [CHECK FORGERY; ELEMENTS.] A person ~~who,~~ *is guilty of check forgery and may be sentenced under subdivision 4 if the person,* with intent to defraud, *does any of the following:*

(1) falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority~~, is guilty of check forgery and may be sentenced as provided in subdivision~~ 4*; or*

(2) falsely endorses or alters a check so that it purports to have been endorsed by another.

Sec. 11. Minnesota Statutes 1988, section 624.701, is amended to read:

624.701 [LIQUORS IN CERTAIN BUILDINGS OR GROUNDS.]

Subdivision 1. *Except as otherwise provided in subdivision 1a,* any person who ~~shall introduce upon, or have in possession upon, or in,~~ *introduces or possesses an alcoholic beverage, as defined in section 340A.101, on* any school ground, or *in* any schoolhouse or school building, ~~any alcoholic beverage as defined in section 340A.101, except for~~ *is guilty of a misdemeanor.*

Subd. 1a. [EXCEPTIONS.] *Subdivision 1 does not apply to the following:*

(1) experiments in laboratories ~~and except for~~*;*

(2) those organizations who have been issued temporary licenses to sell nonintoxicating malt liquor pursuant to section 340A.403, subdivision 2~~, and~~*;*

(3) any person possessing nonintoxicating malt liquor as a result of a purchase from those organizations holding temporary licenses pursuant to section 340A.403, subdivision 2~~, shall be guilty of a misdemeanor~~*; or*

(4) the possession or use of alcoholic beverages in an alcohol use awareness program that is held at a post-secondary school, sponsored or approved by the school, and limited to persons 21 years old or older.

Subd. 2. Any person who except by prescription of a licensed physician or permission of the hospital administrator shall introduce upon, or have in possession upon, or in, any state hospital or grounds thereof under the responsibility of the commissioner of human services any alcoholic beverage as defined in section 340A.101, shall be guilty of a misdemeanor.

Sec. 12. Laws 1989, chapter 5, section 3, is amended to read:

Sec. 3. [609.396] [UNAUTHORIZED PRESENCE AT CAMP RIPLEY.]

Subdivision 1. [MISDEMEANOR.] *A person is guilty of a misdemeanor if the person intentionally and without authorization of the adjutant general enters or is present on the Camp Ripley military reservation.*

Subd. 2. [FELONY.] A person is guilty of a felony and may be sentenced to not more than five years imprisonment or to payment of a fine of not more than $10,000, or both, if:

(1) the person intentionally enters or is present ~~without authorization of the adjutant general~~ in an area at the Camp Ripley military reservation that

is posted by order of the adjutant general as restricted for weapon firing or other hazardous military activity; and

(2) the person knows that doing so creates a risk of death, bodily harm, or serious property damage.

Sec. 13. [INSTRUCTION TO REVISOR; REFERENCE CHANGE.]

The revisor of statutes shall change the reference to Minnesota Statutes, section 609.55, subdivision 1, in section 609.605, subdivision 1, clause (10), to section 609.52, subdivision 1, clause (10).

Sec. 14. [REPEALER.]

Minnesota Statutes 1988, sections 609.53, subdivisions 1a, 3, and 3a, is repealed. Minnesota Statutes 1988, section 609.55, as amended by Laws 1989, chapter 5, sections 5, 6, and 7, is repealed.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective August 1, 1989, and apply to crimes committed on or after that date.

ARTICLE 8

FIRE DEPARTMENT ACCESS TO

CRIMINAL HISTORY DATA

Section 1. [299F.035] [FIRE DEPARTMENT ACCESS TO AND USE OF CRIMINAL HISTORY DATA.]

Subdivision 1. [DEFINITIONS.] *(a) The definitions in this subdivision apply to this section.*

(b) "Criminal history data" has the meaning given in section 13.87.

(c) "Criminal justice agency" has the meaning given in section 299C.46, subdivision 2.

(d) "Fire department" has the meaning given in section 299F.092, subdivision 6.

(e) "Private data" has the meaning given in section 13.02, subdivision 12.

Subd. 2. [ACCESS TO DATA.] *The superintendent of the bureau of criminal apprehension, in consultation with the state fire marshal, shall develop and implement a plan for fire departments to have access to criminal history data. The plan must include:*

(1) security procedures to prevent unauthorized use or disclosure of private data; and

(2) a procedure for the hiring authority in each fire protection agency to fingerprint job applicants, submit requests to the bureau of criminal apprehension, and obtain state and federal criminal history data reports for a nominal fee.

Subd. 3. [RELATION OF CONVICTION TO FIRE PROTECTION.] *Criminal history data may be used in assessing fire protection agency job applicants only if the criminal history data are directly related to the position of employment sought.*

Subd. 4. [DETERMINATION OF RELATIONSHIP.] *In determining if*

criminal history data are directly related to the position of employment sought, the hiring authority may consider:

(1) the nature and seriousness of the criminal history data on the job applicant;

(2) the relationship of the criminal history data to the purposes of regulating the position of employment sought; and

(3) the relationship of the criminal history data to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment sought.

Sec. 2. Minnesota Statutes 1988, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

This chapter shall not apply to the practice of law enforcement, *to fire protection agencies,* to eligibility for a family day care license, a family foster care license, a home care provider license, or to eligibility for school bus driver endorsements. Nothing in this section shall be construed to preclude the Minnesota police and peace officers training board *or the state fire marshal* from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement *or fire protection agencies.*

Sec. 3. Minnesota Statutes 1988, section 626.52, subdivision 3, is amended to read:

Subd. 3. [REPORTING BURNS.] A health professional shall ~~immediately~~ *file a written* report *with the state fire marshal within 72 hours after being notified of* a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death. ~~The health professional shall make the initial report by telephoning the burn hotline in order to allow the proper law enforcement or other investigatory authority to be notified. Within 72 hours, the professional shall also file a written report with~~ The state fire marshal~~, on a~~ *shall provide the* form ~~provided by the fire marshal~~ *for the report.*

ARTICLE 9

DRUG POLICY PROGRAMS

Section 1. [299A.29] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *For purposes of sections 1 to 8, the following terms have the meanings given them in this section.*

Subd. 2. [DEMAND REDUCTION.] *"Demand reduction" means an activity carried on by a drug program agency that is designed to reduce demands for drugs, including education, prevention, treatment, and rehabilitation programs.*

Subd. 3. [DRUG.] *"Drug" means a controlled substance as defined in section 152.01, subdivision 4.*

Subd. 4. [DRUG PROGRAM AGENCY.] *"Drug program agency" means an agency of the state, a political subdivision of the state, or the United*

States government that is involved in demand reduction or supply reduction.

Subd. 5. [SUPPLY REDUCTION.] *"Supply reduction" means an activity carried on by a drug program agency that is designed to reduce the supply or use of drugs, including law enforcement, eradication, and prosecutorial activities.*

Sec. 2. [299A.30] [OFFICE OF DRUG POLICY.]

Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] *The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees in the unclassified service. The assistant commissioner shall coordinate the activities of drug program agencies and serve as staff to the drug abuse prevention resource council.*

Subd. 2. [DUTIES.] *(a) The assistant commissioner shall gather and make available information on demand reduction and supply reduction throughout the state, foster cooperation among drug program agencies, and assist agencies and public officials in training and other programs designed to improve the effectiveness of demand reduction and supply reduction.*

(b) The assistant commissioner shall coordinate the distribution of funds received by the state of Minnesota through the federal Anti-Drug Abuse Act. The assistant commissioner may obtain technical assistance from the state planning agency to perform this function. The assistant commissioner shall recommend to the commissioner recipients of grants under sections 5 and 6, after consultation with the drug abuse prevention resource council.

(c) The assistant commissioner shall:

(1) after consultation with all drug program agencies operating in the state, develop a state drug strategy encompassing the efforts of those agencies and taking into account all money available for demand reduction and supply reduction, from any source;

(2) submit the strategy to the governor and the legislature by January 15 of each year, along with a summary of demand reduction and supply reduction during the preceding calendar year;

(3) assist appropriate professional and occupational organizations, including organizations of law enforcement officers, prosecutors, and educators, in developing and operating informational and training programs to improve the effectiveness of demand reduction and supply reduction; and

(4) provide information and assistance to drug program agencies, both directly and by functioning as a clearinghouse for information from other drug program agencies.

Sec. 3. [299A.31] [DRUG ABUSE PREVENTION RESOURCE COUNCIL; ESTABLISHMENT; MEMBERSHIP.]

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] *A drug abuse prevention resource council consisting of 18 members is established. The commissioners of public safety, education, health, human services, and the state planning agency, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the subcommittee on committees of the senate shall each*

appoint a legislative member. The governor shall appoint an additional ten members who shall demonstrate knowledge in the area of drug abuse prevention, shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following groups: parents, educators, clergy, local government, racial and ethnic minority communities, professional providers of drug abuse prevention services, volunteers in private, nonprofit drug prevention programs, and the business community. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

Subd. 2. [ACCEPTANCE OF FUNDS AND DONATIONS.] *The council may accept federal money, gifts, donations, and bequests for the purpose of performing the duties set forth in this section and section 4. The council shall use its best efforts to solicit funds from private individuals and organizations to match state appropriations.*

Sec. 4. [299A.32] [RESPONSIBILITIES OF THE COUNCIL.]

Subdivision 1. [PURPOSE OF THE COUNCIL.] *The general purpose of the council is to foster the coordination and development of a statewide drug abuse prevention policy.*

Subd. 2. [SPECIFIC DUTIES AND RESPONSIBILITIES.] *In furtherance of the general purpose specified in subdivision 1, the council has the following duties and responsibilities:*

(1) it shall develop a coordinated, statewide drug abuse prevention policy;

(2) it shall develop a mission statement that defines the roles and relationships of agencies operating within the continuum of chemical health care;

(3) it shall develop guidelines for drug abuse prevention program development and operation based on its research and program evaluation activities;

(4) it shall assist local governments and groups in planning, organizing, and establishing comprehensive, community-based drug abuse prevention programs and services;

(5) it shall coordinate and provide technical assistance to organizations and individuals seeking public or private funding for drug abuse prevention programs, and to government and private agencies seeking to grant funds for these purposes;

(6) it shall assist providers of drug abuse prevention services in implementing, monitoring, and evaluating new and existing programs and services;

(7) it shall provide information on and analysis of the relative public and private costs of drug abuse prevention, enforcement, intervention, and treatment efforts; and

(8) it shall advise the assistant commissioner of the office of drug policy in awarding grants and in other duties.

Subd. 3. [ANNUAL REPORT.] *On or before February 1, 1991, and each year thereafter, the council shall submit a written report to the legislature describing its activities during the preceding year, describing efforts that have been made to enhance and improve utilization of existing resources*

and to identify deficits in prevention efforts, and recommending appropriate changes, including any legislative changes that it considers necessary or advisable in the area of drug abuse prevention policy, programs, or services.

Sec. 5. [299A.33] [DRUG ABUSE RESISTANCE EDUCATION PROGRAM.]

Subdivision 1. [PROGRAM.] *The drug abuse resistance education program assists law enforcement agencies or school districts by providing grants to enable peace officers to undergo the training described in subdivision 3. Grants may be used to cover the cost of the training as well as reimbursement for actual, reasonable travel and living expenses incurred in connection with the training. The commissioner shall administer the program, shall promote it throughout the state, and is authorized to receive money from public and private sources for use in carrying it out. For purposes of this section, "law enforcement agency" means a police department or sheriff's office.*

Subd. 2. [GRANTS.] *A law enforcement agency or a school district may apply to the commissioner for a grant under subdivision 1.*

Subd. 3. [TRAINING PROGRAM.] *The bureau of criminal apprehension shall develop a program to train peace officers to teach a curriculum on drug abuse resistance in schools. The training program must be approved by the commissioner.*

Subd. 4. [AVAILABILITY OF PEACE OFFICER TRAINING.] *The training described in subdivision 3 is available on a voluntary basis to local law enforcement agencies and school districts.*

Subd. 5. [COORDINATION OF ACTIVITIES.] *If the commissioner receives grant requests from more than one applicant for programs to be conducted in a single school district, the commissioner shall require the applicants to submit a plan for coordination of their training and programs.*

Subd. 6. [REPORTS.] *The commissioner may require grant recipients to account to the director at reasonable time intervals regarding the use of the grants and the training and programs provided.*

Sec. 6. [299A.34] [LAW ENFORCEMENT AND COMMUNITY GRANTS.]

Subdivision 1. [GRANT PROGRAMS.] *(a) The commissioner shall develop grant programs to:*

(1) assist law enforcement agencies in purchasing equipment, provide undercover buy money, and pay other nonpersonnel costs; and

(2) assist community and neighborhood organizations in efforts to prevent or reduce criminal activities in their areas, particularly activities involving youth and the use and sale of drugs.

(b) The commissioner shall by rule prescribe criteria for eligibility and the award of grants and reporting requirements for recipients.

Subd. 2. [SELECTION AND MONITORING.] *The drug abuse prevention resource council shall assist in the selection and monitoring of grant recipients.*

Sec. 7. [299A.35] [COMMUNITY CRIME REDUCTION PROGRAMS; GRANTS.]

Subdivision 1. [PROGRAMS.] *The commissioner shall, in consultation with the drug abuse prevention resource council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:*

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs; and

(4) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Subd. 2. [GRANT PROCEDURE.] *A local unit of government may apply for a grant by submitting an application with the commissioner. The applicant shall specify the following in its application:*

(1) a description of each program for which funding is sought;

(2) the amount of funding to be provided to the program;

(3) the geographical area to be served by the program; and

(4) statistical information as to the number of arrests in the geographical area for violent crimes and for crimes involving schedule I and II controlled substances. "Violent crime" includes a violation of or an attempt or conspiracy to violate any of the following laws: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; and any provision of chapter 152 that is punishable by a maximum term of imprisonment greater than ten years.

The commissioner shall give priority to funding programs in the geographical areas that have the highest crime rates, as measured by the data supplied under clause (4), and that demonstrate substantial involvement by members of the community served by the program. The maximum amount that may be awarded to an applicant is $25,000.

Subd. 3. [REPORT.] *An applicant that receives a grant under this section shall provide the commissioner with a summary of how the grant funds were spent and the extent to which the objectives of the program were achieved. The commissioner shall submit a written report with the legislature based on the information provided by applicants under this subdivision.*

Sec. 8. [299A.36] [OTHER DUTIES.]

The assistant commissioner assigned to the office of drug policy, in consultation with the drug abuse prevention resource council, shall:

(1) provide information and assistance upon request to school preassessment teams established under section 126.034 and school and community advisory teams established under section 126.035;

(2) provide information and assistance upon request to the state board of pharmacy with respect to the board's enforcement of chapter 152;

(3) cooperate with and provide information and assistance upon request to the alcohol and other drug abuse section in the department of human services.

(4) assist in coordinating the policy of the office with that of the narcotic enforcement unit in the bureau of criminal apprehension; and

(5) coordinate the activities of the regional drug task forces, provide assistance and information to them upon request, and assist in the formation of task forces in areas of the state in which no task force operates.

Sec. 9. [299A.37] [COOPERATION OF OTHER AGENCIES.]

State agencies, and agencies and governing bodies of political subdivisions, shall cooperate with the assistant commissioner assigned to the office of drug policy and shall provide any public information requested by the assistant commissioner assigned to the office of drug policy.

Sec. 10. [299A.38] [SOFT BODY ARMOR REIMBURSEMENT.]

Subdivision 1. [DEFINITIONS.] *As used in this section:*

(a) "Commissioner" means the commissioner of public safety.

(b) "Peace officer" means a person who is licensed under section 626.84, subdivision 1, paragraph (c).

(c) "Vest" means bullet-resistant soft body armor that is flexible, concealable, and custom fitted to the peace officer to provide ballistic and trauma protection.

Subd. 2. [STATE AND LOCAL REIMBURSEMENT.] *Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of one-third of the vest's purchase price or $165. The political subdivision that employs the peace officer shall pay at least the lesser of one-third of the vest's purchase price or $165.*

Subd. 3. [ELIGIBILITY REQUIREMENTS.] *(a) Only vests that either meet or exceed the requirements of standard 0101.01 of the National Institute of Justice in effect on December 30, 1986, or that meet or exceed the requirements of that standard, except wet armor conditioning, are eligible for reimbursement.*

(b) Eligibility for reimbursement is limited to vests bought after December 31, 1986, by or for peace officers (1) who did not own a vest meeting the requirements of paragraph (a) before the purchase, or (2) who owned a vest that was at least six years old.

Subd. 4. [RULES.] *The commissioner may adopt rules under chapter 14 to administer this section.*

Subd 5. [LIMITATION OF LIABILITY.] *A state agency, political subdivision of the state, or state or local government employee that provides reimbursement for purchase of a vest under this section is not liable to a peace officer or the peace officer's heirs for negligence in the death of or injury to the peace officer because the vest was defective or deficient.*

Subd. 6. [RIGHT TO BENEFITS UNAFFECTED.] *A peace officer who is reimbursed for the purchase of a vest under this section and who suffers injury or death because the officer failed to wear the vest, or because the officer wore a vest that was defective or deficient, may not lose or be denied a benefit or right, including a benefit under section 176B.04, to which the officer, or the officer's heirs, is otherwise entitled.*

Sec. 11. Minnesota Statutes 1988, section 388.14, is amended to read:

388.14 [CONTINGENT FUND; EXPENSES.]

The county board may set apart yearly a sum, not exceeding ~~$5,000~~ *$7,500*, except in counties containing cities of the first class, where the sum shall not exceed ~~$7,500~~ *$10,000*, as a contingent fund for defraying necessary expenses not especially provided for by law, in preparing and trying criminal cases, conducting investigations by the grand jury, making contributions to a statewide county attorney's organization, and paying the necessary expenses of the county attorney incurred in the business of the county. All disbursements from such fund shall be made upon written request of the county attorney by auditor's warrant, countersigned by a judge of the district court. Any balance remaining at the end of the year shall be transferred to the revenue fund.

Sec. 12. [STUDY AND REPORT.]

In consultation with the drug abuse prevention resource council, the assistant commissioner of the office of drug policy shall review existing drug abuse prevention programs and shall develop and recommend to the governor and the legislature a statewide drug abuse prevention policy that emphasizes local efforts and a coordinated approach. The policy must seek to make most efficient use of available money and other resources and to use existing agencies or organizations whenever possible. The report and recommendations must be submitted before January 1, 1991.

Sec. 13. [TRANSFER OF DRUG PREVENTION PROGRAM.]

Responsibility to administer the federal Anti-Drug Abuse Act in Minnesota is transferred under Minnesota Statutes, section 15.039, from the commissioner of state planning to the commissioner of public safety.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 9 and 12 are effective the day following final enactment. Section 13 is effective October 1, 1989.

ARTICLE 10

DRIVING WHILE INTOXICATED PROVISIONS

Section 1. Minnesota Statutes 1988, section 169.121, subdivision 1, is amended to read:

Subdivision 1. [CRIME.] It is a ~~misdemeanor~~ *crime* 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, as defined in section 152.01, subdivision 4;

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

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

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

(f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle.

Sec. 2. Minnesota Statutes 1988, section 169.121, subdivision 1a, is amended to read:

Subd. 1a. [REFUSAL TO SUBMIT TO TESTING; CRIME.] *It is a crime for any person to refuse to submit to a chemical test of the person's blood, breath, or urine under section 169.123 if the person's license has been revoked once within the past five years, or two or more times within the past ten years, under any of the following: this section, or section 169.123, 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), or 609.21, subdivision 4, clause (2) or (3).*

Subd. 1b. [ARREST.] A peace officer may lawfully arrest a person for violation of subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

When a peace officer has probable cause to believe that a person is driving or operating a motor vehicle in violation of subdivision 1, and before a stop or arrest can be made the person escapes from the geographical limits of the officer's jurisdiction, the officer in fresh pursuit of the person may stop or arrest the person in another jurisdiction within this state and may exercise the powers and perform the duties of a peace officer under sections 169.121 and 169.123. An officer acting in fresh pursuit pursuant to this subdivision is serving in the regular line of duty as fully as though within the officer's jurisdiction.

The express grant of arrest powers in this subdivision does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 or section 629.40 in cases of arrests for violation of subdivision 1 or any other provision of law.

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

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

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

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

~~(b) A person who violates this section or an ordinance in conformity with it,~~ *or* within ten years of two or more prior *impaired driving* convictions ~~under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them~~. For purposes of this ~~subdivision~~ *paragraph, a prior*

impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), section 169.129, section 361.12, subdivision 1, section 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication ~~under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is a prior conviction~~ *that would have been a prior impaired driving conviction if committed by an adult.*

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

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

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

Sec. 4. Minnesota Statutes 1988, section 169.121, subdivision 3b, is amended to read:

Subd. 3b. [HABITUAL OFFENDERS; CHEMICAL USE TREATMENT.] If a person has been convicted under ~~this section~~ *subdivision 1*, 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 if the person is then convicted of violating ~~this section~~ *subdivision 1*, section 169.129, or an ordinance in conformity with either of them (1) once within five years of the first conviction or (2) two or more times within ten years after the first conviction, the court must order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.

If a person is convicted under section 169.121, subdivision 1a, the court shall order the person to submit to the level of care recommended in the chemical use assessment required under section 169.126.

Sec. 5. Minnesota Statutes 1988, 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 that person's 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 may be subject to criminal penalties, and* 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 the person 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 the person 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 someone of the person's own choosing; and

(5) that if the person refuses to take a test, the refusal will be offered into evidence against the person 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. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 6. Minnesota Statutes 1988, section 169.126, subdivision 4, is amended to read:

Subd. 4. [CHEMICAL USE ASSESSMENT.] (a) Except as otherwise provided in paragraph (d), when an alcohol problem screening shows that the defendant has an identifiable chemical use problem, the court shall require the defendant to undergo a comprehensive chemical use assessment conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. *Notwithstanding section 13.82, the assessor shall have access to any police reports, laboratory test results, and other law enforcement data relating to the current offense or previous offenses that are necessary to complete the evaluation.* An assessor providing a chemical use assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If an independent assessor is not available, the court may use the services of an assessor authorized to perform assessments for the county social services agency under a variance granted under rules adopted by the commissioner of human services under section 254A.03, subdivision 3. An appointment for the defendant to undergo the chemical use assessment shall be made by the court, a court services probation officer, or the court administrator as soon as possible but in no case more than one week after the defendant's court appearance. The comprehensive chemical use assessment must be completed no later than ~~two~~ *three* weeks after the ~~appointment date~~ *defendant's*

court appearance. If the assessment is not performed within this time limit, the county where the defendant is to be sentenced shall perform the assessment. The county of financial responsibility shall be determined under chapter 256G.

(b) The chemical use assessment report must include a recommended level of care for the defendant in accordance with the criteria contained in rules adopted by the commissioner of human services under section 254A.03, subdivision 3.

(c) The state shall reimburse the county for the entire cost of each chemical use assessment and report at a rate established by the department of human services up to a maximum of $100 in each case. The county may not be reimbursed for the cost of any chemical use assessment or report not completed within the time limit provided in this subdivision. Reimbursement to the county must be made from the special account established in subdivision 4a.

(d) If the preliminary alcohol problem screening is conducted by an assessor qualified under rules adopted by the commissioner of human services under section 254A.03, subdivision 3, consists of a comprehensive chemical use assessment of the defendant, and complies with the chemical use assessment report requirements of paragraph (b), it is a chemical use assessment for the purposes of this section and the court may not require the defendant to undergo a second chemical use assessment under paragraph (a). The state shall reimburse counties for the cost of alcohol problem screenings that qualify as chemical use assessments under this paragraph in the manner provided in paragraph (c) in lieu of the reimbursement provisions of section 169.124, subdivision 3.

Sec. 7. Minnesota Statutes 1988, section 609.21, is amended to read:

609.21 [CRIMINAL VEHICULAR OPERATION.]

Subdivision 1. [RESULTING IN DEATH.] Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a vehicle as defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in death and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both.

Subd. 2. [RESULTING IN INJURY.] Whoever causes great bodily harm to another, as defined in section 609.02, subdivision 8, not constituting attempted murder or assault as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more,

is guilty of criminal vehicular operation resulting in injury and may be sentenced to imprisonment for not more than ~~three~~ *five* years or the payment of a fine of not more than ~~$5,000~~ *$10,000*, or both.

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] Whoever causes the death of an unborn child as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~$10,000~~ *$20,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] Whoever causes great bodily harm, as defined in section 609.02, subdivision 8, to an unborn child who is subsequently born alive, as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than ~~$5,000~~ *$10,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective August 1, 1989, and apply to crimes committed and violations occurring on or after that date.

ARTICLE 11

COMMUNITY RESOURCE PROGRAM

Section 1. [DEFINITIONS.]

Subdivision 1. [SCOPE.] *The definitions in this section apply to sections 1 to 8.*

Subd. 2. [CITY.] *"City" means a city of the first class as defined in section 410.01.*

Subd. 3. [CITY COUNCIL.] *"City council" means the city council of a city as defined in subdivision 2.*

Subd. 4. [COMMUNITY RESOURCE PROGRAM.] *"Community*

resource program" or "program" means a community resource program adopted according to section 3.

Subd. 5. [TARGETED NEIGHBORHOOD.] *"Targeted neighborhood" means an area including one or more census tracts as determined and measured by the Bureau of Census of the United States Department of Commerce that a city council determines by resolution meets the criteria of section 2, subdivision 2, and any additional area designated under section 2.*

Subd. 6. [ASSISTED HOUSING.] *"Assisted housing" means:*

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

(2) the housing is defined as an emergency shelter or transitional housing under section 272.02, clause (12) or (19);

(2) the housing is classified as class 5c property under section 273.13, subdivision 25, paragraph (c), clause (4); or

(4) the housing is a building that receives a low-income housing credit under section 242 of the Internal Revenue Code of 1986; or which meets the requirements of that section, and was under construction or rehabilitation prior to May 1, 1988.

Sec. 2. [DESIGNATION OF TARGETED NEIGHBORHOODS.]

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

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

(1) the area had an unemployment rate that was twice the unemployment rate for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census;

(2) the median household income in the area was no more than half the median household income for the Minneapolis and St. Paul standard metropolitan statistical area as determined by the 1980 federal census; or

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

Subd. 3. [ADDITIONAL AREA ELIGIBLE FOR INCLUSION IN TARGETED NEIGHBORHOOD.] *(a) The city may add to the area designated as a targeted neighborhood under subdivision 2 a contiguous area of one-half mile in all directions from the designated targeted neighborhood.*

(b) Assisted housing is also considered a targeted neighborhood.

Sec. 3. [COMMUNITY RESOURCES PROGRAMS.]

Subdivision 1. [COMMUNITY RESOURCES PROGRAM; REQUIREMENT.] *A city must prepare a comprehensive community resources program. The program must describe the specific community resource services*

and means by which the city intends to pursue and implement the program objectives outlined in subdivision 2 for each targeted neighborhood served under the program and the community initiatives program described in section 4.

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

(1) increasing community safety and reducing crime;

(2) enhancing family stability including school readiness;

(3) providing opportunities for residents to become self-supporting; and

(4) building the capacity of neighborhood-based organizations to create cohesiveness and stability in their communities.

Subd. 3. [COMMUNITY PARTICIPATION.] *A city must adopt a process to involve the residents in targeted neighborhoods in planning, developing, and implementing the community resource program.*

Subd. 4. [ADVISORY COMMITTEE.] *The city council of a city requesting state financial assistance under section 5 shall establish an advisory council to assist the city in developing and implementing a community resource program. The advisory committee may include, but is not limited to: city council members, county commissioners, school board members, community service representatives, business community representatives, and resident representatives of targeted neighborhoods. The city may designate an existing entity as the advisory committee if the entity meets the membership requirements outlined in this subdivision.*

Subd. 5. [PROGRAM APPROVAL.] *A city may approve or modify a community resource program only after holding a public hearing. Notice of the hearing must be provided in a newspaper of general circulation in the city and in the targeted neighborhoods not less than ten days nor more than 30 days before the date of the hearing. In addition, the notice shall be published in the most widely circulated community newspaper in the targeted neighborhoods.*

Sec. 4. [COMMUNITY INITIATIVES PROGRAM.]

A city may establish a community initiatives program as part of the community resource plan. No more than ten percent of the community resource money may be distributed under the community initiatives program. State money used for the community initiatives program must be used for implementing activities included in the community resources program. Financial assistance or service contracts awarded to a single nonprofit organization under this subdivision are limited to $10,000 annually.

Sec. 5. [PAYMENT AND ALLOCATION.]

Subdivision 1. [PAYMENT OF STATE MONEY.] *Upon receiving from a city the certification that a community resources program has been adopted or modified, the commissioner of state planning shall, within 30 days after receiving the certification, pay to the city the amount of state money identified as necessary to implement the community resources program. State money may be paid to the city only to the extent that the appropriation limit for the city specified in subdivision 2 is not exceeded.*

Subd. 2. [ALLOCATION.] *Appropriation to each city shall be in proportion to the city's portion of the combined population of the cities. The*

population of each city is determined by the most recent estimates available to the commissioner.

Sec. 6. [ELIGIBLE USES FOR COMMUNITY RESOURCE MONEY.]

Subdivision 1. [ELIGIBLE USES.] *The city may use up to 20 percent of the community resource money for low-income housing needs and economic development in targeted neighborhoods. Not more than 40 percent of this amount may be used to address low-income housing needs citywide.*

If a resident of a targeted neighborhood is a recipient of resource services and moves to a residence in another part of the city, eligibility continues for the community resources services.

Subd. 2. [WAY TO GROW.] *The city of Minneapolis shall spend $350,000 of the funds received by the city under section 5 on the Minneapolis way to grow program.*

Sec. 7. [CITY POWERS.]

A city may exercise any of its corporate powers in implementing the community resources program. In addition to the authority granted by other law, a city, through a request for proposal process, may make grants, loans, and other forms of assistance to and enter into service contracts with, individuals, for profit and nonprofit corporations, and other organizations to implement a community resources program.

Sec. 8. [ANNUAL REPORT.]

A city must provide an annual report on the status of the program implementation and analyze whether the intended objectives are being achieved. The report should be presented to the commissioner and the legislature.

ARTICLE 12

MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM

Section 1. [299A.40] [MULTIDISCIPLINARY CHEMICAL ABUSE PREVENTION TEAM.]

Subdivision 1. [ESTABLISHMENT OF TEAM.] *A county, a multicounty organization of counties formed by an agreement under section 471.59, or a city with a population of no more than 50,000, may establish a multidisciplinary chemical abuse prevention team. The chemical abuse prevention team may include, but not be limited to, representatives of health, mental health, public health, law enforcement, educational, social service, court service, community education, religious, and other appropriate agencies, and parent and youth groups. For purposes of this section, "chemical abuse" has the meaning given in Minnesota Rules, part 9530.6605, subpart 6. When possible the team must coordinate its activities with existing local groups, organizations, and teams dealing with the same issues the team is addressing.*

Subd. 2. [DUTIES OF TEAM.] *(a) A multidisciplinary chemical abuse prevention team shall:*

(1) assist in coordinating chemical abuse prevention and treatment services provided by various groups, organizations, and agencies in the community;

(2) disseminate information on the chemical abuse prevention and treatment services that are available within the community in which the team is established;

(3) develop and conduct educational programs on chemical abuse prevention for adults and youth within the community in which the team is established;

(4) conduct activities to address other high-risk behaviors related to chemical abuse, including, but not limited to, suicide, delinquency, and family violence; and

(5) conduct other appropriate chemical abuse prevention activities.

(b) The team, in carrying out its duties under this subdivision, must focus on chemical abuse issues and needs unique to the community in which the team is established. In defining the needs and goals of the team, the team shall consult with the governmental body of the city or county in which the team is established. When a team is established in a multicounty area, the team shall consult with representatives of the county boards of each county.

(c) The team, in carrying out its duties, shall comply with the government data practices act in chapter 13, and requirements for confidentiality of records under Code of Federal Regulations, title 42, sections 2.1 to 2.67, as amended through December 31, 1988, and section 254A.09.

Subd. 3. [GRANTS FOR DEMONSTRATION PROGRAM.] *The assistant commissioner of the office of drug policy may award a grant to a county, multicounty organization, or city, as described in subdivision 1, for establishing and operating a multidisciplinary chemical abuse prevention team. The assistant commissioner may approve up to five applications for grants under this subdivision. The grant funds must be used to establish a multidisciplinary chemical abuse prevention team to carry out the duties in subdivision 2.*

Subd. 4. [ASSISTANT COMMISSIONER; ADMINISTRATION OF GRANTS.] *The assistant commissioner shall develop a process for administering grants under subdivision 3. The process must be compatible with the community grant program administered by the state planning agency under the Drug Free Schools and Communities Act, Public Law Number 100-690. The process for administering the grants must include establishing criteria the assistant commissioner shall apply in awarding grants. The assistant commissioner shall issue requests for proposals for grants under subdivision 3. The request must be designed to obtain detailed information about the applicant and other information the assistant commissioner considers necessary to evaluate and select a grant recipient. The applicant shall submit a proposal for a grant on a form and in a manner prescribed by the assistant commissioner. The assistant commissioner shall award grants under this section so that 50 percent of the funds appropriated for the grants go to the metropolitan area comprised of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties, and 50 percent of the funds go to the area outside the metropolitan area. The process for administering the grants must also include procedures for monitoring the recipients' use of grant funds and reporting requirements for grant recipients.*

Sec. 2. [MONITORING AND REPORT OF CHEMICAL ABUSE PREVENTION TEAMS.]

The assistant commissioner of the office of drug policy shall monitor the activities of teams funded under the demonstration program for multidisciplinary chemical abuse prevention teams under section 1, and report to the legislature on or before January 1, 1991, on the teams' operation and progress."

Delete the title and insert:

"A bill for an act relating to crime; authorizing bonding for capital improvements; increasing penalties for controlled substance offenses; increasing penalties for murder and criminal sexual conduct; permitting courts to sentence dangerous offenders and career criminals to longer periods of incarceration; denying release to certain heinous murderers; increasing minimum parole eligibility date for persons serving a life sentence for first degree murder; increasing statutory maximum sentences for the crimes of failure to report an accident, failure to use a drug stamp, possessing explosives, restraint of trade, manslaughter in the second degree, criminal vehicular operation, assault, child abuse, parental kidnapping, manslaughter of an unborn child, assault of an unborn child, criminal sexual conduct in the fourth degree, perjury, fleeing a peace officer, negligently causing a fire, and bribery; making it a crime for a repeat DWI violator to refuse a breath test; permitting courts to sentence dangerous or patterned sex offenders to longer periods of incarceration and supervision; imposing a mandatory sentence for third criminal sexual conduct conviction; extending the statute of limitations for criminal sexual conduct; providing for sex offender treatment programs; creating a permissible inference that occupants of a room and drivers of automobiles knowingly possess controlled substances found there; lowering threshold for forfeiture of vehicles and real estate in connection with a controlled substance offense; requiring courts to order forfeiture of property subject to forfeiture; imposing a gross misdemeanor penalty for selling tobacco to a minor; establishing an office of drug policy in the department of public safety; requiring testing for and reporting of prenatal exposure to controlled substances; providing for coordination of drug programs; providing for the admissibility of DNA evidence; providing access to certain data; expanding the theft statute to include unauthorized use of a motor vehicle; authorizing a community resources program; authorizing establishing multidisciplinary chemical abuse prevention teams; appropriating money; amending Minnesota Statutes 1988, sections 14.02, subdivision 4; 152.01, subdivision 7, and by adding subdivisions; 152.096, subdivision 1; 152.097, by adding a subdivision; 152.151; 152.18, subdivision 1; 152.20; 152.21, subdivision 6; 169.09, subdivision 14; 169.121, subdivisions 1, 1a, 3, and 3b; 169.123, subdivision 2; 169.126, subdivision 4; 243.05, subdivision 1; 243.18; 243.55, subdivision 1; 244.04, subdivision 1; 244.05, subdivisions 1, 2, 3, 4, and 5; 244.09, subdivision 5; 253B.02, subdivisions 2 and 10; 260.125, subdivision 3; 260.185, subdivision 1; 297D.09, subdivision 1a; 299F.80, subdivision 1; 325D.56, subdivision 2; 340A.701; 340A.702; 364.09; 388.14; 526.10; 609.11, subdivisions 7 and 9; 609.185; 609.205; 609.21; 609.221; 609.222; 609.223; 609.2231, subdivision 1; 609.255, subdivision 3; 609.26, subdivisions 1 and 6; 609.2665; 609.267; 609.323, subdivision 1; 609.341, subdivision 11; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; 609.345, subdivision 2; 609.346, subdivisions 2 and 3, and by adding a subdivision; 609.377; 609.445; 609.48, subdivision 4; 609.487, subdivision 4; 609.52; 609.53, subdivisions 1 and 4; 609.531, subdivision 1; 609.5311, subdivision 3; 609.5314, subdivision 1; 609.5315, subdivision

1; 609.576; 609.62, subdivision 2; 609.631, subdivision 2; 609.685, subdivision 2, and by adding a subdivision; 609.86, subdivision 3; 611A.038; 624.701; 626.52, subdivision 3; 626.556, subdivision 2; and 628.26; Laws 1989, chapter 5, section 3; proposing coding for new law in Minnesota Statutes, chapters 121; 152; 241; 242; 243; 244; 299A; 299C; 299F; 609; 626; and 634; repealing Minnesota Statutes 1988, sections 152.09; 152.15, subdivisions 1, 2, 2a, 2b, 3, 4a, and 5; 609.53, subdivisions 1a, 3, and 3a; and 609.55 as amended."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Randy C. Kelly, Kathleen O. Vellenga, Kathleen A. Blatz, Lee Greenfield, Steve Wenzel

Senate Conferees: (Signed) Allan H. Spear, Donna C. Peterson, William P. Luther, Richard J. Cohen, Patrick D. McGowan

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on H.F. No. 59 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 59 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Waldorf moved that the following members be excused for a Conference Committee on S.F. No. 1625 at 3:00 p.m.:

Messrs. Waldorf, Dicklich, Taylor, DeCramer and Mrs. Brataas. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Merriam moved that the following members be excused for a Conference Committee on S.F. No. 321 at 5:00 p.m.:

Messrs. Merriam, Frank and Mrs. Brataas. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 738 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 738

A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 738, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 738 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 169.86, subdivision 5, is amended to read:

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

(a) $15 for each single trip permit.

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

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

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

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

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

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

(5) special pulpwood vehicles described in section 2.

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

(1) truck cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

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

(5) double-deck buses;

(6) commercial boat hauling.

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

Overweight Axle Group Cost Factors

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

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

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

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

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

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

restrictions pursuant to section 169.87 are in effect.

Sec. 2. [169.863] [SPECIAL PULPWOOD VEHICLE PERMIT.]

Subdivision 1. [SPECIAL VEHICLE.] *The commissioner may issue a permit for a vehicle that meets the following requirements:*

(a) There must be no more than two support points for the vehicle or for each vehicle of a vehicle combination. The support point of each axle group must be capable of distributing the load equally to each axle of the group with a variance of no more than 3,000 pounds between any two axles of the group.

(b) The maximum wheel load may not exceed the tire manufacturer's recommended load or the following weight limits, whichever is less:

(1) front steering axles, 550 pounds per inch;

(2) other single axles, 500 pounds per inch;

(3) tandem axles, 450 pounds per inch; and

(4) tridem or quad axle groups, 425 pounds per inch.

(c) The axle group weights must comply with the limitations of section 169.825, subdivision 10.

(d) The vehicle may not be equipped with a variable load axle, unless the variable load axle cannot be operated from the cab of the vehicle.

(e) The vehicle transports pole-length pulpwood, carries a gross vehicle weight of not more than 82,000 pounds, and has six axles.

Subd. 2. [PERMIT RESTRICTIONS.] *A vehicle operating under a permit issued under this section may not travel on an interstate highway. The permit does not authorize the vehicle to exceed allowable gross weights that restrict travel on a highway or bridge under the authority of the commissioner or a local road authority.*

Sec. 3. Minnesota Statutes 1988, section 219.071, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF COSTS.] If a grade-crossing surface, as defined in section 219.16, needs *improvement,* repair or maintenance, the cost for the *improvement,* repair or maintenance may be paid jointly by the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds available to the department for grade-crossing surfaces from the following sources:

(1) money appropriated to the department in the future for the purposes of this section;

(2) available federal funds allocated for the grade-crossing program established by this section; and

(3) money acquired by the department by gift, grant, or contribution from any source for purposes of this section.

Sec. 4. Minnesota Statutes 1988, section 219.072, is amended to read:

219.072 [ESTABLISHMENT OF NEW GRADE CROSSINGS.]

The establishment of all new grade crossings must be approved by the commissioner. When establishment of a new grade crossing is desired, either by the public officials having the necessary authority or by the

railroad company, and the public officials and the railroad company cannot agree as to need, location, or type of warning devices required, either party may file a petition with the commissioner setting forth the facts and submitting the matter for determination. The commissioner, after notice as the commissioner deems reasonable, shall conduct a hearing and issue an order determining the matters submitted. *If the commissioner approves the establishment of a new grade crossing, the commissioner may in the same order direct that the costs, including the costs of the type of warning devices required, be divided between the railroad company and the public authority involved as the parties may agree, or, if they fail to agree, then as determined by the commissioner on the basis of benefit to the users of each. However, the commissioner may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken.*

Sec. 5. Minnesota Statutes 1988, section 222.49, is amended to read:

222.49 [RAIL SERVICE IMPROVEMENT ACCOUNT.]

The rail service improvement account is created in the special revenue fund in the state treasury. The commissioner shall deposit in this account all money appropriated to or received by the department for the purpose of rail service improvement, including bond proceeds as authorized by Article XI, Section 5, Clause (i) of the Minnesota Constitution ~~and federal money, but excluding proceeds of state bonds or other funds appropriated to the commissioner from the state transportation fund for the acquisition or betterment of property pertaining to the state rail bank established by section 222.63, and excluding income of the state rail bank and any other funds appropriated for its maintenance or improvement~~. All money so deposited is appropriated to the department for expenditure for rail service improvement in accordance with applicable state and federal law. This appropriation shall not lapse but shall be available until the purpose for which it was appropriated has been accomplished. No money appropriated to the department for the purposes of administering the rail service improvement program shall be deposited in the rail service improvement account nor shall such administrative costs be paid from the account.

Sec. 6. Minnesota Statutes 1988, section 222.50, subdivision 4, is amended to read:

Subd. 4. The commissioner may negotiate and enter into contracts for the purpose of rail ~~line rehabilitation and for the purpose of assisting in the payment of up to 50 percent of the nonfederal share of a rehabilitation project under~~ *service improvement and may incorporate funds available from* the federal rail service continuation program. The participants in these contracts shall be railroads, rail users and the department, and may be political subdivisions of the state and the federal government. In such contracts, participation by all parties shall be voluntary. The commissioner may provide a portion of the money required to carry out the terms of any such contract by expenditure from the rail service improvement account.

Sec. 7. Minnesota Statutes 1988, section 222.50, subdivision 5, is amended to read:

Subd. 5. In making any contract pursuant to subdivision 4 the commissioner may:

(a) Stipulate minimum operating standards for rail lines designed to achieve reasonable transportation service for shippers and to achieve best use of funds invested in rail line rehabilitation;

(b) Require a portion of the total assistance for improving a rail line to be loaned to the railroad by rail users and require the railroad to reimburse rail users for any loan on the basis of use of the line and the revenues produced when the line has been improved; *and*

(c) Determine the terms and conditions under which all or any portion of state funds allocated shall be repaid to the department by the railroads. Reimbursement may be made as a portion of the increased revenue derived from the improved rail line. Any reimbursement received by the department pursuant to this clause shall be deposited in the rail service improvement account and shall be appropriated exclusively for rehabilitating other rail lines in the state pursuant to subdivision 4; and.

~~(d) Require, in lieu of reimbursement as provided in clause (c) of this subdivision, that the railroad establish and maintain a separate railroad fund to be used exclusively for rehabilitation of other rail lines in Minnesota, to which a portion of the increase in revenue derived from the improved rail line shall be credited. The terms and conditions for use of money in the fund shall be stipulated in the contract. The contract shall also stipulate a penalty for use of such money in a manner other than as set forth in the contract and require the railroad to report to the department at such times as the commissioner requires, concerning the disbursement of money from the fund and the general status of rail line improvements.~~

Sec. 8. Minnesota Statutes 1988, section 222.50, subdivision 7, is amended to read:

Subd. 7. The commissioner may expend money from the rail service improvement account for the following purposes:

(a) To pay interest adjustments on loans guaranteed under the state rail user loan guarantee program;

(b) To pay a portion of the costs of capital improvement projects designed to improve rail service including construction or improvement of short segments of rail line such as side track, team track and connections between existing lines, and construction and improvement of loading, unloading, storage and transfer facilities of a rail user;

(c) To acquire, maintain, manage and dispose of railroad right-of-way pursuant to ~~subdivision 8 and~~ the state rail bank program;

(d) To provide for aerial photography survey of proposed and abandoned railroad tracks for the purpose of recording and reestablishing by analytical triangulation the existing alignment of the inplace track; *or*

(e) To pay a portion of the costs of acquiring a rail line by a regional railroad authority established pursuant to chapter 398A.

All money derived by the commissioner from the disposition of railroad right-of-way or of any other property acquired pursuant to sections 222.46 to 222.62 shall be deposited in the rail service improvement account.

Sec. 9. Minnesota Statutes 1988, section 222.63, subdivision 8, is amended to read:

Subd. 8. [RAIL BANK MAINTENANCE AND IMPROVEMENT ACCOUNTS.] *A* special ~~accounts~~ *account* shall be maintained in the state treasury, designated as the rail bank maintenance account ~~and the rail bank improvement account~~, to record the receipts and expenditures of the commissioner of transportation for the maintenance ~~and for the acquisition and~~

~~betterment~~ of rail bank property. ~~Expenditures of proceeds of state transportation bonds and any other amounts appropriated to the commissioner from the state transportation fund shall be recorded in the improvement account.~~ Funds received by the commissioner of transportation from rentals, fees, or charges for the use of rail bank property shall be credited to the maintenance account and used for the maintenance of that property and held as a reserve for maintenance expenses in an amount determined by the commissioner, and amounts received in the maintenance account in excess of the reserve requirements shall be transferred to the *rail service* improvement account. All proceeds of the sale of abandoned rail lines shall be deposited in the *rail service* improvement account. ~~The improvement account shall be used only for the acquisition and betterment of abandoned rail lines and right-of-way.~~ All money to be deposited in ~~those accounts~~ *this rail service improvement account* as provided in this subdivision is appropriated to the commissioner of transportation for the purposes of this section. The appropriations shall not lapse but shall be available until the purposes for which the funds are appropriated are accomplished.

Sec. 10. Minnesota Statutes 1988, section 398A.02, is amended to read:

398A.02 [PURPOSE.]

The purpose of the regional railroad authorities act is to provide a means whereby one or more municipalities, with state and federal aids as may be available, may provide for the preservation and improvement of local rail service for agriculture, industry, or passenger traffic *and provide for the preservation of abandoned rail right-of-way for future transportation uses,* when determined to be practicable and necessary for the public welfare, particularly in the case of abandonment of local rail lines.

Sec. 11. [REPEALER.]

Minnesota Statutes 1988, section 222.50, subdivision 8, is repealed."

Amend the title as follows:

Page 1, line 2, delete "traffic regulations" and insert "transportation"

Page 1, line 4, after the second semicolon insert "providing for payment of costs for improving or establishing railroad grade crossings; clarifying source and providing for expenditures of rail service improvement funds; authorizing commissioner of transportation to enter into contracts for rail service improvement and to use federal funds; clarifying purposes of regional rail authorities;"

Page 1, line 5, delete "section" and insert "sections" and after the semicolon insert "219.071, subdivision 2; 219.072; 222.49; 222.50, subdivisions 4, 5, and 7; 222.63, subdivision 8; and 398A.02;"

Page 1, line 6, before the period insert "; repealing Minnesota Statutes 1988, section 222.50, subdivision 8"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) LeRoy A. Stumpf, Mel Frederick, Keith Langseth

House Conferees: (Signed) Edgar Olson, Jim Tunheim, Bernard L. Lieder

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 738 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

So the recommendations and Conference Committee Report were adopted.

S.F. No. 738 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 49 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Knaak	Metzen	Samuelson
Anderson	Decker	Knutson	Moe, R.D.	Schmitz
Beckman	Diessner	Laidig	Olson	Solon
Belanger	Frederick	Langseth	Pariseau	Spear
Benson	Frederickson, D.J.	Lantry	Piper	Storm
Berg	Frederickson, D.R.	Luther	Pogemiller	Stumpf
Berglin	Freeman	Marty	Purfeerst	Taylor
Bertram	Gustafson	McGowan	Ramstad	Vickerman
Brandl	Johnson, D.E.	McQuaid	Reichgott	Waldorf
Chmielewski	Johnson, D.J.	Mehrkens	Renneke	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 139 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 139

A bill for an act relating to liquor; increasing age for provisional driver's license to 21 years; changing provisional licenses to "under-21" licenses; prohibiting the issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages; providing penalty for misuse of Minnesota identification card; increasing the period for suspension of a drivers license for use of a license to illegally purchase alcohol; including other forms of identification and persons who lend identification; increasing the penalty for counterfeiting a drivers license or Minnesota identification card; prohibiting lending any form of identification for use by an underage person to purchase alcohol; clarifying the application of the carding defense for illegal sales; providing for transfer of confiscated identification; amending Minnesota Statutes 1988, sections 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 340A.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 139, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 139 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 168.123, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS; FEES.] The registrar shall issue special license plates to an applicant who served in the active military service in a branch of the armed forces of the United States, was discharged under honorable conditions, and is an owner or joint owner of a motor vehicle included within the definition of a passenger automobile *or which is self-propelled recreational equipment*, on payment of a fee of $10 for each set of two plates, payment of the registration tax required by law, and compliance with other laws relating to registration and licensing of motor vehicles and drivers. The additional fee of $10 is payable for each set of plates, is payable only when the plates are issued, and is not payable in a year in which tabs or stickers are issued instead of number plates. An applicant must not be issued more than two sets of plates for vehicles owned or jointly owned by the applicant.

The veteran shall have a certified copy of the veteran's discharge papers, indicating character of discharge, at the time of application.

Sec. 2. Minnesota Statutes 1988, section 168.125, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE AND DESIGN.] The registrar shall issue special license plates bearing the inscription "EX-POW" to any applicant who is both a former prisoner of war and an owner or joint owner of a motor vehicle upon the applicant's compliance with all the laws of this state relating to the registration and licensing of motor vehicles and drivers. The special license plates shall be of a design and size to be determined by the commissioner. Plates bearing the "EX-POW" inscription may be issued for only one motor vehicle per applicant.

Application for issuance of these plates shall be made at the time of renewal or first application for registration. The application shall include a certification by the commissioner of veterans affairs that the applicant was a member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States during a period of armed conflict.

The applicant shall pay, in addition to the registration tax required by law, a fee for the special license plates issued under this section, in an amount calculated by the commissioner to cover the cost of the license plates. The additional fee is payable only when the plates are issued and no additional fee is payable in any year in which tabs or stickers are issued in lieu of number plates. All fees from the sale of the special license plates shall be paid into the state treasury and credited to the highway user tax distribution fund.

Notwithstanding the provisions of section 168.12, subdivision 1, the special license plates issued under this section may be transferred to another motor vehicle owned or jointly owned by the former prisoner of war upon the payment of a fee of $5. This fee shall be paid into the state treasury and credited to the highway user tax distribution fund.

Upon the death of a former prisoner of war, the registrar shall continue

to issue, upon renewal, the special license plates to a vehicle owned by the surviving spouse of the former prisoner of war. Special license plates issued to a surviving spouse may be transferred to another vehicle owned by the surviving spouse as provided in this subdivision.

For purposes of this section, "motor vehicle" means a passenger automobile, station wagon, pickup truck, motorcycle, or recreational vehicle.

Sec. 3. Minnesota Statutes 1988, section 169.345, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purpose of this section, "physically handicapped person" means a person who:

(1) because of disability cannot walk without significant risk of falling;

(2) because of disability cannot walk 200 feet without stopping to rest;

(3) because of disability cannot walk without the aid of another person, a walker, a cane, crutches, braces, a prosthetic device, or a wheelchair;

(4) is restricted by a respiratory disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one meter;

(5) has an arterial oxygen tension (PAO2) of less than 60 mm/hg on room air at rest;

(6) uses portable oxygen; ~~or~~

(7) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; *or*

(8) has a disability that would be aggravated by walking 200 feet under normal environmental conditions to an extent that would be life threatening.

Sec. 4. Minnesota Statutes 1988, section 171.02, subdivision 1, is amended to read:

Subdivision 1. No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon any street or highway in this state unless such person has a license valid under the provisions of this chapter for the type or class of vehicle being driven. No person shall receive a driver's license unless and until the person surrenders to the department all valid driver's licenses in possession issued to the person by any other jurisdiction. All surrendered licenses shall be returned by the department to the issuing department together with information that licensee is now licensed in new jurisdiction. No person shall be permitted to have more than one valid driver's license at any time. *No person may receive a driver's license, other than an instruction permit, unless the person surrenders to the department any Minnesota identification card issued to the person under section 171.07, subdivision 3.*

Sec. 5. Minnesota Statutes 1988, section 171.02, subdivision 3, is amended to read:

Subd. 3. [MOTORIZED BICYCLES.] No motorized bicycle shall be operated on any public roadway by any person who does not possess a valid driver's license, unless the person has obtained a motorized bicycle operator's permit or motorized bicycle instruction permit from the commissioner of public safety. The operator's permit may be issued to any

person who has attained the age of 15 years and who has passed the examination prescribed by the commissioner. The instruction permit may be issued to any person who has attained the age of 15 years and who has successfully completed an approved safety course and passed the written portion of the examination prescribed by the commissioner.

This course must consist of, but is not limited to, a basic understanding of:

(1) motorized bicycles and their limitations;

(2) motorized bicycle laws and rules;

(3) safe operating practices and basic operating techniques;

(4) helmets and protective clothing;

(5) motorized bicycle traffic strategies; and

(6) effects of alcohol and drugs on motorized bicycle operators.

The commissioner may promulgate rules prescribing the content of the safety course, examination, and the information to be contained on the permits. A person operating a motorized bicycle under a motorized bicycle permit is subject to the restrictions imposed by section 169.974, subdivision 2, on operation of a motorcycle under a two-wheel instruction permit.

The fees for motorized bicycle operator's permits are as follows:

(a) Examination and operator's permit, valid for one year	$6
(b) Duplicate	$3
(c) Renewal permit before age ~~19~~ *21* and valid until age ~~19~~ *21*	$9
(d) Renewal permit after age ~~19~~ *21* and valid for four years	$15
(e) Duplicate of any renewal permit	$4.50
(f) Written examination and instruction permit, valid for 30 days	$6

Sec. 6. Minnesota Statutes 1988, section 171.06, subdivision 2, is amended to read:

Subd. 2. [FEES.] (a) The fees for a license and Minnesota identification card are as follows:

Classified Driver License	C-$15	B-$22.50	A-$30
Classified ~~Provisional~~ *Under-21* D.L.	~~C-$9~~ *C-$15*	~~B-$15~~ *B-$22.50*	A-$10
Instruction Permit			$6
Duplicate Driver or ~~Provisional~~ *Under-21* License			$4.50
Minnesota identification card, except as otherwise provided in section 171.07, subdivisions 3 and 3a			$9

Sec. 7. Minnesota Statutes 1988, section 171.07, subdivision 1, is amended to read:

Subdivision 1. [LICENSE; CONTENTS.] The department shall, upon the payment of the required fee, issue to every applicant qualifying therefor a license designating the type or class of vehicles the applicant is authorized to drive as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and permanent mailing address if different, a description of the licensee in such manner as the commissioner deems necessary, and a space upon which the licensee shall write the usual signature and the date of birth of the licensee with pen and ink. No license shall be valid until it has been so signed by the licensee. Except in the case of an instruction permit, every license shall bear thereon a colored photograph of the licensee. Every license issued to an applicant under the age of ~~19~~ *21* shall be of a distinguishing color and plainly marked "~~provisional~~ *Under-21*." The department shall use such process or processes in the issuance of licenses that prohibits as near as possible, the ability to alter or reproduce the licenses, or prohibit the ability to superimpose a photo on such licenses without ready detection. A license issued to an applicant of age 65 or over shall be plainly marked "senior" if requested by the applicant.

Sec. 8. Minnesota Statutes 1988, section 171.07, subdivision 3, is amended to read:

Subd. 3. Upon payment of the required fee the department shall issue to every applicant therefor a Minnesota identification card. *The department may not issue a Minnesota identification card to a person who has a driver's license, other than an instruction permit.* The card must bear a distinguishing number assigned to the applicant, a colored photograph, the full name, date of birth, residence address, a description of the applicant in the manner as the commissioner deems necessary, and a space upon which the applicant shall write the usual signature and the date of birth of the applicant with pen and ink.

Each Minnesota identification card must be plainly marked "Minnesota identification card - not a driver's license." The fee for a Minnesota identification card issued to a person who is mentally retarded, as defined in section 252A.02, subdivision 2, is 50 cents.

Sec. 9. Minnesota Statutes 1988, section 171.171, is amended to read:

171.171 [SUSPENSIONS; ILLEGAL PURCHASE OF ALCOHOLIC BEVERAGES.]

The commissioner shall suspend for a period of ~~30~~ *90* days the license of a person *who:*

(1) is under the age of ~~19~~ *21* years ~~who~~ *and* is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340A.503 if the person used a drivers license ~~or~~, permit *or Minnesota identification card* to purchase or attempt to purchase the alcoholic beverage*; or*

(2) is convicted under section 171.22, subdivision 1, clause (2), or 340A.503, subdivision 2, clause (3), of lending or knowingly permitting a person under the age of 21 years to use the person's driver's license, permit or Minnesota identification card to purchase or attempt to purchase an alcoholic beverage.

Sec. 10. Minnesota Statutes 1988, section 171.22, is amended to read:

171.22 [UNLAWFUL ACTS.]

Subdivision 1. [ACTS.] It shall be unlawful for any person:

(1) to display, or cause or permit to be displayed, or have in possession, any canceled, revoked, suspended, fictitious, or fraudulently altered driver's license *or Minnesota identification card*;

(2) to lend the person's driver's license *or Minnesota identification card* to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license *or Minnesota identification card* not issued to that person;

(4) to fail or refuse to surrender to the department, upon its lawful demand, any driver's license *or Minnesota identification card* which has been suspended, revoked, or canceled;

(5) to use a fictitious name or date of birth to any police officer or in any application for a driver's license *or Minnesota identification card*, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(6) to alter any driver's license~~, or to counterfeit or make any fictitious license~~ *or Minnesota identification card*;

(7) to take any part of the driver's license examination for another or to permit another to take the examination for that person; ~~or~~

(8) *to make a counterfeit driver's license or Minnesota identification card; or*

(9) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer.

Subd. 2. [PENALTIES.] Any person who violates subdivision 1, clause (8) *or (9)*, is guilty of a gross misdemeanor. Any person who violates any other provision of subdivision 1 is guilty of a misdemeanor.

Sec. 11. Minnesota Statutes 1988, section 171.27, is amended to read:

171.27 [EXPIRATION OF LICENSES.]

The expiration date for each driver's license, other than ~~provisional~~ *under-21* licenses, is the birthday of the driver in the fourth year following the date of issuance of the license. The birthday of the driver shall be as indicated on the application for a driver's license. A license may be renewed on or before expiration or within one year after expiration upon application, payment of the required fee, and passing the examination required of all drivers for renewal. Driving privileges shall be extended or renewed on or preceding the expiration date of an existing driver's license unless the commissioner believes that the licensee is no longer qualified as a driver.

The expiration date for each ~~provisional~~ *under-21* license shall be the ~~19th~~ *21st* birthday of the licensee. Upon the ~~provisional~~ licensee attaining the age of ~~19~~ *21* and upon the application, payment of the required fee, and passing the examination required of all drivers for renewal, a driver's license shall be issued ~~if the commissioner deems the record of the provisional licensee to be satisfactory~~ *unless the commissioner determines that the licensee is no longer qualified as a driver*.

The expiration date for each provisional license issued before August 1, 1989, is the 19th birthday of the licensee. When a holder of a provisional license attains the age of 19, requires a duplicate license, or wants to obtain an updated under-21 license, and upon the payment of a $5 application fee and passing the examination required for renewal, an under-21 driver's license must be issued unless the commissioner believes that the licensee is no longer qualified as a driver. The expiration date of an under-21 license is the person's 21st birthday.

Any valid Minnesota driver's license issued to a person then or subsequently on active duty with the Armed Forces of the United States, or the person's spouse, shall continue in full force and effect without requirement for renewal until 90 days after the date of the person's discharge from such service, provided that a spouse's license must be renewed if the spouse is residing within the state at the time the license expires or within 90 days after the spouse returns to Minnesota and resides within the state.

Sec. 12. Minnesota Statutes 1988, section 260.195, subdivision 3, is amended to read:

Subd. 3. [DISPOSITIONS.] If the juvenile court finds that a child is a petty offender, the court may require the child to:

(a) Pay a fine of up to $100;

(b) Participate in a community service project;

(c) Participate in a drug awareness program; or

(d) Order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an inpatient or outpatient chemical dependency treatment program; or

(e) Perform any other activities or participate in any other treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license ~~or~~, permit *or Minnesota identification card* to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall ~~revoke~~ *suspend* the child's license or permit for a period of ~~30~~ *90* days.

None of the dispositional alternatives described in clauses (a) to (e) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Sec. 13. Minnesota Statutes 1988, section 340A.503, subdivision 2, is amended to read:

Subd. 2. [PURCHASING.] It is unlawful for any person:

(1) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age, except that a parent or guardian of a person under the age of 21 years may give or furnish alcoholic beverages to that person solely for consumption in the household of the parent or guardian;

(2) under the age of 21 years to purchase or attempt to purchase any alcoholic beverage; or

(3) to induce a person under the age of 21 years to purchase or procure any alcoholic beverage, *or to lend or knowingly permit the use of the person's driver's license, permit, Minnesota identification card, or other form of identification by a person under the age of 21 years for the purpose of purchasing or attempting to purchase an alcoholic beverage.*

Sec. 14. Minnesota Statutes 1988, section 340A.503, subdivision 6, is amended to read:

Subd. 6. [PROOF OF AGE; *DEFENSE.*] *(a)* Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid drivers license or Minnesota identification card, or in the case of a foreign national by a valid passport.

(b) In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in paragraph (a) in selling, bartering, furnishing, or giving the alcoholic beverage.

Sec. 15. Minnesota Statutes 1988, section 340A.801, is amended by adding a subdivision to read:

Subd. 3a. [DEFENSE.] *The defense described in section 340A.503, subdivision 6, applies to actions under this section.*

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective August 1, 1989, except that the designation of driver's licenses of persons under age 21 as "Under-21" licenses is effective January 1, 1990."

Delete the title and insert:

"A bill for an act relating to public safety; providing for special license plates for veterans who are owners of self-propelled recreational equipment; providing for disposition of POW plates to surviving spouses of former prisoners of war; defining physically handicapped person for purposes of parking privileges; prohibiting issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; changing driver's license classification from provisional to under-21 and changing expiration date to holder's 21st birthday; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages and increasing suspension period; providing penalty for misuse of Minnesota identification card or driver's license; increasing penalty for counterfeiting driver's license or Minnesota identification card; prohibiting lending of form of identification for use by minor to purchase alcoholic beverage; clarifying application of carding defense for illegal sale of alcoholic beverage; amending Minnesota Statutes 1988, sections 168.123, subdivision 1; 168.125, subdivision 1; 169.345, subdivision 2; 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Allan H. Spear, Richard J. Cohen, Fritz Knaak

House Conferees: (Signed) Alice M. Johnson, Arthur W. Seaberg, Chuck Brown

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 139 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 139 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 927 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 927: A bill for an act relating to traffic regulations; defining terms; subjecting driver of commercial motor vehicle to stricter federal standard on alcohol-related driving; providing for and regulating category of commercial driver's license and commercial motor vehicle drivers; authorizing Minnesota to join driver license compact; allowing exchange of driver license information with other states; promoting consolidated, complete driver record; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 168.011, subdivision 9; 169.01, subdivision 50, and by adding a subdivision; 169.123, subdivisions 1, 2, 4, 5, 5a, 5b, 5c, and 6; 171.01, subdivision 19, and by adding subdivisions; 171.02, subdivision 2; 171.03; 171.04; 171.06, subdivisions 2 and 3; 171.07, by adding a subdivision; 171.10, subdivision 2; 171.12, subdivision 2; 171.13, subdivision 5; 171.14; 171.16, subdivision 1; 171.18; 171.20; 171.22, subdivision 1; 171.24; and 171.30, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 169 and 171.

Mr. DeCramer moved to amend H.F. No. 927, as amended pursuant to Rule 49, adopted by the Senate May 18, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1200.)

Page 3, line 30, delete "*or a controlled substance*"

Page 7, line 19, delete "*an*" and insert "*the presence of any*"

Page 7, line 20, delete everything before "*and*"

Page 13, line 31, delete "*for trips*"

Page 14, line 4, strike "volunteer"

Page 21, line 15, after "*disqualification*" insert "*under this subdivision or subdivision 2*"

Page 22, line 36, delete the third "*section*"

Page 23, line 1, delete "*subdivision 3,*"

Page 23, delete lines 24 to 34 and insert:

"*(c) The commissioner shall notify the applicant or license holder in writing of the reconsideration decision within 15 working days after receiving the request for reconsideration. The disqualification takes effect 20 days after the person receives the reconsideration decision, unless the person requests a contested case hearing under subdivision 4.*

Subd. 4. [CONTESTED CASE.] *Within 20 days after receiving the reconsideration decision under subdivision 3, clause (c), a person may request a contested case hearing under chapter 14. A contested case hearing must be held within 20 days of the commissioner's receipt of the contested case hearing request, and the administrative law judge shall issue a report within 20 days after the close of the hearing record. The commissioner shall issue a final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and arguments under section 14.61. The disqualification shall take effect upon receipt of the commissioner's final decision.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 927 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knutson	Moe, D.M.	Renneke
Anderson	DeCramer	Kroening	Moe, R.D.	Schmitz
Beckman	Diessner	Laidig	Novak	Solon
Belanger	Frederick	Langseth	Olson	Spear
Benson	Frederickson, D.J.	Lantry	Pariseau	Storm
Berg	Frederickson, D.R.	Luther	Piper	Stumpf
Bertram	Freeman	Marty	Pogemiller	Vickerman
Brandl	Gustafson	McGowan	Purfeerst	Waldorf
Chmielewski	Johnson, D.E.	McQuaid	Ramstad	
Cohen	Knaak	Mehrkens	Reichgott	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 624 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 624: A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

Mr. Freeman moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 17, delete section 23 and insert:

"Sec. 23. [82B.23] [PRIVATE REMEDY.]

A person who has submitted an application for a mortgage loan involving one to four residential units has a cause of action against the appraiser who appraised the property as part of the loan process if the appraiser violated any provision in section 20, if the person has made a written demand to the real estate appraiser for damages and the appraiser has not responded to the demand within 30 days after the demand or has denied paying the full amount of damages demanded. The person must show that actual damages have been sustained as a direct result of the violation. If actual damages have been sustained, the real estate appraiser is liable to that person for actual damages, plus reasonable attorney fees."

The motion prevailed. So the amendment was adopted.

Mr. Frederick moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 17, line 24, delete everything after "*shall*" and insert "*pass an examination conducted by the commissioner of commerce under section 82B.10 or successfully complete sufficient classroom hours of courses under section*"

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 624, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1076.)

Page 8, line 2, delete "*$100*" and insert "*$50*"

Page 8, line 3, delete "*$50*" and insert "*$25*"

The motion prevailed. So the amendment was adopted.

H.F. No. 624 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 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kroening	Metzen	Schmitz
Anderson	Diessner	Laidig	Moe, D.M.	Spear
Beckman	Frederick	Langseth	Olson	Storm
Belanger	Frederickson, D.R.	Lantry	Pariseau	Stumpf
Benson	Freeman	Luther	Piper	Taylor
Bertram	Gustafson	Marty	Purfeerst	Vickerman
Chmielewski	Johnson, D.J.	McGowan	Ramstad	Waldorf
Cohen	Knaak	McQuaid	Renneke	
Decker	Knutson	Mehrkens	Samuelson	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1532 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1532: A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

Mr. Dicklich moved to amend H.F. No. 1532, as amended pursuant to Rule 49, adopted by the Senate May 19, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 1433.)

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. [216B.095] [DISCONNECTION DURING COLD WEATHER.]

The commission shall amend its rules governing disconnection of residential utility customers who are unable to pay for utility service during cold weather to include the following:

(1) coverage of customers whose household income is less than 185 percent of the federal poverty level;

(2) a requirement that a customer who pays the utility at least ten percent of the customer's income or the full amount of the utility bill, whichever is less, in a cold weather month cannot be disconnected during that month;

(3) that the ten percent figure in clause (2) must be prorated between energy providers proportionate to each provider's share of the customer's total energy costs where the customer receives service from more than one provider;

(4) that a customer's household income does not include any amount received for energy assistance;

(5) verification of income by the local energy assistance provider, unless the customer is automatically eligible as a recipient of any form of public assistance, including energy assistance, that uses income eligibility in an amount at or below the income eligibility in clause (1); and

(6) a requirement that the customer receive, from the local energy assistance provider or other entity, budget counseling and referral to weatherization, conservation, or other programs likely to reduce the customer's consumption of energy.

For the purpose of clause (2), the "customer's income" means the actual monthly income of the customer except for a customer who is normally employed only on a seasonal basis and whose annual income is over 135 percent of the federal poverty level, in which case the customer's income is the average monthly income of the customer computed on an annual calendar year basis."

Page 4, line 23, before the period, insert "*unless an insufficient number of appropriate programs are available*"

Page 4, lines 29 to 32, reinstate the stricken language

Page 4, line 33, reinstate the stricken language and before the reinstated period, insert "*or unless the department determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise*"

Page 5, line 9, after the period, insert "*The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department.*"

Page 9, after line 23, insert:

"Sec. 7. Minnesota Statutes 1988, section 268.37, is amended by adding a subdivision to read:

Subd. 2a. [BENEFITS OF WEATHERIZATION.] *In the case of a grant made to an owner of a rental dwelling unit for weatherization, the commissioner shall require that:*

(1) the benefits of weatherization assistance in connection with the dwelling unit accrue primarily to the low-income family that resides in the unit;

(2) the rents on the dwelling unit will not be raised because of any increase in value due solely to the weatherization assistance; and

(3) no undue or excessive enhancement will occur to the value of the dwelling unit."

Page 10, line 1, after "*commission*" insert "*and the commission may continue to approve programs*"

Pages 10 and 11, delete sections 11 and 12 and insert:

"Sec. 11. [OIL OVERCHARGE MONEY; APPROPRIATION.]

Subdivision 1. [LIMITATION.] *The money appropriated or made available by this section is money received by the state, or to be made available to the state in the future, as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations that is not otherwise appropriated by law or dedicated by court order.*

Subd. 2. [ENERGY RELATED PROJECTS.] *$3,100,000 of the money specified in subdivision 1 is appropriated for transfer to the housing development fund for home energy loans. Of that amount, $2,200,000 must be made available as soon as federal approval is received. The balance must be made available from money received later in the fiscal years ending June 30, 1990, and June 30, 1991.*

Subd. 3. [OTHER PROJECTS.] *The remainder of the money specified in subdivision 1 is made available as follows:*

(1) one-half is available to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans, but may not be spent until appropriated by law; and

(2) one-half is available to the Minnesota future resources commission.

Money made available under clause (1) is not governed by Minnesota Statutes, section 4.071. Money appropriated under clause (2) is available for projects reviewed and recommended by the commission, but may not be spent until appropriated by law and is limited to money received by or to be made available to the state later in the fiscal years ending June 30, 1990, and June 30, 1991.

Sec. 12. [APPROPRIATION.]

$22,000 is appropriated from the general fund to the commissioner of public service for the purposes of rulemaking."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1532 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Mehrkens	Samuelson
Anderson	Decker	Knutson	Metzen	Schmitz
Beckman	Dicklich	Kroening	Moe, D.M.	Spear
Belanger	Diessner	Laidig	Moe, R.D.	Storm
Berg	Frederick	Lantry	Olson	Stumpf
Berglin	Frederickson, D.J.	Larson	Pariseau	Taylor
Bertram	Frederickson, D.R.	Luther	Piper	Vickerman
Brandl	Gustafson	Marty	Pogemiller	Waldorf
Chmielewski	Johnson, D.E.	McGowan	Purfeerst	
Cohen	Johnson, D.J.	McQuaid	Ramstad	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 13 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 13: A bill for an act relating to courts; raising the jurisdictional limit on claims heard in conciliation court; permitting bail in civil contempt cases to be used to satisfy the judgment; requiring a report; amending Minnesota Statutes 1988, sections 487.30, subdivisions 1 and 5; 488A.12, subdivision 3; 488A.14, subdivision 6; 488A.16, subdivision 8; 488A.29, subdivision 3; 488A.31, subdivision 6; and 488A.33, subdivision 7.

Mr. Luther moved to amend H.F. No. 13, as amended pursuant to Rule 49, adopted by the Senate May 3, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 830.)

Page 1, line 15, delete "*$3,000*" and insert "*$3,500*"

Pages 1 to 3, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 1988, section 487.30, subdivision 3a, is amended to read:

Subd. 3a. [JURISDICTION; STUDENT LOANS.] Notwithstanding the provisions of subdivision 1 or any rule of court to the contrary, the conciliation court has jurisdiction to determine a civil action commenced by a plaintiff educational institution, including but not limited to, a state university or community college, with administrative offices in the county in which the conciliation court is located, to recover the amount of a student loan or loans even though the defendant or defendants are not residents of the county under the following conditions:

(a) the student loan or loans were originally awarded in the county in which the conciliation court is located;

(b) the loan or loans are overdue at the time the action is commenced;

(c) the amount sought in any single action does not exceed ~~$2,000~~ *$3,500*;

(d) notice that payment on the loan is overdue has previously been sent by first class mail to the borrower to the last known address reported by the borrower to the educational institution; and

(e) the notice states that the educational institution may commence a conciliation court action in the county where the loan was awarded to recover the amount of the loan.

Notwithstanding any law or rule or civil procedure to the contrary, a summons in any action commenced under this subdivision may be served anywhere within the state of Minnesota. The conciliation court administrator shall attach a copy of the overdue loan or loans to the summons before it is issued.

Sec. 3. Minnesota Statutes 1988, section 487.30, subdivision 5, is amended to read:

Subd. 5. [SATISFACTION OF JUDGMENT.] If (1) a conciliation court judgment has been docketed in county court for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the county court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who

intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 4. Minnesota Statutes 1988, section 487.30, subdivision 8, is amended to read:

Subd. 8. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ ON REMOVAL.] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs as provided by rules of the supreme court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~county~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to county court~~.

(b) If the removing party prevails in district court, the removing party may recover costs from the opposing party as provided by rules of the supreme court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs.

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~county~~ *district* court *if*:

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in county court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge~~*, court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~county~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge~~*, court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~county~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge~~*, court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~county~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in county court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~county~~ *district* court shall not be considered in determining whether there was a recovery by

either party in either court or in determining the difference in recovery under this subdivision."

Page 3, line 8, delete "*$3,000*" and insert "*$3,500*"

Page 4, line 14, strike "$2,000" and insert "*$3,500*"

Page 4, line 31, delete "*$3,000*" and insert "*$3,500*"

Pages 4 to 6, delete section 5 and insert:

"Sec. 7. Minnesota Statutes 1988, section 488A.16, subdivision 8, is amended to read:

Subd. 8. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become finally effective under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the court administrator of conciliation court on payment of a fee of 50 cents and file it with the court administrator of the municipal court of the county of Hennepin. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. No writ of execution or garnishment summons may be issued out of conciliation court. If (1) a conciliation court judgment has been docketed as a municipal court judgment for a period of at least 30 days, (2) the judgment is not satisfied, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 8. Minnesota Statutes 1988, section 488A.17, subdivision 10, is amended to read:

Subd. 10. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party $5 as costs together with the prevailing party's disbursements incurred in conciliation and municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ *"removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and~~

~~means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~, and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

(b) If the removing party prevails in district court, the removing party may recover $5 as costs from the opposing party, together with disbursements in conciliation and district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~If~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the removing party requested on removal, whichever is less,* when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~If~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~If~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~If~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount or value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision."

Page 6, line 12, delete "*$3,000*" and insert "*$3,500*"

Page 7, line 18, strike "$2,000" and insert "*$3,500*"

Page 7, line 35, delete "*$3,000*" and insert "*$3,500*"

Pages 8 and 9, delete section 8 and insert:

"Sec. 11. Minnesota Statutes 1988, section 488A.33, subdivision 7, is amended to read:

Subd. 7. [DOCKETING AND ENFORCEMENT IN MUNICIPAL COURT.] When a judgment has become final under subdivision 2, the judgment creditor may obtain a transcript of the judgment from the administrator of conciliation court and file it with the administrator of the municipal court upon payment of the filing fees as prescribed for the municipal

court. After filing of the transcript, the judgment becomes, and is enforceable as, a judgment of the municipal court. A transcript of a judgment payable in installments may not be obtained and filed until 20 days after default in the payment of an installment. No writ of execution nor garnishment summons may be issued out of conciliation court. If (1) a transcript of a judgment has been filed for a period of at least 30 days, (2) the judgment is not satisfied or an installment of it remains overdue, and (3) the parties have not otherwise agreed, the municipal court shall, upon the request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and location of all the judgment debtor's assets, liabilities, and personal earnings. The information shall be provided on a form prescribed by the supreme court and shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The form shall be written in a clear and coherent manner using words with common and everyday meanings, shall summarize the execution and garnishment exemptions and limitations applicable to assets and earnings, and shall permit the judgment debtor to identify on the form those assets and earnings that the judgment debtor considers to be exempt from execution or garnishment. The order shall contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for contempt of court unless the judgment is satisfied prior to the expiration of that period. A judgment debtor who intentionally fails to comply with the order of the court may be cited for civil contempt of court. *Cash bail posted as a result of being cited for civil contempt of court under this statute may be ordered payable to the creditor to satisfy the judgment, either partially or fully.*

Sec. 12. Minnesota Statutes 1988, section 488A.34, subdivision 9, is amended to read:

Subd. 9. [COSTS AND DISBURSEMENTS ~~FOR PREVAILING PARTY~~ *ON REMOVAL.*] (a) ~~The prevailing party in a removed cause may tax and recover from the other party costs and disbursements as though the action was originally commenced in the municipal court; except that if the prevailing party, on appeal, is not the aggrieved party in the original action, the court may, in its discretion, allow such prevailing party to tax and recover from the aggrieved party an amount not to exceed $50 as costs.~~

~~(b)~~ For the purpose of this subdivision, ~~an "aggrieved~~ "*removing* party" means the party who demands removal to ~~municipal~~ *district* court ~~and means~~ *or* the first party who serves~~,~~ or files ~~in lieu of serving,~~ a demand for removal, if another party also demands removal~~,~~ ~~and an~~. "Opposing party" means any party as to whom the ~~aggrieved~~ *removing* party seeks a reversal in whole or in part ~~by removal of the cause to municipal court~~.

(b) If the removing party prevails in district court, the removing party may recover costs and disbursements from the opposing party as though the action were commenced in district court. If the removing party does not prevail, the court shall award the opposing party an additional $200 as costs, together with disbursements.

(c) The ~~aggrieved~~ *removing* party ~~is the prevailing party~~ *prevails* in ~~municipal~~ *district* court *if*:

(1) ~~if~~ the ~~aggrieved~~ *removing* party recovers ~~any~~ *at least $500 or 50 percent of the* amount or ~~any~~ *value of* property ~~in municipal court~~ *that the*

removing party requested on removal, whichever is less, when the ~~aggrieved~~ *removing* party ~~had been~~ *was* denied *any* recovery ~~of any amount or any property by the~~ *in* conciliation ~~judge,~~ *court;*

(2) ~~if~~ the opposing party does not recover any amount or any property from the ~~aggrieved~~ *removing* party in ~~municipal~~ *district* court when the opposing party ~~had~~ recovered some amount or some property ~~by the order of the~~ *in* conciliation ~~judge,~~ *court;*

(3) ~~if~~ the ~~aggrieved~~ *removing* party recovers an amount or value of property in ~~municipal~~ *district* court ~~which is at least $25 in excess of~~ *that exceeds* the amount or value of property ~~which~~ *that* the ~~aggrieved~~ *removing* party recovered ~~by the order of the~~ *in* conciliation ~~judge,~~ *court by at least $500 or 50 percent, whichever is less;* or

(4) ~~if~~ the *amount or value of property that the* opposing party recovers from the ~~aggrieved~~ *removing* party ~~an amount of value of property~~ in ~~municipal~~ *district* court ~~which is at least $25 less than~~ *is reduced from* the amount or value of property ~~which~~ *that* the opposing party recovered ~~by the order of the~~ *in* conciliation ~~judge~~ *court by at least $500 or 50 percent, whichever is less.*

(d) ~~In all other situations the opposing party shall be deemed to be the prevailing party in municipal court.~~

~~(e)~~ Costs or disbursements in ~~the~~ conciliation or ~~municipal~~ *district* court shall not be considered in determining whether there was a recovery by either party in either court or in determining the difference in recovery under this subdivision."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 13, as amended pursuant to Rule 49, adopted by the Senate May 3, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 830.)

Page 1, line 13, before "The" insert "*(a) Except as provided in paragraph (b),*"

Page 1, after line 22, insert:

"*(b) If the claim involves a consumer credit transaction, the amount of money or property that is the subject matter of the claim may not exceed $2,000. "Consumer credit transaction" means a sale of personal property, or a loan arranged to facilitate the purchase of personal property, in which:*

(1) credit is granted by a seller or a lender who regularly engages as a seller or lender in credit transactions of the same kind;

(2) the buyer is a natural person; and

(3) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose."

Page 3, line 8, delete "*$3,000*" and insert "*$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning*

given in section 487.30, subdivision 1"

Page 4, line 31, delete "*$3,000*" and insert "*$3,500, or $2,000 if the controversy concerns a consumer credit transaction*"

Page 4, line 34, after the period, insert "*"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*"

Page 6, line 12, delete "*$3,000*" and insert "*$3,500, except that if the action involves a consumer credit transaction, the amount in controversy may not exceed $2,000. "Consumer credit transaction" has the meaning given in section 487.30, subdivision 1*"

Page 7, line 35, delete "*$3,000*" and insert "*$3,500, or $2,000 if the controversy concerns a consumer credit transaction*"

Page 8, line 2, after the period, insert "*"Consumer credit transaction" has the meaning given in section 487.30, subdivision 1.*"

The motion prevailed. So the amendment was adopted.

H.F. No. 13 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 42 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.E.	Luther	Schmitz
Anderson	Davis	Johnson, D.J.	Marty	Solon
Beckman	Decker	Knaak	McGowan	Spear
Belanger	Dicklich	Knutson	Mehrkens	Stumpf
Benson	Diessner	Kroening	Moe, D.M.	Vickerman
Berg	Frederick	Laidig	Moe, R.D.	Waldorf
Bertram	Frederickson, D.J.	Langseth	Piper	
Brandl	Frederickson, D.R.	Lantry	Ramstad	
Chmielewski	Freeman	Lessard	Renneke	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 1108 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1108: A bill for an act relating to agriculture; changing a provision that allows averaging of certain multiple loads of grain; amending Minnesota Statutes 1988, section 17B.048.

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 43 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Johnson, D.J.	Luther	Samuelson
Anderson	Davis	Knaak	Marty	Schmitz
Beckman	Decker	Knutson	McGowan	Spear
Belanger	Diessner	Kroening	Mehrkens	Storm
Benson	Frank	Laidig	Moe, D.M.	Stumpf
Berg	Frederickson, D.J.	Langseth	Moe, R.D.	Vickerman
Berglin	Frederickson, D.R.	Lantry	Piper	Waldorf
Bertram	Freeman	Larson	Ramstad	
Brandl	Johnson, D.E.	Lessard	Renneke	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 42 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 42: A bill for an act relating to economic development; permitting state agencies and local jurisdictions to invest in a working capital fund; proposing coding for new law in Minnesota Statutes, chapters 16B, 161, 471, and 473.

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 42 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Knaak	Mehrkens	Solon
Anderson	Decker	Knutson	Moe, D.M.	Spear
Beckman	Dicklich	Laidig	Moe, R.D.	Storm
Belanger	Diessner	Langseth	Novak	Stumpf
Benson	Frank	Lantry	Piper	Vickerman
Berglin	Frederickson, D.J.	Larson	Ramstad	Waldorf
Bertram	Freeman	Luther	Renneke	
Brandl	Gustafson	Marty	Samuelson	
Chmielewski	Johnson, D.E.	McGowan	Schmitz	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1625 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1625

A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 136.31, subdivisions 3 and 5; 136A.04; 136A.05; 136A.08; 136A.095; 136A.101, subdivisions 1 and 7; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivision 1; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.29, subdivision 9; 136C.04, subdivisions 1, 2, 6, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding

a subdivision; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; and 136C.43, subdivisions 1, 2, and 3.

May 20, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1625, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1625 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this act. The listing of an amount under the figure "1989," "1990," or "1991" in this act indicates that the amount is appropriated to be available for the fiscal year ending June 30, 1989, June 30, 1990, or June 30, 1991, respectively. "The first year" is fiscal year 1990. "The second year" is fiscal year 1991. "The biennium" is fiscal years 1990 and 1991.

SUMMARY BY FUND

	1990	1991	TOTAL
General	$943,318,000	$1,014,642,000	$1,957,960,000

SUMMARY BY AGENCY - ALL FUNDS

	1990	1991	TOTAL
Higher Education Coordinating Board	$ 83,593,000	$ 96,453,000	$180,046,000
State Board of Vocational Technical Education	165,952,000	174,050,000	340,002,000
State Board for Community Colleges	88,147,000	99,600,000	187,747,000
State University Board	167,401,000	179,204,000	346,605,000
Board of Regents of the University of Minnesota			

	437,191,000	464,254,000	901,445,000
Mayo Medical Foundation	1,034,000	1,081,000	2,115,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1990	1991
Sec. 2. HIGHER EDUCATION COORDINATING BOARD		
Subdivision 1. Total Appropriation	$83,593,000	$96,453,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

As part of its next budget request, the board shall report on its method of implementing the base adjustments required in this section.

Subd. 2. Agency Administration
$3,900,000 $2,972,000

(a) The optometry and osteopathy contract program for students who were in the program in the 1986-1987 academic year must be discontinued on June 30, 1990. No new students may be admitted.

(b) As part of its 1991 biennial budget request, the HECB shall report its recommendations for improvements to the SELF program.

(c) Notwithstanding Laws 1987, chapter 401, section 33, the task force on post-secondary quality assessment may continue for the 1989-1991 biennium. The task force membership may be expanded to include public members appointed by the higher education advisory council from nominees submitted by the HECB.

(d) No further funding of the enterprise development centers shall be provided through the HECB. The Greater Minnesota Corporation may provide funding for the centers.

(e) $150,000 for the biennium is for matching grants to post-secondary institutions that submit acceptable proposals for campus community service projects emphasizing students performing as tutors or mentors to their younger peers. Campus community service projects attempt to instill in students the value of civic

involvement and the belief that each student's community service can make a difference in the community. The HECB may award up to 20 grants. To receive a grant, a recipient must match the grant amount from any resources available to the institution. The state grant is for a staff person on each recipient's campus to coordinate student community service involvement. Up to $25,000 of the appropriation may be used for HECB administration, coordination, training, consultation, and evaluation costs. The legislature intends the grant program to be phased out at the end of the biennium to be replaced by 100 percent funding by the recipient institutions from any resources available to the institution.

(f) The HECB shall undertake the second phase of the study of post-secondary needs in the state, as provided in Laws 1988, chapter 703, article 1, section 2, subdivision 3. This phase must concentrate on those parts of the state outside the St. Cloud to Rochester population corridor. The HECB may contract for portions of the study, as necessary, but is not subject to Minnesota Statutes, chapter 16B. Before proceeding with the request for proposals, the HECB shall consult with the post-secondary systems, institutions, and other relevant agencies to locate studies and market analyses that could be used in conducting phase 2. The study must focus on (1) an assessment of the current and future conditions and needs; (2) strategies to meet these needs; (3) costs associated with the strategies; and (4) effects of the strategies on existing institutions, state policies, quality of education, and system and institutional missions.

The study should include consideration of at least the following concerns: the current and projected demographic and participation trends; current levels and types of services available; needs of traditional and nontraditional students; the geographical accessibility of services needed by different types of students; uses of alternative delivery systems, instructional technology, cooperative

efforts, and reciprocity agreements; relationships between post-secondary institutions and business; and the physical capacity of existing institutions. The study shall analyze attendance patterns and may include market surveys. The HECB shall report the findings of the study to the education and finance committees of the senate and the education and appropriations committees of the house by December 1, 1990. By January 1, 1991, the HECB shall review and comment on each of the strategies proposed in the study. In submitting the findings of phase 2, the board shall relate them to the results of phase 1 and their implications for statewide policy.

The study shall serve as the 1990 intersystem plan as required in Minnesota Statutes, section 135A.06, subdivision 2.

(g) The HECB shall analyze and make recommendations on plans submitted for providing undergraduate and practitioner-oriented graduate programs in the seven-county metropolitan area. By February 1, 1990, the HECB shall report on its recommendations to the education and finance committees of the senate and the education and appropriations committees of the house.

Subd. 3. State Scholarships and Grants

$69,044,000	$82,644,000

If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available for it.

During the biennium, the higher education coordinating board may ask the commissioner of finance to loan general fund money to the scholarship and grant account to ease cash flow difficulties. The higher education coordinating board must first certify to the commissioner that there will be adequate refunds to the account to repay the loan. The commissioner shall use the refunds to make repayment to the general fund of the full amount loaned. Money necessary to meet cash flow difficulties in the state scholarship and grant program is appropriated to the commissioner of finance for loans

to the higher education coordinating board.

This appropriation contains money for increasing living allowances for state scholarships and grants to $3,170 for the first year and $3,465 for the second year.

$2,000,000 each year is for child care grants. For the biennium, the board may determine a reasonable percentage of the appropriation to be used for the administrative costs of the agency and the campuses.

The HECB shall report to the education divisions of the house appropriations and senate finance committees on the academic progress and persistence of state scholarship and grant program recipients by February 1, 1990.

The HECB shall examine and make recommendations on the use of post-secondary scholarships and other mechanisms to provide incentives to students to pursue International Baccalaureate degrees. In making its recommendations, the HECB shall include an analysis of the cost of a scholarship program and whether these scholarships would be an appropriate use of state funds.

The HECB may use up to $250,000 of the appropriation in each year to provide grants for Minnesota resident students participating in the Akita program. Grants must be awarded on the same basis as other state grants, except that the cost of attendance shall be adjusted to incorporate the state university tuition level and the Akita fee level. An individual grant must not exceed the state grant maximum award for a student at a four-year private college. The HECB and the state university board shall report on these grants in the 1991 biennial budget document.

By February 15, 1990, the HECB shall report to the education divisions of the senate finance and the house appropriations committees on implementation of procedures to recover overpayment of state scholarship and grant awards. The report shall cover overpayments for the 1988-1989 academic year and shall include at

least the following information for each case for which recovery of an overpayment is sought:

(1) the reason for the overpayment;

(2) the manner in which the overpayment was discovered;

(3) the amount of the overpayment;

(4) the recovery plan proposed by the HECB;

(5) whether the case was brought to court and, if so,

(a) why the case was brought to court,

(b) the cost to the HECB of bringing the case to court, and

(c) whether the HECB recovered costs and attorney fees; and

(6) the disposition, including the amount of the overpayment recovered and the amount of time elapsed from the time the overpayment was discovered to the time a repayment agreement was reached.

The report shall not include any information identifying the students involved.

Subd. 4. Interstate Tuition Reciprocity

$ 4,300,000	$ 4,300,000

If the appropriation for either year is insufficient, the appropriation for the other year is available to meet reciprocity contract obligations.

Subd. 5. State Work Study

$ 5,304,000	$ 5,454,000

Subd. 6. Income Contingent Loans

The HECB shall administer an income contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. During the biennium, applicant data collected by the higher education coordinating board for this program may be disclosed to a consumer credit reporting agency under the same conditions as apply to the supplemental loan program according to Minnesota Statutes, section 136A.162.

The HECB shall study the possible inclusion of students in other academic programs and report its recommendations to the house appropriations and senate finance committees by December 1, 1990.

Subd. 7. Minitex Library Program
$ 1,045,000 $ 1,083,000

Subd. 8. An unencumbered balance in the first year under a subdivision in this section does not cancel but is available for the second year.

Subd. 9. The higher education coordinating board may transfer unencumbered balances from the appropriations in this section to the state scholarship and grant appropriation. Before the transfer, the higher education coordinating board shall consult with the chairs of the house appropriations and senate finance committees.

Sec. 3. STATE BOARD OF VOCATIONAL TECHNICAL EDUCATION

Subdivision 1. Total Appropriation 165,952,000 174,050,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

As part of its next budget request, the board shall report on its method of implementing the base adjustments required in this section.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $219,519,000 the first year and $230,472,000 the second year.

$1,570,000 in the first year and $1,589,000 in the second year are for equipment purchases. This money must be spent for this purpose only and is nonrecurring. The state board shall report on its use in the 1991 biennial budget document.

$3,458,000 in 1990 and $3,613,000 in 1991 are for repair and replacement. The state board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and

replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the amounts for repair and replacement may be paid when due by the board.

$2,000,000 the first year and $3,600,000 the second year are to improve student support services including, but not limited to: remedial programs and needs assessment, counseling and financial aid services, and minority student services. The money is also available for library development and improvement. The state board shall report on its use in the 1991 biennial budget document.

$500,000 each year is for salaries, equipment, and supplies to improve services for disabled students. This appropriation must be spent for these purposes only. The board shall report on its use in the 1991 biennial budget document.

The state board of vocational technical education shall report to the education divisions of the house appropriations and senate finance committees on its newly developed student placement tracking system by February 1, 1990.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $6,474,000 the first year and $6,263,000 the second year.

$3,547,000 the first year and $3,248,000 the second year are for debt service payments to school districts for technical institute buildings financed with district bonds issued before January 1, 1979.

$2,000,000 each year is for curriculum restructuring. This is a nonrecurring appropriation and will not be included to calculate the base for the 1991-1993 biennial budget.

Subd. 4. State Council on Vocational Technical Education

$94,500 the first year and $49,200 the second year must be allocated by the state board to the state council on vocational

education.

Sec. 4. STATE BOARD FOR COMMUNITY COLLEGES

Subdivision 1. Total Appropriation	88,147,000	99,600,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $118,925,000 the first year and $134,939,000 the second year.

This appropriation includes $5,483,000 the first year and $4,407,000 the second year for increased enrollments. This is a nonrecurring appropriation and will not be included when calculating the base for the 1991-1993 biennial budget. This appropriation is based on estimated enrollments of 32,000 in 1990 and 33,500 in 1991. If actual enrollments are different from this estimate, the commissioner of finance shall calculate the effect for the general fund due to the difference and include an adjustment in the budget for the next fiscal year.

$1,280,000 the first year and $1,340,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$1,582,000 in 1990 and $1,639,000 in 1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

The community college system shall examine the feasibility, costs, and effects of implementing a textbook rental system on its campuses. The findings shall

be reported to the education divisions of the house appropriations and senate finance committees by February 15, 1990.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $11,968,000 the first year and $12,482,000 the second year.

Subd. 4. State Owned Land

State owned land at Worthington Community College legally described as lots 1, 2, 5, 6, and 7, block 1, Golden Shores addition, in the city of Worthington, county of Nobles, shall be tax exempt until sold. Taxes levied on the land prior to the effective date of this provision must be abated.

Sec. 5. STATE UNIVERSITY BOARD

Subdivision 1. Total Appropriation	167,401,000	179,204,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Instructional Expenditures

The legislature estimates that instructional expenditures will be $237,324,000 the first year and $253,469,000 the second year.

$4,965,000 the first year and $1,944,000 the second year are for increased enrollments. This is a nonrecurring appropriation and will not be included when calculating the base for the 1991-1993 biennial budget. This appropriation is based on estimated enrollments of 51,735 in 1990 and 51,998 in 1991. If actual enrollments are different from this estimate, the commissioner of finance shall calculate the effect for the general fund due to the difference and include an adjustment in the budget for the next fiscal year.

$2,069,000 the first year and $2,080,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$2,928,000 in 1990 and $3,046,000 in

1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the amounts for repair and replacement in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

The legislature estimates that $150,000 each year will be spent at Mankato State University for payment of a lease for the Warren Street Building. The appropriation must be discontinued upon expiration of the lease or subsequent lease. The current lease expires in 1993, but may be renegotiated to expire in 2013. The budget request for 1991 must separately identify this item.

Notwithstanding Minnesota Statutes, section 136.09, subdivision 3, or other law to the contrary, during the biennium neither the state university board nor the state university campuses shall plan or develop doctoral level programs or degrees until after they have received the recommendation of the house and senate committees on education, finance, and appropriations.

During the biennium, revenue generated from royalties, patents, licenses, or interests kept by the state university board from the science and technology project at Southwest State University is appropriated to the state university board and must be allocated by the board to Southwest State University for the science and technology resource center.

Subd. 3. Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $10,697,000 the first year and $10,897,000 the second year.

During the biennium, notwithstanding any law to the contrary, the state university board may keep money received from successful litigation by or against

the board. Awards made to the state or the board resulting from litigation against or by the board must be kept by the board to the credit of the account from which the litigation was originally funded.

$200,000 each year is for development of the upper division component within the Arrowhead Community College Region through Bemidji State University. The specific location or locations will be determined by the community college and state university boards. The budget request for 1991 must separately identify this program.

$100,000 is for the board to enter into an agreement to lease space on the campus of the College of St. Teresa for the instructional needs of Winona State University. The board shall analyze: (1) the current space use at Winona state; (2) the cost to bring the St. Teresa buildings up to code; (3) the cost to renovate the St. Teresa campus for long-term use; and (4) the comparative costs to operate a split campus. The board shall report its findings and recommendations to the education divisions of the appropriations and finance committees by February 1, 1990.

$170,000 is for the board to provide nursing education outreach programs. The programs must assess and give credit to students for prior learning, provide for part-time enrollment, and be located in regions of the state that demonstrate the greatest need for baccalaureate and masters degree programs. The appropriation for this program shall be nonrecurring. The board shall appoint a task force, including representatives of other postsecondary systems that offer nursing programs, to advise it on the programs. The task force shall study the need for and supply of nurses and the adequacy of access to nursing programs. The task force may seek nonstate grants or gifts to establish a private scholarship program for nurses. The HECB, if requested, shall provide technical advice to the task force on the effects of private scholarships on state financial aid. The task force shall make recommendations to the board on the scholarship program, including

sources of funding, eligibility requirements for recipients, and methods of calculating award amounts. The task force shall make recommendations, as necessary, on other policy matters concerning nursing education. The board shall report on the nursing programs in the 1991 biennial budget document.

Subd. 4. Wood-Fired Boilers

Effective the day after final enactment of this subdivision, no more money may be paid out of the treasury of this state in connection with an agreement under Minnesota Statutes, section 16B.16, to provide a wood-fired boiler heating system at the campus of either Bemidji State University or St. Cloud State University. This prohibition is intended to be permanent.

Minnesota Statutes, section 16B.16, authorizes the commissioner of administration to enter into installment purchase agreements to acquire equipment that will improve the energy efficiency of a state building or facility if, among other things, the entire cost of the contract is a percentage of the resultant savings in energy costs and the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract. Section 16B.16 does not authorize the commissioner to commit the state to pay for equipment that does not work nor to pay more for energy as a result of the installment purchase agreement than would be needed without the agreement. If there are no savings in energy costs through use of the equipment, there should be no compensation due under the agreement.

The commissioner of administration acted under Minnesota Statutes, section 16B.16, when entering into installment purchase agreements to install wood-fired boiler heating systems at the campuses of Bemidji State University and St. Cloud State University. The wood-fired boiler heating system installed at the Bemidji campus did not work as promised and the promised energy savings were not achieved. The state refused to make further payments under the agreement for Bemidji and canceled the agreement for

St. Cloud. The state later resumed making payments under the agreement for Bemidji, even though it believed there had been a complete failure of consideration.

The purpose of this subdivision is to make clear to all potential investors in state and local bonds and to financial institutions that the state is not and never has been responsible for financing the wood-fired boiler heating systems at Bemidji and St. Cloud state universities, other than through payment to the vendor of a percentage of the resultant savings in energy costs. Since the equipment and technology chosen by the vendor did not produce savings in energy costs, the entire loss should be borne by the vendor and by the vendor's financial backers, not by the state.

Sec. 6. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation	437,191,000	464,254,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Maintenance	355,025,000	377,571,000

On December 1 each year the president of the University of Minnesota shall report to the senate finance and house appropriations committees and the commissioner of finance any receipts for the previous fiscal year in excess of the estimates on which these appropriations are based, the sources of these receipts, the purposes for which any excess receipts were spent, and the accounts to which the receipts were transferred. The total estimated receipts are $138,842,000 for the first year and $147,367,000 for the second year.

The board of regents is requested to consider adopting a policy of paying per diem to board members for attending a meeting of the board or a committee of the board.

(a) Instructional Expenditures

The legislature estimates that instructional expenditures in this subdivision and subdivision 3, paragraph (d), will

be $388,921,000 the first year and $413,941,000 the second year.

$2,145,000 the first year and $2,086,000 the second year are for equipment purchases. This appropriation must be spent for this purpose only and is nonrecurring. The board shall report on its use in the 1991 biennial budget document.

$8,992,000 in 1990 and $9,345,000 in 1991 are for repair and replacement. The board shall report on its use in the 1991 biennial budget document. The report must include an analysis of the adequacy of the above appropriation in meeting the system's repair and replacement needs.

During the biennium, each outstanding and any future assessment by a local unit of government that is less than five percent of the appropriation for repairs and replacements may be paid when due by the board.

$3,307,000 in 1990 and $5,601,000 in 1991 are for the improvement of instructional programs including, but not limited to: additional sections of required undergraduate courses; expanded undergraduate advising; and enhanced academic computing capabilities. The board shall report its use in the 1991 biennial budget document.

The president of the University of Minnesota is requested to review, during the biennium, the University of Minnesota's institutional support costs and redirect any savings into academic programs.

The regular session enrollment projected for this appropriation is 35,679 full-year equivalent undergraduate students for the first year. For the biennium ending June 30, 1991, tuition income resulting from students in excess of the projections reduces the general fund appropriation by a like dollar amount. The university shall submit progress reports on the attainment of the anticipated enrollments. If the university attains these enrollment goals, the calculation for the average cost funding formula must not reduce the budget base. The University is requested to develop mechanisms to measure progress in achieving the goals of commitment to focus, including

enrollment targets. The University shall report its recommendations to the education divisions of the house appropriations and senate finance committees by December 1, 1989.

During the biennium, the regents are requested to provide fair and equitable funding to each coordinate campus for the additional number of students enrolled above the 1988-1989 academic year enrollment.

(b) Noninstructional Expenditures

The legislature estimates that noninstructional expenditures will be $105,676,000 the first year and $111,836,000 the second year.

$129,000 in 1990 and $167,000 in 1991 are to establish a training program for teaching assistants to improve their communications and teaching skills. The legislature anticipates that the university will allocate matching money internally to support teaching assistant programs. The university shall report on its actions and its use in the 1991 biennial budget document.

Indirect cost recovery money retained by the University of Minnesota must be used exclusively for the direct support of research or the financing of support activities directly contributing to the receipt of indirect cost recovery money. It may not be used for teaching or service.

Subd. 3. Special Appropriations	82,166,000	86,683,000

The amounts expended for each program in the four categories of special appropriations shall be separately identified in the 1991 biennial budget document.

(a) Agriculture and Extension Service

$42,844,000	$45,002,000

This appropriation is for the Agriculture Research and Minnesota Extension Service.

Any salary increases granted by the university to personnel paid from the Minnesota Extension appropriation must not result in a reduction of the county portion of the salary payments.

During the biennium, the university shall

maintain an advisory council system for each experiment station. The advisory councils must be broadly representative of range of size and income distribution of farms and agribusinesses and must not disproportionately represent those from the upper half of the size and income distributions.

(b) Health Sciences
$16,332,000 $17,379,000

This appropriation is for Indigent Patients (County Papers), Rural Physicians Associates Program, Medical Research, Special Hospitals Service and Educational Offset, the Veterinary Diagnostic Laboratory, Institute for Human Genetics, and the Biomedical Engineering Center.

(c) Institute of Technology
$ 3,472,000 $ 3,645,000

This appropriation is for the Mineral Resources Research Center, Geological Survey, Underground Space Center, Talented Youth Mathematics Program, Microelectronics and Information Science Center, and the Productivity Center.

(d) System Specials
$19,518,000 $20,657,000

This appropriation is for Fellowships for Minority and Disadvantaged Students, General Research, Intercollegiate Athletics, Student Loans Matching Money, Industrial Relations Education, Southeast Education Center, Natural Resources Research Institute, Sea Grant College Program, Biological Process Technology Institute, Supercomputer Institute, Center for Urban and Regional Affairs, Museum of Natural History, and the Humphrey Exhibit.

This appropriation includes money to improve the programs and resources available to women and to ensure that campuses are in compliance with Title IX of the Educational Amendment Act of 1972 and Minnesota Statutes, section 126.21. The women's athletic program shall be funded by the formula allowance or a minimum of $65,000 per campus per year. Each campus will receive the greater of the two calculations.

Of this appropriation, no less than the

following amounts must be allocated to each campus:

Duluth	540,800	551,600
Morris	65,000	66,100
Crookston	65,000	65,000
Waseca	65,000	65,000

The legislature estimates that $1,087,000 in 1990 and $1,252,000 in 1991 is for enhanced and expanded graduate programs in Rochester.

Subd. 4. The appropriation in subdivision 3, paragraph (d), for the Southeast Education Center, must be merged with the operations and maintenance funding in subdivision 2 in fiscal years 1990 and 1991.

Subd. 5. University of Minnesota, Waseca

The appropriation in Laws 1987, chapter 400, section 20, subdivision 8, paragraph (a), to renovate the agriculture laboratories at Waseca, may also be used to construct a greenhouse.

Sec. 7. MAYO MEDICAL FOUNDATION

Subdivision 1. Total Appropriation	1,034,000	1,081,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Medical School

$ 753,000	$ 790,000

The state of Minnesota shall pay a capitation of $9,410 the first year and $9,875 the second year for each student who is a resident of Minnesota.

This appropriation provides capitation for 20 Minnesota residents in each of the four classes at Mayo Medical School. The appropriation may be transferred between years of the biennium to accommodate enrollment fluctuations.

The legislature intends that during the biennium the Mayo foundation use the capitation money to increase the number of doctors practicing in rural areas in need of doctors as identified by the higher education coordinating board.

Subd. 3. Family Practice and Graduate Residency Program

$ 281,000 $ 291,000

The state of Minnesota shall pay a capitation of $15,610 the first year and $16,165 the second year for a maximum of 18 students each year.

Sec. 8. POST-SECONDARY SYSTEMS

Subdivision 1. Base Level Adjustments

In preparing budget requests for the 1992-1993 biennium, the commissioner of finance shall make the same categories of base level adjustments, when reasonable and equitable, to the budgets of higher education systems as to the budgets of state agencies. The amounts and the purposes must be delineated in the 1991 biennial budget document.

Subd. 2. Enrollment Growth

Each public post-secondary governing board experiencing or anticipating enrollment growth on one or more of its campuses, or sufficient programmatic growth to result in significant course or space availability problems, shall plan for responding to the growth while maintaining educational quality. These plans shall include an examination of efficient utilization of existing instructional space. The boards shall provide a preliminary report on these plans and on their recruitment plans and expenditures to the education divisions of the house appropriations and senate finance committees by September 1, 1989, and a final report by February 1, 1990.

Subd. 3. BOAST

In order to recognize student talent and the outstanding work of art and art-related departments on campuses of the four public post-secondary systems, the Minnesota House of Representatives intends to begin a program to reward these achievements. The program, entitled Bring Out Art Students' Talent (BOAST), will reward winners of campus art competitions by displaying their art in the state office building. The speaker of the house shall appoint, by July 1, 1989, a select committee to develop procedures

and oversee the process. Before appointing the committee, the speaker shall invite the senate to participate in the process. If the senate chooses to participate, after consultation with the Capitol Area Architectural and Planning Board, and the Minnesota Historical Society, it may determine whether to display any of the art in the state capitol. The heads of each of the public post-secondary systems are requested to consult with the committee and coordinate the efforts of the campuses. Each campus may hold a competition and select the entries that are to be displayed. The campus shall arrange for the delivery, set up, and removal of the displays according to the procedures developed by the select committee.

Subd. 4. Student Progress

The public post-secondary governing boards and the HECB shall study mechanisms to encourage students to complete their educational programs in a timely manner. The governing boards shall study the use of tuition banding and other mechanisms to provide incentives for students to carry full credit loads. The boards shall also study nonfinancial impediments to students completing programs within two or four years. These may include unavailability of courses, expanded programmatic requirements, students' lack of preparation for college, changes in values and attitudes, and other factors identified by the boards. The boards shall examine ways to reduce or eliminate these impediments.

The HECB shall study the fiscal and policy effects of mechanisms to encourage students to carry full course credit loads, to enroll in summer sessions, or to otherwise complete their coursework in a timely manner. The board shall include an examination of: the effects of changing the credit load in the state grant program to define a full-time student as one averaging 15 credits per term each year, and prorating awards on that credit basis; the availability of summer financial aid; and other incentives that it identifies. The governing boards shall report their findings to the HECB for review and comment by January 15, 1990. The HECB

shall report the findings of its study, the governing board findings and the HECB review and comment by March 1, 1990 to the education divisions of the house appropriations and senate finance committees.

Subd. 5. Student Preparation

In order to increase students' academic preparation for higher education, and to decrease the need for remedial work in post-secondary institutions, the state university board, the community college board, and the state board for vocational technical education shall study and make recommendations on the effects of adopting secondary school preparation requirements for incoming students. Each board shall report its findings to the education divisions of the house appropriations and senate finance committees by February 1, 1990.

Subd. 6. Student Placement

The state board for community colleges, the state university board, and private post-secondary occupational and technical institutions that enroll students who receive state financial aid shall develop student placement tracking systems for their technical and occupational programs, or review tracking systems already in place, to enable them to determine the number of students placed successfully in occupations related to their education. The board of regents of the University of Minnesota is requested to develop a similar system, or review its current system, for its technical programs at the Crookston and Waseca campuses. The HECB shall coordinate the development and review of the tracking systems and shall report on them to the education divisions of the house appropriations and senate finance committees and the higher education divisions of the education committees by February 15, 1990.

Sec. 9. Minnesota Statutes 1988, section 121.93, subdivision 2, is amended to read:

Subd. 2. "District" means a school district, an educational cooperative service unit, a cooperative center for *secondary* vocational education, a cooperative center for special education, ~~a technical institute,~~ or an intermediate service area.

Sec. 10. Minnesota Statutes 1988, section 121.93, subdivision 3, is amended to read:

Subd. 3. "ESV-IS" or "elementary, secondary, and *secondary* vocational education management information system" means that component of the statewide elementary, secondary, and *secondary* vocational education management information system which provides administrative data processing and management information services to districts.

Sec. 11. Minnesota Statutes 1988, section 121.93, subdivision 4, is amended to read:

Subd. 4. "SDE-IS" or "state department of education information system" means that component of the statewide elementary, secondary, and *secondary* vocational education management information system which provides data processing and management information services to the department of education.

Sec. 12. Minnesota Statutes 1988, section 126.56, subdivision 5, is amended to read:

Subd. 5. [ADVISORY COMMITTEE.] An advisory committee shall assist the state board of education in approving eligible programs and shall assist the higher education coordinating board in planning, implementing, and evaluating the scholarship program. The committee shall consist of 11 members, to include the executive director of the higher education coordinating board or a representative, the commissioner of education or a representative, two secondary school administrators and two secondary teachers appointed by the commissioner of education, the executive director of the academic excellence foundation, a private college representative appointed by the president of the Minnesota private college council, a community college representative appointed by the community college chancellor, a state university representative appointed by the state university chancellor, and a University of Minnesota representative appointed by the president of the University of Minnesota. The committee expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 13. Minnesota Statutes 1988, section 135A.05, is amended to read:

135A.05 [TASK FORCE.]

The executive director of the Minnesota higher education coordinating board shall administer a task force on average cost funding. The task force shall include representation from each of the public systems of post-secondary education, post-secondary students, the education division of the house appropriations committee, the education subcommittee of the senate finance committee, the office of the commissioner of finance, the office of state auditor, and the uniform financial accounting and reporting advisory council. The task force shall be convened and chaired by the executive director or a designee and staffed by the higher education coordinating board. The task force shall review and make recommendations on the definition of instructional cost in all four systems, the method of calculating average cost for funding purposes, the method used to assign programs to the proper level of cost at each level of instruction, the adequacy of the accounting data for defining instructional cost in a uniform manner, and the biennial budget format to be used by the four systems in submitting their biennial budget requests. The task force shall submit a report on these matters to the legislature by December 1 of each odd-numbered year. The task force expires ~~as provided in section 15.059, subdivision 6~~ *June 30,*

1993.

Sec. 14. Minnesota Statutes 1988, section 135A.06, subdivision 3, is amended to read:

Subd. 3. [SYSTEM PLANS.] Each system shall develop a program plan for instruction, research, and public service. Each system shall consult with the higher education coordinating board and with the other systems throughout the planning process. The higher education coordinating board shall coordinate intersystem efforts in the development of the program plans to achieve intersystem cooperation and differentiation.

Each planning report shall consider at least the following elements:

(1) a statement of program priorities for undergraduate, graduate, and professional education, including data about program cost and average class size within each institution;

(2) *the effects of proposed programmatic and enrollment changes on other systems and campuses;*

(3) a review of plans for adjusting the number of facilities, staff, and programs to projected level of demand, including consideration of campus and program mergers, campus and program closings, new governance structures, the relationship between fixed costs and projected enrollment changes, and consolidation of institutions, services, and programs that serve the same geographic area under different governing boards;

(4) a review of the current and projected use of community outreach and extension programs including information on all off-campus sites;

~~(3)~~ *(5)* enrollment projections for two, five, and ten years based on recent available projections produced by the higher education coordinating board or, if different projections are used, they shall be compared to those prepared by the higher education coordinating board, and the system shall identify the method and assumptions used to prepare its projections;

~~(4)~~ *(6)* estimated financial costs and savings of alternative plans for adjusting facilities, staff, and programs to ~~declining~~ *changing* enrollments and fiscal resources;

~~(5)~~ *(7)* opportunities for providing services cooperatively with other public and private institutions in the same geographic area; and

~~(6)~~ *(8)* differentiating and coordinating missions to reduce or eliminate duplication of services and offerings, to improve delivery of services, and to establish clear and distinct roles and priorities.

Sec. 15. [135A.14] [SEXUAL HARASSMENT AND VIOLENCE POLICY.]

The governing board of each public post-secondary system and each public post-secondary institution shall adopt a clear, understandable written policy on sexual harassment and sexual violence. The policy must apply to students and employees and must provide information about their rights and duties. It must include procedures for reporting incidents of sexual harassment or sexual violence and for disciplinary actions against violators. During student registration, each public post-secondary institution shall provide each student with information regarding its policy. Each private post-secondary institution that enrolls students who receive state financial aid must adopt a policy that meets the requirements of this section.

The higher education coordinating board shall coordinate the policy development of the systems and institutions and periodically provide for review and necessary changes in the policies.

Sec. 16. Minnesota Statutes 1988, section 136.31, subdivision 3, is amended to read:

Subd. 3. ~~Such~~ *The* bonds ~~shall~~ *must* be executed by ~~such~~ *the* officers of ~~said~~ *the* board ~~as shall be~~ designated by ~~said~~ *the* board *to execute them* and countersigned by the treasurer ~~of~~ *elected by* the board. ~~who shall be an officer duly elected by the board; provided that at least one of such officers shall sign each bond manually and the other signatures or countersignature thereon and on the interest coupons may be printed, lithographed, stamped or engraved thereon. Any bonds bearing the signature of officers in office at the date of signing thereof shall be valid and binding for all purposes, notwithstanding that before delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers, or that any or all such persons did not hold such offices at the date of such bonds.~~

Sec. 17. Minnesota Statutes 1988, section 136.31, subdivision 5, is amended to read:

Subd. 5. ~~Whenever~~ *If* the board ~~shall~~ by resolution ~~determine~~ *determines* that ~~there are moneys in the possession of~~ its treasurer *possesses money* not currently needed, or ~~which are~~ *that is* set aside in ~~any~~ *a* reserve, the board ~~may~~ in ~~and by such~~ *the* resolution ~~authorize and~~ *may* direct the treasurer to invest a specified amount ~~thereof~~ *of the money* in ~~treasury bonds or bills, certificates of indebtedness, bonds or notes of the United States of America~~ *securities of the types described in section 475.66. The* securities ~~so purchased shall~~ *must* be deposited with and held for the board by the ~~board~~ treasurer. ~~Whenever funds so~~ *If the* invested ~~are~~ *money is* needed by the board it shall direct ~~its~~ *the* treasurer to sell ~~the same~~ *all* or a designated amount ~~thereof~~ *of the securities*. ~~All moneys~~ *Money* collected ~~thereon~~ *from the investment* by the ~~board~~ treasurer, as principal, interest, or proceeds of sales, ~~shall~~ *must* be credited to and ~~constitute~~ *made* a part of the fund and account for which the investment ~~was~~ *is* made.

Sec. 18. Minnesota Statutes 1988, section 136A.02, subdivision 5, is amended to read:

Subd. 5. [ADVISORY GROUPS.] The board may appoint advisory task forces to assist it in the study of higher education within the state or in the administration of federal programs. The task forces ~~shall~~ expire and the terms, compensation and removal of members ~~shall be~~ *are* as provided in section 15.059, *except that the task force established under section 135A.05 and the advisory councils established under subdivisions 6 and 7 expire June 30, 1993.*

Sec. 19. Minnesota Statutes 1988, section 136A.02, subdivision 6, is amended to read:

Subd. 6. [HIGHER EDUCATION ADVISORY COUNCIL.] A higher education advisory council is established. The council is composed of the president of the University of Minnesota, the chancellor of the state universities, the chancellor of the community colleges, the state director of vocational technical education, the commissioner of education, the president of the private college council, and a representative from the Minnesota association of private post-secondary schools. The advisory council shall (1) bring to the attention of the board any matters that the council deems

necessary, (2) make appropriate recommendations, (3) review and comment upon proposals and other matters before the board, and (4) provide other assistance to the board. The board shall periodically inform the council of matters under consideration by the board. The board shall refer all proposals to the council before submitting recommendations to the governor and the legislature. The board shall provide time for a report from the advisory council at each meeting of the board.

The council shall report to the board at least quarterly. The council shall determine its meeting times, but it shall also meet within 30 days after a request by the executive director of the board. The council expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 20. Minnesota Statutes 1988, section 136A.02, subdivision 7, is amended to read:

Subd. 7. [STUDENT ADVISORY COUNCIL.] A student advisory council to the board is established. The members of the council shall include the chair of the University of Minnesota university student senate, the state chair of the Minnesota state university student association, the president of the Minnesota community college student association, the president of the Minnesota vocational technical student association, the president of the Minnesota association of private college students, and a student who is enrolled in a private vocational school registered under this chapter, to be appointed by the Minnesota association of private post-secondary schools. A member may be represented by a designee.

The advisory council shall:

(1) bring to the attention of the board any matter that the council believes needs the attention of the board;

(2) make recommendations to the board as the council deems appropriate;

(3) review and comment upon proposals and other matters before the board;

(4) provide any reasonable assistance to the board; and

(5) select one of its members to serve as chair. The board shall inform the council of all matters under consideration by the board and shall refer all proposals to the council before the board acts or sends the proposals to the governor or the legislature. The board shall provide time for a report from the advisory council at each meeting of the board.

The student advisory council shall report to the board quarterly and at other times that the council considers desirable. The council shall determine its meeting time, but the council shall also meet with the executive director of the board within 30 days after the director's request for a council meeting. The student advisory council shall meet quarterly with the higher education advisory council and the board executive committee. The council expires ~~as provided in section 15.059, subdivision 5~~ *June 30, 1993*.

Sec. 21. Minnesota Statutes 1988, section 136A.04, is amended to read:

136A.04 [DUTIES.]

Subdivision 1. The higher education coordinating board shall:

~~(a)~~ *(1)* continuously study and analyze all phases and aspects of higher education, both public and private, and develop necessary plans and programs to meet present and future needs of the people of the state;

~~(b)~~ *(2)* continuously engage in long-range planning for the needs of higher education and, if necessary, cooperatively engage in planning with neighboring states and agencies of the federal government;

~~(c)~~ *(3)* act as successor to any committee or commission previously authorized to engage in exercising any of the powers and duties prescribed by sections 136A.01 to 136A.07;

~~(d)~~ *(4)* review, approve or disapprove, make recommendations, and identify priorities with respect to all proposals for new or additional programs of instruction or substantial changes in existing programs to be established in or offered by, the University of Minnesota, the state universities, the community colleges, technical institutes, and private collegiate and noncollegiate post-secondary institutions. The board shall also periodically review existing programs and recommend discontinuing or modifying any existing program. When reviewing new or existing programs, the board shall consider whether the program is unnecessary, a needless duplication of existing programs, beyond the capability of the system or institution considering its resources, or beyond the scope of the system or institutional mission;

~~(e)~~ *(5)* develop in cooperation with the post-secondary systems, house appropriations committee, senate finance committee, and the departments of administration and finance, a compatible budgetary reporting format designed to provide data of a nature to facilitate systematic review of the budget submissions of the University of Minnesota, the state university system, the community college system, and the technical institutes, which includes the relating of dollars to program output;

~~(f)~~ *(6)* review budget requests, including plans for construction or acquisition of facilities, of the University of Minnesota, the state universities, the community colleges, and technical institutes for the purpose of relating present resources and higher educational programs to the state's present and long-range needs; and conduct a continuous analysis of the financing of post-secondary institutions and systems, including the assessments as to the extent to which the expenditures and accomplishments are consistent with legislative intent;

~~(g)~~ *(7)* obtain from private post-secondary institutions receiving state funds a report on their use of those funds;

~~(h)~~ *(8)* continuously monitor and study the transferability between Minnesota post-secondary and higher education institutions of credits earned for equal and relevant work at those institutions, the degree to which credits earned at one institution are accepted at full value by the other institutions, and the policies of these institutions concerning the placement of these transferred credits on transcripts; *and*

(9) prescribe policies, procedures, and rules necessary to administer the programs under its supervision.

Subd. 2. The higher education coordinating board shall review and make recommendations regarding a plan or proposal for a new or additional program of instruction or a substantial change in an existing program of instruction to be offered by a technical institute within 45 days of the transmission of approval of the plan or proposal to the higher education coordinating board by the state board ~~for~~ *of* vocational *technical* education. The higher education coordinating board shall then transmit a written explanation of its recommendations within five days of board action to the

director of the applying technical institute and to the ~~commissioner of~~ *state director of vocational technical* education.

Sec. 22. Minnesota Statutes 1988, section 136A.05, is amended to read:

136A.05 [COOPERATION OF INSTITUTIONS OF HIGHER EDUCATION.]

All public institutions of higher education, *all school districts providing post-secondary vocational education,* and all state departments and agencies shall cooperate with and supply information requested by the higher education coordinating board in order to enable it to carry out and perform its duties. Private post-secondary institutions are requested to cooperate and provide information.

Sec. 23. Minnesota Statutes 1988, section 136A.08, is amended to read:

136A.08 [RECIPROCAL AGREEMENTS RELATING TO NONRESIDENT TUITION WITH OTHER STATES.]

Subdivision 1. [AUTHORIZATION.] The Minnesota higher education coordinating board ~~herein referred to as the board, in addition to its general responsibility for cooperatively engaging in planning higher education needs with neighboring states pursuant to section 136A.04,~~ may enter into agreements ~~or understandings which include~~, *on subjects that include* remission of nonresident tuition for designated categories of students at ~~state~~ *public post-secondary* institutions ~~of higher education and public technical institutes~~, with appropriate state agencies and *public post-secondary* institutions ~~of higher education~~ in other states ~~to facilitate utilization of public higher education institutions in this state and other states~~. ~~Such~~ *The* agreements shall ~~have as their~~ *be for the* purpose *of* the mutual improvement of educational advantages for residents of this state and ~~such~~ other states ~~or institutions of other states~~ with whom agreements are made.

Subd. 1a. [WISCONSIN.] ~~At the discretion of the board,~~ A higher education reciprocity agreement with the state of Wisconsin may include provision for the transfer of funds between Minnesota and Wisconsin provided that an income tax reciprocity agreement between Minnesota and Wisconsin is in effect for the period of time included under the higher education reciprocity agreement. If *this* provision ~~for transfer of funds between the two states~~ is included ~~in a collegiate education reciprocity agreement~~, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the board and a duly designated agency representing Wisconsin. ~~Such~~ *The* formula shall recognize differences in tuition rates between the two states and the number of students attending institutions in each state under the agreement. Any payments to Minnesota by Wisconsin shall be deposited by the board in the general fund of the state treasury. The amount required for the payments shall be certified by the executive director of the higher education coordinating board to the commissioner of finance annually.

Subd. 2. [NORTH DAKOTA; SOUTH DAKOTA.] ~~At the discretion of the board,~~ A reciprocity agreement with North Dakota may include provision for the transfer of funds between Minnesota and North Dakota. If provision for transfer of funds between the two states is included ~~in an agreement~~, the amount of funds to be transferred shall be determined according to a formula which is mutually acceptable to the board and a duly designated agency representing North Dakota. In adopting a formula, the board shall consider tuition rates in the two states and the number of

students attending institutions in each state under the agreement. Any payment to Minnesota by North Dakota shall be deposited by the board in the general fund. The amount required for the payments shall be certified by the executive director of the higher education coordinating board to the commissioner of finance annually. All provisions in this subdivision pertaining to North Dakota shall also be applied to South Dakota and all authority and conditions granted for higher education reciprocity with North Dakota are also granted for higher education reciprocity with South Dakota.

Subd. 3. [FINANCIAL AID.] The board may enter into an agreement, with a state with which it has negotiated a reciprocity agreement for tuition, to permit students from both states to receive student aid awards from the student's state of residence for attending an eligible institution in the other state.

Subd. 4. [GOVERNING BOARD APPROVAL.] ~~No~~ *An* agreement made by the board ~~pursuant to~~ *under* this section ~~shall be~~ *is not* valid as to a ~~technical institute~~ *particular institution* without the approval of ~~the state board for vocational education, as to a state university without the approval of the state university board, as to a community college without the approval of the state board for community colleges, and as to the University of Minnesota without the approval of the board of regents of the University of Minnesota~~ *that institution's state governing board.*

Sec. 24. Minnesota Statutes 1988, section 136A.101, subdivision 1, is amended to read:

Subdivision 1. For purposes of sections ~~136A.09~~ *136A.095* to ~~136A.131~~ *136A.134*, the terms defined in this section have the meanings ascribed to them.

Sec. 25. Minnesota Statutes 1988, section 136A.101, subdivision 7, is amended to read:

Subd. 7. "Student" means a person who is enrolled at least half time, as defined by the board, in a program or course of study that applies to a degree, diploma, or certificate, *except that for purposes of section 136A.132, student may include a person enrolled less than half time.*

Sec. 26. Minnesota Statutes 1988, section 136A.101, subdivision 8, is amended to read:

Subd. 8. "Resident student" ~~includes~~ *means a student who meets one of the following conditions:*

(1) an independent student who has resided in Minnesota for purposes other than post-secondary education for at least 12 months;

(2) a dependent student whose parent or legal guardian resides in Minnesota at the time the student applies;

(3) a student who graduated from a Minnesota high school ~~and has not since established residence in another state~~*; or*

(4) a student who, after residing in the state for a minimum of one year, earned a high school equivalency certificate in Minnesota.

Sec. 27. Minnesota Statutes 1988, section 136A.121, is amended to read:

136A.121 [~~SCHOLARSHIPS AND GRANTS IN AID~~ *GRANTS.*]

Subdivision 1. [ELIGIBILITY FOR SCHOLARSHIPS.] An applicant is eligible to be considered for a scholarship under sections 136A.09 to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) has met all the requirements for admission as a student to an eligible institution of choice as defined in sections 136A.09 to 136A.131;

(3) has demonstrated capacity for superior achievement at the institutional level as measured by standards prescribed by the board;

(4) is a qualified applicant.

Subd. 2. [ELIGIBILITY FOR ~~GRANTS-IN-AID~~ *GRANTS*.] An applicant is eligible to be considered for a ~~grant-in-aid~~ *grant*, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections ~~136A.09~~ *136A.095* to 136A.131 if the board finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical institute of choice as defined in sections ~~136A.09~~ *136A.095* to 136A.131;

(3) has met the financial need criteria established in *Minnesota* Rules*; and*

(4) is not in default, as defined by the board, of any federal or state student educational loan.

Subd. 3. [ALLOCATION.] ~~Scholarships and grants-in-aid shall~~ *Grants must* be awarded on a funds available basis to those applicants who meet the board's requirements.

Subd. 4. [SCHOLARSHIP STIPENDS.] An eligible scholarship applicant shall be considered for a financial stipend if the applicant demonstrates financial need. The amount of a financial stipend must not exceed a scholarship applicant's cost of attendance, as defined in subdivision 6, after deducting the following:

(a) a contribution by the scholarship applicant of at least 50 percent of the cost of attending the institution of the applicant's choosing;

(b) for an applicant who is not an independent student, a contribution by the scholarship applicant's parents, as determined by a standardized need analysis; and

(c) the amount of a federal Pell grant award for which the scholarship applicant is eligible.

~~The minimum financial stipend is $100.~~

Subd. 5. [~~GRANTS-IN-AID~~ *GRANT* STIPENDS.] ~~A financial stipend based on financial need must accompany grants-in-aid.~~ The amount of a financial stipend must not exceed a grant applicant's cost of attendance, as defined in subdivision 6, after deducting the following:

~~(a)~~ *(1)* a contribution by the grant applicant of at least 50 percent of the cost of attending the institution of the applicant's choosing;

~~(b)~~ *(2)* for an applicant who is not an independent student, a contribution by the grant applicant's parents, as determined by a standardized need

analysis; and

~~(c)~~ *(3)* the amount of a federal Pell grant award for which the grant applicant is eligible.

The minimum financial stipend is $100.

Subd. 6. [COST OF ATTENDANCE.] The cost of attendance consists of allowances specified by the board for room and board and miscellaneous expenses, and

~~(a)~~ *(1)* for public institutions, tuition and fees charged by the institution; or

~~(b)~~ *(2)* for private institutions, an allowance for tuition and fees equal to the lesser of ~~(1)~~ the actual tuition and fees charged by the institution, or ~~(2)~~ the instructional costs per full-year equivalent student in comparable public institutions.

Subd. 7. [INSUFFICIENT APPROPRIATION.] If the amount appropriated is determined by the board to be insufficient to make full awards to applicants under ~~subdivisions~~ 4 ~~and~~ *subdivision* 5, before any award for that year has been disbursed, ~~then~~ awards ~~shall~~ *must* be reduced by

~~(a)~~ *(1)* adding a surcharge to the contribution of the applicant's parents, and

~~(b)~~ *(2)* a percentage increase in the applicant's contribution.

Subd. 9. [INITIAL AWARDS.] An undergraduate student who has not previously received a ~~scholarship or grant-in-aid~~ *grant* and who meets the board's requirements is eligible to apply for and receive an initial ~~scholarship or grant-in-aid~~ *grant* in any year of undergraduate study.

Subd. 10. [RENEWALS.] Each ~~scholarship or grant-in-aid shall~~ *grant must* be awarded for one academic year, is renewable for a maximum of six semesters or nine quarters or their equivalent, but may not continue after the recipient has obtained a baccalaureate degree *or has been enrolled full-time or the equivalent for eight semesters or 12 quarters, whichever occurs first.*

Subd. 11. [RENEWAL CONDITIONS.] Each ~~scholarship or grant-in-aid~~ *grant* is renewable, contingent on continued residency in Minnesota, satisfactory academic standing, recommendation of the eligible institution currently attended, and evidence of continued need.

Subd. 12. [ANNUAL APPLICATION.] To continue to receive a ~~scholarship or grant-in-aid~~ *grant*, the student ~~shall~~ *must* apply for renewal each year.

Subd. 13. [DEADLINE.] The board shall accept applications for state ~~scholarships and grants-in-aid~~ *grants* until February 15 and may establish a deadline for the acceptance of applications that is later than February 15.

~~Subd. 15. All scholarship and grant-in-aid recipients shall be notified of their awards by the board and shall be given appropriate evidence of the award.~~

Subd. 16. [HOW APPLIED; ORDER.] ~~Scholarships and grants-in-aid~~ *Grants* awarded under sections ~~136A.09~~ *136A.095* to 136A.131 ~~shall~~ *must* be applied to educational costs in the following order: tuition, fees, books, supplies, and other expenses. Unpaid portions of the awards revert to the

~~scholarship~~ ~~or~~ ~~grant-in-aid~~ *grant* account.

Subd. 17. [INDEPENDENT STUDENT INFORMATION.] *The board shall inform students, in writing, as part of the application process, about the definition of independent student status and appeals to the financial aid administrator relating to the declaration of the status.*

Sec. 28. [136A.125] [CHILD CARE GRANTS.]

Subdivision 1. [ESTABLISHMENT.] *A child care grant program is established under the supervision of the higher education coordinating board. The program makes money available to eligible students to reduce the costs of child care while attending an eligible post-secondary institution. The board shall develop policies and adopt rules as necessary to implement and administer the program.*

Subd. 2. [ELIGIBLE STUDENTS.] *An applicant is eligible for a child care grant if the applicant:*

(1) is a resident of the state of Minnesota;

(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 120.03, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;

(3) is within the sliding fee scale income guidelines set under section 256H.10, subdivision 2, as determined by a standardized financial aid needs analysis in accordance with the board's policies and rules, but is not a recipient of aid to families with dependent children;

(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters, 12 quarters or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; and

(7) is in good academic standing and making satisfactory progress, as determined by the institution.

Subd. 3. [ELIGIBLE INSTITUTION.] *A Minnesota public post-secondary institution or a private, residential, two-year or four-year, liberal arts, degree granting college or university located in Minnesota is eligible to receive child care funds from the board and disburse them to eligible students.*

Subd. 4. [AMOUNT AND LENGTH OF GRANTS.] *The amount of a child care grant must be based on:*

(1) the financial need of the applicant;

(2) the number of the applicant's children; and

(3) the cost of the child care,

as determined by the institution in accordance with board policies and rules. The amount of the grant must cover the cost of child care for all eligible children for the full number of hours of education per week and may cover up to 20 hours per week of employment for which child care is needed. The grant must be awarded for one academic year.

Subd. 5. [INITIAL ALLOCATIONS TO INSTITUTIONS.] *The board initially shall allocate funds to an eligible institution based on the number of its enrolled students with dependent children who applied for state grants in the last academic year.*

Subd. 6. [YEARLY ALLOCATIONS TO INSTITUTIONS.] *The board shall base yearly allocations on the need for and use of the funds in the last academic year, and other relevant factors as determined by the board in consultation with the institutions.*

Subd. 7. [MONITORING AND REALLOCATION.] *The board shall establish procedures to (1) continually monitor the use of funds throughout the year; (2) identify areas of unmet need for grants; and (3) redistribute available funds in a timely manner to meet the needs of eligible recipients.*

Subd. 8. [INFORMATION.] *The board shall develop and provide information about the program to eligible post-secondary institutions, human service agencies, and potential applicants.*

Subd. 9. [REPORT.] *Institutions must submit reports, when requested by the board, on program activity including the number of students served, the child care costs, and the number of students on a waiting list for available funds. The reports must also include the institution's method of prioritizing applicants if insufficient funds are available.*

Sec. 29. [CAMPUS ALTERNATIVES.]

Each public post-secondary system that operates child care facilities on any of its campuses shall work with those campuses to develop alternatives for students who cannot afford child care. The alternatives may include, but are not limited to, cooperative arrangements and work study employment. The systems shall report on their efforts to the education divisions of the house appropriations and senate finance committees by February 15, 1991.

Sec. 30. Minnesota Statutes 1988, section 136A.131, is amended to read:

136A.131 [ACCOUNTING AND RECORDS.]

Subdivision 1. [ACCOUNTS.] The board shall establish and maintain appropriate ~~scholarship and grant-in-aid~~ accounts and related records of each recipient of a ~~scholarship or grant-in-aid awarded~~ *grant*.

Subd. 2. [RULES, PAYMENT AND ACCOUNTING.] The board shall provide by rule the method of payment of the ~~scholarships and grants-in-aid~~ *grant* awarded ~~hereunder~~ and prescribe a system of accounting to be kept by the institution selected by a recipient.

Subd. 3. [CERTIFICATION TO COMMISSIONER OF FINANCE.] Upon proper verification for payment of a ~~scholarship or grant-in-aid as defined herein~~ *grant*, the board shall certify to the commissioner of finance the amount of the current payment to be made to the ~~scholarship winner or grant-in-aid~~ *grant* recipient in conformance with the rule of the board governing the method of payment.

Subd. 4. [RECOVERY OF OVERPAYMENTS.] *A recipient of a grant must reimburse the board for overpayment. The amount of reimbursement is the difference between the amount received and the amount of actual entitlement as calculated by the board after it makes its final findings under section 136A.121 and rules implemented under that section. The*

amount of reimbursement may include any costs or expenses, including reasonable attorney fees, incurred by the agency in collecting the debt. The reimbursement is recoverable from the recipient or the recipient's estate. The agency may institute a civil action, if necessary for recovery.

The recipient must not receive additional awards until the overpayment is recovered or the recipient is making payments under an approved plan. Additional awards for which the recipient is eligible may be used to recover an unreimbursed overpayment.

Sec. 31. Minnesota Statutes 1988, section 136A.132, is amended to read:

136A.132 [PART-TIME STUDENT ~~GRANT-IN-AID~~ *GRANT* PROGRAM.]

Subdivision 1. [CREATION.] ~~There is hereby created~~ A part-time student ~~grant-in-aid~~ *grant* program *is created* under the supervision of the higher education coordinating board.

Subd. 2. [ELIGIBLE INSTITUTIONS.] Institutions eligible for attendance by recipients of part-time student ~~grants-in-aid shall be~~ *grants are* those institutions approved by the higher education coordinating board as eligible institutions for the state ~~grant-in-aid~~ *grant* program in accordance with section 136A.101.

Subd. 3. [STUDENT ELIGIBILITY.] An applicant is eligible to be considered for a part-time student grant if the applicant:

~~(a)~~ *(1)* is a resident of the state of Minnesota;

~~(b)~~ *(2)* is an undergraduate student who has not earned a baccalaureate degree;

~~(c)~~ *(3)* is pursuing a program or course of study that applies to a degree, diploma, or certificate; ~~and~~

~~(d)~~ *(4)* is attending an eligible institution either less than half time as defined by the board, or as a new or returning student enrolled at least half time but less than full time as defined by the board; *and*

(5) is not in default, as defined by the board, of any federal or state student educational loan.

Subd. 4. [SELECTION.] A recipient of a part-time ~~grant-in-aid shall~~ *grant must* be selected by the post-secondary education institution of attendance in accordance with guidelines, policies and rules established by the higher education coordinating board.

Subd. 5. [AMOUNT.] The amount of any part-time student ~~grant-in-aid~~ *grant* award ~~shall~~ *must* be based on the need of the applicant determined by the institution in accordance with policies and rules established by the higher education coordinating board.

Subd. 6. [LENGTH OF AWARD.] Part-time student ~~grants-in-aid shall~~ *grants must* be awarded for a single term as defined by the institution in accordance with guidelines and policies of the higher education coordinating board. Awards ~~shall~~ *are* not ~~be~~ renewable, but the recipient of an award may apply for additional awards for subsequent terms.

A new or returning student enrolled at least half time but less than full time, as defined by the board, and pursuing a program or course of study

that applies to a degree, diploma, or certificate ~~shall be~~ *is* eligible for an award for only one term.

Subd. 7. [INSTITUTIONAL ALLOCATION.] Funds appropriated for part-time student ~~grants-in-aid shall~~ *grants must* be allocated among eligible institutions by the higher education coordinating board according to a formula which takes into account the number of resident part-time students enrolled in each institution and other relevant factors determined by the board. However, an institution ~~must~~ *may* not receive less than it would have received under the allocation formula used before fiscal year 1988.

Sec. 32. Minnesota Statutes 1988, section 136A.134, subdivision 4, is amended to read:

Subd. 4. [PROGRAM RECIPIENTS.] An eligible institution shall select a recipient of a dislocated rural worker grant in accordance with guidelines, policies, and rules established by the board. ~~The board may adopt emergency rules for awarding grants only for the fiscal year beginning July 1, 1987.~~

Sec. 33. Minnesota Statutes 1988, section 136A.15, subdivision 1, is amended to read:

Subdivision 1. For purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*, the terms defined in this section have the meanings ascribed to them.

Sec. 34. Minnesota Statutes 1988, section 136A.15, subdivision 7, is amended to read:

Subd. 7. "Eligible student" means a student who is officially registered or accepted for enrollment at an eligible institution in Minnesota or a Minnesota resident who is officially registered as a student or accepted for enrollment at an eligible institution in another state. ~~A Minnesota resident includes a student who graduated from a Minnesota high school and has not since established residence in another state.~~ Eligible student, except for purposes of section 136A.1701, includes parents of an eligible student as the term "parent" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. Except for the purposes of section 136A.1701, eligible student also includes students eligible for auxiliary loans as the term "auxiliary" is defined in the Higher Education Act of 1965, as amended, and applicable regulations. An eligible student, for section 136A.1701, means a student who gives informed consent authorizing the disclosure of data specified in section 136A.162, paragraph (b), to a consumer credit reporting agency.

Sec. 35. Minnesota Statutes 1988, section 136A.15, is amended by adding a subdivision to read:

Subd. 8. "Resident student" means a student who meets the conditions in section 136A.101, subdivision 8.

Sec. 36. Minnesota Statutes 1988, section 136A.16, subdivision 1, is amended to read:

Subdivision 1. *Notwithstanding chapter 16B,* the Minnesota higher education coordinating board is ~~hereby~~ designated as the administrative agency for carrying out the purposes and terms of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702. The board may establish one or more loan programs.*

Sec. 37. Minnesota Statutes 1988, section 136A.16, subdivision 2, is amended to read:

Subd. 2. The board shall adopt policies and prescribe appropriate rules to carry out the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17~~ ~~and section 136A.1701~~ *136A.1702*. The policies and rules except as they relate to loans under section 136A.1701 ~~shall~~ *must* be compatible with the provisions of the National Vocational Student Loan Insurance Act of 1965 and the provisions of title IV of the Higher Education Act of 1965, and any amendments thereof.

Sec. 38. Minnesota Statutes 1988, section 136A.16, subdivision 5, is amended to read:

Subd. 5. The board ~~shall have the right to~~ *may* contract with guarantee agencies, insurance agencies, ~~and/or~~ collection agencies, or any other person, to carry out the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*.

Sec. 39. Minnesota Statutes 1988, section 136A.16, subdivision 8, is amended to read:

Subd. 8. ~~Moneys~~ *Money* made available to the board ~~which are~~ *that is* not immediately needed for the purposes of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702* may be invested by the board. ~~Such moneys shall~~ *The money must* be invested in bonds, certificates of indebtedness, and other fixed income securities, except preferred stocks, which are legal investments for the permanent school fund. ~~Such~~ *The* money may also be invested in ~~such~~ prime quality commercial paper ~~as~~ *that* is eligible for investment in the state employees retirement fund. All interest and profits from such investments ~~shall~~ inure to the benefit of the board.

Sec. 40. Minnesota Statutes 1988, section 136A.16, subdivision 9, is amended to read:

Subd. 9. The board ~~shall be empowered to~~ *may* employ ~~such~~ *the* professional and clerical staff ~~as~~ the director deems necessary for the proper administration of the loan programs established and defined by sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*.

Sec. 41. Minnesota Statutes 1988, section 136A.16, subdivision 10, is amended to read:

Subd. 10. Subject to its directives and review, the board may delegate to the director the responsibility for issuance of public information concerning provisions of sections ~~136A.14~~ *136A.15* to ~~136A.17 and section 136A.1701~~ *136A.1702*, for design of loan application forms, and for prescribing procedures for submission of applications for loans.

Sec. 42. Minnesota Statutes 1988, section 136A.162, is amended to read:

136A.162 [CLASSIFICATION OF DATA.]

All data on applicants for financial assistance collected and used by the higher education coordinating board for student financial aid programs administered by that board shall be classified as private data on individuals under section 13.02, subdivision 12. Exceptions to this classification are that:

(a) the names and addresses of program recipients or participants are

public data; and

(b) the following data collected in the Minnesota supplemental loan program under section 136A.1701 may be disclosed to a consumer credit reporting agency only if the borrower ~~gives~~ *and the cosigner give* informed consent, according to section 13.05, subdivision 4, at the time of application for a loan:

(1) the lender-assigned borrower identification number;

(2) the name and address of borrower;

(3) the name and address of cosigner;

(4) the date the account is opened;

(5) the outstanding account balance;

(6) the dollar amount past due;

(7) the number of payments past due;

(8) the number of late payments in previous 12 months;

(9) the type of account;

(10) the responsibility for the account; and

(11) the status or remarks code.

Sec. 43. Minnesota Statutes 1988, section 136A.17, subdivision 1, is amended to read:

Subdivision 1. A student ~~shall be~~ *is* eligible to apply for a loan under ~~the provisions of~~ sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* if the board finds that the student is an eligible student as defined in those sections and is eligible for a loan under federal laws and regulations governing the federal guaranteed student loan programs.

Sec. 44. Minnesota Statutes 1988, section 136A.1701, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The higher education coordinating board may provide for programs of loans which may be made in lieu of or in addition to loans authorized under sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* and applicable provisions of federal law as provided in this section.

Sec. 45. Minnesota Statutes 1988, section 136A.1701, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF PROGRAM.] The purpose of the loan programs under this section is to provide financial assistance for the post-secondary education of students who are eligible students whether or not such students qualify for a loan or loans under other provisions of sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702*.

Loans granted to students ~~shall~~ *may* be used solely for educational purposes.

Sec. 46. Minnesota Statutes 1988, section 136A.1701, subdivision 5, is amended to read:

Subd. 5. [MAXIMUM LOANS FOR STUDENTS.] Loans made under this section or sections ~~136A.14~~ *136A.15* to ~~136A.17~~ *136A.1702* to an individual eligible student for vocational study may be made for a maximum

of three academic years or their equivalent and loans made to any other individual eligible student may be made for a maximum of eight academic years or their equivalent.

Sec. 47. Minnesota Statutes 1988, section 136A.172, is amended to read:

136A.172 [NEGOTIABLE NOTES; ISSUANCE; CONDITIONS.]

The board may from time to time issue negotiable notes for the purpose of sections ~~136A.14~~ *136A.15* to 136A.179 and may from time to time renew any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The board may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the board or any issue thereof may contain any provisions which the board is authorized to include in any resolution or resolutions authorizing revenue bonds of the board or any issue thereof, and the board may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable solely from the revenue of the board, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

Sec. 48. Minnesota Statutes 1988, section 136A.173, subdivision 1, is amended to read:

Subdivision 1. The board may from time to time issue revenue bonds for purposes of sections ~~136A.14~~ *136A.15* to 136A.179 and all such revenue bonds, notes, bond anticipation notes or other obligations of the board issued pursuant to sections ~~136A.14~~ *136A.15* to 136A.179 shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the board may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the board available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the board in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution or the board may contain.

Sec. 49. Minnesota Statutes 1988, section 136A.174, is amended to read:

136A.174 [SECURITY FOR BONDS.]

In the discretion of the board any revenue bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 may be secured by a trust agreement by and between the board and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the state. Such trust agreement or the resolution providing for the issuance of such revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged or any portion thereof. Such trust agreement or resolution providing for the issuance of such revenue bonds may contain such provisions for protecting and

enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of laws, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the board authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledges such securities as may be required by the board. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of the bondholders.

Sec. 50. Minnesota Statutes 1988, section 136A.175, subdivision 4, is amended to read:

Subd. 4. All such revenue bonds shall be subject to the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 in the same manner and to the same extent as other revenue bonds issued pursuant to sections ~~136A.14~~ *136A.15* to 136A.179.

Sec. 51. Minnesota Statutes 1988, section 136A.176, is amended to read:

136A.176 [BONDS NOT STATE OBLIGATIONS.]

Bonds issued under authority of sections ~~136A.14~~ *136A.15* to 136A.179 do not, and shall state that they do not, represent or constitute a debt or pledge of the faith and credit of the state, grant to the owners or holders thereof any right to have the state levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the rentals, revenues, and other income, charges, and moneys as are pledged for their payment in accordance with the bond proceedings.

Sec. 52. Minnesota Statutes 1988, section 136A.177, is amended to read:

136A.177 [RIGHTS OF BONDHOLDERS.]

Any holder of revenue bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by sections ~~136A.14~~ *136A.15* to 136A.179 or by such resolution or trust agreement to be performed by the board or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

Sec. 53. Minnesota Statutes 1988, section 136A.178, is amended to read:

136A.178 [LEGAL INVESTMENTS; AUTHORIZED SECURITIES.]

Bonds issued by authority under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179 are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them; it being the purpose of this section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any person, firm, or corporation from any duty of exercising due care in selecting securities for purchase or investment; and provided further, that in no event shall assets of pension funds of public employees of the state of Minnesota or any of its agencies, board or subdivisions, whether publicly or privately administered, be invested in bonds issued under the provisions of sections ~~136A.14~~ *136A.15* to 136A.179. Such bonds are hereby constituted "authorized securities" within the meaning and for the purposes of section 50.14. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state now or may hereafter be authorized by law.

Sec. 54. Minnesota Statutes 1988, section 136A.179, is amended to read:

136A.179 [PUBLIC PURPOSE; TAX FREE STATUS.]

The exercise of the powers granted by sections ~~136A.14~~ *136A.15* to 136A.179 will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as providing loans by the board or its agent will constitute the performance of an essential public function.

Sec. 55. Minnesota Statutes 1988, section 136A.233, is amended to read:

136A.233 [WORK-STUDY GRANTS.]

Subdivision 1. [ALLOCATION TO INSTITUTIONS.] ~~Notwithstanding the provisions of sections 136A.09 to 136A.131,~~ The higher education coordinating board may offer work-study grants to eligible post-secondary institutions according to the resident full-time equivalent enrollment of all eligible post-secondary institutions that apply to participate in the program. The board shall seek to equalize work-study job opportunities by also taking into account student employment needs at eligible institutions. Each institution wishing to receive a work-study grant shall submit to the board, in accordance with policies and procedures established by the board, an estimate of the amount of funds needed by the institution. ~~and~~ The amount allocated to any institution shall not exceed the estimate of need submitted by the institution. Any funds which would be allocated to an institution according to full-time equivalent enrollment but which exceed the estimate of need by the institution or the actual need of the institution may be reallocated by the board to other institutions for which the estimate of need exceeds the amount of allocation according to enrollment. The institution must not receive less than it would have received under the allocation formula used before fiscal year 1988. No more than one-half of any increase

in appropriations, attributable to this section, above the level before fiscal year 1988 may be allocated on the basis of identified student employment needs at eligible institutions.

Subd. 2. [DEFINITIONS.] For purposes of sections 136A.231 to 136A.234, the ~~following~~ words *defined in this subdivision* have the meanings ascribed to them~~:~~.

(a) "Eligible student" means a Minnesota resident enrolled or intending to enroll full time in a Minnesota post-secondary institution. ~~A Minnesota resident includes a student who graduated from a Minnesota high school and has not since established residence in another state.~~

(b) *"Minnesota resident" means a student who meets the conditions in section 136A.101, subdivision 8.*

(c) "Financial need" means the need for financial assistance in order to attend a post-secondary institution as determined by a post-secondary institution according to guidelines established by the higher education coordinating board.

~~(c)~~ *(d)* "Eligible employer" means any eligible post-secondary institution and any nonprofit, nonsectarian agency or state institution located in the state of Minnesota, including state hospitals, and also includes a handicapped person or a person over 65 who employs a student to provide personal services in or about the residence of the handicapped person or the person over 65.

~~(d)~~ *(e)* "Eligible post-secondary institution" means any post-secondary institution eligible for participation in the Minnesota state ~~scholarship and~~ grant program as specified in section 136A.101, subdivision 4.

~~(e)~~ *(f)* "Independent student" has the meaning given it in the Higher Education Act of 1965, United States Code, title 20, section 1070a-6, and applicable regulations.

Subd. 3. [PAYMENTS.] Work-study payments shall be made to eligible students by post-secondary institutions as ~~follows:~~ *provided in this subdivision.*

(a) Students shall be selected for participation in the program by the post-secondary institution on the basis of student financial need.

(b) No eligible student shall be employed under the state work-study program while not a full time student; provided, with the approval of the institution, a full time student who becomes a part-time student during an academic year may continue to be employed under the state work-study program for the remainder of the academic year.

(c) Students will be paid for hours actually worked and the maximum hourly rate of pay shall not exceed the maximum hourly rate of pay permitted under the federal college work-study program.

(d) Minimum pay rates will be determined by an applicable federal or state law.

(e) Not less than 20 percent of the compensation paid to the student under the state work-study program shall be paid by the eligible employer.

(f) Each post-secondary institution receiving funds for state work-study grants shall make a reasonable effort to place work-study students in employment with eligible employers outside the institution.

(g) The percent of the institution's work-study allocation provided to graduate students shall not exceed the percent of graduate student enrollment at the participating institution.

Sec. 56. Minnesota Statutes 1988, section 136A.26, subdivision 1a, is amended to read:

Subd. 1a. [PRIVATE COLLEGE COUNCIL MEMBER.] The ~~chief executive officer~~ *president* of the Minnesota private college council, *or the president's designee,* shall serve~~,~~ without compensation~~,~~ as an advisory, nonvoting member of the authority.

Sec. 57. Minnesota Statutes 1988, section 136A.29, subdivision 9, is amended to read:

Subd. 9. The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed ~~$150,000,000~~ *$250,000,000* and to issue notes, bond anticipation notes, and revenue refunding bonds of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving, furnishing, or equipping one or more projects or parts thereof.

Sec. 58. Minnesota Statutes 1988, section 136A.69, is amended to read:

136A.69 [FEES.]

The board may collect reasonable registration fees not to exceed ~~$200~~ *$400* for an initial registration of each school and ~~$150~~ *$250* for each annual renewal of ~~such~~ *an* existing registration.

Sec. 59. Minnesota Statutes 1988, section 136C.04, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The state board shall possess all powers necessary and incident to the management, jurisdiction, and governance of post-secondary vocational education. These powers shall include, but are not limited to, those enumerated in this section. *The state board may adopt policies as necessary to perform its duties.*

Sec. 60. Minnesota Statutes 1988, section 136C.04, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT OF STATE DIRECTOR.] The state board shall appoint a state director of vocational technical education who shall serve in the unclassified service. The state director shall be qualified by training and experience in the field of education, vocational education, or administration. The state director shall possess powers and perform duties as delegated by the state board. The state board shall set the salary of the state director. ~~The state director may be paid an allowance not to exceed $2,000 annually for miscellaneous expenses in connection with duties of the office. The provisions of chapter 16A shall not apply to these expenditures, but the state board shall prescribe the manner, amount, and purpose of the expenditures and report to the legislature on the expenditures by December 1 of each even-numbered year.~~

Sec. 61. Minnesota Statutes 1988, section 136C.04, subdivision 6, is amended to read:

Subd. 6. [ACCOUNTING AND REPORTING STANDARDS.] The state board shall maintain the uniform financial accounting and reporting system

according to the provisions of sections 121.90 to 121.917, *except that reports required by section 121.908 must be submitted to the state board on dates determined by the state board. All expenditures and revenue related to summer session credit courses must be recognized in the fiscal year in which the course begins.*

Sec. 62. Minnesota Statutes 1988, section 136C.04, subdivision 9, is amended to read:

Subd. 9. [LICENSURE.] The state board may ~~promulgate~~ *adopt* rules~~, according to the provisions of~~ *under* chapter 14~~,~~ for licensure of teaching, support, and supervisory personnel in post-secondary and adult vocational education. ~~The state board may adopt emergency licensure rules, according to sections 14.29 to 14.36.~~ When necessary for continuous programs approved by the board and when the board determines that appropriate licensure standards do not exist~~.~~*, the state board may adopt appropriate temporary standards without regard to chapter 14 and may issue temporary licenses to teaching and support personnel. A temporary license is valid for up to one year and is not renewable, but a person holding a temporary license may, upon its expiration, be issued a license in accordance with standards adopted under chapter 14. The state board may establish a processing fee for the issuance, renewal, or extension of a license.*

Sec. 63. Minnesota Statutes 1988, section 136C.04, subdivision 10, is amended to read:

Subd. 10. [ALLOCATION.] The state board shall allocate state and federal money for post-secondary vocational education. Money received from federal sources, other than as provided in this chapter, and money received from other sources, not including the state, shall not be taken into account in determining appropriations or allocations. *The board shall take into consideration the unreserved fund balances of each technical institute.*

Sec. 64. Minnesota Statutes 1988, section 136C.04, subdivision 18, is amended to read:

Subd. 18. [COMPUTER SALES AND MAINTENANCE.] The state board of vocational technical education *or a school board* may sell computers and related products to ~~its~~ *technical institute* staff and *technical institute* students to advance their instructional and research abilities. ~~The board shall contract with a private vendor for service, maintenance, and support for computers and related products sold by the board.~~

Sec. 65. Minnesota Statutes 1988, section 136C.042, subdivision 2, is amended to read:

Subd. 2. [EXCEPTION.] Associate degrees offered by the ~~area vocational~~ technical institutes prior to January 1, 1981, shall not be subject to the provisions of subdivision 1.

Sec. 66. Minnesota Statutes 1988, section 136C.05, is amended by adding a subdivision to read:

Subd. 5. [USE OF PROPERTY.] *A school board must not sell, lease, or assign technical institute property for purposes other than technical institute activities without the approval of the state director. A school board need not obtain approval for uses that are incidental.*

Sec. 67. Minnesota Statutes 1988, section 136C.05, is amended by adding a subdivision to read:

Subd. 6. [ACCOUNTING.] *The school board shall maintain, in accordance with section 136C.04, subdivision 6, separate revenue, expenditure, asset, and liability accounts for technical institutes within funds separate from all other district funds.*

Sec. 68. Minnesota Statutes 1988, section 136C.07, subdivision 4, is amended to read:

Subd. 4. ~~If the petition is approved, the school shall be established by the district and classified by the state board as a technical institute and conducted under the general supervision of the state board in accordance with the policy and rules of the state board. Notwithstanding the provisions of subdivision 3 and of this subdivision, after June 30, 1975, no area vocational~~ *A* technical ~~school~~ *institute* shall be established ~~unless specific legislation has authorized its establishment~~ *only by a specific law.*

Sec. 69. Minnesota Statutes 1988, section 136C.075, is amended to read:

136C.075 [COMPENSATION FOR PERFORMANCE EVALUATIONS BY STATE EMPLOYEES.]

Notwithstanding any law to the contrary, a state employee who is asked by the ~~department of education~~ *state board* to undertake a performance evaluation of a technical institute may be compensated at the rate provided for in section 15.059.

To be eligible for compensation under this section, a state employee must take an unpaid leave of absence for the period of time the employee performs the evaluation.

Sec. 70. Minnesota Statutes 1988, section 136C.08, subdivision 1, is amended to read:

Subdivision 1. ~~Any~~ *A* school board ~~or joint school board~~ operating ~~an area vocational~~ *a* technical ~~school, pursuant to section 136C.07; Laws 1967, chapter 822, as amended; Laws 1969, chapter 775, as amended; or Laws 1969, chapter 1060, as amended,~~ *institute* may ~~make,~~ adopt and enforce rules, regulations or ordinances for the regulation of traffic and parking in parking facilities and on private roads and roadways situated on property owned, leased, occupied or operated by the board.

Sec. 71. Minnesota Statutes 1988, section 136C.15, is amended to read:

136C.15 [STUDENT ASSOCIATIONS.]

Every school board governing a technical institute shall give recognition as an authorized extracurricular activity to a technical institute student association affiliated with the Minnesota vocational technical student association. The student association is authorized to collect a reasonable fee from students to finance the activities of the association in an amount determined by the governing board of the technical institute which has recognized it.

Every governing body which recognizes a student association shall deposit the fees in a student association fund. The money in this fund shall be available for expenditure for ~~student~~ recreational, social, welfare, *charitable,* and educational ~~pursuits supplemental to the regular curricular offerings~~ *activities approved by the student association. The money in the fund is not public money.*

Sec. 72. Minnesota Statutes 1988, section 136C.31, is amended by adding a subdivision to read:

Subd. 3. [AID AND TUITION.] *All technical institute money and tuition must be used solely for post-secondary vocational technical education.*

Sec. 73. Minnesota Statutes 1988, section 136C.36, is amended to read:

136C.36 [PAYMENT OF TECHNICAL INSTITUTE INSTRUCTIONAL ~~AID~~ *MONEY.*]

Eighty-five percent of the estimated ~~post-secondary vocational instructional aid~~ entitlement *for instructional expenditures* for ~~each district~~ *the technical institutes* shall be paid during the fiscal year ~~of entitlement~~ *for which it is appropriated* in 11 uniform monthly payments from July to May. *The final payment must be made on the first business day of July in the following fiscal year.*

~~The amount of entitlement, adjusted for actual data, minus the payments made during the fiscal year of entitlement, shall be the final adjustment paid to each district on the first business day of July in the fiscal year following entitlement.~~

Sec. 74. Minnesota Statutes 1988, section 136C.43, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE; APPROPRIATION.] For the purpose of providing money appropriated from the vocational technical building fund for the acquisition of public land, buildings, and capital improvements needed for the state plan for the administration of vocational education in accordance with the provisions of section 136C.42, when requested by the state board ~~of education~~, the commissioner of finance shall sell and issue bonds of the state of Minnesota for the prompt and full payment of which, with interest thereon, the full faith and credit and taxing powers of the state are irrevocably pledged. Bonds shall be issued pursuant to this section only as authorized by a law specifying the purpose thereof and the maximum amount of the proceeds authorized to be expended therefor, as set forth in section 136C.42. Any such law, together with this section and the laws herein referred to, constitutes complete authority for the issue, and such bonds shall not be subject to restrictions or limitations contained in any other law.

Sec. 75. Minnesota Statutes 1988, section 169.44, subdivision 18, is amended to read:

Subd. 18. [MOTOR COACH USED FOR SCHOOL ACTIVITIES.] A school district or a technical institute shall not acquire a motor coach. Motor coaches acquired by school districts or ~~area vocational~~ technical institutes before March 26, 1986 may be used by school districts or ~~area vocational~~ technical institutes only to transport students participating in school activities, their instructors, and supporting personnel, to and from school activities. The motor coaches shall not in any way be outwardly equipped and identified as school buses. A motor coach operated under this subdivision is not a school bus for purposes of section 124.225. By August 1, 1986, the state board of education shall adopt rules governing the equipment, identification, operation, inspection, and certification of motor coaches operated under this subdivision. After January 1, 1998, a school district or technical institute shall not own or operate a motor coach for any purpose.

Sec. 76. Minnesota Statutes 1988, section 275.125, subdivision 14a, is amended to read:

Subd. 14a. [LEVY FOR LOCAL SHARE OF TECHNICAL INSTITUTE CONSTRUCTION.] (a) The definitions in section 136C.02 apply to this subdivision. *"Construction" includes acquisition and betterment of land, buildings, and capital improvements for technical institutes.*

(b) A district maintaining a technical institute may levy for its ~~local~~ share of the cost of construction of *technical institute* facilities ~~for the technical institute~~ as provided in this subdivision.

(c) The construction must be authorized by a specific legislative act pursuant to section 136C.07, subdivision 5, after January 1, 1980. The ~~specific legislative~~ act must require ~~that~~ *the state to pay* part of the cost of *technical institute* construction ~~for post-secondary vocational purposes shall be financed by the state~~ and ~~that~~ *the district to pay* part of the cost ~~of construction for post-secondary vocational purposes shall be financed by the school district operating the technical institute~~.

(d) The district may levy an amount equal to the local share of the cost of *technical institute* construction ~~for post-secondary vocational purposes,~~ minus the amount of any ~~unappropriated~~ *unreserved* net balance in the district's ~~post-secondary vocational~~ technical *institute* building construction fund. A district may levy the total amount authorized by this subdivision in one year, or a proportionate amount of the total authorized amount each year for up to three successive years.

(e) By the ~~July~~ *August* 1 before a district certifies the first levy pursuant to this subdivision ~~for the local share of any construction project~~, at least three weeks published notice of the proposed levy shall be given in the legal newspaper with the largest circulation in the district. The notice shall state the purpose *and duration* of the proposed levy~~, the duration of the proposed levy~~ and the amount of the proposed levy in dollars and mills. Upon petition within 20 days after the notice of the greater of (a) 50 voters, or (b) 15 percent of the number of voters who voted in the district at the most recent regular school board election, the board shall call a referendum on the proposed levy. The referendum shall be held on a date set by the school board, but no later than the ~~August~~ *September* 20 before the levy is certified. The question on the ballot shall state the amount of the proposed levy in mills on the district's adjusted gross tax capacity and in dollars in the first year of the proposed levy.

(f) ~~For the purposes of this subdivision, "construction" includes the acquisition and betterment of land, buildings and capital improvements for technical institutes.~~

~~(g)~~ A district may not levy for the cost of a construction project pursuant to this subdivision if it issues any bonds to finance any costs of the project.

Sec. 77. Minnesota Statutes 1988, section 354.094, subdivision 1a, is amended to read:

Subd. 1a. [EXCEPTION FOR LEAVES SINCE 1981-1982.] Notwithstanding subdivision 1, the following provisions apply to elementary~~,~~ *and* secondary *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee

contributions into the fund, requests state payment of employer contributions, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which shall not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution into the fund by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Sec. 78. Minnesota Statutes 1988, section 354.094, subdivision 1b, is amended to read:

Subd. 1b. [PRE-MAY 16, 1981 LEAVE EXCEPTION.] Notwithstanding subdivision 1, the following provisions apply only to elementary~~,~~ *and* secondary~~,~~ *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves began in the 1978-1979, 1979-1980, or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the fund for a member described in clause (a) of this subdivision for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

Sec. 79. Minnesota Statutes 1988, section 354A.091, subdivision 1a, is amended to read:

Subd. 1a. [EXCEPTION FOR LEAVES SINCE 1981-1982.] Notwithstanding subdivision 1, the following provisions apply to elementary~~,~~ *and* secondary *school* and ~~area vocational~~ technical ~~school~~ *institute* teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee contributions to the applicable association, requests state payment of the employer contribution, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions to the applicable association and receive allowable service credit in that association for each year of leave during the period of the leave, which shall not exceed five years;

(b) The state shall pay employer contributions for a member described in clause (a) for no more than the first three years of the leave, provided

the member who is on extended leave pays the employee contribution to the applicable association by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 125.60, subdivisions 1 and 2 but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and school teachers whose extended leaves began in the 1978-1979, 1979-1980 or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the applicable fund for a member described in clause (a) of this subdivision for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.

Sec. 80. Minnesota Statutes 1988, section 355.46, subdivision 3, is amended to read:

Subd. 3. [SOCIAL SECURITY CONTRIBUTIONS.] The employer taxes due with respect to employment by educational employees who have made their selection pursuant to section 218(d)(6)(C) of the Social Security Act, shall be paid in the following manner:

(a) Contributions required to be made for current service by political subdivisions employing educational employees and payments required by section 355.49 shall be paid by the political subdivision. Payments for school district or ~~area vocational~~ technical institute employees who are paid from normal operating funds, shall be made from the appropriate fund of the district or ~~area vocational~~ technical institute. The state shall make payments for services rendered prior to July 1, 1986.

(b) Contributions required to be made with respect to educational employees of state departments and institutions and payments required by section 355.49 shall be paid by the departments and institutions in accordance with the provisions of sections 355.49 and 355.50.

Sec. 81. Laws 1988, chapter 703, article 1, section 23, is amended to read:

Sec. 23. [FACULTY EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A program of faculty exchange for the ~~1988-1989~~ *1989-1990 and 1990-1991* academic ~~year~~ *years* is established to allow school districts and post-secondary institutions to arrange temporary exchanges between members of their instructional ~~staff~~ *staffs*. These arrangements must be made on a voluntary, cooperative basis between ~~the~~ *a* school district and ~~the~~ *post-secondary* institution *, or between post-secondary institutions. Exchanges between post-secondary institutions may occur between campuses in the same system or in different systems.*

Subd. 2. [USES OF PROGRAM.] Each participating school district and post-secondary institution may determine the way in which the instructional staff member's time is to be used, but it must be in a way that promotes understanding of the needs of each educational system *or institution*. A

public school teacher might be used to teach courses, provide counseling and tutorial services, assist with the preparation of future teachers, or take professional development courses. A post-secondary instructor might teach advanced placement courses or other classes to aid an underserved population at the school district, counsel students about future education plans, or work with teachers to better prepare students for post-secondary education. Participation need not be limited to one school or institution and may involve other groups including educational cooperative service units.

Subd. 3. [SALARIES, BENEFITS, CERTIFICATION.] Exchanges made under the program must not have a negative effect on participants' salaries, seniority, or other benefits. Notwithstanding Minnesota Statutes, sections 123.35, subdivision 6, and 125.04, a member of the instructional staff of a post-secondary institution may teach in an elementary or secondary school or perform a service, agreed upon according to this section, for which a license would otherwise be required without holding the applicable license. In addition, a licensed employee of a school district may teach or perform a service, agreed upon according to this section, at a post-secondary institution without meeting the applicable qualifications of the post-secondary institution. A school district is not subject to Minnesota Statutes, section 124.19, subdivision 3, as a result of entering into an agreement according to this section that enables a post-secondary instructional staff member to teach or provide services in the district. All arrangements and details regarding the exchange must be mutually agreed to by ~~the~~ *each participating* school district and post-secondary institution before implementation.

Subd. 4. [REPORT OF PILOT PROGRAMS.] While these exchanges are voluntary, the legislature intends to maintain oversight to determine the benefits and problems of the program. By February 1, ~~1989~~ *1991*, each post-secondary system shall submit a report about the faculty exchange program to the chairs of the house education, higher education, and appropriations committees and the senate education and finance committees. The report shall contain the number of instructional staff participating in the exchange, areas of instruction, *costs associated with the exchange, use of appropriations,* and other *relevant* issues ~~related to the exchange~~.

Sec. 82. [EXCHANGES BETWEEN EDUCATION FACULTY.]

Subdivision 1. [AUTHORITY, LIMITS.] *The state university board and the board of regents of the University of Minnesota may develop programs to exchange faculty between colleges or schools of education and school districts, subject to section 81, subdivision 3.*

The programs must be used to assist in improving teacher education by involving current teachers in education courses and placing post-secondary faculty in elementary and secondary classrooms. Programs must include exchanges that extend beyond the immediate service area of the institution to address the needs of different types of schools, students, and teachers.

Subd. 2. [COMPENSATION.] *The appropriations provided to the board of regents of the University of Minnesota and the state university board in the omnibus elementary and secondary education finance act, 1989 H.F. No. 654, are to defray the costs of participants in the faculty exchange under this section. They are intended to compensate for expenses that are unavoidable and beyond the normal living expenses exchange participants would incur if they were not involved in this exchange. The state university board, the board of regents of the University of Minnesota, and their respective campuses, in conjunction with the participating school districts,*

must control costs for all participants as much as possible, through means such as arranging housing exchanges, providing campus housing, and providing university, state, or school district cars for transportation. Additionally the boards and campuses may seek other sources of funding to supplement these appropriations if necessary.

Sec. 83. [EMERGENCY RULES.]

The higher education coordinating board may adopt emergency rules, as provided under Minnesota Statutes, sections 14.29 to 14.36, for awarding child care grants for the 1989-1990 academic year. The board shall consult with its financial aid advisory committee and the higher education advisory council before adopting the rules.

Sec. 84. [TWO-WAY INTERACTIVE TELEVISION SYSTEMS.]

The information policy office in the department of administration, and the information policy advisory task force, shall consult with representatives of the HECB, the public post-secondary governing boards, private colleges, and the department of education, when developing the communications and technology capabilities, plans, and needs of state government. The criteria developed by the instructional technology task force, as reported to the 1989 legislature, shall be utilized for evaluating any projects or systems. A report shall be submitted on the activities, plans, financial implications, and anticipated outcomes, to the chairs of the finance and appropriation committees by February 15, 1990. Until the report is received by the legislature, the public post-secondary systems may not initiate action to purchase, contract for, or otherwise commit themselves to new two-way interactive television equipment, or to systems or service (other than maintenance agreements), that expand the capacity of two-way interactive television, beyond those which are contracted for prior to enactment of this act.

Sec. 85. [REPEALER.]

Subdivision 1. [JUNE 30, 1989.] *Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.111; 136A.121, subdivision 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136A.55; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; 136C.43, subdivisions 1, 2, and 3; 256H.07; and 256H.13 are repealed June 30, 1989.*

Subd. 2. [JUNE 30, 1990.] *Minnesota Statutes 1988, sections 136A.09; 136A.101, subdivision 6; 136A.121, subdivisions 1 and 4; and 136A.225 are repealed June 30, 1990.*

Sec. 86. [EFFECTIVE DATE.]

Section 4, subdivision 4; section 5, subdivision 4; and section 84 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the

Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 126.56, subdivision 5; 135A.05; 135A.06, subdivision 3; 136.31, subdivisions 3 and 5; 136A.02, subdivisions 5, 6, and 7; 136A.04; 136A.05; 136A.08; 136A.101, subdivisions 1, 7, and 8; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivisions 1 and 7, and by adding a subdivision; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.162; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.233; 136A.26, subdivision 1a; 136A.29, subdivision 9; 136A.69; 136C.04, subdivisions 1, 2, 6, 9, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding subdivisions; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; and Laws 1988, chapter 703, article 1, section 23; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.225; 136A.51; 136A.52; 136A.53; 136A.55; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; 136C.43, subdivisions 1, 2, and 3; 256H.07; and 256H.13."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Gene Waldorf, Ronald R. Dicklich, Glen Taylor, Nancy Brataas, Gary M. DeCramer

House Conferees: (Signed) Lyndon R. Carlson, Len Price, Howard Orenstein, Mike Jaros, Jim Heap

Mr. Waldorf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1625 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1625 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 180, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 180: A bill for an act relating to the office of the secretary of state; establishing a procedure for contesting the registration of a corporation, limited partnership, or assumed name, or a trade or service mark with the secretary of state; providing that the office of the secretary of state is not liable for registrations; amending Minnesota Statutes 1988, sections 300.025; 302A.115, by adding a subdivision; 303.05, by adding a subdivision; 308.06, by adding a subdivision; 317.09, by adding a subdivision; 322A.02; 322A.72; 1989 S.F. No. 525, section 12, by adding a subdivision; S.F. No. 848, article 1, section 8, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 5.

Senate File No. 180 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1046:

H.F. No. 1046: A bill for an act relating to motor vehicles; setting fee for inspection of certain motor vehicles for which salvage certificate of title has been issued; amending Minnesota Statutes 1988, section 168A.152.

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

Johnson, A.; Rest and Pauly have been appointed as such committee on the part of the House.

House File No. 1046 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 20, 1989

Mr. Stumpf moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1046, 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. 723:

H.F. No. 723: A bill for an act relating to veterans; providing for establishment of a veterans home in Luverne; requiring a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 198.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Steensman; Greenfield; Anderson, R.; Kostohryz and Quinn have been appointed as such committee on the part of the House.

House File No. 723 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 20, 1989

Mr. Langseth moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 723, 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 - CONTINUED

Mr. Solon moved that S.F. No. 536 be taken from the table. The motion prevailed.

S.F. No. 536: A bill for an act relating to consumer protection; providing for enhanced civil penalties for deceptive acts targeted at senior citizens or handicapped persons; providing factors a court may consider in determining to impose an enhanced civil penalty; providing that sums collected must be credited to the account of the state board on aging; amending Minnesota Statutes 1988, section 256.975, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

CONCURRENCE AND REPASSAGE

Mr. Solon moved that the Senate concur in the amendments by the House to S.F. No. 536 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 536 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Hughes	Mehrkens	Reichgott
Anderson	Dahl	Johnson, D.E.	Metzen	Renneke
Beckman	Davis	Knaak	Moe, D.M.	Schmitz
Belanger	Diessner	Knutson	Moe, R.D.	Solon
Benson	Frank	Laidig	Morse	Storm
Berglin	Frederick	Langseth	Novak	Taylor
Bernhagen	Frederickson, D.J.	Lantry	Pariseau	Vickerman
Bertram	Frederickson, D.R.	Larson	Piper	Waldorf
Brandl	Freeman	Lessard	Purfeerst	
Brataas	Gustafson	Luther	Ramstad	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1454, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1454 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1454

A bill for an act relating to Itasca county; authorizing a petition to annex unorganized territory to the town of Spang to be signed by residents of the town.

May 12, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1454, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Bob Neuenschwander, Loren A. Solberg, Virgil J. Johnson

Senate Conferees: (Signed) Bob Lessard, Robert J. Schmitz, Gen Olson

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1454 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1454 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Moe, D.M.	Ramstad
Beckman	Frank	Kroening	Moe, R.D.	Reichgott
Belanger	Frederick	Laidig	Morse	Renneke
Benson	Frederickson, D.J.	Langseth	Novak	Schmitz
Berglin	Frederickson, D.R.	Lantry	Olson	Solon
Bernhagen	Freeman	Larson	Pariseau	Taylor
Bertram	Hughes	Lessard	Peterson, D.C.	Vickerman
Chmielewski	Johnson, D.E.	Luther	Piper	Waldorf
Cohen	Johnson, D.J.	McGowan	Pogemiller	
Davis	Knaak	Mehrkens	Purfeerst	

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

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 996 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 996: A bill for an act relating to education; allowing a school board to compel attendance of enrolled pupils under the age of seven; making conforming changes; amending Minnesota Statutes 1988, sections 120.101, subdivision 5, and by adding a subdivision; and 127.20.

Ms. Peterson, D.C. moved that the amendment made to H.F. No. 996 by the Committee on Rules and Administration in the report adopted April 24, 1989, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Benson moved to amend H.F. No. 996 as follows:

Page 1, line 10, strike everything after the headnote

Page 1, line 11, strike everything before "every"

Page 1, line 13, strike everything after the period

Page 1, strike line 14

Page 1, line 15, strike everything before "Every"

Amend the title as follows:

Page 1, line 4, after the second semicolon, insert "reducing the age of compulsory school attendance to 16 years;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 21 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Chmielewski	Knutson	Morse	Storm
Benson	Davis	Larson	Olson	
Bernhagen	Frederick	Lessard	Pariseau	
Brandl	Gustafson	McGowan	Ramstad	
Brataas	Johnson, D.E.	Mehrkens	Renneke	

Those who voted in the negative were:

Adkins	Dicklich	Hughes	Luther	Pogemiller
Beckman	Diessner	Johnson, D.J.	Moe, R.D.	Purfeerst
Berglin	Frank	Knaak	Novak	Reichgott
Bertram	Frederickson, D.J.	Langseth	Peterson, D.C.	Schmitz
Cohen	Frederickson, D.R.	Lantry	Piper	Vickerman

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

H.F. No. 996 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 36 and nays 7, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Laidig	Moe, R.D.	Reichgott
Anderson	Dicklich	Langseth	Morse	Renneke
Beckman	Diessner	Lantry	Novak	Schmitz
Berglin	Frank	Larson	Olson	Vickerman
Bertram	Frederickson, D.J.	Luther	Pariseau	
Brandl	Johnson, D.E.	McGowan	Peterson, D.C.	
Brataas	Johnson, D.J.	Mehrkens	Piper	
Cohen	Knaak	Moe, D.M.	Purfeerst	

Those who voted in the negative were:

Benson	Chmielewski	Lessard	Ramstad	Storm
Bernhagen	Knutson			

So the bill passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Morse moved that the following members be excused for a Conference Committee on S.F. No. 262 at 12:00 noon:

Messrs. Morse, Merriam, Dahl, Davis and Bernhagen. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Ms. Berglin moved that the following members be excused for a Conference Committee on S.F. No. 491 from 6:00 to 8:15 p.m.:

Messrs. Samuelson, Larson and Ms. Berglin. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 805 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 805: A bill for an act relating to public defender system; updating law governing public defenders; repealing obsolete law governing public defenders; requiring a person requesting appointment of a public defender to submit a financial statement to the court; raising the limits for payment for expert services; amending Minnesota Statutes 1988, sections 611.17; 611.21; and 611.215, subdivision 2; repealing Minnesota Statutes 1988, sections 611.07; 611.071; and 611.25, subdivision 2.

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 41 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Chmielewski	Johnson, D.E.	Luther	Ramstad
Anderson	Cohen	Johnson, D.J.	McGowan	Reichgott
Beckman	Davis	Knaak	Mehrkens	Renneke
Berg	Decker	Knutson	Moe, D.M.	Storm
Berglin	Dicklich	Laidig	Moe, R.D.	Vickerman
Bernhagen	Diessner	Langseth	Novak	
Bertram	Frank	Lantry	Olson	
Brandl	Frederickson, D.J.	Larson	Pariseau	
Brataas	Freeman	Lessard	Piper	

So the bill passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 909 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 909: A bill for an act relating to workers' compensation; providing coverage for preventive rabies treatment; amending Minnesota Statutes 1988, section 176.135, subdivision 1.

Mr. Chmielewski moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1988, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the

difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be~~, and subject to a maximum compensation equal to the statewide average weekly wage~~. *Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 400 percent of the statewide average weekly wage.*"

Page 3, after line 8, insert:

"Sec. 4. Minnesota Statutes 1988, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY; *ASBESTOS HEALTH SCREENINGS.*] *(a)* Notwithstanding section 176.66, an employee who has ~~contracted~~ *acquired* an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

(b) An employee who has acquired asbestosis or other occupational disease resulting from exposure to asbestos is entitled to payment for reasonable charges for asbestos health screenings at reasonable frequencies in accordance with established medical practice but not to exceed once annually. Payment for the screening must be made in accordance with section 176.66, subdivision 10. Payment for screenings must be ordered under section 176.191, subdivision 1, provided the employee presents an affidavit and supporting medical report indicating that the employee has acquired asbestosis or other occupational disease resulting from exposure to asbestos which arose out of and in the course of such employment. Temporary orders under this paragraph are issued for the purpose of prompt payment to the employee; the existence of such an order may not be used against the payor as an indication that the payor must assume liability for any other compensation due under this chapter or that the payor is ultimately liable for the compensaton paid under the order.

Sec. 5. [ASBESTOS HEALTH SCREENING PILOT PROJECT.]

The commissioner of health shall establish an asbestos health screening pilot project for residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment but who have not yet acquired an occupational disease under the workers' compensation law and, as such, are not yet eligible for asbestos health screenings under Minnesota Statutes, section 176.135, subdivision 5. The purpose of the pilot project is: to study the actual and estimated extent and risk of acquiring asbestos-related diseases among individuals exposed to asbestos on the job; to determine the types of counseling and prevention services that individuals exposed to asbestos may need and the best methods of administering such services; and to estimate the cost and effectiveness of screening, counseling, and preventive services for individuals exposed to asbestos on the job but who are not yet eligible to receive medical benefits or compensation under the workers' compensation law.

The commissioner of health may contract with a local board of health,

or with any local, state, or nationally recognized experts in the diagnosis and treatment of asbestos-related diseases for conducting the health screenings and evaluating the results.

Residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment are eligible to receive an annual asbestos health screening under procedures determined by the commissioner of health.

The commissioner of health shall present a report and recommendations to the legislature on or before February 1, 1991, on the number of participants in, and the effectiveness of, the pilot project program as established under this section and on the advisability of continuing the pilot project to gain additional data.

$150,000 is appropriated to the commissioner of health from the state general fund for the purposes of this section and is available until expended.

Sec. 6. Minnesota Statutes 1988, section 176.138, is amended to read:

176.138 [MEDICAL DATA; ACCESS.]

(a) Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release *in writing, by telephone discussion, or otherwise* of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, *and the date of discussions with medical providers about medical data shall be confirmed,* in writing to the person or organization that collected or currently possesses the data. ~~The~~ *Written medical* data *that exists at the time the request is made* shall be provided by the collector or possessor within seven working days of receiving the request. *All other medical data described above may be provided, but are not required to be provided, by the collector or possessor.* In all cases of a request for *the data or discussion with a medical provider about* the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made *or a written confirmation of the discussion*. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested by the requester.

(b) Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

(c) The commissioner may impose a penalty of up to $200 payable to the special compensation fund against a party who does not *timely* release ~~the~~ data ~~in a timely manner~~ *as required in this section*. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. ~~This section applies only to written medical data which exists at the time the request is made.~~

Sec. 7. [176.325] [CERTIFIED QUESTION.]

Subdivision 1. [WHEN CERTIFIED.] *The chief administrative law judge may certify a question of workers' compensation law to the workers'*

compensation court of appeals as important and doubtful under the following circumstances:

(1) all parties to the case have stipulated in writing to the facts;

(2) the sole issue to be resolved is a question of workers' compensation law that has not been resolved by the workers' compensation court of appeals or the Minnesota supreme court;

(3) all parties request that the matter be resolved by certification to the workers' compensation court of appeals as an important and doubtful question; and

(4) the commissioner, the designee of the commissioner, the chief administrative law judge, or the designee of the chief administrative law judge has determined that resolution of the certified question would resolve a number of pending cases and would likely reduce further workers' compensation litigation involving the important and doubtful question of law.

Subd. 2. [SUPREME COURT REVIEW.] *Review by the supreme court of any decision of the workers' compensation court of appeals pursuant to this section shall be pursuant to section 176.471.*

Subd. 3. [SPEEDY DECISION.] *It is the legislature's intent that the workers' compensation court of appeals and the Minnesota supreme court resolve the certified question as expeditiously as possible, after compliance by the parties with any requirements of the workers' compensation court of appeals or the Minnesota supreme court regarding submission of legal memoranda, oral argument, or other matters, and after the participation of amicus curiae, should the workers' compensation court of appeals or Minnesota supreme court consider such participation advisable.*

Subd. 4. [NOTICE.] *The chief administrative law judge shall notify all persons who request to be notified of a certification under this section.*

Sec. 8. [EFFECTIVE DATE.]

Section 2 is effective October 1, 1989. Sections 4, 6, and 7 are effective the day following final enactment. Section 5 is effective July 1, 1989."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1988, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer

or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes 1988."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski then moved to amend H.F. No. 909, as amended pursuant to Rule 49, adopted by the Senate May 1, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 839.)

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1988, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter,

county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it. The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a county welfare board. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(13) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(14) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota state academy for the deaf or the Minnesota state academy for the blind, and whose services have been accepted or contracted for by the state board of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(15) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(16) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(17) students enrolled in and regularly attending the medical school of the University of Minnesota in the graduate school program or the post-graduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

(18) a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

(19) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(20) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of

administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees; ~~and~~

(21) a voluntary uncompensated worker rendering service directly to the pollution control agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees~~.~~*; and*

(22) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable."

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 909 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 39 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Brandl	Freeman	Lessard	Pariseau
Anderson	Brataas	Gustafson	McGowan	Piper
Beckman	Cohen	Johnson, D.E.	Mehrkens	Reichgott
Belanger	Davis	Knaak	Metzen	Renneke
Benson	Decker	Knutson	Moe, D.M.	Storm
Berg	Frederick	Laidig	Moe, R.D.	Taylor
Bernhagen	Frederickson, D.J.	Langseth	Novak	Vickerman
Bertram	Frederickson, D.R.	Larson	Olson	

Those who voted in the negative were:

Frank	Johnson, D.J.	Lantry	Luther	Pogemiller

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the

Senate amendments to House File No. 1443:

H.F. No. 1443: A bill for an act relating to government operations; regulating purchasing from small businesses; appropriating money; amending Minnesota Statutes 1988, sections 16B.189; 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 116J.68, subdivision 1; 136.27; 136.72; 137.31, subdivisions 4, 6, and by adding a subdivision; 161.321, subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; 473.142; 645.445, subdivision 5; proposing coding in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1988, sections 137.31, subdivision 3; 473.406; and Laws 1984, chapter 654, article 2, section 49.

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

Jefferson, McLaughlin and Pauly have been appointed as such committee on the part of the House.

House File No. 1443 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 20, 1989

Mr. Moe, D.M. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1443, 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.

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:

S.F. No. 470: Messrs. DeCramer; Peterson, R.W. and Frederickson, D.R.

H.F. No. 1425: Messrs. Peterson, R.W.; Merriam and Knaak.

H.F. No. 306: Mr. Peterson, R.W.; Ms. Reichgott and Mr. Merriam.

H.F. No. 1046: Messrs. Stumpf, DeCramer and Chmielewski.

H.F. No. 723: Messrs. Langseth, DeCramer, Vickerman, Larson and Bertram.

H.F. No. 1443: Messrs. Moe, D.M.; Freeman and Frederickson, D.R.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1734, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1734 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1734

A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; providing for subordinate service districts; providing for accreditation of assessors; changing tax increment financing provisions; providing for payment of deferred taxes on sale of railroad operating property; extending valuation and deferment of agricultural property taxes in certain instances; authorizing the cities of Mankato and Hopkins to establish special service districts; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of a tax increment financing district in the city of Moorhead; granting certain powers to towns; appropriating money; amending Minnesota Statutes 1988, sections 38.27, subdivision 1; 60A.15, subdivision 1; 93.55, subdivision 4; 124A.03, subdivision 2; 256.018; 256.82, subdivision 1; 256.871, subdivision 6; 256B.041, subdivision 5; 270.052; 270.067, subdivisions 1 and 2; 270.071, subdivision 6; 270.072, subdivisions 2 and 3; 270.075, subdivision 2; 270.12, subdivision 2, and by adding a subdivision; 270.485; 270.80, subdivision 1; 272.01, subdivision 2; 272.02, subdivision 1, and by adding a subdivision; 273.01; 273.061, subdivisions 1 and 2; 273.11, by adding a subdivision; 273.111, subdivision 3; 273.112, subdivision 3, and by adding a subdivision; 273.119, subdivision 2; 273.123, subdivisions 4 and 5; 273.124, subdivisions 6, 8, 9, 12, 13, and by adding a subdivision; 273.13, subdivisions 22, 23, 24, 25, 31, and by adding a subdivision; 273.135, subdivisions 2 and 2a; 273.1391, subdivisions 2 and 2a; 273.1392; 273.1393; 273.1398, subdivisions 1, 2, 3, 4, and by adding a subdivision; 275.07, subdivision 1; 275.08, subdivision 1c; 275.28, subdivision 1; 275.50, subdivisions 2, 5, and by adding a subdivision; 275.51, subdivisions 3f, 3g,

3h, 3i, 3j, 4, and 6; 275.58, subdivision 1; 276.04; 278.03; 278.05, subdivisions 4 and 5; 279.01, subdivisions 1 and 3; 279.37, subdivision 7; 290.015, subdivisions 3 and 4; 290.05, subdivision 3; 290.06, subdivisions 1 and 21; 290.067, subdivision 2, and by adding a subdivision; 290.0802, subdivision 1; 290.091, subdivision 2; and by adding a subdivision; 290.17, by adding a subdivision; 290.21, subdivision 4; 290.37, subdivision 1; 290.38; 290.92, subdivision 4b, as added; 290.934, subdivision 3a; 290A.03, subdivision 12; 290A.04, subdivisions 2, 2h, and by adding a subdivision; 295.34, subdivision 1; 297.01, subdivision 13, and by adding a subdivision; 297.03, subdivision 6; 297.04, subdivisions 4, 5, and 6; 297.041, subdivision 1; 297.08, subdivision 1; 297.31, by adding a subdivision; 297.33, subdivisions 4, 5, 6, 7, and 8; 297A.01, subdivision 3; 297A.15, by adding a subdivision; 297A.25, subdivision 3, and by adding subdivisions; 297A.257, by adding a subdivision; 297B.03; 297C.03, subdivision 1; 297C.09; 349.12, subdivisions 11, 13, and by adding subdivisions; 349.15; 349.16, by adding a subdivision; 349.212, subdivision 4, and by adding a subdivision; 349.214, subdivision 4; 373.40, subdivisions 1, 2, 4, and 6; 375.192, subdivision 2; 444.075, subdivision 1; 444.16; 444.17; 444.18; 444.19; 444.20; 459.14, by adding a subdivision; 469.012, by adding a subdivision; 469.040, subdivision 2; 469.171, by adding a subdivision; 469.174, subdivision 10, and by adding a subdivision; 469.175, subdivisions 3, 7, and by adding a subdivision; 469.176, subdivisions 1, 4c, 6, and by adding a subdivision; 469.177, subdivision 10; 473.167, subdivisions 3 and 5; 473.249, subdivision 1; 473F.08, subdivision 3; 473H.10, subdivision 3; 477A.011, subdivisions 1a and 15; and 477A.013, subdivisions 1, 3, and 4; Laws 1988, chapter 719, articles 1, section 22; 7, section 9; 8, section 37; and 12, sections 29 and 30, as amended; proposing coding for new law in Minnesota Statutes, chapters 273; 275; 276; 297A; 365B; and 469; proposing coding for new law as Minnesota Statutes, chapter 365B; repealing Minnesota Statutes 1988, sections 38.17; 38.27, subdivision 3; 38.28; 60A.151; 271.061; 275.065; 275.57; 275.58, subdivision 4; 276.13; 276.14; 297.01, subdivision 15; 297.03, subdivision 12; 297.04, subdivision 10; 297.33, subdivision 13; 297C.03, subdivisions 4 and 4a; and 473.249, subdivision 3; Laws 1988, chapter 719, article 8, section 35; and Laws 1989, chapter 27, article 2, sections 2 and 3.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1734, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1734 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

INCOME TAXATION

Section 1. Minnesota Statutes 1988, section 10A.31, subdivision 5, is amended to read:

Subd. 5. In each calendar year the money in the general account shall

be allocated to candidates as follows:

(1) 21 percent for the offices of governor and lieutenant governor together;

(2) 3.6 percent for the office of attorney general;

(3) 1.8 percent each for the offices of secretary of state, state auditor, and state treasurer;

(4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;

(5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative.

In each calendar year the money in each party account shall be allocated as follows:

(1) 14 percent for the offices of governor and lieutenant governor together;

(2) 2.4 percent for the office of attorney general;

(3) 1.2 percent each for the offices of secretary of state, state auditor, and state treasurer;

(4) In each calendar year during the period in which state senators serve a four-year term, 23-1/3 percent for the office of state senator and 46-2/3 percent for the office of state representative;

(5) In each calendar year during the period in which state senators serve a two-year term, 35 percent each for the offices of state senator and state representative;

(6) ten percent for the state committee of a political party; money allocated to each state committee under this clause must be deposited in a separate account and must be spent for legitimate political party operations, including voter education; the sample ballot; operations of precinct caucuses, county unit conventions, and state conventions; and the maintenance and programming of computers used to provide lists of voters, party workers, party officers, patterns of voting, and other data for use in political party activities; money allocated to a state committee under this clause must be paid to the committee *by the state treasurer as notified by the state ethical practices board* as it is received in the account~~,~~ on a monthly ~~or other~~ basis ~~agreed to between the committee and the board.~~, *with payment on the 15th day of the calendar month following the month in which the tax returns were received, provided that these distributions would be equal to the amount of money indicated in the department of revenue's weekly unedited reports of income tax returns for that month, subject to final annual adjustment and settlement as indicated according to the certification by the commissioner of revenue under subdivision 6. If the amount of total payments received before September 15 is greater than the amount certified by the commissioner of revenue on September 15, the total amount of payments distributed between September 1 and December 31 must be reduced by the amount of the overpayment.*

To assure that moneys will be returned to the counties from which they were collected, and to assure that the distribution of those moneys rationally relates to the support for particular parties or for particular candidates within legislative districts, money from the party accounts for legislative candidates

shall be distributed as follows:

Each candidate for the state senate and state house of representatives whose name is to appear on the ballot in the general election shall receive money from the candidate's party account set aside for candidates of the state senate or state house of representatives, whichever applies, according to the following formula;

For each county within the candidate's district the candidate's share of the dollars allocated in that county to the candidate's party account and set aside for that office shall be:

(a) The sum of the votes cast in the last general election in that part of the county in the candidate's district for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct of the state and (ii) for the state senate and state house of representatives, divided by

(b) The sum of the votes cast in that county in the last general election for all candidates of that candidate's party (i) whose names appeared on the ballot in each voting precinct in the state and (ii) for the state senate and state house of representatives, multiplied by

(c) The amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

The sum of all the county shares calculated in the formula above is the candidate's share of the candidate's party account.

In a year in which an election for the state senate occurs, with respect to votes for candidates for the state senate only, "last general election" means the last general election in which an election for the state senate occurred.

For any party under whose name no candidate's name appeared on the ballot in each voting precinct in the state in the last general election, amounts in the party's account shall be allocated based on (a) the number of people voting in the last general election in that part of the county in the candidate's district, divided by (b) the number of the people voting in that county in the last general election, multiplied by (c) the amount in the candidate's party account allocated in that county and set aside for the candidates for the office for which the candidate is running.

In a year in which the first election after a legislative reapportionment is held, "the candidate's district" means the newly drawn district, and voting data from the last general election will be applied to the area encompassing the newly drawn district notwithstanding that the area was in a different district in the last general election.

If in a district there was no candidate of a party for the state senate or state house of representatives in the last general election, or if a candidate for the state senate or state house of representatives was unopposed, the vote for that office for that party shall be the average vote of all the remaining candidates of that party in each county of that district whose votes are included in the sums in clauses (a) and (b). The average vote shall be added to the sums in clauses (a) and (b) before the calculation is made for all districts in the county.

Money from a party account not distributed to candidates for state senator

and representative in any election year shall be returned to the general fund of the state. Money from a party account not distributed to candidates for other offices in an election year shall be returned to the party account for reallocation to candidates as provided in clauses (1) to (6) in the following year. Money from the general account refused by any candidate shall be distributed to all other qualifying candidates in proportion to their shares as provided in this subdivision.

Sec. 2. Minnesota Statutes 1988, section 290.015, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] (a) A person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law Number 86-272, United States Code, title 15, sections 381 to 384 or would be so precluded except for the fact that the person stored tangible personal property in a state licensed facility under chapter 231.

(b) Ownership of an interest in the following types of property (including those contacts with this state reasonably required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from it, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property) shall not be a factor in determining whether the owner is subject to tax under this chapter:

(1) an interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company *or a fund of a regulated investment company*, as those terms are defined in the Internal Revenue Code of 1986, as amended through December 31, 1987;

(2) *an interest in money market instruments or securities as defined in section 290.191, subdivision 6, paragraphs (c) and (d);*

(3) an interest in a loan-backed, mortgage-backed, or receivable-backed security representing either: (i) ownership in a pool of promissory notes, mortgages, or receivables or certificates of interest or participation in such notes, mortgages, or receivables, or (ii) debt obligations or equity interests which provide for payments in relation to payments or reasonable projections of payments on the notes, mortgages, or receivables~~, and which are issued by a financial institution or by an entity substantially all of whose assets consist of promissory notes, mortgages, receivables, or interests in them~~;

~~(3)~~ *(4)* an interest *acquired from a person* in ~~any~~ assets described in section 290.191, subdivision 11, paragraphs (e) to (l), ~~and in which the payment obligations embodied in such assets were solicited and entered into by persons independent and not acting on behalf of the owner~~ *subject to the provisions of paragraph (c), clause (2)(A)*;

~~(4)~~ *(5)* an interest *acquired from a person* in the right to service, or collect income from any assets described in section 290.191, subdivision 11, paragraphs (e) to (l), ~~and in which the payment obligations embodied in such assets were solicited and entered into by persons independent and not acting on behalf of the owner~~ *subject to the provisions of paragraph (c), clause (2)(A)*;

~~(5)~~ *(6) an interest acquired from a person in a funded or unfunded agreement to extend or guarantee credit whether conditional, mandatory,*

temporary, standby, secured, or otherwise, subject to the provisions of paragraph (c), clause (2)(A);

(7) an interest of a person other than an individual, estate, or trust, in any intangible, tangible, real, or personal property acquired in satisfaction, whether in whole or in part, of any asset embodying a payment obligation which is in default, whether secured or unsecured, the ownership of an interest in which would be exempt under the preceding provisions of this subdivision, provided the property is disposed of within a reasonable period of time; or

~~(6)~~ *(8)* amounts held in escrow or trust accounts, pursuant to and in accordance with the terms of property described in this subdivision.

~~If the person is a member of the unitary group, paragraph (b) does not apply to an interest acquired from another member of the unitary group.~~

(c)(1) For purposes of paragraph (b), clauses (4) to (6), an interest in the type of assets or credit agreements described is deemed to exist at the time the owner becomes legally obligated, conditionally or unconditionally, to fund, acquire, renew, extend, amend, or otherwise enter into the credit arrangement.

(2)(A) An owner has acquired an interest from a person in paragraph (b), clauses (4) to (6), assets if:

(i) the owner at the time of the acquisition of the asset does not own, directly or indirectly, 15 percent or more of the outstanding stock or in the case of a partnership 15 percent or more of the capital or profit interests of the person from whom it acquired the asset;

(ii) the person from whom the owner acquired the asset regularly sells, assigns, or transfers interests in paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to three or more persons; and

(iii) the person from whom the owner acquired the asset does not sell, assign, or transfer 75 percent or more of its paragraph (b), clauses (4) to (6), assets during the 12 calendar months immediately preceding the month of acquisition to the owner.

For purposes of determining indirect ownership under item (i), the owner is deemed to own all stock, capital, or profit interests owned by another person if the owner directly owns 15 percent or more of the stock, capital, or profit interests in the other person. The owner is also deemed to own through any intermediary parties all stock, capital, and profit interests directly owned by a person to the extent there exists a 15 percent or more chain of ownership of stock, capital, or profit interests between the owner, intermediary parties and the person.

(B) If the owner of the asset is a member of the unitary group, paragraph (b), clauses (4) to (8), do not apply to an interest acquired from another member of the unitary group. If the interest in the asset was originally acquired from a nonunitary member and at that time qualified as a section 290.015, subdivision 3, paragraph (b), asset, the foregoing limitation does not apply.

Sec. 3. Minnesota Statutes 1988, section 290.015, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS.] (a) This section does not subject a trade or business to any regulation, including any tax, of any local unit of government or subdivision of this state if the trade or business does not own or lease tangible or real property located within this state and has no employees or independent contractors present in this state to assist in the carrying on of the business.

(b) The purchase of tangible personal property or intangible property or services by a person that conducts a trade or business with the principal place of business outside of Minnesota, *referred to as* ~~(~~the "non-Minnesota person"~~)~~, from a person within Minnesota shall not be taken into account in determining whether the non-Minnesota person is subject to the taxes imposed by this chapter, except for services involving either the direct solicitation of Minnesota customers or relationships with Minnesota customers after sales are made. *This paragraph is subject to the limitations contained in subdivision 3, paragraph (b), clauses (4) to (6).*

(c) No contact with any Minnesota financial institution by any financial institution with its principal place of business outside Minnesota with respect to transactions described in subdivision 3, or with respect to deposits received from or by a Minnesota financial institution, shall be taken into account in determining whether such a financial institution is subject to the taxes imposed by this chapter. The fact of participation by a Minnesota financial institution in a transaction which also involves a borrower and a financial institution that conducts a trade or business with its principal place of business outside of Minnesota shall not be a factor in determining whether such financial institution is subject to the taxes imposed by this chapter. This paragraph does not apply to transactions between or among members of the same unitary group.

Sec. 4. Minnesota Statutes 1988, section 290.02, is amended to read:

290.02 [FRANCHISE TAX ON CORPORATIONS MEASURED BY NET INCOME.]

An annual franchise tax on the exercise of the corporate franchise to engage in contacts with this state that produce gross income attributable to sources within this state is imposed upon every corporation that so exercises its franchise during the taxable year.

Contacts within this state do not include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters that are made international for navigation purposes by any treaty or agreement to which the United States is a party.

The tax so imposed ~~shall be~~ *is* measured by ~~such~~ *the* corporations' taxable income and alternative minimum ~~tax base~~ *taxable income* for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 5. Minnesota Statutes 1988, section 290.05, subdivision 3, is amended to read:

Subd. 3. (a) An organization exempt from taxation under subdivision 2 shall, nevertheless, be subject to tax under this chapter to the extent provided in the following provisions of the Internal Revenue Code:

(i) section 527 (dealing with political organizations) ~~and~~;

(ii) section 528 (dealing with certain homeowners associations)*; and*

(iii) sections 511 to 515 (dealing with unrelated business income; but

notwithstanding this subdivision, shall be considered an organization exempt from income tax for the purposes of any law which refers to organizations exempt from income taxes.

(b) The tax shall be imposed on the taxable income of political organizations or homeowner associations *or the unrelated business taxable income, as defined in section 512 of the Internal Revenue Code, of organizations defined in section 511 of the Internal Revenue Code, provided that the tax is not imposed on advertising revenues from a newspaper published by an organization described in section 501(c)(4) of the Internal Revenue Code*. The tax shall be at the corporate rates. The tax shall only be imposed on income and deductions assignable to this state under sections 290.17 to 290.20. To the extent deducted in computing federal taxable income, the deductions contained in ~~sections 290.09 and~~ *section* 290.21 shall not be allowed in computing Minnesota taxable net income.

Sec. 6. Minnesota Statutes 1988, section 290.06, subdivision 1, is amended to read:

Subdivision 1. [COMPUTATION, CORPORATIONS.] (a) The franchise tax imposed ~~by this chapter~~ upon corporations shall be computed by applying to their taxable income the rate of 9.5 percent ~~adjusted as provided in paragraph (b)~~.

~~(b) For taxable years beginning after December 31, 1989, the commissioner of revenue must adjust the rate provided in paragraph (a) as provided in this paragraph. By December 15, 1989, the commissioner shall prepare a forecast of revenues predicted to be raised for taxable years beginning in 1990 by the franchise tax on corporations under this chapter for taxable years beginning in 1990, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4, and the rate in effect in this subdivision were 9.5 percent. The commissioner shall adjust the rate provided in paragraph (a) so that the amount forecast to be raised by the franchise tax on corporations under this chapter, including the tax under section 290.092, subdivision 5, is equal to the amount of the forecast computed as if the tax under section 290.092, subdivisions 1 to 4, were in effect. The adjustment of the tax rate by the commissioner under this subdivision shall not be considered a "rule" and shall not be subject to the administrative procedure act contained in chapter 14.~~

Sec. 7. Minnesota Statutes 1988, section 290.06, is amended by adding a subdivision to read:

Subd. 1a. [SURTAX; CORPORATIONS.] *(a) In addition to the tax computed under subdivision 1 and section 290.0921, a surtax is imposed upon corporations equal to a percentage of the sum of the corporation's tax under subdivision 1 and section 290.0921.*

(b) By May 31, 1990, the commissioner of revenue shall determine the rate of the surtax to be imposed under paragraph (a). The commissioner of revenue shall prepare a forecast of the revenue predicted to be raised for taxable years beginning in calendar years 1990 through 1992 by the franchise tax on corporations under this chapter, including the tax under section 290.092, computed as if the tax were imposed under section 290.092, subdivisions 1 to 4a, and the rate under subdivision 1 were 9.5 percent. The commissioner shall set the rate of the surtax so that the amount forecast

to be raised by the surtax (when added to the tax imposed under subdivision 1 and section 290.0921) equals the amount of revenue forecast to be raised if the tax under section 290.092, subdivisions 1 to 4a, were in effect and section 290.0921 did not apply.

(c) The rate determined under paragraph (b) applies to taxable years beginning after December 31, 1990.

(d) If the rate determined under paragraph (b) is held invalid, the surtax rate in effect for taxable years beginning after December 31, 1990 is 7.5 percent.

Sec. 8. Minnesota Statutes 1988, section 290.06, subdivision 21, is amended to read:

Subd. 21. [ALTERNATIVE MINIMUM TAX; *FACTORS TAX.*] (a) A corporation is allowed a credit for alternative minimum tax previously paid for any taxable year in which the corporation has no tax liability under section 290.092, subdivision 1, and has an alternative minimum tax credit carryover from a previous year. The credit allowable in any taxable year ~~shall be equal to~~ *equals* the lesser of (1) the excess of the tax under this section for the taxable year over the amount computed under section 290.092, subdivision 1, clause (1), for the taxable year, or (2) the alternative minimum tax credit carryover to the taxable year.

(b) The tax imposed under section 290.092, subdivision 1, for ~~any~~ *the* taxable year is an alternative minimum tax credit carryover to each of the five taxable years succeeding the taxable year. The entire amount of the alternative minimum tax credit must be carried to the earliest taxable year to which ~~such~~ *the* amount may be carried. ~~Any~~ *The* unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year more than five years after the taxable year in which the alternative minimum tax *under section 290.092, subdivision 1,* was paid.

(c) For taxable years beginning after December 31, 1989, qualification for a credit and computation of the amount of the credit for alternative minimum tax under paragraph (a) must be determined by computing the alternative minimum tax that would apply if section 290.092 were in effect for the taxable year.

Sec. 9. Minnesota Statutes 1988, section 290.067, subdivision 2, is amended to read:

Subd. 2. [LIMITATIONS.] The credit for expenses incurred for the care of each dependent shall not exceed $720 in any taxable year, and the total credit for all dependents of a claimant shall not exceed $1,440 in a taxable year. The maximum total credit shall be reduced according to the amount of the income of the claimant and a spouse, if any, as follows:

income up to ~~$12,200~~ *$13,350*, $720 maximum for one dependent, $1,440 for all dependents;

income over ~~$12,200~~ *$13,350*, the maximum credit for one dependent shall be reduced by ~~$12~~ *$18* for every ~~$200~~ *$350* of additional income, ~~$24~~ *$36* for all dependents~~;~~

~~for income of $24,001 and over, no credit shall be received~~.

The commissioner shall construct and make available to taxpayers tables showing the amount of the credit at various levels of income and expenses.

The tables shall follow the schedule contained in this subdivision, except that the commissioner may graduate the transitions between expenses and income brackets.

Sec. 10. Minnesota Statutes 1988, section 290.067, is amended by adding a subdivision to read:

Subd. 2b. [INFLATION ADJUSTMENT.] *The dollar amount of the income threshold at which the maximum credit begins to be reduced under subdivision 2 must be adjusted for inflation. The commissioner shall adjust the threshold amount by the percentage determined under section 290.06, subdivision 2d, for the taxable year.*

Sec. 11. Minnesota Statutes 1988, section 290.0802, subdivision 1, is amended to read:

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

(a) "Adjusted gross income" means federal adjusted gross income as used in section 22(d) of the Internal Revenue Code for the taxable year plus the ordinary income portion of a lump sum distribution as defined in section 407(e) of the Internal Revenue Code.

(b) "Disability income" means disability income as defined in section 22(c)(2)(B)(iii) of the Internal Revenue Code.

(c) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1987.

(d) "Nontaxable retirement and disability benefits" means the amount of pension, annuity, or disability benefits that would be included in the reduction under section 22(c)(3) of the Internal Revenue Code~~, but excluding tier one railroad retirement benefits~~ *and pension, annuity, or disability benefits paid under the Railroad Retirement Act of 1974 that are included in federal gross income but are not subject to state taxation.*

(e) "Qualified individual" means a qualified individual as defined in section 22(b) of the Internal Revenue Code.

Sec. 12. Minnesota Statutes 1988, section 290.091, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding the portion of the charitable contribution deduction that constitutes an item of tax preference under section 57(a)(6) of the Internal Revenue Code;

(3) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); less the sum of

(i) interest income as defined in section 290.01, subdivision 19b, clause (1);

(ii) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2); and

(iii) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income.

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1987.

(c) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(d) *"Tentative minimum tax" equals six percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.*

(e) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(f) "Net minimum tax" means the minimum tax imposed by this section.

Sec. 13. Minnesota Statutes 1988, section 290.091, is amended by adding a subdivision to read:

Subd. 6. [CREDIT FOR PRIOR YEARS' LIABILITY.] *(a) A credit is allowed against the tax imposed by this chapter on individuals, trusts, and estates equal to the minimum tax credit for the taxable year. The minimum tax credit equals the adjusted net minimum tax for taxable years beginning after December 31, 1988, reduced by the minimum tax credits allowed in a prior taxable year. The credit may not exceed the excess (if any) for the taxable year of*

(1) the regular tax, over

(2) the greater of (i) the tentative alternative minimum tax, or (ii) zero.

(b) The adjusted net minimum tax for a taxable year equals the lesser of the net minimum tax or the excess (if any) of

(1) the tentative minimum tax, over

(2) six percent of the sum of

(i) adjusted gross income as defined in section 62 of the Internal Revenue Code,

(ii) interest income as defined in section 290.01, subdivision 19a, clause (1),

(iii) interest on specified private activity bonds, as defined in section 57(a)(5) of the Internal Revenue Code, to the extent not included under clause (ii),

(iv) depletion as defined in section 57(a)(1) of the Internal Revenue Code, less

(v) the deductions provided in clauses (3)(i), (3)(ii), and (3)(iii) of subdivision 2, paragraph (a), and

(vi) the exemption amount determined under subdivision 3.

In the case of an individual who is not a Minnesota resident for the entire year, adjusted net minimum tax must be multiplied by the fraction defined in section 290.06, subdivision 2c, paragraph (e). In the case of a trust or estate, adjusted net minimum tax must be multiplied by the fraction defined under subdivision 4, paragraph (b).

Sec. 14. [290.0921] [CORPORATE ALTERNATIVE MINIMUM TAX AFTER 1989.]

Subdivision 1. [TAX IMPOSED.] *(a) In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:*

(1) seven percent of Minnesota alternative minimum taxable income; over

(2) the tax imposed under section 290.06, subdivision 1, without regard to this section.

(b) If the sum of the corporation's Minnesota sales and receipts, property, and payrolls, as defined in section 290.092, subdivision 4, exceeds $5,000,000, the amount under paragraph (a), clause (1) is the greater of

(1) $500 or

(2) the amount otherwise determined.

Subd. 2. [DEFINITIONS.] *(a) For purposes of this section, the following terms have the meanings given them.*

(b) "Alternative minimum taxable net income" is alternative minimum taxable income,

(1) less the exemption amount, and

(2) apportioned or allocated to Minnesota under section 290.17, 290.191, or 290.20.

(c) The "exemption amount" is $40,000, reduced, but not below zero, by 25 percent of the excess of alternative minimum taxable income over $150,000.

(d) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1988.

(e) "Minnesota alternative minimum taxable income" is alternative minimum taxable net income, less the deductions for alternative tax net operating loss under subdivision 4; charitable contributions under subdivision 5; and dividends received under subdivision 6. The sum of the deductions under this paragraph may not exceed 90 percent of alternative minimum taxable net income.

Subd. 3. [ALTERNATIVE MINIMUM TAXABLE INCOME.] *"Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f) and (h) of the Internal Revenue Code. The following adjustments must be made.*

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

(2) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(3) The special rule for 100 percent dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(4) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(5) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(6) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to the subtraction under section 290.01, subdivision 19d, clause (4).

(7) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(8) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(9) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

Subd. 4. [ALTERNATIVE TAX NET OPERATING LOSS.] *(a) An alternative tax net operating loss deduction is allowed from alternative minimum taxable net income equal to the net operating loss deduction allowable for the taxable year under section 290.095 with the following modifications:*

(1) The amount of the net operating loss deduction must not exceed 90 percent of alternative minimum taxable net income.

(2) In determining the amount of the net operating loss deduction (i) the net operating loss under section 290.095 must be adjusted as provided in paragraph (b), and (ii) for taxable years beginning after December 31, 1989, section 290.095, subdivision 3, must be applied by substituting "90 percent of alternative minimum taxable net income" for "taxable net income."

(b) The following adjustments must be made to the alternative tax net operating loss deduction under paragraph (a):

(1) For a loss year beginning after December 31, 1989, the net operating loss for each year under section 290.095 must be (i) determined with the adjustments provided in sections 56 and 58 of the Internal Revenue Code, as modified by subdivision 3 and (ii) reduced by the items of tax preference for the year determined under section 57 of the Internal Revenue Code, as modified by subdivision 3.

(2) For a loss year beginning before January 1, 1990, the amount of the net operating loss that may be carried over to taxable years beginning after December 31, 1989, equals the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1989.

Subd. 5. [CHARITABLE CONTRIBUTIONS.] *(a) A deduction from alternative minimum taxable net income is allowed equal to the deduction for charitable contributions under section 290.21, subdivision 3. The deduction allowable for capital gain property is limited to the adjusted basis of the property as defined in section 290.01, subdivision 19f. The term capital gain property has the meaning given by section 170(b)(1)(C)(iv) of the Internal Revenue Code, but does not include property to which an election under section 170(b)(1)(C)(iii) of the Internal Revenue Code applies.*

(b) The amount of the deduction may not exceed 15 percent of alternative minimum taxable net income less the deduction allowed under subdivision 6.

Subd. 6. [DIVIDENDS RECEIVED.] *(a) A deduction is allowed from alternative minimum taxable net income equal to the deduction for dividends received under section 290.21, subdivision 4, for purposes of calculating taxable income under section 290.01, subdivision 29.*

(b) The amount of the deduction must not exceed 90 percent of alternative minimum taxable net income.

Subd. 7. [FOREIGN OPERATING COMPANIES.] *The income and deductions related to foreign operating companies, as defined in section 290.01, subdivision 6b, that are used to calculate Minnesota alternative minimum taxable income, are limited to the amounts included for purposes of calculating taxable income under section 290.01, subdivision 29.*

Subd. 8. [CARRYOVER CREDIT.] *(a) A corporation is allowed a credit against qualified regular tax for qualified alternative minimum tax previously paid. The credit is allowable only if the corporation has no tax liability under section 290.0921 for the taxable year and if the corporation has an alternative minimum tax credit carryover from a previous year. The credit allowable in a taxable year equals the lesser of*

(1) the excess of the qualified regular tax for the taxable year over the amount computed under subdivision 1, paragraph (a), clause (1) multiplied by (one plus the surtax percentage under section 290.06, subdivision 1a) for the taxable year or

(2) the carryover credit to the taxable year.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Qualified alternative minimum tax" equals the amount determined under subdivision 1 for the taxable year multiplied by (one plus the surtax percentage rate under section 290.06, subdivision 1a. In computing the amount of alternative minimum tax

(i) the adjustment under section 56(c)(3) of the Internal Revenue Code must not be made;

(ii) the full amount of the charitable contribution deduction under section 290.21, subdivision 21, must be deducted in computing Minnesota alternative minimum taxable income; and

(iii) in the case of a corporation subject to an occupation tax under section 298.01 the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code must be deducted in computing Minnesota alternative minimum taxable income.

(2) "Qualified regular tax" means the tax imposed under section 290.06, subdivision 1, and a surtax imposed on that tax under section 290.06, subdivision 1a.

(c) The qualified alternative minimum tax for a taxable year is an alternative minimum tax credit carryover to each of the five taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. Any unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year in which alternative minimum tax was paid.

Sec. 15. Minnesota Statutes 1988, section 290.17, subdivision 2, is amended to read:

Subd. 2. [INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.] The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business must be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services is assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources is treated as income from sources without this state.

(2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1987, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in this state that is not employed in the business of the recipient of the income or gains must be assigned to this state.

(c) Except upon the sale of a partnership interest or the sale of stock of an S corporation, income or gains from intangible personal property not employed in the business of the recipient of the income or gains must be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

Gain on the sale of stock held in an S corporation is allocable to this state in the ratio of the original cost of tangible property of the S corporation within this state to the original cost of tangible property of the S corporation everywhere.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets, *the Minnesota state lottery*, and lawful gambling as defined in section 349.12, subdivision 2, conducted within the boundaries of the state of Minnesota shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Sec. 16. Minnesota Statutes 1988, section 290.17, is amended by adding a subdivision to read:

Subd. 7. [ALLOCATION AND APPORTIONMENT OF CERTAIN FARM INCOME BY C CORPORATIONS.] *Notwithstanding any other subdivision, income to a taxpayer from the operation of a farm by a C corporation is assigned to this state and other states and countries under subdivision 3, the unitary business principle in subdivision 4, and the allocation provisions of sections 290.191 and 290.20, if:*

(1) the farm operation provides material value added to an agricultural product by processing, packaging, grading, promotion, or distribution;

(2) the farm operation is industrial, manufacturing, or distributing under the United States Department of Commerce Standard Industrial Classification criteria;

(3) a material part of the income is attributable directly or indirectly to testing, research, genetic, or biological selection, genetic engineering, or creation or licensing of patents, copyrights, trademarks, or other intellectual property; or

(4) a material part of the income is derived from an activity that would

not in itself be income from farming if performed by another person not otherwise engaged in farming.

Sec. 17. Minnesota Statutes 1988, section 290.191, subdivision 6, is amended to read:

Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.] (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets, including securities and money market instruments, when derived from transactions and activities in the regular course of the taxpayer's trade or business.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property, including both finance leases and true leases, must be attributed to this state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state, whether at a place of business, by traveling loan officer, by mail, by telephone or other electronic means, must be attributed to this state.

(h) Interest income and other receipts from commercial loans and installment obligations ~~not secured~~ *that are unsecured* by real or tangible personal property *or secured by intangible property* must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the office of the borrower from which the application would be made in the regular course of business is located. If

this cannot be determined, the transaction is disregarded in the apportionment formula.

(i) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under paragraphs (e) to (h). A participation loan is ~~a loan in which more than one lender is a creditor to a common~~ *an arrangement in which a lender makes a loan to a borrower and then sells, assigns, or otherwise transfers all or a part of the loan to a purchasing financial institution. A syndication loan is a multibank loan transaction in which all the lenders are named as parties to the loan documentation, are known to the borrower, and have privity of contract with the* borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state are attributed to this state. It is presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state. If the extent to which the benefits of services are consumed in this state is not readily determinable, the benefits of the services shall be deemed to be consumed at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the benefits of the services shall be deemed to be consumed at the office of the customer to which the services are billed.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

(o) Receipts from a financial institution's interest in any property described in section 290.015, subdivision 3, paragraph (b), is not included in the numerator or the denominator of the receipts factor provided the financial institution's activities within this state with respect to any interest in the property are limited in the manner provided in section 290.015, subdivision 3, paragraph (b). If a financial institution is subject to tax under this chapter, its interest in property described in section 290.015, subdivision 3, paragraph (b), is included in the receipts factor in the same manner as assets in the nature of securities or money market instruments are included under paragraph (n) and subdivision 7.

Sec. 18. Minnesota Statutes 1988, section 290.21, subdivision 4, is amended to read:

Subd. 4. (a) Eighty percent of dividends received by a corporation during the taxable year from another corporation, in which the recipient owns 20 percent or more of the stock, by vote and value, not including stock described in section 1504(a)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1987, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom.

The remaining 20 percent of dividends if the dividends received are the stock in an affiliated company transferred in an overall plan of reorganization and the dividend is eliminated in consolidation under Treasury Department Regulation 1.1502-14(a), as amended through December 31, 1988.

(b) Seventy percent of dividends received by a corporation during the taxable year from another corporation in which the recipient owns less than 20 percent of the stock, by vote or value, not including stock described in section 1504(a)(4) of the Internal Revenue Code of 1986 as amended through December 31, 1987, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of income and gain therefrom.

(c) The dividend deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

The dividend deduction provided in this subdivision does not apply to a dividend from a corporation which, for the taxable year of the corporation in which the distribution is made or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

The dividend deduction provided in this subdivision applies to the amount of regulated investment company dividends only to the extent determined under section 854(b) of the Internal Revenue Code of 1986, as amended through December 31, 1987.

The dividend deduction provided in this subdivision shall not be allowed with respect to any dividend for which a deduction is not allowed under the provisions of section 246(c) of the Internal Revenue Code of 1986, as amended through December 31, 1987.

(d) If dividends received by a corporation that does not have nexus with Minnesota under the provisions of Public Law Number 86-272 are included as income on the return of an affiliated corporation permitted or required to file a combined report under section 290.34, subdivision 2, then for purposes of this subdivision the determination as to whether the trade or business of the corporation consists principally of the holding of stocks and the collection of income and gains therefrom shall be made with reference to the trade or business of the affiliated corporation having a nexus with Minnesota.

(e) The deduction provided by this subdivision does not apply if the dividends are paid by a FSC as defined in section 922 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

(f) If one or more of the members of the unitary group whose income is included on the combined report received a dividend, the deduction under this subdivision for each member of the unitary business required to file a return under this chapter is the product of: (1) 100 percent of the dividends received by members of the group; (2) ~~80 percent or 70 percent.~~ *the percentage allowed* pursuant to paragraph (a) or (b); and (3) the percentage of the taxpayer's business income apportionable to this state for the taxable year under section 290.191 or 290.20.

Sec. 19. Minnesota Statutes 1988, section 290.37, subdivision 1, is amended to read:

Subdivision 1. [PERSONS MAKING RETURNS.] (a) A taxpayer shall file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1987, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's gross income derived from Minnesota sources under sections 290.081, paragraph (a), and 290.17, is less than the filing requirements for a single individual who is a full year resident of Minnesota.

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

Every corporation shall file a return, if the corporation is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return. The return in the case of a corporation must be signed by a person designated by the corporation. The commissioner ~~may~~ *shall* adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report ~~if the affiliated group includes a bank subject to tax under this chapter~~. Members of an affiliated group that elect to file one return on behalf of the members of the group under rules adopted by the commissioner may modify or rescind the election by filing the form required by the commissioner.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown

due thereon to the extent not timely paid.

(c) An exempt organization that is subject to tax on unrelated business income under section 290.05, subdivision 3, must file a return for each taxable year in which the organization is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1988, because of the receipt of unrelated business income. If an organization is required to file a return under federal law but has no federal tax liability for the taxable year, the commissioner may provide that the filing requirement under this paragraph is satisfied by filing a copy of the taxpayer's federal return.

Sec. 20. Minnesota Statutes 1988, section 290.38, is amended to read:

290.38 [RETURNS OF MARRIED PERSONS.]

A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several; provided that a spouse who is relieved of a liability attributable to a substantial underpayment under section 6013(e) of the Internal Revenue Code of 1986, as amended through December 31, 1987, shall also be relieved of the state tax liability on the substantial underpayment. *In the case of individuals who were a husband and wife prior to the dissolution of their marriage, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution from the husband or wife.* If the husband and wife have elected to file separate federal income tax returns they must file separate Minnesota income tax returns. This election to file a joint or separate returns must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by rule.

The determination of whether an individual is married shall be made under provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1987.

Sec. 21. Minnesota Statutes 1988, section 290.92, subdivision 4b, as added by Laws 1989, chapter 28, section 19, is amended to read:

Subd. 4b. [WITHHOLDING BY PARTNERSHIPS.] (a) A partnership shall deduct and withhold a tax as provided in paragraph (b) when the partnership pays or credits amounts to any of its nonresident individual partners on account of their distributive shares of partnership income for a taxable year of the partnership.

(b) The amount of tax withheld is determined by multiplying the partner's distributive share allocable to Minnesota under section 290.17, paid or credited during the taxable year by the highest rate used to determine the income tax liability for an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined based on tables provided by the commissioner if the partner submits a withholding exemption certificate under subdivision 5.

(c) A partnership required to deduct and withhold tax under this subdivision shall file a return with the commissioner. The tax required to be deducted and withheld during that year must be paid with the return. The return and payment is due on or before the due date specified for filing the partnership return under section 290.42.

(d) A partnership required to withhold and remit tax under this subdivision is liable for payment of the tax to the commissioner, and a person having control of or responsibility for the withholding of the tax or the filing of returns due under this subdivision is personally liable for the tax due. The commissioner may reduce or abate the tax withheld under this subdivision if the partnership had reasonable cause to believe that no tax was due under this section.

(e) Notwithstanding paragraph (a), a partnership is not required to deduct and withhold tax for a nonresident partner if:

(1) the partner elects to have the tax due paid as part of the partnership's composite return under section 290.39, subdivision 5;

(2) the partner has Minnesota assignable federal adjusted gross income from the partnership of less than $1,000; ~~or~~

(3) the partnership is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year; *or*

(4) the distributive shares of partnership income are attributable to:

(i) income required to be recognized because of discharge of indebtedness;

(ii) income recognized because of a sale, exchange, or other disposition of real estate, depreciable property, or property described in section 179 of the Internal Revenue Code of 1986, as amended through December 31, 1988; or

(iii) income recognized on the sale, exchange, or other disposition of any property that has been the subject of a basis reduction pursuant to sections 108, 734, 743, 754, or 1017 of the Internal Revenue Code of 1986, as amended through December 31, 1988,

to the extent that the income does not include cash received or receivable or, if there is cash received or receivable, to the extent that the cash is required to be used to pay indebtedness by the partnership or a secured debt on partnership property.

(f) For purposes of subdivisions 6, paragraph (1)(c), 6a, 7, 11, and 15, a partnership is considered an employer.

(g) To the extent that income is exempt from withholding under paragraph (e), clause (4), the commissioner has a lien in an amount up to the amount that would be required to be withheld with respect to the income of the partner attributable to the partnership interest, but for the application of paragraph (e), clause (4). The lien arises under section 270.69 from the date of assessment of the tax against the partner, and attaches to that partner's share of the profits and any other money due or to become due to that partner in respect of the partnership. Notice of the lien may be sent by mail to the partnership, without the necessity for recording the lien. The notice has the force and effect of a levy under section 270.70, and is enforceable against the partnership in the manner provided by that section.

Upon payment in full of the liability subsequent to the notice of lien, the partnership must be notified that the lien has been satisfied.

Sec. 22. Minnesota Statutes 1988, section 290.92, is amended by adding a subdivision to read:

Subd. 29. [LOTTERY PRIZES.] *Eight percent of the payment of Minnesota State lottery winnings which are subject to withholding must be withheld as Minnesota withholding tax. For purposes of this subdivision, the term "winnings which are subject to withholding" has the meaning given in section 3402(q)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1988. For purposes of the provisions of this section, a payment to any person of winnings which are subject to withholding must be treated as if the payment was a wage paid by an employer to an employee. Every individual who is to receive a payment of winnings which are subject to withholding shall furnish the state agency responsible for operating the Minnesota state lottery with a statement, made under the penalties of perjury, containing the name, address, and social security account number of the person receiving the payment. The Minnesota state lottery is liable for the payment of the tax required to be withheld under this subdivision but is not liable to any person for the amount of the payment.*

Sec. 23. Minnesota Statutes 1988, section 290.92, subdivision 21, is amended to read:

Subd. 21. [EXTENSION OF WITHHOLDING TO UNEMPLOYMENT COMPENSATION BENEFITS.] (a) At the time an individual makes a claim for unemployment compensation benefits, the commissioner of jobs and training must notify the individual that the individual's unemployment compensation may be subject to state income taxes depending on the individual's other income and that the individual may elect to have the payments subject to withholding under this section. If the individual ~~so requests~~ *does not notify the commissioner of jobs and training that the individual elects to have the payments not be subject to withholding within five working days of receipt of the notice from the commissioner*, unemployment compensation benefits paid to the individual shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(b) For purposes of this section, any supplemental unemployment compensation benefit paid to an individual to the extent includable in such individual's Minnesota gross income, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

Sec. 24. Minnesota Statutes 1988, section 290.934, subdivision 3a, is amended to read:

Subd. 3a. [REQUIRED INSTALLMENTS.] (1) Except as otherwise provided in this subdivision, the amount of a required installment is 25 percent of the required annual payment.

(2) Except as otherwise provided in this subdivision, the term "required annual payment" means the lesser of:

(a) 90 percent of the tax shown on the return for the taxable year, or if no return is filed 90 percent of the tax for such year; or

(b) 100 percent of the tax shown on the return of the corporation for the preceding taxable year providing such return was for a full 12-month period, did show a liability, and was filed by the corporation.

(3) Except for determining the first required installment for any taxable year, paragraph (2), clause (b), does not apply in the case of a large corporation. The term "large corporation" means a corporation or any predecessor corporation that had taxable net income of $1,000,000 or more for any taxable year during the testing period. The term "testing period" means the three taxable years immediately preceding the taxable year involved. A reduction allowed to a large corporation for the first installment that is allowed by applying paragraph (2), clause (b), must be recaptured by increasing the next required installment by the amount of the reduction.

(4) In the case of a required installment, if the corporation establishes that the annualized income installment is less than the amount determined in paragraph (1), the amount of the required installment is the annualized income installment and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing subsequent required installments to the extent the reductions have not previously been recovered. ~~A reduction shall be treated as recaptured for purposes of this paragraph if 90 percent of the reduction is recaptured.~~

(5) The "annualized income installment" is the excess, if any, of:

(a) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income:

(i) for the first two months of the taxable year, in the case of the first required installment;

(ii) for the first two months or for the first five months of the taxable year, in the case of the second required installment;

(iii) for the first six months or for the first eight months of the taxable year, in the case of the third required installment; and

(iv) for the first nine months or for the first 11 months of the taxable year, in the case of the fourth required installment, over;

(b) the aggregate amount of any prior required installments for the taxable year.

(c) For the purpose of this paragraph, the annualized income shall be computed by placing on an annualized basis the taxable income for the year up to the end of the month preceding the due date for the quarterly payment multiplied by 12 and dividing the resulting amount by the number of months in the taxable year (2, 5, 6, 8, 9, or 11 as the case may be) referred to in clause (a).

(d) The "applicable percentage" used in clause (a) is:

In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90

(6)(a) If this paragraph applies, the amount determined for any installment must be determined in the following manner:

(i) take the taxable income for all months during the taxable year preceding the filing month;

(ii) divide that amount by the base period percentage for all months

during the taxable year preceding the filing month;

(iii) determine the tax on the amount determined under item (ii); and

(iv) multiply the tax computed under item (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

(b) For purposes of this paragraph:

(i) the "base period percentage" for any period of months is the average percent which the taxable income for the corresponding months in each of the three preceding taxable years bears to the taxable income for the three preceding taxable years;

(ii) the term "filing month" means the month in which the installment is required to be paid;

(iii) this paragraph shall only apply if the base period percentage for any six consecutive months of the taxable year equals or exceeds 70 percent; and

(iv) the commissioner may provide by rule for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

(c) In the case of a required installment, determined under this paragraph, if the corporation determines that the installment is less than the amount determined in paragraph (1), the amount of the required installment is the amount determined under this paragraph and the recapture of previous quarters' reductions allowed by this paragraph must be recovered by increasing subsequent required installments to the extent the reductions have not previously been recovered. ~~A reduction shall be treated as recaptured for purposes of this paragraph if 90 percent of the reduction is recaptured.~~

Sec. 25. Minnesota Statutes 1988, section 298.01, is amended by adding a subdivision to read:

Subd. 3c. [ALTERNATIVE MINIMUM TAX.] *For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 3, 3a, and 3b, and the provisions of section 290.0921, except that:*

(1) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be determined using gross income as defined in subdivision 3a; and

(2) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be included in alternative minimum taxable income.

Sec. 26. Minnesota Statutes 1988, section 298.01, is amended by adding a subdivision to read:

Subd. 4d. [ALTERNATIVE MINIMUM TAX.] *For purposes of calculating the alternative minimum tax under section 290.0921, Minnesota alternative minimum taxable income must be computed under the provisions of subdivisions 4, 4a, 4b and 4c, and the provisions of section 290.0921, except that:*

(1) for purposes of the depreciation adjustments provided by section 56(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, the basis for depreciable property placed in service is the remaining depreciable basis as defined in subdivision 4c;

(2) the adjustment for adjusted current earnings under section 56(g) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be determined using gross income as defined in subdivision 4a;

(3) the tax preference for depletion under section 57(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1988, must be included in alternative minimum taxable income; and

(4) for purposes of calculating the tax preference for accelerated depreciation or amortization of certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code of 1986, as amended through December 31, 1988, the deduction allowable for the taxable year shall mean the deduction allowable under subdivision 4c, provided that this modification must not reduce the amount of tax preference to less than zero.

Sec. 27. Laws 1988, chapter 719, article 1, section 22, is amended to read:

Sec. 22. [EFFECTIVE DATES.]

Except as otherwise provided, sections 1 to 3 and 16 are effective for taxable years beginning after December 31, 1986. Sections 5, 7 to 12, 14, 15, 17, and 21 are effective for taxable years beginning after December 31, 1987. The deduction allowed under section 4, clause (4) and the ability of surviving spouses to use the married filing joint rates in section 7 are effective for taxable years beginning after December 31, 1986. The rest of sections 4 and 7 are effective for taxable years beginning after December 31, 1987. Section 13 is effective for taxable years beginning after December 31, ~~1984~~ *1973*. Section 18 is effective the day following final enactment.

Sec. 28. [PENSION EXCLUSION; FEDERAL LAW ENFORCEMENT AND CORRECTIONS EMPLOYEES.]

Notwithstanding Minnesota Statutes 1986, section 290.08, subdivision 26, paragraph (a), clause (4), for purposes of the pension income exclusion contained in Minnesota Statutes 1986, section 290.08, subdivision 26, for taxable years beginning after December 31, 1984, and before January 1, 1987, an individual who received pension income for service as a law enforcement or corrections officer employed by the federal government is a qualified recipient without regard to age.

Sec. 29. [AMENDING RETURNS.]

Individuals qualifying for the pension exclusion under section 28 for taxable years beginning after December 31, 1984, and before January 1, 1987, may file amended returns under Minnesota Statutes, section 290.391.

Sec. 30. [STATEMENT OF PURPOSE; ALTERNATIVE MINIMUM TAX.]

The purpose of the corporate alternative minimum tax provisions of this act is to insure that all corporations with economic profits, broadly defined, pay at least a minimum corporate franchise tax. The changes are intended to be revenue neutral, neither increasing nor reducing state corporate

franchise tax revenues. The legislature intends to continue, during 1989 and 1990, studying the corporate alternative minimum tax and attempting to develop a more appropriate tax structure for achieving that purpose.

Sec. 31. [REPEALER.]

Minnesota Statutes 1988, section 290.092, subdivision 5; Laws 1989, chapter 27, article 2, sections 2, 3, and 5, are repealed.

Sec. 32. [EFFECTIVE DATE.]

Section 1 is effective May 15, 1989 for returns filed after December 31, 1988.

Sections 2, 3, and 17 are effective for taxable years beginning after December 31, 1986.

Sections 4, 6, 7, 8, 14, subdivisions 1 to 6 and 8, and 19, paragraph (a), are effective for taxable years beginning after December 31, 1989.

Sections 5, 9, 11, 18, and 19 paragraph (c), are effective for taxable years beginning after December 31, 1988.

Sections 10 and 16 are effective for taxable years beginning after December 31, 1990.

Sections 12 and 13 are effective for alternative minimum tax paid in taxable years beginning after December 31, 1988 and for carryover credits allowed in taxable years beginning after December 31, 1989.

Section 14, subdivision 7, is effective for taxable years beginning after December 31, 1989, in its application to section 936 corporations and for taxable years beginning after December 31, 1990, in its application to all other foreign operating companies.

Sections 15, 21, 22, 27 and 31 are effective the day following final enactment.

Section 20 is effective the day following final enactment for taxable years beginning after December 31, 1973.

Section 23 is effective for notices sent by the commissioner of jobs and training after July 31, 1989.

Section 24 is effective for payments due after May 31, 1989.

Sections 25 and 26 are effective for ores mined after December 31, 1989.

ARTICLE 2

PROPERTY TAX REFUND AND TARGETING

Section 1. Minnesota Statutes 1988, section 290A.04, subdivision 2, is amended to read:

Subd. 2. [HOMEOWNERS.] A claimant whose property taxes payable ~~or rent constituting property taxes~~ are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable ~~or rent constituting property taxes~~. The state refund ~~will be equal to~~ *equals* the amount of property taxes payable ~~or rent constituting property taxes~~ that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
~~$0 to 999~~	~~1.0 percent~~	~~10 percent~~	~~$1,100~~
~~1,000 to 1,999~~	~~1.1 percent~~	~~11 percent~~	~~$1,100~~
~~2,000 to 2,999~~	~~1.2 percent~~	~~12 percent~~	~~$1,100~~
~~3,000 to 3,499~~	~~1.3 percent~~	~~13 percent~~	~~$1,100~~
~~3,500 to 3,999~~	~~1.3 percent~~	~~13 percent~~	~~$1,100~~
~~4,000 to 4,499~~	~~1.4 percent~~	~~14 percent~~	~~$1,100~~
~~4,500 to 4,999~~	~~1.4 percent~~	~~14 percent~~	~~$1,100~~
~~5,000 to 5,999~~	~~1.5 percent~~	~~15 percent~~	~~$1,100~~
~~6,000 to 6,999~~	~~1.5 percent~~	~~16 percent~~	~~$1,100~~
~~7,000 to 7,999~~	~~1.6 percent~~	~~17 percent~~	~~$1,100~~
~~8,000 to 8,999~~	~~1.6 percent~~	~~18 percent~~	~~$1,100~~
~~9,000 to 9,999~~	~~1.7 percent~~	~~19 percent~~	~~$1,100~~
~~10,000 to 10,999~~	~~1.7 percent~~	~~20 percent~~	~~$1,075~~
~~11,000 to 11,999~~	~~1.8 percent~~	~~22 percent~~	~~$1,075~~
~~12,000 to 12,999~~	~~1.8 percent~~	~~24 percent~~	~~$1,075~~
~~13,000 to 13,999~~	~~1.9 percent~~	~~26 percent~~	~~$1,075~~
~~14,000 to 14,999~~	~~2.0 percent~~	~~28 percent~~	~~$1,075~~
~~15,000 to 15,999~~	~~2.1 percent~~	~~30 percent~~	~~$1,075~~
~~16,000 to 16,999~~	~~2.2 percent~~	~~32 percent~~	~~$1,075~~
~~17,000 to 17,999~~	~~2.3 percent~~	~~34 percent~~	~~$1,050~~
~~18,000 to 18,999~~	~~2.4 percent~~	~~36 percent~~	~~$1,050~~
~~19,000 to 19,999~~	~~2.6 percent~~	~~38 percent~~	~~$1,050~~
~~20,000 to 20,999~~	~~2.8 percent~~	~~40 percent~~	~~$1,050~~
~~21,000 to 21,999~~	~~3.0 percent~~	~~42 percent~~	~~$1,050~~
~~22,000 to 22,999~~	~~3.2 percent~~	~~44 percent~~	~~$1,050~~
~~23,000 to 23,999~~	~~3.3 percent~~	~~46 percent~~	~~$1,025~~
~~24,000 to 24,999~~	~~3.4 percent~~	~~48 percent~~	~~$1,025~~
~~25,000 to 25,999~~	~~3.5 percent~~	~~50 percent~~	~~$1,025~~
~~26,000 to 26,999~~	~~3.6 percent~~	~~52 percent~~	~~$1,025~~
~~27,000 to 27,999~~	~~3.7 percent~~	~~54 percent~~	~~$1,000~~
~~28,000 to 28,999~~	~~3.8 percent~~	~~56 percent~~	~~$900~~
~~29,000 to 29,999~~	~~3.9 percent~~	~~58 percent~~	~~$800~~
~~30,000 to 30,999~~	~~4.0 percent~~	~~60 percent~~	~~$700~~
~~31,000 to 31,999~~	~~4.0 percent~~	~~60 percent~~	~~$600~~
~~32,000 to 32,999~~	~~4.0 percent~~	~~60 percent~~	~~$500~~
~~33,000 to 33,999~~	~~4.0 percent~~	~~60 percent~~	~~$300~~
~~34,000 to 34,999~~	~~4.0 percent~~	~~60 percent~~	~~$100~~
$0 to 999	*1.2 percent*	*22 percent*	*$400*
1,000 to 1,999	*1.3 percent*	*24 percent*	*$400*
2,000 to 2,999	*1.4 percent*	*26 percent*	*$400*
3,000 to 3,999	*1.6 percent*	*28 percent*	*$400*
4,000 to 4,999	*1.7 percent*	*30 percent*	*$400*
5,000 to 5,999	*1.9 percent*	*33 percent*	*$400*
6,000 to 6,999	*1.9 percent*	*35 percent*	*$400*
7,000 to 7,999	*2.1 percent*	*37 percent*	*$400*
8,000 to 8,999	*2.2 percent*	*39 percent*	*$400*
9,000 to 9,999	*2.3 percent*	*41 percent*	*$400*
10,000 to 10,999	*2.4 percent*	*43 percent*	*$400*
11,000 to 11,999	*2.5 percent*	*45 percent*	*$400*
12,000 to 13,999	*2.6 percent*	*45 percent*	*$400*
14,000 to 14,999	*2.8 percent*	*45 percent*	*$400*
15,000 to 15,999	*3.0 percent*	*45 percent*	*$400*

16,000 to 16,999	*3.2 percent*	*45 percent*	*$400*
17,000 to 20,999	*3.3 percent*	*45 percent*	*$400*
21,000 to 23,999	*3.4 percent*	*45 percent*	*$400*
24,000 to 24,999	*3.5 percent*	*45 percent*	*$400*
25,000 to 27,999	*3.5 percent*	*50 percent*	*$400*
28,000 to 29,999	*4.0 percent*	*50 percent*	*$400*
30,000 to 39,999	*4.0 percent*	*55 percent*	*$400*
40,000 to 46,999	*4.5 percent*	*55 percent*	*$400*
47,000 to 47,999	*4.5 percent*	*55 percent*	*$300*
48,000 to 48,999	*4.5 percent*	*55 percent*	*$200*
49,000 to 49,999	*4.5 percent*	*55 percent*	*$100*

The payment made to a claimant shall be the amount of the state refund calculated ~~pursuant to~~ *under* this subdivision. ~~For taxes payable in 1989, the amount of the refund must be reduced by the homestead credit.~~ No payment is allowed if the claimant's household income is ~~$35,000~~ *$50,000* or more.

Sec. 2. Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

Subd. 2a. [RENTERS.] *A claimant whose rent constituting property taxes exceeds the percentage of the household income stated below must pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of rent constituting property taxes. The state refund equals the amount of rent constituting property taxes that remain, up to the maximum state refund amount shown below.*

Household Income	*Percent of Income*	*Percent Paid by Claimant*	*Maximum State Refund*
$0 to 999	*1.0 percent*	*9 percent*	*$1,000*
1,000 to 1,999	*1.1 percent*	*9 percent*	*$1,000*
2,000 to 2,999	*1.2 percent*	*10 percent*	*$1,000*
3,000 to 3,999	*1.3 percent*	*10 percent*	*$1,000*
4,000 to 4,999	*1.4 percent*	*11 percent*	*$1,000*
5,000 to 5,999	*1.5 percent*	*12 percent*	*$1,000*
6,000 to 6,999	*1.5 percent*	*13 percent*	*$1,000*
7,000 to 7,999	*1.6 percent*	*14 percent*	*$1,000*
8,000 to 8,999	*1.6 percent*	*15 percent*	*$1,000*
9,000 to 9,999	*1.7 percent*	*16 percent*	*$1,000*
10,000 to 10,999	*1.7 percent*	*17 percent*	*$1,000*
11,000 to 11,999	*1.8 percent*	*19 percent*	*$1,000*
12,000 to 12,999	*1.8 percent*	*21 percent*	*$1,000*
13,000 to 13,999	*1.9 percent*	*23 percent*	*$1,000*
14,000 to 14,999	*2.0 percent*	*24 percent*	*$1,000*
15,000 to 15,999	*2.0 percent*	*26 percent*	*$1,000*
16,000 to 16,999	*2.1 percent*	*27 percent*	*$1,000*
17,000 to 17,999	*2.2 percent*	*28 percent*	*$1,000*
18,000 to 18,999	*2.3 percent*	*30 percent*	*$1,000*
19,000 to 19,999	*2.5 percent*	*32 percent*	*$1,000*
20,000 to 20,999	*2.7 percent*	*34 percent*	*$1,000*
21,000 to 21,999	*2.9 percent*	*36 percent*	*$1,000*
22,000 to 22,999	*3.0 percent*	*37 percent*	*$1,000*
23,000 to 23,999	*3.1 percent*	*38 percent*	*$1,000*
24,000 to 24,999	*3.2 percent*	*40 percent*	*$1,000*

25,000 to 25,999	*3.3 percent*	*43 percent*	*$1,000*
26,000 to 26,999	*3.4 percent*	*43 percent*	*$1,000*
27,000 to 27,999	*3.5 percent*	*45 percent*	*$1,000*
28,000 to 28,999	*3.6 percent*	*47 percent*	*$ 900*
29,000 to 29,999	*3.7 percent*	*47 percent*	*$ 800*
30,000 to 30,999	*3.8 percent*	*48 percent*	*$ 700*
31,000 to 31,999	*3.9 percent*	*48 percent*	*$ 600*
32,000 to 32,999	*4.0 percent*	*50 percent*	*$ 500*
33,000 to 33,999	*4.0 percent*	*50 percent*	*$ 300*
34,000 to 34,999	*4.0 percent*	*50 percent*	*$ 100*

The payment made to a claimant is the amount of the state refund calculated under this subdivision. No payment is allowed if the claimant's household income is $35,000 or more.

Sec. 3. Minnesota Statutes 1988, section 290A.04, subdivision 2h, is amended to read:

Subd. 2h. If the net property taxes payable ~~in 1989~~ on a homestead increase more than ten percent over the net property taxes payable in ~~1988~~ *the prior year* on the same property, and the amount of that increase is $40 or more, a claimant who is a homeowner shall be allowed an additional refund equal to 75 percent of the amount by which the increase exceeds ten percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead.

~~A refund under this subdivision shall not exceed $250.~~

For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made ~~pursuant to~~ *under* sections 273.13, subdivisions 22 and 23; 273.132; 273.135; 273.1391; and 273.42, subdivision 2, and any other state paid property tax credits and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivision 2.

In addition to the other proofs required by this chapter, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.

The provisions of this subdivision apply to the increase in property taxes over the prior year for property taxes payable in 1989 and 1990 only.

Sec. 4. Minnesota Statutes 1988, section 290A.04, is amended by adding a subdivision to read:

Subd. 4. [FARM NONHOMESTEAD.] *(a) A qualified owner of property classified as class 2b is allowed a refund under this chapter equal to the lesser of (1) 75 percent of the amount of the increase in net property taxes payable in 1990 over the net property taxes payable in 1989 on the same property that is in excess of ten percent or (2) $400. The $400 limitation applies both to the total refund allowable to a qualified owner for all properties and to the refund allowable for the increase for a parcel of property. No more than one application for a parcel of property may be filed under this subdivision.*

(b) This subdivision does not apply to an increase in taxes payable that are attributable to improvements to the property or to class 2b property that is used exclusively for growing trees for timber, lumber, and wood products.

(c) "Net property taxes payable" are taxes payable after allowance of the agricultural credit under section 273.132 and any other state paid credit.

(d) A "qualified owner" means an individual who is a resident of Minnesota or a family farm corporation, as defined in section 500.24, that (1) is actively engaged in the business of farming and (2) is the record owner of 50 percent or more of a fee interest in the property.

(e) The commissioner may require applicants for refunds under this section to supply any information that the commissioner determines necessary or appropriate to insure compliance with the provisions of this subdivision.

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective beginning for property taxes paid in 1990. Section 2 is effective beginning for refunds based on rent paid in 1990. Section 3 is effective only for property taxes paid in 1989 and 1990. Section 4 is effective for taxes paid in 1990.

ARTICLE 3

PROPERTY TAX

Section 1. Minnesota Statutes 1988, section 124A.23, subdivision 2, is amended to read:

Subd. 2. [GENERAL EDUCATION LEVY.] To obtain general education revenue, excluding supplemental revenue, a district may levy an amount not to exceed the general education tax capacity rate times the adjusted ~~gross~~ *net* tax capacity of the district for the preceding year. If the amount of the general education levy would exceed the general education revenue, excluding supplemental revenue, the general education levy shall be determined according to subdivision 3.

Sec. 2. Minnesota Statutes 1988, section 270.12, is amended by adding a subdivision to read:

Subd. 4. For purposes of equalization only, public utility personal property shall be treated as a separate class of property notwithstanding the fact that its tax capacity percentage is the same as commercial-industrial property.

Sec. 3. Minnesota Statutes 1988, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

(1) all public burying grounds;

(2) all public schoolhouses;

(3) all public hospitals;

(4) all academies, colleges, and universities, and all seminaries of learning;

(5) all churches, church property, and houses of worship;

(6) institutions of purely public charity except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (c), clause (1) or (2), or paragraph (d), clause (2);

(7) all public property exclusively used for any public purpose;

(8) except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d), shall be exempt.

The following personal property shall be taxable:

(a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) ~~Real and~~ personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used~~, other than real property used primarily as a solid waste disposal site~~, *and real property which is used primarily for abatement and control of air, water, or land pollution as part of an agricultural operation or as part of an electric generation system. For purposes of this clause, personal property includes ponderous machinery and equipment used in a business or production activity that at common law is considered real property.*

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules, or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps

containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility, or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8, and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band; and

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band.

An exemption provided by paragraph (15) shall apply for a period not to

exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

(18) Electric power distribution lines and their attachments and appurtenances, that are used primarily for supplying electricity to farmers at retail.

(19) Transitional housing facilities. "Transitional housing facility" means a facility that meets the following requirements. (i) It provides temporary housing to parents and children who are receiving AFDC or parents of children who are temporarily in foster care. (ii) It has the purpose of reuniting families and enabling parents to advance their education, get job training, or become employed in jobs that provide a living wage. (iii) It provides support services such as child care, work readiness training, and career development counseling; and a self-sufficiency program with periodic monitoring of each resident's progress in completing the program's goals. (iv) It provides services to a resident of the facility for at least six months but no longer than one year, except residents enrolled in an educational or vocational institution or job training program. These residents may receive services during the time they are enrolled but in no event longer than four years. (v) It is sponsored by an organization that has received a grant under section 256.7365 for the biennium ending June 30, 1989, for the purposes of providing the services in items (i) to (iv). (vi) It is sponsored by an organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1987. This exemption applies notwithstanding the fact that the sponsoring organization receives financing by a direct federal loan or federally insured loan or a loan made by the Minnesota housing finance agency under the provisions of either Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant to it, and notwithstanding the fact that the sponsoring organization receives funding under Section 8 of the United States Housing Act of 1937, as amended.

Sec. 4. Minnesota Statutes 1988, section 272.02, is amended by adding a subdivision to read:

Subd. 7. Property, including real property, qualifies as exempt pollution

abatement property under subdivision 1, clause (9), if the following conditions are satisfied.

(a)(1) The property is part of a refuse derived fuel facility converted from a coal burning electric generation facility and the property consists of:

(i) boiler modifications necessary to efficient handling and burning of refuse derived fuel and transfer of the heat produced by combustion of the fuel;

(ii) ash handling and storage systems, such as vacuum-pneumatic equipment, conveyors, crushers, and storage buildings to remove, convey, process, and temporarily store bottom and fly ash from the burning of refuse derived fuel;

(iii) control systems, such as computers, to control the operation of equipment described in clauses (i) to (iv) and other pollution abatement equipment; and

(iv) equipment to monitor emissions into the air and combustion efficiency; or

(2) the property is a solid waste resource recovery mass burn facility.

(b) The facility was constructed and will be operated under a contractual arrangement providing for payment, in whole or part, of the property tax on the property by a political subdivision of the state.

Sec. 5. Minnesota Statutes 1988, section 272.02, is amended by adding a subdivision to read:

Subd. 8. [PROPERTY LEASED TO SCHOOL DISTRICTS.] *Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:*

(1) the lease must be for a period of at least 12 consecutive months;

(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;

(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12 or special education for handicapped children or adult basic and continuing education as described in section 124.26, including provision of administrative services directly related to the educational program at that site; and

(4) the lease must provide that the school district has the exclusive use of the property during the lease period.

If the property that is leased to the school district is less than a complete parcel for assessment purposes, the value of that portion of the parcel that is leased is exempt under this subdivision.

Sec. 6. Minnesota Statutes 1988, section 272.025, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, a taxpayer claiming an exemption from taxation on property described in section 272.02, subdivision 1, clauses (1) to (7) *and (9)*, except churches and houses of worship and property solely used for educational purposes by academies, colleges, universities or seminaries of learning and property owned by the state of Minnesota or any political subdivision thereof, shall file a statement of

exemption with the assessor of the assessment district in which the property is located on or before February 15 of each year for which the taxpayer claims an exemption. In case of sickness, absence or other disability or for good cause, the assessor may extend the time for filing the statement of exemption for a period not to exceed 60 days. The commissioner of revenue shall prescribe the form and contents of the statement of exemption.

Sec. 7. Minnesota Statutes 1988, section 273.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Except as provided in subdivisions 6, 8, ~~and~~ 9, *and 11*, or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under $100 is rounded up to $100 and any amount exceeding $100 shall be rounded to the nearest $100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the gross tax capacity of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Sec. 8. Minnesota Statutes 1988, section 273.11, is amended by adding a subdivision to read:

Subd. 11. [HOMESTEADS; LIMITATION IN MARKET VALUE INCREASES.] *(a) After determining the market value of property classified class 1 or 2a, the assessor shall compare the market value with the market value determined in the preceding assessment. Notwithstanding any law to the contrary, the percentage increase in value entered in the current assessment over the previous year's assessment must not exceed the greater of $15,000 or ten percent.*

(b) Any increase in value in excess of the amount determined in paragraph (a) must be entered equally in the three subsequent assessment years. An excess amount entered under this paragraph is not subject to the limitation in paragraph (a).

(c) This subdivision does not apply to increases in value attributable to improvements made to the property. It does not apply to property becoming subject to taxation since the last assessment.

(d) The limitation contained in this subdivision also applies to the local boards of review under section 274.01, the county boards of equalization under section 274.13, and the state board of equalization and the commissioner of revenue under sections 270.11, 270.12, and 270.16. Except for property subject to the provisions of paragraph (c), the cumulative increases made by the assessor, the boards, and the commissioner may not exceed the maximum increase allowed under paragraph (a). Excess increases must be entered in subsequent years under paragraph (b).

Sec. 9. Minnesota Statutes 1988, section 273.111, subdivision 4, is amended to read:

Subd. 4. The value of any real estate described in subdivision 3 shall upon timely application by the owner, in the manner provided in subdivision 8, be determined solely with reference to its appropriate agricultural classification and value notwithstanding sections 272.03, subdivision 8 and 273.11. In determining ~~such~~ *the* value for ad valorem tax purposes, the assessor shall *use sales data obtained from agricultural lands located outside the seven metropolitan counties but within the region used for computing the range of values under section 273.11, subdivision 10. The sales shall have similar soil types, number of degree days, and other similar agricultural characteristics as contained in section 273.11, subdivision 10. Furthermore, the assessor shall* not consider any added values resulting from nonagricultural factors.

Sec. 10. Minnesota Statutes 1988, section 273.124, subdivision 6, is amended to read:

Subd. 6. [LEASEHOLD COOPERATIVES.] When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317 *and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988,* or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, homestead treatment may be claimed by the cooperative association on behalf of the members of the cooperative for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the social security numbers of those members. To qualify for the treatment provided by this subdivision, the following conditions must be met:

(a) the cooperative association must be organized under sections 308.05 to 308.18 *and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative*;

(b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years, *which permits the cooperative association, while not in default on the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent*;

(c) to the extent permitted under state or federal law, the cooperative association must have a right under a written agreement with the owner to

purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale; ~~and~~

(d) *the cooperative must meet one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 80 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" means the income of a member when the member acquires cooperative membership, and "median income" means the Saint Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development;*

(e) if a limited partnership owns the property, it must include as the managing general partner ~~either the cooperative association or~~ a nonprofit organization operating under the provisions of chapter 317 *and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1988, and the limited partnership agreement must provide that the managing general partner have sufficient powers so that it materially participates in the management and control of the limited partnership;*

(f) prior to becoming a member of a leasehold cooperative described in this subdivision, a person must have received notice that (1) describes leasehold cooperative property in plain language, including but not limited to the effects of classification under this subdivision on rents, property taxes and tax credits or refunds, and operating expenses, and (2) states that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner, and the owner must send or deliver the materials within seven days after receiving any request;

(g) if a dwelling unit of a building was occupied on the 60th day prior to the date on which the unit became leasehold cooperative property described in this subdivision, then (1) the notice described in paragraph (f) must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property, and (2) prior to the mailing of the notice, copies of the documents identified in the notice must have been filed with the secretary of state; and

(h) the county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision. Homestead treatment must be afforded to units occupied by members of the cooperative association and the units must be assessed as provided in subdivision 3, provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

Sec. 11. Minnesota Statutes 1988, section 273.13, subdivision 22, is amended to read:

Subd. 22. [CLASS 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first $68,000 of market value of class 1a property has a net tax capacity of ~~one~~ *.95* percent of its market value and a gross tax capacity of 2.17 percent of its market value. The market value of class 1a property that exceeds $68,000 but does not exceed $100,000 has a tax capacity of ~~2.5~~ *1.8* percent of its market value. The market value of class 1a property that exceeds $100,000 has a tax capacity of ~~3.3~~ *three* percent of its market value.

(b) Class 1b property includes real estate or manufactured homes used for the purposes of a homestead by

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) with assistance by the administration of veterans affairs has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

(A) aid from any state as a result of that disability; or

(B) supplemental security income for the disabled; or

(C) workers' compensation based on a finding of total and permanent disability; or

(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or

(E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or

(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or

(iii) whose household income as defined in section 290A.03, subdivision

5, is 150 percent or less of the federal poverty level.

Property is classified and assessed pursuant to clause (1) only if the commissioner of jobs and training certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of jobs and training shall provide a copy of the certification to the commissioner of revenue.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first $32,000 market value of class 1b property has a net tax capacity of .4 percent of its market value and a gross tax capacity of .87 percent of its market value. The remaining market value of class 1b property has a gross or net tax capacity using the rates for class 1 or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, *which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort or a partner in a partnership that owns the resort, even if the title to the homestead is held by the corporation or partnership.* Class 1c property has a tax capacity of ~~.9~~ *.68* percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

~~(d) For taxes levied in 1988, payable in 1989 only, the tax to be paid on class 1a or class 1b property shall be reduced by 54 percent of the tax imposed on the first $68,000 of market value. The amount of the reduction shall not exceed $725.~~

Sec. 12. Minnesota Statutes 1988, section 273.13, subdivision 23, is amended to read:

Subd. 23. [CLASS 2.] (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land ~~that does not exceed $65,000 has a net tax capacity of .805 percent of market value and a gross tax capacity of 1.75 percent of market value. The excess market value over $65,000 has a tax capacity of 2.2 percent~~ *shall have the same tax capacity as if it were class 1a property under subdivision 22.* If the market value of the house, garage, and surrounding one acre of land is less than ~~$65,000~~ *$100,000*, the value of the remaining land including improvements equal to the difference between ~~$65,000~~ *$100,000* and the market value of the house, garage, and surrounding one acre of land has a net tax capacity of ~~1.12~~ *.34* percent of market value ~~and a gross tax capacity of 1.75 percent of market value for the first 320 acres of land and the remaining value over 320 acres has a net tax capacity of 1.295 percent of market value and a gross tax capacity of 1.75 percent of market value~~. The remaining value of class 2a property over ~~the $65,000~~ *$100,000 of* market value that does not exceed 320 acres has a net tax capacity of ~~1.44~~ *1.3* percent of market value and a gross tax capacity of 2.25 percent of market value. The remaining property over ~~the $65,000~~ *$100,000 of* market value in excess of 320

acres has a net tax capacity of ~~1.665~~ *1.6* percent of market value and a gross tax capacity of 2.25 percent of market value.

Noncontiguous land shall constitute class 2a only if the homestead is classified as class 2a and the detached land is located in the same township or city or not farther than two townships or cities or combination thereof from the homestead.

Agricultural land used for purposes of a homestead and actively farmed by a person holding a vested remainder interest in it must be classified class 2a. If agricultural land is classified class 2a, any other dwellings on the land used for purposes of a homestead by persons holding vested remainder interests who are actively engaged in farming the property, and up to one acre of the land surrounding each homestead and reasonably necessary for the use of the dwelling as a home, must also be assessed class 2a and is entitled to the homestead credit.

~~For taxes levied in 1988, payable in 1989 only, the tax to be paid on class 2a property and class 1b property under section 273.13, subdivision 22, paragraph (b), used for agricultural purposes shall be reduced by 54 percent of the tax. The amount of the reduction shall not exceed $725.~~

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; and (2) real estate that is nonhomestead agricultural land. Class 2b property has a net tax capacity of ~~1.665~~ *1.60* percent of market value and a gross tax capacity of 2.25 percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land, and land included in federal farm programs.

(d) Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, including the breeding of fish for sale and consumption provided that it is located on land zoned for agricultural use, shall be considered as agricultural land, if it is not used primarily for residential purposes.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

Sec. 13. Minnesota Statutes 1988, section 273.13, subdivision 24, is amended to read:

Subd. 24. [CLASS 3.] (a) Commercial~~,~~ *and* industrial ~~,~~ *property* and utility *real and personal* property, *except class 5a property as identified in subdivision 31,* is class 3a. It has a tax capacity of ~~3.3~~ *3.15* percent of the first ~~$100,000~~ *$150,000* of market value and ~~5.25~~ *5.05* percent of the market value over ~~$100,000~~ *$150,000*. ~~For taxes payable in 1991, the 5.25 percent rate shall be 5.2 percent and for taxes payable in 1992 and subsequent years the rate shall be 5.15 percent.~~ In the case of state-assessed commercial, industrial, and utility property owned by one person or entity, only one parcel has a tax capacity ~~3.3~~ *of 3.15* percent. In the case of other commercial, industrial, and utility property owned by one person or entity, only one parcel in each county has a tax capacity of ~~3.3~~ *3.15* percent.

(b) Employment property defined in section 469.166, during the period provided in section 469.170, shall constitute class 3b and has a tax capacity of 2.5 percent of the first $50,000 of market value and 3.5 percent of the remainder, except that for employment property located in a border city enterprise zone designated pursuant to section 469.168, subdivision 4, paragraph (c), the tax capacity of the first ~~$100,000~~ *$150,000* of market value is ~~3.3~~ *3.15* percent and the tax capacity of the remainder is 4.8 percent, unless the governing body of the city designated as an enterprise zone determines that a specific parcel shall be assessed pursuant to the first clause of this sentence. The governing body may provide for assessment under the first clause of the preceding sentence only for property which is located in an area which has been designated by the governing body for the receipt of tax reductions authorized by section 469.171, subdivision 1.

Sec. 14. Minnesota Statutes 1988, section 273.13, subdivision 25, is amended to read:

Subd. 25. [CLASS 4.] (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. Class 4a property has a tax capacity of ~~4.1~~ *3.38* percent of market value.

(b) Class 4b includes:

(1) residential real estate containing less than four units, other than seasonal residential, recreational, ~~and a structure having five or more stories that is constructed with materials meeting the requirements for type I or II construction as defined in the state building code, 90 percent or more of which is used or is to be used as apartment housing for a period of 40 years from the date of completion of original construction, or the date of initial though partial use, whichever is the earlier date~~ *which has a tax capacity of 2.88 percent of market value*;

(2) post-secondary student housing not to exceed one acre of land which is owned by a nonprofit corporation organized under chapter 317 and is used exclusively by a sorority or fraternity organization for housing, *which has a tax capacity of 2.88 percent of market value*;

(3) manufactured homes not classified under any other provision, *which has a tax capacity of 2.88 percent of market value*;

(4) a dwelling, garage, and surrounding one acre of property on a non-homestead farm classified under subdivision 23, paragraph (b), which has a tax capacity of ~~2.7~~ *2.88* percent of market value.

~~Class 4b property has a tax capacity of 3.5 percent of market value, except as provided in clause (4).~~

(c) Class 4c property includes:

(1) a structure that is situated on real property that is used for housing for the elderly or for low and moderate income families as defined by Title II of the National Housing Act or the Minnesota housing finance agency law of 1971 or rules promulgated by the agency pursuant thereto and financed by a direct federal loan or federally insured loan or a loan made

by the Minnesota housing finance agency pursuant to the provisions of either of those acts and acts amendatory thereof. This clause applies only to property of a nonprofit or limited dividend entity. Property is classified as class 4c under this clause for 15 years from the date of the completion of the original construction or substantial rehabilitation, or for the original term of the loan;

(2) a structure that is:

(i) situated upon real property that is used for housing lower income families or elderly or handicapped persons, as defined in section 8 of the United States Housing Act of 1937, as amended; and

(ii) owned by an entity which has entered into a housing assistance payments contract under section 8 which provides assistance for 100 percent of the dwelling units in the structure, other than dwelling units intended for management or maintenance personnel. Property is classified as class 4c under this clause for the term of the housing assistance payments contract, including all renewals, or for the term of its permanent financing, whichever is shorter; and

(3) a qualified low-income building that (i) receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, ~~1987~~ *1988*; or (ii) meets the requirements of that section. Classification pursuant to this clause is limited to buildings the construction or rehabilitation of which began after May 1, 1988, and to a term of 15 years.

For all properties described in clauses (1), (2), and (3) and in paragraph (d), the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents. The land on which these structures are situated has a tax capacity of ~~3.5~~ *2.88* percent of market value if the structure contains fewer than four units, and ~~4.1~~ *3.38* percent of market value if the structure contains four or more units.

(4) a parcel of land, not to exceed one acre, and its improvements or a parcel of unimproved land, not to exceed one acre, if it is owned by a neighborhood real estate trust and at least 60 percent of the dwelling units, if any, on all land owned by the trust are leased to or occupied by lower income families or individuals. This clause does not apply to any portion of the land or improvements used for nonresidential purposes. For purposes of this clause, a lower income family is a family with an income that does not exceed 65 percent of the median family income for the area, and a lower income individual is an individual whose income does not exceed 65 percent of the median individual income for the area, as determined by the United States Secretary of Housing and Urban Development. For purposes of this clause, "neighborhood real estate trust" means an entity which is certified by the governing body of the municipality in which it is located to have the following characteristics: (a) it is a nonprofit corporation organized under chapter 317; (b) it has as its principal purpose providing housing for lower income families in a specific geographic community designated in its articles or bylaws; (c) it limits membership with voting rights to residents of the designated community; and (d) it has a board of directors consisting of at least seven directors, 60 percent of whom are members with voting rights and, to the extent feasible, 25 percent of whom are elected by resident members of buildings owned by the trust; and

(5) except as provided in subdivision 22, paragraph (c), real property

devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than ~~200~~ *225* days in the year preceding the year of assessment. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for the use. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than ~~200~~ *225* days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in clauses (5) and (6) also includes the remainder of class 1c resorts and has a tax capacity of ~~2.6~~ *2.4* percent of market value, except that noncommercial seasonal recreational property has a tax capacity of ~~2.3~~ *2.22* percent of market value; and

(6) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, ~~1986~~ *1988*. For purposes of this clause, "revenue-producing activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or nonintoxicating malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity; and

Class 4c property classified under clauses (1), (2), (3), ~~and~~ (4), *and (6)* has a tax capacity of 2.5 percent of market value.

(d) Class 4d property includes any structure:

(i) situated on real property that is used for housing for the elderly or for low and moderate income families as defined by the farmers home administration;

(ii) located in a municipality of less than 10,000 population; and

(iii) financed by a direct loan or insured loan from the farmers home administration. Property is classified under this clause for 15 years from the date of the completion of the original construction or for the original term of the loan.

The 1.5 percent and 2.5 percent tax capacity assignments apply to the properties described in paragraph (c), clauses (1), (2), and (3) and this clause, only in proportion to occupancy of the structure by elderly or handicapped persons or low and moderate income families as defined in the applicable laws unless construction of the structure had been commenced prior to January 1, 1984; or the project had been approved by the governing body of the municipality in which it is located prior to June 30, 1983; or financing of the project had been approved by a federal or state agency prior to June 30, 1983. Classification under this clause is only available to property of a nonprofit or limited dividend entity.

Class 4d property has a tax capacity of 1.5 percent of market value.

(e) Residential rental property that would otherwise be assessed as class 4 property under paragraph (a); paragraph (b), clauses (1) and (2); paragraph (c), clauses (1), (2), (3), or (4); or paragraph (d), is assessed at the tax capacity percentage applicable to it under section 273.13, if it is found to be a substandard building under section 273.1316.

Sec. 15. Minnesota Statutes 1988, section 273.13, subdivision 31, is amended to read:

Subd. 31. [CLASS 5.] All property not included in any other class is class 5 property.

(a) Tools, implements, and machinery of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures, have a tax capacity of 4.6 percent of market value.

(b) Unmined iron ore and low-grade iron-bearing formations as defined in section 273.14 have a tax capacity of ~~5.25~~ *5.05* percent of market value.

(c) Vacant land has a tax capacity of 5.25 percent of market value.

(d) All other property not otherwise classified has a tax capacity of 5.25 percent of market value.

Sec. 16. [273.1316] [CLASSIFICATION OF SUBSTANDARD RESIDENTIAL RENTAL PROPERTY.]

Subdivision 1. [DENIAL OF RENTAL CLASSIFICATION.] *A building that is classified as residential rental property under section 273.13, subdivision 25, and that is determined to be substandard under this section is assessed as provided in section 273.13, subdivision 25, paragraph (e).*

Subd. 2. [DEFINITION.] *"Substandard building" means a building that:*

(1) has been determined by a state, county, or city agency that is charged by the governing body of the appropriate political subdivision with the responsibility for enforcing health, housing, building, fire prevention, or housing maintenance codes:

(i) to materially endanger the health and safety of the occupants; or

(ii) if unoccupied, to be a hazardous building within the meaning of section 463.15, subdivision 3; or

(iii) to be substantially out of compliance with the basic provisions of the housing and maintenance code of that county or city; and

(2) has not been repaired or brought to a condition of compliance within three months after the date of the violation notice to the owner as provided in subdivision 3, or within the time prescribed by the agency in the notice in accordance with applicable state law or local ordinance, whichever period is longer.

A building is not substandard under this subdivision if it was rendered substandard solely by reason of a tornado, flood, or other natural disaster.

Subd. 3. [VIOLATION NOTICE.] *The initial notice of violation by the agency to the owner must be written and must contain:*

(1) the details of the violation;

(2) the date by which repairs must be completed or compliance with other requirements must be achieved;

(3) a general description of the tax consequences if the violations are not corrected; and

(4) information on where and how an appeal may be filed.

The agency may extend the compliance date prescribed in the violation notice, for good cause shown, or may determine that good faith efforts at compliance are sufficient to prevent designation as a substandard building.

Subd. 4. [NOTICE OF NONCOMPLIANCE.] *When the period specified in subdivision 3 has expired without compliance and the building has been determined to be substandard as defined in subdivision 2, the agency shall mail to the owner a notice of noncompliance. The notice of noncompliance must be mailed by certified mail, return receipt requested, to the owner of the property at the owner's last known address. The notice must contain:*

(1) the details of the noncompliance;

(2) a statement that the local assessor has been notified of the noncompliance and that the property will be reclassified unless compliance is achieved within 30 days of the mailing of the notice;

(3) a general description of the tax consequences resulting from the denial of a residential rental property tax classification; and

(4) information on where and how an appeal may be filed.

Subd. 5. [APPEALS TO BOARD.] *Appeals shall be made to the board created under this subdivision. Each county and city, prior to issuance of a violation notice under subdivision 3, must establish a board to hear appeals under this subdivision. The board shall have five members appointed by the governing body. A decision of the appeal board may be appealed to the district court of the county in which the building is located, concerning the violation and determination of material endangerment, hazard, or lack of substantial compliance with the basic provisions of the housing and maintenance code under subdivision 2, and concerning a determination of noncompliance under subdivision 4. An appeal must be made no later than 30 days after receipt of the notice of the action or determination being appealed. If the board determines that the substandard building has been brought to a condition of compliance, the board shall require the agency to mail to the taxpayer a notice of compliance, which shall be in the form and include the information prescribed by the local assessor.*

Subd. 6. [TIMING OF PROCESS.] *If a notice of noncompliance is mailed*

before July 1 of any year, and the property owner has neither (1) successfully appealed the determination, nor (2) brought the property into compliance by October 15 of that year, the property will be assessed under section 273.13, subdivision 25, paragraph (e), for taxes levied in that year and all subsequent years until the agency determines that the property is no longer a substandard building, or the property owner prevails on an appeal of the matter. If a notice of noncompliance is mailed after June 30 of any year, the disqualification would initially be effective for taxes levied in the following year.

Subd. 7. [REFUND UPON APPEAL.] *If the property owner prevails on an appeal at any time after taxes have been paid based on assessment of the property as provided in section 273.13, subdivision 25, paragraph (e), the agency shall notify the property owner concerning the procedures for the filing for a refund. The notice shall be in the form and include the information prescribed by the local tax assessor. The taxpayer may then file for a refund of the difference between the amount of the tax paid and the tax that would have been payable if the property had not been incorrectly assessed under this section, and each governmental subdivision that levied the tax on the property shall refund to the property owner its proportionate share of the refund.*

Subd. 8. [SPECIFICATION OF VIOLATIONS.] *A notice of noncompliance shall not be mailed by the agency to the taxpayer until the state or the governing body of the appropriate political subdivision has prescribed by statute or ordinance the nature and types of violations of codes referred to in subdivision 2, that would constitute substantial noncompliance with the basic provisions of the code or material endangerment to the health and safety of occupants of buildings, or that would constitute a hazardous building within the meaning of section 463.15, subdivision 3.*

Sec. 17. Minnesota Statutes 1988, section 273.135, subdivision 2, is amended to read:

Subd. 2. For taxes payable in ~~1989 only~~ *1990 and subsequent years*, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 66 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10.

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area but which is outside the boundaries of a municipality which meets the qualifications prescribed in section 273.134, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, provided that the reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989*

tax rate. In no case will the reduction resulting from this credit be less than $10.

(c)~~(1)~~ The maximum reduction of the ~~net~~ tax ~~up to the taconite breakpoint~~ is $225.40 on property described in clause (a) and $200.10 on property described in clause (b), for taxes payable in 1985. These maximum amounts shall increase by $15 times the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

~~(2) The total maximum reduction of the net tax on property described in clause (a) is $490 for taxes payable in 1985. The total maximum reduction for the net tax on property described in clause (b) is $435 for taxes payable in 1985. These maximum amounts shall increase by $15 per year for taxes payable in 1986 and thereafter.~~

For the purposes of this subdivision, ~~"net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23, "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar,~~ "homestead credit equivalency percentage" means ~~a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22~~ *one minus the ratio of the net tax capacity rate to the gross tax capacity rate applicable to the first $68,000 of the market value of residential homesteads*, "effective tax rate" means tax divided by the market value of ~~the~~ *a* property, and the "base year effective tax rate" means the *payable 1988* tax on ~~the~~ *a* property *with an identical market value to that of the property receiving the credit in the current year* after the application of the credits payable under section 273.13, subdivisions 22 and 23, and this section ~~for taxes payable in 1988~~, divided by the market value of the property. ~~A new parcel of property or a parcel with a current year classification that is different from its base year classification has the same base year effective tax rate as an equivalent homesteaded parcel.~~

Sec. 18. Minnesota Statutes 1988, section 273.1391, subdivision 2, is amended to read:

Subd. 2. For taxes payable in 1989 only, the amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134 lies within such county, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~ on qualified property located in the school district that does not meet the qualifications of section 273.134, provided that the amount of said reduction shall not exceed the maximum amounts specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10. The reduction provided by this clause shall

only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134 as a tax relief area, but which is located in a school district in a county containing a city of the first class and a qualifying municipality, but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a qualifying municipality, 57 percent of the ~~net~~ tax ~~up to the taconite breakpoint plus a percentage equal to the homestead credit equivalency percentage of the net tax in excess of the taconite breakpoint~~, but not to exceed the maximums specified in clause (c), and shall not exceed an amount sufficient to reduce the effective tax rate on each parcel of property to *the product of* 95 percent of the base year effective tax rate *multiplied by the ratio of the current year's tax rate to the payable 1989 tax rate*. In no case will the reduction resulting from this credit be less than $10.

(c)~~(1)~~ The maximum reduction of the ~~net~~ tax up to the taconite breakpoint is $200.10 for taxes payable in 1985. This maximum amount shall increase by $15 multiplied by the quantity one minus the homestead credit equivalency percentage per year for taxes payable in 1986 and subsequent years.

~~(2) The total maximum reduction of the net tax is $435 for taxes payable in 1985. This total maximum amount shall increase by $15 per year for taxes payable in 1986 and thereafter.~~

For the purposes of this subdivision, ~~"net tax" means the tax on the property after deduction of any credit under section 273.13, subdivision 22 or 23, "taconite breakpoint" means the lowest possible net tax for a homestead qualifying for the maximum reduction pursuant to section 273.13, subdivision 22, rounded to the nearest whole dollar,~~ "homestead credit equivalency percentage" means ~~a percentage equal to the percentage reduction authorized in section 273.13, subdivision 22~~ *one minus the ratio of the net tax capacity rate to the gross tax capacity rate applicable to the first $68,000 of the market value of residential homesteads*, and "effective tax rate" means tax divided by the market value of ~~the~~ *a* property, and the "base year effective tax rate" means the *payable 1988* tax on ~~the~~ *a* property *with an identical market value to that of the property receiving the credit in the current year* after application of the credits payable under section 273.13, subdivisions 22 and 23, and this section ~~for taxes payable in 1988~~, divided by the market value of the property. ~~A new parcel with a current year classification that is different from its base year classification has the same base year effective tax rate as an equivalent homesteaded parcel.~~

Sec. 19. Minnesota Statutes 1988, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of tax capacity rates.

(c) "Gross tax capacity" means the product of the appropriate percentages of market value listed as gross tax capacities in section 273.13 and ~~equalized~~ *estimated* market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the

unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located ~~and~~, (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the gross tax capacity of transmission lines deducted from a local government's total gross tax capacity under section 273.425*. ~~For purposes of determining the gross tax capacity of property referred to in clauses (1) and (2) for disparity reduction aid payable in 1989, the gross tax capacity before equalization shall equal the property's 1987 assessed value multiplied by 12 percent.~~ Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of the appropriate percentages of market value listed as net tax capacities in section 273.13 and ~~equalized~~ *estimated* market values. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located ~~and~~, (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the net tax capacity of transmission lines deducted from a local government's total net tax capacity under section 273.425*. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity ~~before equalization~~ shall ~~equal the property's 1987 assessed value~~ *be* multiplied by ~~12 percent~~ *.962*. Net tax capacity cannot be less than zero.

(e) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. ~~For computation of aids payable in 1989 only, if the aggregate assessment sales ratio is less than or equal to 92 percent, the assessment sales ratios by class shall be adjusted proportionally so that the aggregate ratio of the unequalized market values to the equalized market values equals 92 percent; otherwise~~ The equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(f) "~~Homestead effective~~ *Local tax* rate" means ~~the product of (i) 46 percent; (ii) 2.17 percent; and (iii) the total tax capacity rate for taxes payable in 1989 within a unique taxing jurisdiction multiplied by the 1988 aggregate assessment sales ratio. A sales ratio of .92 is used if the actual sales ratio is less than .92~~ *the quotient derived by dividing the sum of (1) gross taxes levied within a unique taxing jurisdiction, and (2) the disparity reduction aid actually used to reduce taxes levied within the unique taxing jurisdiction for taxes payable in 1989, by (3) the gross tax capacity of the unique taxing jurisdiction*.

(g) For purposes of calculating the ~~transition~~ *homestead and agricultural credit* aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's ~~homestead effective~~ *local*

tax rate; (ii) its net tax capacity; and (iii) ~~103~~ *1.028146*.

(h) For purposes of calculating and allocating ~~transition~~ *homestead and agricultural credit* aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties" or "gross taxes" means the total gross taxes levied on all properties except that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473F.02, subdivision 3, subject to the areawide tax as provided in section 473F.08, subdivision 6, in a unique taxing jurisdiction before reduction by any credits for taxes payable in the year prior to that in which the aids are payable. ~~For purposes of disparity reduction aid only, total gross taxes shall be reduced by the taxes levied for any school district referendum levies authorized pursuant to section 124A.03, subdivision 2, and any school district debt levies authorized pursuant to section 475.61.~~ *Gross taxes are before any reduction for disparity reduction aid.* Gross taxes levied cannot be less than zero.

(i) "Income maintenance aids" means:

(1) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(2) preadmission screening and alternative care grants under section 256B.091, subdivision 8;

(3) general assistance, and work readiness under section 256D.03, subdivision 2;

(4) general assistance medical care under section 256D.03, subdivision 6;

(5) aid to families with dependent children under section 256.82, subdivision 1, including emergency assistance under section 256.871, subdivision 6; and funeral expense payments under section 256.935, subdivision 1; and

(6) supplemental aid under section 256D.36, subdivision 1.

(j) "Adjustment factor" means one plus the percentage change in the ratio of estimated market value of residential homesteads to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. If the market value of farm homesteads exceeds the market value of residential homesteads in the city or township containing the unique taxing jurisdiction, "adjusted factor" means one plus the percentage change in the ratio of the estimated market value of farm homesteads to the estimated market value of all taxable property within the city or township containing the unique taxing jurisdiction based on the assessment one year prior to the year in which the aid is payable when compared to the same ratio based on the assessment two years prior to the year in which the aid is payable. The adjustment factor cannot be less than one. Estimates of market value for the assessment one year prior to the year in which the aid is paid will be made on the basis of the abstract submitted pursuant to section 270.11. Discrepancies between the estimate and actual market values will not result in increased or decreased aid in the year in which

the estimates are used to compute aid, but the initial aid used to compute homestead and agricultural credit aid in the subsequent year will be adjusted to reflect actual market values.

Sec. 20. Minnesota Statutes 1988, section 273.1398, subdivision 2, is amended to read:

Subd. 2. [~~TRANSITION~~ *HOMESTEAD AND AGRICULTURAL* CREDIT AID.] (a) ~~Transition~~ *Initial homestead and agricultural credit* aid for each unique taxing jurisdiction for taxes payable in 1990 equals the total gross taxes levied on all properties, minus the unique taxing jurisdiction's subtraction factor. ~~Transition~~ *The commissioner of revenue may, in computing the amount of the homestead and agricultural credit aid paid in 1990, adjust the gross tax capacity, net tax capacity, and gross taxes of a taxing jurisdiction for taxes payable in 1989 to reflect auditor's errors in computing taxes payable for 1989 in unique taxing jurisdictions within independent school district Nos. 720 and 792. Homestead and agricultural credit* aid cannot be less than zero. ~~The transition aid so determined for school districts for purposes of general education and transportation levies shall be multiplied by the ratio of the adjusted gross tax capacity based upon the 1988 adjusted gross tax capacity to the estimated 1987 adjusted gross tax capacity based upon the 1987 adjusted assessed value. Each county assessor and the city assessors of Minneapolis, Duluth, and St. Cloud shall furnish the commissioner of revenue with the 1988 market values for taxes payable in 1989 for any new classes of property established in this article. The commissioner shall use those values, and estimate values where needed, in developing the 1988 tax capacity for each unique taxing jurisdiction under this section.~~

(b) (1) The ~~transition~~ *homestead and agricultural credit* aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's *payable 1989* gross taxes bears to the total *payable 1989* gross taxes levied within the unique taxing jurisdiction.

(2) *The 1990 homestead and agricultural credit aid so determined for school districts for purposes of general education levies pursuant to section 124A.25, subdivisions 2 and 2a, and transportation levies pursuant to section 275.125, subdivision 5, shall be multiplied by the ratio of the adjusted gross tax capacity based upon the 1988 adjusted gross tax capacity to the estimated 1987 adjusted gross tax capacity based upon the 1987 adjusted assessed value.*

(3) If a local government's total tax capacity rate for all funds for taxes payable in 1989 varies within the area in which it exercises taxing authority, the local government's allocated ~~transition~~ *homestead and agricultural credit* aid must be further allocated between the part of its levy in respect to which the tax capacity rate is constant throughout the area in which it exercises taxing authority and the part of its levy in respect to which the tax capacity rate varies throughout the area in which it exercises taxing authority.

(c) ~~In 1991 and subsequent years, a local government shall receive transition aid equal to that it received in 1990 subject to the requirement of the last sentence of subdivision 6.~~

~~(d) The difference between (1) the income maintenance aids payable to a county and (2) the income maintenance aids that would be payable to~~

~~the county pursuant to the rates in effect for calendar year 1989 shall be reduced by the sum of the amount of transition aid a county receives under this subdivision for all unique taxing jurisdictions located within its borders. The reduction must not reduce the difference to less than zero. The reduction shall be prorated among all payments of the increased income maintenance aids so that each payment is reduced by an equal percentage amount. The commissioner of revenue shall certify each county's transition aid to the commissioner of human services for purposes of this adjustment.~~ *In 1991 and subsequent years, the initial homestead and agricultural credit aid shall equal that calculated for taxes payable in 1990. The final homestead and agricultural credit aid shall equal the initial homestead and agricultural credit aid increased by the adjustment factor.*

(d) Payments under this subdivision to counties in 1990 and subsequent years shall be reduced by the amount provided in section 477A.012, subdivision 3, paragraph (d).

Sec. 21. Minnesota Statutes 1988, section 273.1398, is amended by adding a subdivision to read:

Subd. 2a. [EDUCATION LEVY REDUCTION.] *(a) As used in this subdivision, "equalized levies" means the sum of the maximum amounts that may be levied for:*

(1) general education under section 124A.23, subdivision 2;

(2) supplemental revenue under section 124A.23, subdivision 2a;

(3) capital expenditure facilities revenue under section 124.243, subdivision 3;

(4) capital expenditure equipment revenue under section 124.44, subdivision 2; and

(5) basic transportation under section 275.125, subdivision 5;

as reduced for general education levy equity under section 124A.24.

(b) By June 15, 1990, the commissioner of education shall determine and certify to the commissioner of revenue the amount of the homestead and agricultural credit aid offset. The offset shall be equal to the amount by which:

(1) the amount that would have been computed as the district's equalized levies for property taxes payable in 1991, if the levies had been based upon the district's gross tax capacity, exceeds

(2) the district's equalized levies for property taxes payable in 1991.

(c) Effective for property taxes payable in 1991 and subsequent years, the amount of the education levy reduction shall be deducted from the homestead and agricultural credit aid payable to each school district under subdivision 2.

Sec. 22. Minnesota Statutes 1988, section 273.1398, subdivision 3, is amended to read:

Subd. 3. [DISPARITY REDUCTION AID.] (a) ~~For taxes payable in 1989, a disparity reduction aid shall be calculated for each unique taxing jurisdiction. The aid is the greater of:~~

~~(1) the difference between (i) the total 1988 gross tax payable on all~~

~~taxable property within the unique taxing jurisdiction, and (ii) the gross tax capacity of the unique taxing jurisdiction; or~~

~~(2) 20 percent of the difference between (i) the 1988 gross tax of the city or township, and (ii) 23 percent of the city's or township's gross tax capacity.~~

~~In no case can the aid be less than $0.~~ *For taxes payable in 1990, the amount of disparity aid originally certified for each unique taxing jurisdiction for taxes payable in 1989 shall be multiplied by (1) 1.028146, and (2) the ratio of the jurisdiction's net tax capacity to its gross tax capacity, based upon market values for taxes payable in 1989.*

(b) The disparity reduction aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's payable gross taxes bears to the total payable gross taxes levied within the unique taxing jurisdiction.

(c) In ~~1990~~ *1991* and subsequent years, a local government shall receive disparity reduction aid equal to that it received in ~~1989~~ *1990*.

Sec. 23. Minnesota Statutes 1988, section 273.1398, subdivision 5, is amended to read:

Subd. 5. [HOMESTEAD AND AGRICULTURAL CREDIT GUARANTEE.] Beginning with taxes payable in 1990, each unique taxing jurisdiction may receive additional homestead and agricultural credit payments.

(1) Each year, the commissioner shall ~~certify to the county auditor~~ *determine* the total education aids paid under chapters 124 and 124A, ~~transition~~ *homestead and agricultural credit* aid and disparity reduction aid paid under section 273.1398, local government aid to cities, counties, and towns paid under chapter 477A, and income maintenance aid paid to counties for each taxing jurisdiction. The ~~county auditor~~ *commissioner* shall apportion each local government's aids to the unique taxing jurisdiction based upon the proportion that the unique taxing jurisdiction's tax capacity bears to the total tax capacity of the local government.

(2) Each year, the ~~county auditor~~ *commissioner* will compute a gross tax capacity rate for each taxing jurisdiction equal to its total levy divided by its gross tax capacity. For each unique taxing jurisdiction, a total gross tax capacity rate will be determined. This total gross tax capacity rate will be applied against the gross tax capacity of ~~each~~ property that would have been eligible for the homestead credit or the agricultural credit for taxes payable in 1989. ~~A~~ *An estimated* credit amount will be determined for ~~each parcel~~ *all qualifying parcels* based upon the credit rate structure in effect for taxes payable in 1989. The resulting credit amounts will be summed for all parcels in the unique taxing jurisdiction.

If the amount determined in clause (2) is greater than the amount determined in clause (1), the difference will be additional homestead and agricultural credit payments for the unique taxing jurisdiction. The additional credit amount shall proportionately reduce the tax capacity rates of all local governments levying taxes within the unique taxing jurisdiction *in the following year*. The ~~county auditor~~ *commissioner* shall certify the amounts of ~~all~~ additional credits determined under this section ~~in~~ a ~~form prescribed by the commissioner~~ *to the county auditor at the time provided in subdivision 6*.

Sec. 24. Minnesota Statutes 1988, section 273.1398, subdivision 6, is amended to read:

Subd. 6. [PAYMENT.] The commissioner shall certify the aids provided in subdivisions 2 ~~and~~, 3, *and 5* before September ~~30~~ *1* of the year preceding the distribution year to the county auditor of the affected local government and pay them and the credit reimbursements to local governments other than school districts at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions. Aids and credit reimbursements to school districts must be certified to the commissioner of education and paid under section 273.1392. Payment shall not be made to any taxing jurisdiction that has ceased to levy a property tax nor shall transition aid be payable on the part of a levy to which transition aid was separately allocated under subdivision 2, paragraph (b), clause (2), which is no longer levied.

Sec. 25. Minnesota Statutes 1988, section 298.28, subdivision 6, is amended to read:

Subd. 6. [PROPERTY TAX RELIEF.] (a) ~~Twelve~~ *Fifteen* cents per taxable ton, less any amount required to be distributed under paragraphs (b) and (c), must be allocated to St. Louis county acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136.

(b) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a county other than the county in which the mining and the concentrating processes are conducted, .1875 cent per taxable ton of the tax imposed and collected from such taxpayer shall be paid to the county.

(c) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a school district other than a school district in which the mining and concentrating processes are conducted, .5625 cent per taxable ton of the tax imposed and collected from the taxpayer shall be paid to the school district.

Sec. 26. Minnesota Statutes 1988, section 477A.012, is amended by adding a subdivision to read:

Subd. 3. [AID OFFSET FOR COURT COSTS.] *(a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for assumption of the cost of district court administration and operation of the trial court information system in the county and, in the case of Hennepin and Ramsey counties, of public defense services in juvenile and misdemeanor cases in the county. The amount of the deduction shall be computed as provided in this subdivision.*

(b) By June 15, 1990, the board of public defense shall determine and certify to the supreme court the cost of the state-financed public defense services in juvenile and misdemeanor cases for Hennepin and Ramsey counties during the fiscal year beginning the following July 1. By June 30, 1990, the supreme court shall determine and certify to the department of revenue for each county, except counties located in the eighth judicial district, the pro rata share for each county of district court administration and trial court information system costs during the fiscal year beginning on the following July 1 plus, in the case of Hennepin and Ramsey counties, the costs certified by the board of public defenders.

(c) Twenty-five percent of the amount computed under paragraph (b)

for each county shall be deducted from each payment to the county under section 477A.015 in 1990. One-half of the amount computed under paragraph (b) for each county shall be deducted from each payment to the county under section 477A.015 in 1991 and each subsequent year.

(d) If the amount computed under paragraph (b) exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the aid payable to the county under section 273.1398, subdivision 2.

Sec. 27. Minnesota Statutes 1988, section 273.061, subdivision 1, as amended by 1989 H.F. No. 266, article 2, section 17, if enacted, is amended to read:

Subdivision 1. [OFFICE CREATED; APPOINTMENT, QUALIFICATIONS.] Every county in this state shall have a county assessor. The county assessor shall be appointed by the board of county commissioners *and shall be a resident of this state*. The assessor shall be selected and appointed because of knowledge and training in the field of property taxation and appointment shall be approved by the commissioner of revenue before the same shall become effective. Upon receipt by the county commissioners of the commissioner of revenue's refusal to approve an appointment, the term of the appointee shall terminate at the end of that day. Notwithstanding any law to the contrary, a county assessor must have senior accreditation from the state board of assessors by January 1, 1992, or within two years of the assessor's first appointment under this section, whichever is later.

Sec. 28. [MINNESOTA INTERGOVERNMENTAL FINANCE.]

Subdivision 1. [POLICY STATEMENT.] *Under state and federal law, the responsibilities for providing public service, and the raising of revenues to finance those services, are divided between the federal, state, and local governments. This division of service delivery and revenue raising functions is complex and often lacks rational policy bases. This division also results in confusion and reduced accountability to the public by the various levels of government.*

In addition, the legislature finds that reductions in federal aid, recent major increases in local property tax levies, and the growing cost of state financing of local governments and property tax relief, are placing growing and unsustainable demands on state revenue sources.

Subd. 2. [STUDY.] *The legislature finds there is a need for a major review and reconsideration of the role of state government in helping to finance local government operations in Minnesota. Therefore, the legislature hereby authorizes that a joint legislative/executive effort be undertaken to examine the existing and appropriate fiscal relationship between the state and local units of government.*

The study should address the following general issues:

(1) the appropriate distribution of service delivery and revenue raising responsibilities between state and local government;

(2) the extent to which programs required by state law influence the cost of local government operations; and

(3) the degree to which the state should subsidize local government operations and provide property tax relief.

Sec. 29. [STUDY AND COMMISSION REPORT.]

Subdivision 1. [COMMISSION.] *Under the authority of the executive branch, there is created the commission on intergovernmental finance which shall report to the governor and the legislative commission on planning and fiscal policy. Members shall include:*

(1) six persons appointed by the governor, one of whom shall be designated by the governor to serve as chair;

(2) five persons appointed by the senate in a manner provided by the senate committee on rules and administration, appointees may include members of the senate; and

(3) five persons appointed by the house in a manner as provided by the house rules committee, appointees may include members of the house.

Subd. 2. [OUTSIDE RESOURCES.] *The commission in encouraged to appoint advisory committees consisting of other interested legislators and representatives of local governments, employee organizations, legislative and executive staff, and other groups and institutions interested in intergovernmental finance. The commission may seek funding and other resources from legislative committees, state agencies, higher education institutions, and private sources.*

Subd. 3. [RECOMMENDATIONS.] *The commission shall make recommendations for improvements in the system of intergovernmental finance consistent with the general issues listed in section 28, subdivision 2.*

Subd. 4. [REPORTS.] *The commission shall report regularly to the governor and the legislative commission on planning and fiscal policy, and shall submit an interim report to the legislature by January 1, 1990. The legislative commission on planning and fiscal policy shall monitor the work of the commission and may recommend amendments to the commission's work plan. A final report shall be submitted to the legislature by September 1, 1990.*

Subd. 5. [IMPLEMENTATION.] *The governor is encouraged to recommend implementation of the commission's recommendations in the governor's budget recommendations for the 1992-1993 biennium.*

Subd. 6. [EXPIRATION.] *The commission shall expire June 30, 1991.*

Sec. 30. [STUDY AND REPORT.] *The legislature directs the legislative commission on planning and fiscal policy to collect and analyze information on:*

(1) the distribution of responsibility among the various local units of government and the state government for determining the services that must be provided and the financing of those services;

(2) the current and appropriate levels of property tax funding for those programs required by state law; and

(3) the extent to which the state is funding both those programs and services required by state law and those within the discretion of local public officials.

The commission shall oversee and monitor the progress of the executive commission on intergovernmental finance and develop its own recommendations for a more effective and efficient state and local fiscal relationship. These recommendations should take into account both the distribution of

need and the resources available within the various local taxing jurisdictions. The commission shall make preliminary recommendations to the 1990 legislature and a final report to the 1991 legislature. With respect to those programs required by federal or state law, the study and report shall:

(1) examine the program requirements;

(2) evaluate the current and alternative funding sources for the program;

(3) evaluate the current and alternative mechanisms for limiting the property tax affects of these programs;

(4) develop a system of reporting any property tax consequences of the program, including separate levy reporting of the property tax proportion of the local program costs; and

(5) develop methods for more accurately estimating any property tax consequences of programs or policies.

Sec. 31. [NOTIFICATION OF ADMINISTRATIVE DIRECTIVES.]

The commissioner of revenue shall notify the chairs of the senate committee on taxes and tax laws and the house committee on taxes of administrative directives or interpretations of the provisions of this article. The notice must be given at least five days before a directive or interpretation is released to the public or provided to a local government to allow time for the chairs to provide advice or to comment on the commissioner's directive or interpretation of the law. An administrative directive or interpretation includes an explanation of a provision, a clarification of its application to a particular circumstance, a directive on how to apply or administer a provision, and other similar communications that are intended to direct or guide local government officials in administering the law. This section applies only to written materials that are either released to the public or mailed, sent, or provided to a local government or a local government official.

Sec. 32. [LOCAL GOVERNMENTAL EXPENDITURES FOR LOBBYISTS.]

On or before September 1, 1989, and each year thereafter, all counties, cities, school districts, metropolitan agencies, regional railroad authorities, and the regional transit board shall report to the state auditor, on forms prescribed by the auditor, their estimated expenditures paid for the previous calendar year to a lobbyist as defined in section 10A.01, subdivision 11, and to any staff person not registered as a lobbyist but who spends over 25 percent of his or her time during the legislative session on legislative matters.

Sec. 33. [PROPERTY TAX REFUNDS FOR TENANTS OF DISQUALIFIED LEASEHOLD COOPERATIVES.]

Property tax refunds payable under Minnesota Statutes, chapter 290A, for rent paid in 1988 and property taxes payable in 1989 to residents of a leasehold cooperative that is disqualified from classification as a leasehold cooperative under Minnesota Statutes, section 273.124, subdivision 6, effective for assessment year 1989 shall not be reduced by the commissioner of revenue because of the disqualification.

Sec. 34. [REPEALER.]

Minnesota Statutes 1988, sections 273.135, subdivision 2a; and 273.1391,

subdivision 2a, are repealed.

Sec. 35. [EFFECTIVE DATE.]

Sections 1, 3, 6, 9, and 21, are effective for taxes payable in 1991 and subsequent years.

Section 2 is effective the day following final enactment and is intended to confirm and clarify the original intent of the legislature in the taxation and equalization of state-assessed public utility property.

Sections 4, 7, 11 to 15, 19, 20, 22 to 24, and 26, are effective for taxes payable in 1990 and subsequent years.

Section 5 is effective January 1, 1989.

Sections 6 and 16 are effective for the 1989 assessment and thereafter.

Section 8 is effective for assessments of market value in 1989 and thereafter. If an assessor has increased the market value for the 1989 assessment by an amount in excess of the amount allowed under section 8, the assessor shall reduce the market value to that allowed under section 8. If the assessor has mailed a notice of the increase in market value to the property owner, the assessor must mail a revised notice to the property owner. Notices must state that the increases in market value have been limited under this act.

Section 10 is effective for taxes levied in 1989, payable in 1990, and thereafter, provided that cooperatives that qualified under Minnesota Statutes, section 273.124, subdivision 6, on January 2, 1989, shall meet the board membership requirements of paragraph (a) by September 1, 1989, and shall meet the requirements of section 501(c)(3) or 501(c)(4) status under the Internal Revenue Code in the first paragraph and in paragraph (e) by January 1, 1990, and that the notice and filing requirements of paragraphs (f) and (g) shall apply only to leasehold cooperatives created later than 60 days after the date of enactment of this act.

Section 25 is effective for taconite produced in 1989, proceeds distributed in 1990, and thereafter.

Sections 27, 31, and 34, are effective the day following final enactment.

ARTICLE 4

INCOME MAINTENANCE AND LEVY LIMITS

Section 1. Minnesota Statutes 1988, section 256.018, is amended to read:

256.018 [COUNTY PUBLIC ASSISTANCE INCENTIVE FUND.]

~~Beginning~~ In 1990, ~~$1,000,000~~ ~~is~~ *the amount provided in Laws 1988, chapter 719, article 8, section 34, is* appropriated from the general fund to the department ~~in each fiscal year~~ for awards to counties: (1) that have not been assessed an administrative penalty under section 256.017 in the corresponding fiscal year; and (2) that perform satisfactorily according to indicators established by the commissioner.

After consultation with local agencies, the commissioner shall inform local agencies in writing of the performance indicators that govern the awarding of the incentive fund for each fiscal year by April of the preceding fiscal year.

The commissioner may set performance indicators to govern the awarding

of the total fund, may allocate portions of the fund to be awarded by unique indicators, or may set a sole indicator to govern the awarding of funds.

The funds shall be awarded to qualifying local agencies according to their share of benefits for the programs related to the performance indicators governing the distribution of the fund or part of it as compared to the total benefits of all qualifying local agencies for the programs related to the performance indicators governing the distribution of the fund or part of it.

Sec. 2. Minnesota Statutes 1988, section 256.82, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY PAYMENTS.] For the period from January 1 to June 30, based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to 85 percent of the difference between the total estimated cost and the federal funds so available for payments made except as provided for in section 256.017. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period except as provided for in section 256.017. For the period from July 1 to December 31 based upon the estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency, payment shall be made, *subject to section 273.1398, subdivision 2a,* monthly in advance by the state to the counties of all state and federal funds available for that purpose for the succeeding month except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision, *subject to section 273.1398, subdivision 2a.* Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a,* be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation.

Sec. 3. Minnesota Statutes 1988, section 256.871, subdivision 6, is amended to read:

Subd. 6. [ESTIMATED EXPENDITURES; PAYMENTS.] The county agency shall submit to the state agency an estimate of expenditures for each succeeding month in such form as required by the state agency. For the period from January 1 to June 30, payment shall be made monthly in advance by the state agency to the counties, of federal funds available for that purpose for each succeeding month, together with an amount of state funds equal to ten percent of the difference between the total estimated cost and the federal funds so available, except as provided for in section 256.017. Subsequent to July 1 of each year the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, payment shall, *subject to section 273.1398, subdivision 2a,* be made monthly in

advance by the state agency to the counties, of all state and federal funds available for that purpose for the succeeding month, except as provided for in section 256.017. Payment shall be made on the basis of federal and state participation rates described in this subdivision, *subject to section 273.1398, subdivision 2a*. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a*, be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation. Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

Sec. 4. Minnesota Statutes 1988, section 256.935, subdivision 1, is amended to read:

Subdivision 1. On the death of any person receiving public assistance through aid to dependent children, the county agency shall pay an amount for funeral expenses not exceeding $370 and actual cemetery charges. No funeral expenses shall be paid if the estate of the deceased is sufficient to pay such expenses or if the children, or spouse, who were legally responsible for the support of the deceased while living, are able to pay such expenses; provided, that the additional payment or donation of the cost of cemetery lot, interment, religious service, or for the transportation of the body into or out of the community in which the deceased resided, shall not limit payment by the county agency as herein authorized. Freedom of choice in the selection of a funeral director shall be granted to persons lawfully authorized to make arrangements for the burial of any such deceased recipient. In determining the sufficiency of such estate, due regard shall be had for the nature and marketability of the assets of the estate. The county agency may grant funeral expenses where the sale would cause undue loss to the estate. Any amount paid for funeral expenses shall be a prior claim against the estate, as provided in section 524.3-805, and any amount recovered shall be reimbursed to the agency which paid the expenses. For the period from January 1 to June 30, the state shall reimburse the county for 50 percent of any payments made for funeral expenses except as provided for in section 256.017. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a*, reimburse the county agency for the funds expended during the January 1 to June 30 period. For the period from July 1 to December 31, the state shall, *subject to section 273.1398, subdivision 2a*, reimburse the county for 100 percent of any payments made for funeral expenses except as provided for in section 256.017.

Sec. 5. Minnesota Statutes 1988, section 256B.041, subdivision 5, is amended to read:

Subd. 5. [PAYMENT BY COUNTY TO STATE TREASURER.] If required by federal law or rules promulgated thereunder, or by authorized rule of the state agency, each county shall pay to the state treasurer the portion of medical assistance paid by the state for which it is responsible. Effective January 1, 1989, the state rate of participation shall, *subject to section 273.1398, subdivision 2a*, be determined as a percentage that equals the difference between 100 percent and the percentage rate of federal financial participation.

For the period from January 1 to June 30, the county shall advance ten percent of that portion of medical assistance costs not met by federal funds, based upon estimates submitted by the state agency to the county agency, stating the estimated expenditures for the succeeding month. Upon the

direction of the county agency, payment shall be made monthly by the county to the state for the estimated expenditures for each month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, payments will be made by the state agency, except as provided for in section 256.017 *and subject to section 273.1398, subdivision 2a*, and the county agency will be advised of the amounts paid monthly.

Sec. 6. Minnesota Statutes 1988, 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 and nursing home or boarding care home residents who request a screening. Prior to July of each year, the commissioner shall allocate state funds available for alternative care grants to each local agency. This allocation must be made as follows: half of the state funds available for alternative care grants must be allocated to each county according to the total number of adults in that county who are recipients age 65 or older who are reported to the department by March 1 of each state fiscal year and half of the state funds available for alternative care grants must be allocated to a county according to that county's number of Medicare enrollments age 65 or older for the most recent statistical report. Payment is available under this subdivision only for individuals (1) for whom the screening team would recommend nursing home or boarding care home admission, or continued stay 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; (3) who need services that are not available at that time in the county through other public assistance; and (4) who are age 65 or older.

The commissioner shall establish by rule, in accordance with chapter 14, procedures for determining grant reallocations, limits on the rates for payment of approved services, including screenings, and submittal and approval of a biennial county plan for the administration of the preadmission screening and alternative care grants program. Grants may be used for payment of costs of providing care-related supplies, equipment, and 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), and that a client's service needs and eligibility is reassessed at least every six months. 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 and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private. The county agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care grants program, including a minimum of 14 days written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection, and that the agency allowed potential providers an opportunity to be selected to contract with the county board. Grants to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The county must select providers for contracts or agreements using the following criteria and other criteria established by the county:

(1) the need for the particular services offered by the provider;

(2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;

(3) the geographic area to be served;

(4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;

(5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

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 forms.

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 assistance 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 care that the

recipient would receive if placed in a nursing home or boarding care home. For the period from January 1 to June 30, 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 for persons who are eligible for the services but who are not yet eligible for medical assistance. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017. For the period from July 1 to December 31, the nonfederal share may be used to pay up to 100 percent of the start-up and service delivery costs of providing care under this subdivision, *subject to section 273.1398, subdivision 2a.*

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. 7. Minnesota Statutes 1988, 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: For the period from January 1 to June 30, 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, except as provided for in section 256.017.

For the period from January 1 to June 30, for counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or 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. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, except as provided for in section 256.017 *and subject to section 273.1398, subdivision 2a,* 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. The expense of assistance not paid by federal funds available for that purpose shall be paid by the state, *subject to section 273.1398, subdivision 2a.*

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 8. Minnesota Statutes 1988, section 256D.03, subdivision 2, is amended to read:

Subd. 2. For the period from January 1 to June 30, state aid shall be paid to local agencies for 75 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017. Subsequent to July 1 of each year, the state agency shall, *subject to section 273.1398, subdivision 2a,* reimburse the county agency for the funds expended during the January 1 to June 30 period, except as provided for in section 256.017.

For the period from July 1 to December 31, state aid shall, *subject to section 273.1398, subdivision 2a,* be paid to local agencies for 100 percent of all general assistance and work readiness grants up to the standards of sections 256D.01, subdivision 1a, and 256D.051, and according to procedures established by the commissioner, except as provided for under section 256.017 and except that, after December 31, 1988, state aid is reduced to 65 percent of all general assistance grants if the local agency does not make occupational or vocational literacy training available and accessible to recipients who are eligible for assistance under section 256D.05, subdivision 1, paragraph (a), clause (15).

After December 31, 1988, state aid must be paid to local agencies for 65 percent of work readiness assistance paid under section 256D.051 if the county does not have an approved and operating community investment program.

Any local agency may, from its own resources, make payments of general assistance: (a) at a standard higher than that established by the commissioner without reference to the standards of section 256D.01, subdivision 1; or, (b) to persons not meeting the eligibility standards set forth in section 256D.05, subdivision 1, but for whom the aid would further the purposes established in the general assistance program in accordance with rules promulgated by the commissioner pursuant to the administrative procedure act.

Sec. 9. Minnesota Statutes 1988, section 273.1398, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) In this section, the terms defined in this subdivision have the meanings given them.

(b) "Unique taxing jurisdiction" means the geographic area subject to the same set of tax capacity rates.

(c) "Gross tax capacity" means the product of the appropriate percentages of market value listed as gross tax capacities in section 273.13 and equalized market values. "Total gross tax capacity" means the gross tax capacities for all property within the unique taxing jurisdiction. The total gross tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's gross tax capacity of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 6, for the municipality, as defined in section 473F.02, subdivision 8, in which the unique taxing jurisdiction is located and (2) the gross tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2. For purposes of determining the gross tax capacity of property referred to in clauses (1) and (2) for disparity reduction aid payable in 1989, the gross tax capacity

before equalization shall equal the property's 1987 assessed value multiplied by 12 percent. Gross tax capacity cannot be less than zero.

(d) "Net tax capacity" means the product of the appropriate percentages of market value listed as net tax capacities in section 273.13 and equalized market values. "Total net tax capacity" means the net tax capacities for all property within the unique taxing jurisdiction. The total net tax capacity used shall be reduced by the sum of (1) the unique taxing jurisdiction's net tax capacity of commercial industrial property as defined in section 473E02, subdivision 3, multiplied by the ratio determined pursuant to section 473E08, subdivision 6, for the municipality, as defined in section 473E02, subdivision 8, in which the unique taxing jurisdiction is located and (2) the net tax capacity of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2. For purposes of determining the net tax capacity of property referred to in clauses (1) and (2), the net tax capacity before equalization shall equal the property's 1987 assessed value multiplied by 12 percent. Net tax capacity cannot be less than zero.

(e) "Equalized market values" are market values that have been equalized by dividing the assessor's estimated market value for the second year prior to that in which the aid is payable by the assessment sales ratios determined by class in the assessment sales ratio study conducted by the department of revenue pursuant to section 124.2131 in the second year prior to that in which the aid is payable. For computation of aids payable in 1989 only, if the aggregate assessment sales ratio is less than or equal to 92 percent, the assessment sales ratios by class shall be adjusted proportionally so that the aggregate ratio of the unequalized market values to the equalized market values equals 92 percent; otherwise the equalized market values shall equal the unequalized market values divided by the assessment sales ratio.

(f) "Homestead effective rate" means the product of (i) 46 percent; (ii) 2.17 percent; and (iii) the total tax capacity rate for taxes payable in 1989 within a unique taxing jurisdiction multiplied by the 1988 aggregate assessment sales ratio. A sales ratio of .92 is used if the actual sales ratio is less than .92.

(g) For purposes of calculating the transition aid authorized pursuant to subdivision 2, the "subtraction factor" is the product of (i) a unique taxing jurisdiction's homestead effective rate; (ii) its net tax capacity; and (iii) 103.

(h) For purposes of calculating and allocating transition aid authorized pursuant to subdivision 2 and the disparity reduction aid authorized in subdivision 3, "gross taxes levied on all properties" or "gross taxes" means the total gross taxes levied on all properties except that levied on the captured value of tax increment districts as defined in section 469.177, subdivision 2, and that levied on the portion of commercial industrial properties' assessed value or gross tax capacity, as defined in section 473E02, subdivision 3, subject to the areawide tax as provided in section 473E08, subdivision 6, in a unique taxing jurisdiction before reduction by any credits for taxes payable in the year prior to that in which the aids are payable. For purposes of disparity reduction aid only, total gross taxes shall be reduced by the taxes levied for any school district referendum levies authorized pursuant to section 124A.03, subdivision 2, and any school district debt levies authorized pursuant to section 475.61. Gross taxes levied cannot be less than zero.

(i) "Income maintenance aids" means *the state funded portion of*:

(1) medical assistance under sections 256B.041, subdivision 5, and 256B.19, subdivision 1;

(2) preadmission screening and alternative care grants under section 256B.091, subdivision 8;

(3) general assistance, and work readiness under section 256D.03, subdivision 2;

(4) general assistance medical care under section 256D.03, subdivision 6;

(5) aid to families with dependent children under section 256.82, subdivision 1, including emergency assistance under section 256.871, subdivision 6; and funeral expense payments under section 256.935, subdivision 1; and

(6) supplemental aid under section 256D.36, subdivision 1.

"Increased income maintenance aids" means the difference between:

(1) the income maintenance aids payable to a county under Laws 1988, chapter 719, article 8; and

(2) the income maintenance aids that would be payable to the county under the rates in effect for calendar year 1989 before reduction under subdivision 2a.

(j) "Income maintenance programs" means the programs cited in the definition of income maintenance aids in paragraph (i).

(k) "County share levy" means the difference between a county's costs for income maintenance programs and income maintenance program revenues from all nonproperty tax sources. Nonproperty tax sources do not include money provided from budgeted reserves.

Sec. 10. Minnesota Statutes 1988, section 273.1398, is amended by adding a subdivision to read:

Subd. 2a. [INCOME MAINTENANCE AIDS REDUCTION.] *(a) The increased income maintenance aids payable to a county must be reduced by the amount of the county share levy, but not below zero.*

(b) On July 15, 1989, each county shall certify to the department of revenue the county share levy for taxes payable in 1989 and the estimate of income maintenance program costs and income maintenance program revenues from nonproperty tax sources used at the time the levy was certified in 1988. At that time each county may revise its county share levy for taxes payable in 1989 for purposes of this subdivision only to reflect changes in estimated income maintenance program costs and income maintenance program revenues from nonproperty tax sources for 1989. The resulting county share levy shall be each county's county share levy under section 275.50, subdivision 5, paragraph (a) for taxes levied in 1989 payable in 1990 and must be used to determine each county's increased income maintenance aid for 1990. The county share levy shall be prorated among the income maintenance programs on the basis of their individual costs to the total costs for all income maintenance programs.

(c) On July 15, 1990, each county shall certify to the department of revenue the difference between the income maintenance program costs and income maintenance program revenues from nonproperty tax sources for 1989. That difference shall be each county's county share levy under section

275.50, subdivision 5, paragraph (a) for taxes levied in 1990, payable in 1991, and thereafter, and must be used to determine each county's increased income maintenance aid for 1991 and thereafter. The county share levy shall be prorated among the income maintenance programs on the basis of their individual costs to the total costs for all income maintenance programs.

(d) The county share levies certified in paragraphs (b) and (c) shall be certified to the department of human services by the department of revenue. The department of human services shall make the appropriate reduction in the income maintenance aids payable in 1990 and thereafter. The increased income maintenance aids payable after reduction per this subdivision shall be separately identified and accounted for by the department of human services.

Sec. 11. Minnesota Statutes 1988, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in ~~1988~~ *1989* payable in ~~1989~~ *1990* and subsequent years, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. ~~Except for the costs of general assistance as defined in section 256D.02, subdivision 4, general assistance medical care under section 256D.03 and the costs of hospital care pursuant to section 261.21,~~ The aggregate amounts levied ~~pursuant to~~ *under* this ~~clause~~ *paragraph for the costs of purchase or delivery of social services and income maintenance programs, other than those identified in section 273.1398, subdivision 1, paragraph (j) and paragraph (b)* are subject to a maximum increase *over the amount levied for the previous year* of ~~18~~ *12* percent ~~over the amount levied for these purposes in the previous year~~ *for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties. For purposes of this clause, "income maintenance programs" include income maintenance programs in section 273.1398, subdivision 1, to the extent the county provides benefits under those programs over the state mandated minimums.* Effective with taxes levied in 1989, the portion of this special levy for ~~income maintenance programs~~ *the county share levy* identified in section 273.1398, subdivision 1, paragraph ~~(i)~~ *(k)*, is ~~eliminated~~ *limited to the amount calculated under section 273.1398, subdivision 2a*;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16; ~~and~~

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5~~.~~*;*

(k) pay the cost of hospital care under section 261.21;

(l) pay the unreimbursed costs incurred in the previous year to satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, provided that an appeal for the unreimbursed costs under this clause was approved by the commissioner of revenue under section 15;

(m) pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes such as earthquake, fire, flood, wind storm,

wave action, oil spill, water contamination, air contamination, or drought in accordance with standards formulated by the emergency services division of the state department of public safety, provided that an appeal for the expenses incurred under this clause were approved by the commissioner of revenue under section 15;

(n) pay a portion of the losses in tax receipts to a city due to tax abatements or court actions in the year preceding the current levy year, provided that an appeal for the tax losses was approved by the commissioner of revenue under section 15. This special levy is limited to the amount of the losses times the ratio of the nonspecial levies to total levies for taxes payable in the year the abatements were granted. County governments are not authorized to claim this special levy;

(o) pay the operating cost of regional library services authorized under section 134.34, subject to a maximum increase of the greater of (1) 103 percent multiplied by one plus the percentage increase determined for the governmental subdivision under section 275.51, subdivision 3h, clause (b), or (2) six percent. If a governmental subdivision elected to include some or all of its levy for libraries within its adjusted levy limit base in the prior year, but elects to claim the levy as a special levy in the current levy year, the allowable increase is determined by applying the greater percentage determined under clause (1) or (2) to the total amount levied for libraries in the prior levy year. After levy year 1989, the increase must not be determined using a base amount other than the amount that could have been levied as a special levy in the prior year. In no event shall the special levy be less than the minimum levy required under sections 134.33 and 134.34, subdivisions 1 and 2;

(p) pay the amount of the county building fund levy permitted under section 373.40, subdivision 6;

(q) pay the county's share of the costs levied in 1989, 1990, and 1991 for the Minnesota cooperative soil survey under Minnesota Statutes 1988, section 40.07, subdivision 15; and

(r) for taxes levied in 1989, payable in 1990 only, pay the cost incurred for the minimum share required by counties levying for the first time under section 134.34 as required under section 134.341. For taxes levied in 1990, and thereafter, counties levying under this provision must levy under paragraph (o), and their allowable increase must be determined with reference to the amount levied in 1989 under this paragraph.

Sec. 12. Minnesota Statutes 1988, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 ~~plus the amount of any payments the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014 and minus any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4). A county's levy limit base will be increased by the amount of any increase in its levy under section 134.07 over that levied under section 134.07 for taxes payable in 1988 which is required under section 134.341. For governmental subdivisions located in the seven-county metropolitan area, the total actual levy for taxes payable in 1988 shall include the fiscal disparities distribution~~

~~levy pursuant to Minnesota Statutes 1986, section 473F.08, subdivision 7a~~ *with additions and subtractions as specified in paragraphs (b) and (c).*

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

~~(b)~~ *(d)* For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year ~~not including the adjustment made under subdivision 3h, paragraph (e), plus~~, *provided that* for taxes levied in 1989, *the amount of* the administrative reimbursement aid received in 1988 *shall be added to the base.*

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 and subsequent years, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of $30 for civil and probate filings and $55 for marriage dissolutions.

(f) For taxes levied by a county that is located in the eighth judicial district in 1989 only, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state less the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990 only by those counties, the levy limit base determined under paragraphs (d) and (e) shall be reduced by an amount equal to the cost of operation of the trial courts in the county during the first six months of calendar year 1991 that are assumed by the state, less the amount of fees collected by the courts in the county during the first six months of calendar year 1989.

(g) By July 1, 1989, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By July 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during

the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 1, 1990, the board of public defense shall determine and certify to the supreme court the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the sum of the amounts certified by the board of public defense and the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

Sec. 13. Minnesota Statutes 1988, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. [ADJUSTED LEVY LIMIT BASE.] For taxes levied in ~~1988~~ *1989* and thereafter, the adjusted levy limit base is equal to the levy limit base computed pursuant to subdivision 3f, increased by:

(a) ~~a percentage equal to four percent for taxes levied in 1988 and~~ three percent for taxes levied in 1989 and subsequent years; ~~and~~

(b) a percentage equal to *(1) one-half of* the greater of the percentage increases in population or in number of households, if any, ~~for the most recent 12-month period for which data is available,~~ *for cities and towns and (2) the lesser of the percentage increase in population or the number of households, if any, for counties,* using figures derived pursuant to subdivision 6~~.~~*;*

~~For taxes levied in 1989 and subsequent years, to the resulting product must be added the estimated reduction in a county's income maintenance aids as defined in section 273.1398, subdivision 1, pursuant to section 273.1398, subdivision 2, paragraph (d). The department of human services shall annually estimate the increase in income maintenance aids referred to in section 273.1398, subdivision 2, paragraph (d), and certify it by county to the department of revenue by July 15 of the levy year preceding that in which the aids are payable. If the actual increase in a county's income maintenance aid referred to in section 273.1398, subdivision 2, paragraph (d), is less than or greater than the amount added to a county's adjusted levy limit base in the prior year, its adjusted levy limit base for the subsequent year will be increased or decreased by the appropriate amount.~~

(c) the amount of a permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending September 30 of the levy year under section 275.58, subdivisions 1 and 2;

(d) for levy year 1989, for a county which incurred costs since October 1978, for the litigation of federal land claims under United States Code, title 18, section 1162; United States Code, title 25, section 331; and United States Code, title 28, section 1360; an amount of up to the actual costs incurred by the county for this purpose. This adjustment shall not exceed $250,000; and

(e) for levy year 1989, an amount of $1,724,000 for Ramsey county for implementing the local government pay equity act under sections 471.991

to 471.999. Furthermore, in levy years 1990 and 1991, an additional amount of $862,000 shall be added to Ramsey county's adjusted levy limit base under this clause for each of the two years.

Sec. 14. Minnesota Statutes 1988, section 275.51, subdivision 3i, is amended to read:

Subd. 3i. [LEVY LIMITATION.] The levy limitation for a governmental subdivision shall be equal to the adjusted levy limit base determined pursuant to subdivision 3h, reduced by:

(1) the local government aid that the governmental subdivision has been certified to receive pursuant to sections 477A.011 to 477A.014~~.~~, *excluding the additional aid distribution received under section 477A.013, subdivision 5; and*

(2) taconite aids under sections 298.28 and 298.282 including any aid received in the levy year that was required to be placed in a special fund for expenditure in the next succeeding year.

As provided in section 298.28, one cent per taxable ton of the amount distributed under section 298.28, subdivision 5, paragraph (d), must not be deducted from the levy limit base of a county that receives the aid.

This amount is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

For taxes levied in 1989 and later years, the levy limit for a county calculated under clause (1) must be decreased by an additional amount equal to the difference between what would have been a county's production year 1986 payable 1987 distribution under Minnesota Statutes 1984, section 298.28, based on 1986 production and its actual distribution for production year 1986, payable 1987.

Sec. 15. Minnesota Statutes 1988, section 275.51, subdivision 3j, is amended to read:

Subd. 3j. [APPEALS.] *(a)* A ~~governmental subdivision subject to the limitations in this section~~ *county* may appeal to the commissioner of revenue for an adjustment in its levy limit base ~~under this section~~. If the ~~governmental subdivision~~ *county* can provide evidence satisfactory to the commissioner that its levy for taxes payable in ~~1988 had been reduced because it had made expenditures from reserve funds~~ *1989 under Minnesota Statutes 1988, section 275.50, subdivision 5, paragraph (a), included a levy for the cost of administration of the programs listed in that paragraph*, the commissioner may permit the ~~governmental subdivision~~ *county* to increase its levy limit base under this section by the amount determined by the commissioner *to have been levied for that purpose, provided that the total adjustment shall not be in excess of three percent of the county's expense for income maintenance programs as defined in section 273.1398, subdivision 1, paragraph (j), for 1989 and certified in section 273.1398, subdivision 2a*. The commissioner's decision is final.

(b) A governmental subdivision subject to the limitations in this section may appeal to the commissioner of revenue for authorization to levy for the special levies as contained in section 275.50, subdivision 5, clauses (l), (m), and (n). If the governmental subdivision can provide evidence satisfactory to the commissioner that it incurred costs for the specified purposes of those levies, the commissioner may allow the governmental

subdivision to levy under section 275.50, subdivision 5, clause (l), (m), or (n), by the amount determined by the commissioner. The commissioner's decision is final.

Sec. 16. Minnesota Statutes 1988, section 275.51, subdivision 4, is amended to read:

Subd. 4. If the levy made by a governmental subdivision exceeds the limitation provided in sections 275.50 to 275.56, except when such excess levy is due to the rounding of the tax capacity rates of the governmental subdivision in accordance with section 275.28, subsequent distributions required to be made by the commissioner of finance from any formula aids pursuant to sections 477A.011 to 477A.014 *or homestead and agricultural credit aid under section 273.1398*, shall be reduced 33 cents for each full dollar the levy exceeds the limitation.

Sec. 17. Minnesota Statutes 1988, section 275.51, subdivision 6, is amended to read:

Subd. 6. [POPULATION AND HOUSEHOLD ESTIMATES.] For the purpose of determining the amount of tax that a governmental subdivision may levy in accordance with limitation established by this chapter, the population or the number of households of the governmental subdivision shall be that established by the last federal census, by a census taken pursuant to section 275.14, or by an estimate made by the metropolitan council, or by the state demographer made pursuant to section 116K.04, subdivision 4, whichever is the most recent as to the stated date of count or estimate, ~~up to and including July 1 of~~ *for the calendar year preceding* the current levy year.

Sec. 18. Minnesota Statutes 1988, section 275.58, subdivision 1, is amended to read:

Subdivision 1. ~~Notwithstanding~~ *Subject to* the provisions of sections 275.50 to 275.56, ~~but subject~~ *and* to other law or charter provisions establishing per capita, mill or other limitations on the amount of taxes that may be levied, the levy of a governmental subdivision, as defined by section 275.50, subdivision 1, may be increased ~~above the limitation imposed by sections 275.50 to 275.56~~ in any per capita or dollar amount which is approved by the majority of voters of the governmental subdivision voting on the question at a general or special election. When the governing body of the governmental subdivision resolves to increase the levy of the governmental subdivision pursuant to this section, it shall provide for submission of the proposition of an increase in the levy limit base per capita or the proposition of an additional levy, as the case may be, at a general or special election. Notice of such election shall be given in the manner required by law. If the proposition is for an adjustment to the governmental subdivision's levy limit base per capita, increasing the levy limit base per capita over the per capita amount established pursuant to section 275.51, subdivision 3, such notice shall state the purpose of such per capita adjustment and the per capita amount of such adjustment. If the proposition is for an additional levy, such notice shall state the purpose and maximum yearly amount of such additional levy.

Sec. 19. Minnesota Statutes 1988, section 398A.04, is amended by adding a subdivision to read:

Subd. 8a. [TAXATION; LIGHT RAIL TRANSIT.] *(a) A regional railroad authority may not levy a tax under subdivision 8 to finance light rail*

transit planning, land acquisition, facilities, equipment, or construction in the metropolitan area, as defined in section 473.121, until a law is enacted that allows light rail transit plans and projects to be implemented only after approval by a metropolitan agency having transit planning or transportation planning responsibility under chapter 473, in order to ensure regional coordination of light rail transit plans and projects and conformity with regional transit plans.

(b) Paragraph (a) shall not inhibit the ability of a regional railroad authority to (1) levy a tax for one line segment, shops, yards, or vehicles for taxes payable in 1990 to fulfill a local funds matching requirement for a line segment, shops, yards, or vehicles in order to qualify for a federal grant, if application has been made before May 1, 1989, and (2) levy a tax for taxes payable in 1991 and subsequent years to fulfill the local funds matching requirement for a line segment, shops, yards, or vehicles if the grant application has been approved by May 1, 1990.

(c) If any regional railroad authority levies a tax to fulfill a local funds matching requirement under paragraph (b) which would not otherwise be allowed under paragraph (a), all regional railroad authorities may levy a tax for light rail transit planning in the metropolitan area, as defined in section 473.121, for taxes payable in 1990. The amount of this tax may not exceed an amount, determined by the commissioner of revenue, equivalent to the product of

(1) the regional railroad authority's maximum levy authority under subdivision 8 for taxes payable in 1990, and

(2) the ratio of the largest amount actually levied under subdivision 8 for light rail transit by a regional railroad authority for taxes payable in 1989 to the maximum amount which that same regional railroad authority would be authorized to levy under subdivision 8 for taxes payable in 1989.

Sec. 20. Minnesota Statutes 1988, section 473.167, subdivision 3, is amended to read:

Subd. 3. [TAX.] The council may levy a tax on all taxable property in the metropolitan area, as defined in section 473.121, to provide funds for loans made pursuant to subdivisions 2 and 2a. This tax for the right-of-way acquisition loan fund shall be certified by the council, levied, and collected in the manner provided by section 473.13. The tax shall be in addition to that authorized by section 473.249 and any other law and shall not affect the amount or rate of taxes which may be levied by the council or any metropolitan agency or local governmental unit. The amount of the levy shall be as determined and certified by the council, except as otherwise provided in this subdivision.

The property tax levied by the metropolitan council for the right-of-way acquisition loan fund shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 5/100 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, except as provided in section 473.249, subdivision 3, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes

payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; ~~and~~

(c) *for taxes payable in 1990, an amount not to exceed $2,700,000; and*

(d) for taxes payable in ~~1990~~ *1991* and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the ~~previous year~~ *taxes payable in 1988* determined ~~pursuant to this subdivision~~ *under clause (a)* multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the ~~previous~~ *1987* assessment year.

For the purpose of determining the metropolitan council's property tax levy limitation for the right-of-way acquisition loan fund for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

The property tax levied under this subdivision for taxes payable in 1988 and subsequent years shall not be levied at a rate higher than that determined by the metropolitan council to be sufficient, considering the other anticipated revenues of and disbursements from the right-of-way acquisition loan fund, to produce a balance in the loan fund at the end of the next calendar year equal to twice the amount of the property tax levy limitation for taxes payable in the next calendar year determined under this section.

Sec. 21. Minnesota Statutes 1988, section 473.167, subdivision 5, is amended to read:

Subd. 5. [LEVY INCREASE.] For the purpose of determining the levy limitation for taxes payable in 1989 under subdivision 3, the levy limitation for taxes payable in 1988 shall be multiplied by two. ~~The levy limitation so determined for taxes payable in 1989 shall be the basis for determining levy limitations for taxes payable in 1990 and subsequent years under subdivision 3.~~

Sec. 22. Minnesota Statutes 1988, section 473.249, subdivision 1, is amended to read:

Subdivision 1. The metropolitan council may levy a tax on all taxable property in the metropolitan area defined in section 473.121 to provide funds for the purposes of sections 473.121 to 473.249 and for the purpose of carrying out other responsibilities of the council as provided by law. This tax for general purposes shall be levied and collected in the manner provided by section 473.13.

The property tax levied by the metropolitan council for general purposes shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of 8/30 of one mill multiplied by the total assessed valuation of all taxable property located within the metropolitan area as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13, subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the metropolitan area divided by the assessment year 1987 total market valuation of all taxable property located within the metropolitan area; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the metropolitan council's property tax levy limitation for general purposes for the previous year determined under this subdivision multiplied by (2) *the least of*

(i) an index for market valuation changes equal to the total market valuation of all taxable property located within the metropolitan area for the current assessment year divided by the total market valuation of all taxable property located within the metropolitan area for the previous assessment year~~.~~, *or*

(ii) an index equal to the implicit price deflator for state and local government purchases of goods and services for the most recent month for which data is available divided by the implicit price deflator for state and local government purchases of goods and services for the same month of the previous year, or

(iii) 103 percent.

For the purpose of determining the metropolitan council's property tax levy limitation for general purposes for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the metropolitan area without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

Sec. 23. [ITASCA COUNTY; LEVY LIMIT PENALTY EXEMPTION.]

The amount of any tax levied by Itasca county under Laws 1988, chapter 517, is not subject to a penalty imposed under Minnesota Statutes, section 275.51, subdivision 4, for exceeding levy limits under Minnesota Statutes, sections 275.50 to 275.56.

Sec. 24. [LEVY LIMIT EXCEPTION.]

For taxes levied in 1989 and 1990 only, payable in 1990 and 1991 only, a levy by the Itasca county board under Laws 1988, chapter 517, is not subject to the levy limitations of Minnesota Statutes, sections 275.50 to 275.56, or other law.

Sec. 25. [APPLICATION.]

Sections 20 to 22 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 26. [REPEALER.]

Minnesota Statutes 1988, section 473.249, subdivision 3, is repealed.

Sec. 27. [EFFECTIVE DATE.]

Except as otherwise provided, sections 9 to 22 and 24 to 26 are effective for taxes levied in 1989, payable in 1990 and subsequent years except as

otherwise provided. Section 23 is effective upon approval by the Itasca county board for taxes levied in 1988, payable in 1989 only.

ARTICLE 5

PROPOSED AND FINAL TAX NOTICE

Section 1. Minnesota Statutes 1988, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED GROSS TAX CAPACITY.] (a) [COMPUTATION.] The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures referenced in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized gross tax capacity for the various strata of taxable property in each school district, which tax capacity shall be designated as the adjusted gross tax capacity. The department of revenue shall take such steps as are necessary in the performance of that duty and may incur such expense as is necessary therefor. The commissioner of revenue is authorized to reimburse any county or governmental official for requested services performed in ascertaining such adjusted gross tax capacity. On or before March 15 annually, the department of revenue shall file with the chair of the tax committee of the house of representatives and the chair of the committee on taxes and tax laws of the senate a report of adjusted gross tax capacities. On or before ~~June~~ *April* 15, annually, the department of revenue shall file its final report on the gross tax capacities established by the previous year's assessment with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of mill rates. A copy of the adjusted gross tax capacity so filed shall be forthwith mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which each district is located.

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for proper execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted gross tax capacity of agricultural lands for the calculation of 1987 adjusted gross tax capacities and thereafter, the market value of agricultural lands shall be the price for which the property would sell in an arms length

transaction.

Sec. 2. Minnesota Statutes 1988, section 124.42, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATION; APPLICATION; AWARD; INTEREST.] Any school district in which the required levy for debt service in any year will exceed its maximum effort debt service levy by ten percent or by $5,000, whichever is less, is qualified for a debt service loan hereunder in an amount not exceeding the amount applied for, and not exceeding one percent of the net debt of the district, and not exceeding the difference between the required and the maximum effort debt service levy in that year. Applications shall be filed with the commissioner in each calendar year up to and including ~~September 15~~ *July 1*. The commissioner shall determine whether the applicant is entitled to a loan and the amount thereof, and on or before October 1 shall certify to each applicant district the amount granted and its due date. The commissioner shall notify the county auditor of each county in which the district is located that the amount certified is available and appropriated for payment of principal and interest on its outstanding bonds, and the auditors shall reduce by that amount the taxes otherwise leviable as the district's debt service levy on the tax rolls for that year. Each debt service loan shall bear interest from its date at a rate equal to the average annual rate payable on Minnesota state school loan bonds most recently issued prior to the disbursement of the loan to the district, but in no event less than 3-1/2 percent per annum on the principal amount from time to time remaining unpaid, payable on December 15 of the year following that in which the loan is received and annually thereafter.

Sec. 3. Minnesota Statutes 1988, section 124.42, subdivision 4, is amended to read:

Subd. 4. Each district receiving a debt service loan shall levy for debt service in that year and each year thereafter, until all its debts to the fund are paid, (a) the amount of its maximum effort debt service levy, or (b) the amount of its required debt service levy less the amount of any debt service loan in that year, whichever is greater. Whenever the maximum effort debt service levy is greater the district shall remit to the commissioner, within ten days after its receipt of the last regular tax distribution in the year in which it is collected, that portion of the maximum effort debt service tax collections, including penalties and interest, which exceeds the required debt service levy. On or before ~~November 1~~ *September 1* in each year the commissioner shall notify the county auditor of each county containing taxable property situated within the school district of the amount of the maximum effort debt service levy of the district for that year, and said county auditor or auditors shall extend upon the tax rolls an ad valorem tax upon all taxable property within the district in the aggregate amount so certified.

Sec. 4. Minnesota Statutes 1988, section 124.83, subdivision 1, is amended to read:

Subdivision 1. [HEALTH AND SAFETY PROGRAM.] To receive health and safety revenue a district must submit to the commissioner of education an application for aid and levy by ~~August 15~~ *July 1* in the previous school year. The application may be for hazardous substance removal, fire code compliance, or life safety repairs. The application must include a health and safety program adopted by the school district board. The program must include the estimated cost of the program by fiscal year.

Sec. 5. Minnesota Statutes 1988, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] (1) The levy authorized by section 124A.23, subdivision 2, may be increased in any amount that is approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum shall be held on a date set by the school board. Only two elections may be held to approve a levy increase that will commence in a specific school year. The ballot shall state the maximum amount of the increased levy in mills, the amount that will be raised by that tax capacity rate in the first year it is to be levied, and that the tax capacity rate shall be used to finance school operations. The ballot ~~may~~ *shall* designate ~~a specific~~ *the* number of years for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the levy proposed by (petition to) the board of . . . . . , School District No. . . . . , be approved?"

If approved, the amount provided by the approved tax capacity rate applied to each year's gross tax capacity shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(2) *The school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the election to each taxpayer at the address listed on the school district's current year's assessment roll, a notice of the referendum and the proposed levy increase. The notice must project the anticipated amount of increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments and commercial-industrial property within the school district.*

(3) A referendum on the question of revoking or reducing the increased levy amount authorized pursuant to clause (1) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A levy approved by the voters of the district pursuant to clause (1) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one such revocation or reduction election may be held to revoke or reduce a levy for any specific year and for years thereafter.

~~(3)~~ *(4)* A petition authorized by clause (1) shall be effective if signed by a number of qualified voters in excess of 15 percent, or ten percent if the school board election is held in conjunction with a general election, of the average number of voters at the two most recent district wide school elections. A referendum invoked by petition shall be held within three months of submission of the petition to the school board.

~~(4)~~ *(5)* A petition authorized by clause (2) shall be effective if signed by a number of qualified voters in excess of five percent of the residents of the school district as determined by the most recent census. A revocation or reduction referendum invoked by petition shall be held within three months of submission of the petition to the school board.

~~(5)~~ *(6)* Notwithstanding any law to the contrary, the approval of 50 percent plus one of those voting on the question is required to pass a referendum.

~~(6)~~ *(7)* Within 30 days after the district holds a referendum pursuant to this clause, the district shall notify the commissioner of education of the results of the referendum.

Sec. 6. Minnesota Statutes 1988, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX CAPACITY RATE.] The commissioner of revenue shall establish the general education tax capacity rate and certify it to the commissioner of education by ~~September 1~~ *July 1* of each year for levies payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the nearest tenth of a ~~mill~~ *percent*, that, when applied to the adjusted gross tax capacity for all districts, raises the amount specified in this subdivision. The general education tax capacity rate for the 1990 fiscal year shall be the rate that raises $1,100,580,000. The general education tax capacity rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 7. Minnesota Statutes 1988, section 124A.26, subdivision 1, is amended to read:

Subdivision 1. [REVENUE REDUCTION.] A district's general education revenue for a school year shall be reduced if the *estimated* net unappropriated operating fund balance as of June 30 in the second prior school year exceeds $600 times the actual pupil units in the second prior year. The amount of the reduction shall equal the lesser of:

(1) the amount of the excess, or

(2) $150 times the actual pupil units for the school year.

The final adjustment payments made under section 124.195, subdivision 6, must be adjusted to reflect actual net operating fund balances as of June 30 of the second prior school year.

Sec. 8. Minnesota Statutes 1988, section 270.11, subdivision 2, is amended to read:

Subd. 2. [COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.] Each county assessor shall file by ~~June 15~~ *April 1* with the commissioner of revenue a copy of the abstract that will be acted upon by the *local and* county ~~board~~ *boards* of review. The abstract must list the real and personal property in the county~~, as equalized by the local board of review or equalization,~~ itemized by assessment districts. ~~A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner.~~ The assessor of each county in the state shall file with the commissioner, within five working days following final action of *the local board of review or equalization and within five days following final action of* the county board of equalization, any changes made by the *local or* county board ~~of equalization~~. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the ~~county board of equalization~~ *appropriate board*.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before ~~November 15~~ *September 1* of each calendar year. *The final abstract must separately report the captured tax*

capacity of tax increment financing districts under section 469.177, subdivision 2, the metropolitan revenue contribution value under section 473F.07, and the value subject to the power line credit under section 273.42.

Sec. 9. Minnesota Statutes 1988, section 270.12, subdivision 2, is amended to read:

Subd. 2. The board shall meet annually between ~~July~~ *April* 15 and ~~October 1~~ *June 30* at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its market value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its market value in money, such percent as will bring the same to its market value in money;

(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its market value in money, such percent as will reduce the same to its market value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns or cities, or of the property not in towns or cities, such percent as the board believes will raise or reduce the same to its market value in money;

(4) The board shall add to the aggregate valuation of any class of personal property of any county, town, or city, which the board believes to be valued below the market value thereof, such percent as will raise the same to its market value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the market value thereof, such percent as will reduce the same to its market value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof;

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales *that are filed in the county auditor's office*

under section 272.115, by November 1 of the previous year and that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the median ratio as the statistical measure of the level of assessment for any particular category of property.

Sec. 10. Minnesota Statutes 1988, section 270.12, subdivision 3, is amended to read:

Subd. 3. When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted gross tax capacity value in one of the counties is less than ten percent of the total adjusted gross tax capacity in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted gross tax capacity as determined by the commissioner in each portion is to the total adjusted gross tax capacity of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Gross tax capacities as determined by the commissioner shall be the gross tax capacities as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on ~~July~~ *April* 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following ~~October 1~~ *June 30*.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and

when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 11. Minnesota Statutes 1988, section 270.13, is amended to read:

270.13 [RECORD OF PROCEEDINGS CHANGING GROSS TAX CAPACITY; DUTIES OF COUNTY AUDITOR.]

A record of all proceedings of the commissioner of revenue affecting any change in the gross tax capacity of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before ~~October 1~~ *June 30* or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the gross tax capacity of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the gross tax capacity thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no gross tax capacity of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the gross tax capacity thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no gross tax capacity of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

Sec. 12. Minnesota Statutes 1988, section 270.18, is amended to read:

270.18 [REASSESSMENT; COMPENSATION; REIMBURSEMENT BY COUNTIES.]

The compensation of each special assessor and deputies, appointed under the provisions of sections 270.11, subdivision 3, and 270.16, and the expenses as such, shall be fixed by the commissioner of revenue and paid out of money appropriated for operation of the department of revenue. The commissioner of revenue on ~~October~~ *August* 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since ~~October~~ *August* 1 of the preceding year, whereupon the county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same. One-half of such tax shall be levied in the year in which the commissioner of revenue so notifies the county auditor and the remaining one-half shall be levied in the following year. The respective counties shall reimburse the state by paying one-half of the tax so assessed on or before July 1 and the remaining one-half on or before December 1 in the year in which the tax is payable by owner, whether or not the tax was collected by the county.

The reimbursement shall be credited to the general fund. If any county fails to reimburse the state within the time specified herein, the commissioner of revenue is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent.

Sec. 13. Minnesota Statutes 1988, section 270.82, is amended to read:

270.82 [REPORTS OF RAILROAD COMPANIES.]

Subdivision 1. Every railroad company doing business in Minnesota shall annually file with the commissioner on or before ~~April 30~~ *March 31* a report under oath setting forth the information prescribed by the commissioner to enable the commissioner to make the valuation and equalization required by Laws 1979, chapter 303, article 7, sections 1 to 13.

Subd. 2. The commissioner for good cause may extend *for up to 15 days* the time for filing the report required by subdivision 1.

Sec. 14. Minnesota Statutes 1988, section 270.84, is amended to read:

270.84 [ANNUAL VALUATION OF OPERATING PROPERTY.]

Subdivision 1. The commissioner shall annually between ~~April 30~~ *March 31* and ~~July~~ *May* 31 make a determination of the fair market value of the operating property of every railroad company doing business in this state as of January 2 of the year in which the valuation is made. In making this determination, the commissioner shall employ generally accepted appraisal principles and practices which may include the unit method of determining value. The commissioner may promulgate emergency rules adopting valuation procedures under sections 14.29 to 14.36.

~~The commissioner shall give a report to the legislature in February 1985 and in February 1986 on the formula used to determine the value of railroad operating property pursuant to Laws 1984, chapter 502, article 9. This report shall also contain the valuation for taxes payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary.~~

Subd. 2. The commissioner, after determining the fair market value of the operating property of each railroad company, shall give notice ~~by first class mail~~ to the railroad company of the valuation *by first class mail, overnight delivery, or messenger service.*

Sec. 15. Minnesota Statutes 1988, section 270.85, is amended to read:

270.85 [REVIEW OF VALUATION.]

A railroad company may within ~~15~~ *ten* days of ~~receipt~~ *the date* of the notice of valuation file a written request for a conference with the commissioner relating to the value of its operating property. The commissioner shall thereupon designate a time and place for the conference which the commissioner shall conduct, upon commissioner's entire files and records and such further information as may be offered. ~~Said~~ *The* conference ~~shall~~ *must* be held no later than ~~30~~ *20* days after ~~mailing~~ *the date* of the commissioner's valuation notice. At a reasonable time after such conference the commissioner shall make a final determination of the fair market value of the operating property of the railroad company and shall notify the company promptly ~~thereof~~ *of the determination.*

Sec. 16. Minnesota Statutes 1988, section 270.87, is amended to read:

270.87 [CERTIFICATION TO COUNTY ASSESSORS.]

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor on or before ~~October 1, which shall constitute~~ *June 30*. The equalized fair market value of the operating property of the railroad company in ~~such~~ *the* county and the taxing districts therein ~~upon~~ *is the value on* which taxes ~~shall~~ *must* be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

Sec. 17. Minnesota Statutes 1988, section 272.02, subdivision 4, is amended to read:

Subd. 4. Any property exempt from taxation on January 2 of any year which, due to sale or other reason, loses its exemption prior to ~~October 1~~ *December 20* of any year, shall be placed on the current assessment rolls for that year.

The valuation shall be determined with respect to its value on January 2 of such year. The classification shall be based upon the use to which the property was put by the purchaser, or in the event the purchaser has not utilized the property by ~~October 1~~ *December 20*, the intended use of the property, determined by the county assessor, based upon all relevant facts.

Sec. 18. Minnesota Statutes 1988, section 272.115, subdivision 1, is amended to read:

Subdivision 1. Whenever any real estate is sold on or after January 1, 1978 for a consideration in excess of $1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located *within 30 days of the sale*. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed. The certificate of value shall include the classification to which the property belongs for the purpose of determining the fair market value of the property. The certificate shall include financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. The commissioner of revenue shall promulgate administrative rules specifying the financing terms and conditions which must be included on the certificate.

Sec. 19. Minnesota Statutes 1988, section 273.064, is amended to read:

273.064 [EXAMINATION OF LOCAL ASSESSOR'S WORK; COMPLETION OF ASSESSMENTS.]

The county assessor shall examine the assessment appraisal records of each local assessor anytime after January 15 of each year and shall immediately give notice in writing to the governing body of said district of any deficiencies in the assessment procedures with respect to the quantity of or quality of the work done as of that date and indicating corrective measures to be undertaken and effected by the local assessor not later than 30 days

thereafter. If, upon reexamination of such records at that time, the deficiencies noted in the written notice previously given have not been substantially corrected to the end that a timely and uniform assessment of all real property in the county will be attained, then the county assessor with the approval of the county board shall collect the necessary records from the local assessor and complete the assessment or employ others to complete the assessment. When the county assessor has completed the assessments, the local assessor shall thereafter resume the assessment function within the district. In this circumstance the cost of completing the assessment shall be charged against the assessment district involved. The county auditor shall certify the costs thus incurred to the appropriate governing body not later than ~~September~~ *August* 1 and if unpaid as of ~~October 10~~ *September 1* of the assessment year, the county auditor shall levy a tax upon the taxable property of said assessment district sufficient to pay such costs. The amount so collected shall be credited to the general revenue fund of the county.

Sec. 20. Minnesota Statutes 1988, section 273.065, is amended to read:

273.065 [DELIVERY OF ASSESSMENT APPRAISAL RECORDS; EXTENSIONS.]

Assessment districts shall complete the assessment appraisal records on or before ~~March 15~~ *February 1*. The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by ~~March 15~~ *February 1* shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064. Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Sec. 21. Minnesota Statutes 1988, section 273.119, subdivision 2, is amended to read:

Subd. 2. [REIMBURSEMENT FOR LOST REVENUE.] The county may transfer money from the county conservation account created in section 40A.152 to the county revenue fund to reimburse the fund for the cost of the property tax credit. The county auditor shall certify to the commissioner of revenue ~~on or before June 1 of each year~~ *as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29* the amount of tax lost to the county from the property tax credit under subdivision 1 and the extent that the tax lost exceeds funds available in the county conservation account. ~~On or before July 15 of each year,~~ The commissioner shall reimburse ~~the county~~ *each taxing district, other than school districts,* from the Minnesota conservation fund under section 40A.151 for the taxes lost in excess of the county account. *The payments must be made at the times provided in section 477A.015 for payment of local government aid to taxing jurisdictions in the same proportion that the ad valorem tax is distributed.*

Sec. 22. Minnesota Statutes 1988, section 273.123, subdivision 4, is amended to read:

Subd. 4. [STATE REIMBURSEMENT.] The county auditor shall calculate the tax on the property described in subdivision 2 based on the assessment made on January 2 of the year in which the disaster or emergency occurred. The difference between the tax determined on the January

2 gross tax capacity and the tax actually payable based on the reassessed gross tax capacity determined under subdivision 2 shall be reimbursed to each taxing jurisdiction in which the damaged property is located. The amount shall be certified by the county auditor and reported to the commissioner of revenue. The commissioner shall make the payments to the taxing jurisdictions, *other than school districts,* containing the property at the time distributions are made ~~pursuant to section 273.13 for taxes payable in 1989, and pursuant to section 273.1398 for taxes payable in 1990 and thereafter~~ *under section 477A.015*, in the same proportion that the ad valorem tax is distributed.

Sec. 23. Minnesota Statutes 1988, section 273.123, subdivision 5, is amended to read:

Subd. 5. [COMPUTATION OF CREDITS.] The amounts of any credits or tax relief which reduce the gross tax shall be computed upon the reassessed gross tax capacity determined under subdivision 2. ~~Payment shall be made pursuant to section 273.13 for taxes payable in 1989, and pursuant to section 273.1398 for taxes payable in 1990 and thereafter.~~ For purposes of the property tax refund, property taxes payable, as defined in section 290A.03, subdivision 13, and net property taxes payable, as defined in section 290A.04, subdivision 2d, shall be computed upon the reassessed gross tax capacity determined under subdivision 2.

Sec. 24. Minnesota Statutes 1988, section 273.1392, is amended to read:

273.1392 [PAYMENT; AIDS TO SCHOOL DISTRICTS.]

The amounts of *conservation tax credits under section 273.119;* disaster or emergency reimbursement under section 273.123; attached machinery aid under section 273.138; homestead credit under section 273.13; agricultural credit under section 273.132; aids and credits under section 273.1398; *enterprise zone property credit payments under section 469.171;* and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 25. Minnesota Statutes 1988, section 273.33, subdivision 2, is amended to read:

Subd. 2. The personal property, consisting of the pipeline system of mains, pipes, and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline, crude oil, or other petroleum products by pipelines, shall be listed with and assessed by the commissioner of revenue. This subdivision shall not apply to the assessment of the products transported through the pipelines nor to the lines of local commercial gas companies engaged primarily in the business of distributing gas to consumers at retail nor to pipelines used by the owner thereof to supply natural gas or other petroleum products exclusively for such owner's own consumption and not for resale to others. On or before ~~October 1~~ *June 30*, the commissioner shall certify to the auditor of each county, the amount of such personal property assessment against each company in each district in which such property is located.

Sec. 26. Minnesota Statutes 1988, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69

kv and above located in an unorganized township, and distribution lines, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before ~~the 15th day of November~~ *June 30*, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 27. [273.371] [REPORTS OF UTILITY COMPANIES.]

Subdivision 1. [REPORT REQUIRED.] *Every electric light, power, gas, water, express, stage, and transportation company and pipeline doing business in Minnesota shall annually file with the commissioner on or before March 31 a report under oath setting forth the information prescribed by the commissioner to enable the commissioner to make valuations, recommended valuations, and equalization required under sections 273.33, 273.35, 293.36, and 273.37.*

Subd. 2. [EXTENSION.] *The commissioner for good cause may extend the time for filing the report required by subdivision 1. The extension may not exceed 15 days.*

Sec. 28. Minnesota Statutes 1988, section 274.14, is amended to read:

274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it shall meet during the last two weeks in June *that contain ten meeting days, excluding Saturday and Sunday*. ~~The commissioner may extend the session period to July 15 but~~ No action taken by the county board of review after ~~the extended termination date~~ *June 30* is valid. The county auditor shall keep an accurate record of the proceedings and orders of the board. The record must be published like other proceedings of county commissioners. A copy of the published record must be sent to the commissioner of revenue, with the abstract of assessment required by section 274.16.

Sec. 29. [274.175] [VALUES FINALIZED.]

The assessments recorded by the county assessor and the county auditor under sections 273.124, subdivision 9; 274.16; 274.17; or other law for real and personal property are final on July 1 of the assessment year, except for property added to the assessment rolls under section 272.02, subdivision 4, or deleted because of tax forfeiture pursuant to chapter 281. No changes in value may be made after July 1 of the assessment year.

Sec. 30. Minnesota Statutes 1988, section 275.065, subdivision 1, is amended to read:

Subdivision 1. [PROPOSED LEVY.] On or before ~~August~~ *September 15 for levy year 1989 and September 1 for levy years thereafter*, each taxing authority, *other than a school district*, shall adopt a proposed budget and *each taxing authority shall* certify to the county auditor the proposed property tax levy for taxes payable in the following year. *At the same time, a county, city, or township must certify its change in population or, in the case of a school district, its change in pupils, as required in subdivision*

3, paragraph (d), clause (3). For purposes of this section, "taxing authority" ~~shall include~~ *includes* all home rule and statutory cities ~~with a population of over 2,500~~, *towns,* counties, *and* school districts~~, the metropolitan council, and the metropolitan regional transit commission~~ *for taxes levied in 1989 and thereafter. For taxes levied in 1990 and thereafter, "taxing authority" also includes special taxing districts.*

Sec. 31. Minnesota Statutes 1988, section 275.065, is amended by adding a subdivision to read:

Subd. 1a. [OVERLAPPING JURISDICTIONS.] *In the case of a taxing authority lying in two or more counties, the home county auditor shall certify the proposed levy to the other county auditor by September 20 for taxes levied in 1989, and thereafter, and the proposed tax capacity rate by September 5 for taxes levied in 1990, and thereafter, for counties containing a city of the first class. The home county auditor must estimate the levy or rate in preparing the notices required in subdivision 3, if the other county has not certified the appropriate information. If requested by the home county auditor, the other county auditor must furnish an estimate to the home county auditor.*

Sec. 32. Minnesota Statutes 1988, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) ~~If there is a percentage increase in property taxes proposed by the taxing authority, on or before September 15, The county auditor shall compute for each parcel of property on the assessment rolls within the taxing authority the proposed property tax for taxes levied in the current year. In the case of cities under 2,500 population, and all special taxing districts except the metropolitan council and the metropolitan regional transit commission, the auditor shall use the taxing district's previous year tax capacity rate for use in computing the total property tax.~~ *On or before November 10, each year,* the county auditor shall prepare and *the county treasurer shall* deliver by first class mail to each taxpayer at the address listed on the ~~city's~~ *county's* current year's assessment roll, a notice of ~~the taxpayer's~~ proposed property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) ~~A notice in substantially the following form shall be sufficient.~~

~~NOTICE OF PROPOSED PROPERTY TAXES~~

~~DO NOT PAY THIS IS NOT A BILL~~

~~This notice shows the amount your next property tax bill will be if proposed budgets are approved by the local government districts you live in. It also shows the amount of your next property tax bill if the local government districts you live in do not change their budgets from this year.~~

~~Name of property owner~~	~~Description of property~~	~~Market value of property~~	~~Class of property~~
~~John Q. and Mary~~	~~Lot 1, Block 1~~	~~$65,000~~	~~residential homestead~~

~~W. Smith~~ ~~Pleasant Acres sub-division Middletown, Minnesota~~

~~Based on their proposed budgets, next year the governing bodies of the county, city, school district, and special tax districts you live in are proposing to collect from you the amount of property tax shown below. At the meetings listed below, the governing bodies will discuss and vote on the amount of their budgets for next year. The larger the amount of the budget, the more property tax you will pay. You can attend the meetings and express your opinions about the amount of the budget before the budget is voted on.~~

~~These local governments These local governments collect property tax from you~~	~~Amount of your tax Amount of your tax next year if they do not change their budgets from this year~~	~~Amount of your tax Amount of your tax next year if they adopt their proposed budgets~~	~~Time and place of Time and place of meetings on proposed budgets~~
~~County: Spruce~~	~~$218.55~~	~~$257.75~~	~~September 1, 1988, 7:30 pm Room 123, Spruce Co. Courthouse~~
~~City or Town: Middletown~~	~~$168.63~~	~~$184.09~~	~~October 1, 1988, 8:00 pm Middletown Town Hall~~
~~Public School: Ind. Dist. 123~~			
~~set by school board~~	~~$47.56~~	~~$146.88~~	~~September 25,~~ 1988.
~~set by state law~~	~~$300.00~~	~~$300.00~~	~~Cafeteria, Middletown Town Hall~~
~~Special Tax Districts~~			
~~Metropolitan Council~~	~~$25.00~~	~~$50.00~~	~~October 5, 1988, 3:00 pm Board Room, Tri-County Hospital~~
~~Metropolitan Regional Transit~~	~~$10.00~~	~~$12.00~~	~~October 12, 1988, 6:00 pm~~

~~Board~~ ~~Common Room, Tri-County Library~~

~~Tax before State payments:~~ ~~$769.74~~ ~~$950.72~~

~~Payments by State:~~ ~~(subtract: $215.00)~~ ~~(subtract: $235.00)~~

~~Your tax if budget is not changed: $554.74~~

~~Your tax if proposed budget is adopted: $715.72~~

The notice must inform taxpayers that it contains the amount of property taxes each taxing authority proposes to collect for taxes payable the following year as required in paragraph (d) or (e). It must clearly state that each taxing authority, other than a town or special taxing district, will hold a public meeting to receive public testimony on the proposed budget. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail.

(d) Except as provided in paragraph (e) and section 80, for taxes levied in 1989, and thereafter, the notice must state by county, city or town, and school district:

(1) the total proposed property tax levy for taxes payable the following year after reduction for state aid;

(2) the percentage increase or decrease from the actual property tax levy for taxes payable in the current year; and

(3) for cities and towns, the increase in population from the second previous calendar year to the immediately prior calendar year, as determined under section 477A.011, subdivision 3, and for school districts, the increase in the number of pupils from the second previous school year to the immediately prior school year.

For purposes of this paragraph, "proposed property taxes after reduction for state aid" means the taxing authority's levy certified under section 275.07, subdivision 1.

(e) In the case of a county containing a city of the first class, or taxing authority lying wholly within a county or counties containing a city of the first class, for taxes levied in 1990, and thereafter, the notice must state for each parcel:

(1) the market value of the property under section 273.03, subdivision 8, and the limited market value of the property under section 273.11, subdivision 11, for property taxes payable in the following year and for taxes payable the current year;

(2) by county, city or town, school district, the sum of the special taxing districts, and as a total of the taxing authorities, including special taxing districts, the proposed net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year; and

(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed taxes payable the following year, expressed as a dollar amount and as a percentage.

(f) The notice must clearly state that the proposed taxes do not include

the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;

(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified; and

(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified.

Sec. 33. Minnesota Statutes 1988, section 275.065, subdivision 4, is amended to read:

Subd. 4. [COSTS.] ~~The taxing authority shall pay the county for~~ *If* the reasonable cost of the county auditor's services and ~~for~~ the ~~costs~~ *cost* of preparing and mailing the notice required in this section *exceed the amount distributed to the county by the commissioner of revenue to administer this section, the taxing authority must reimburse the county for the excess cost. The excess cost must be apportioned between taxing jurisdictions as follows:*

(1) one-third is allocated to the county;

(2) one-third is allocated to cities and towns within the county; and

(3) one-third is allocated to school districts within the county.

The amounts in clauses (2) and (3) must be further apportioned among the cities and towns and among the school districts in the proportion that the population of the city and town, or school district, bears to the population of all the cities and towns, or school districts, within the county.

Sec. 34. Minnesota Statutes 1988, section 275.065, subdivision 6, is amended to read:

Subd. 6. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] ~~Prior to October 25~~ *Between November 15 and December 20*, the governing ~~body~~ *bodies* of the city *and county* shall *each* hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year, *and the governing body of the school district shall hold a public hearing to adopt its property tax levy for taxes payable in the following year.* ~~The hearing must be held not less than two days or more than five days after the day the notice is first published.~~

At the hearing, the taxing authority, *other than a school district,* may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy, *and the school district may amend the proposed property tax levy and must adopt a final property tax levy.*

The *adopted* property tax levy ~~adopted may~~ *must* not exceed the final proposed levy determined under subdivision 2, paragraph (c)~~.~~, *except by an amount up to the sum of the following amounts:*

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124A.03, subdivision 2, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters under section 275.58 after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a; and

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a.

At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body shall adopt its final property tax levy prior to adopting its final budget.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. ~~The school board and county board shall~~ *The commissioner of revenue shall provide for the coordination of hearing dates so that a taxing authority does* not schedule public meetings on ~~days~~ *the day* scheduled for the hearing by ~~the governing body of the city~~ *another taxing authority.*

If the hearing is recessed, the taxing authority shall publish a notice in a qualified newspaper of general paid circulation in the ~~city~~ *taxing authority.* The notice must state the time and place for the continuation of the hearing and must be published at least two days but not more than five days prior to the date the hearing will be continued.

This subdivision does not apply to towns and special taxing districts.

Sec. 35. Minnesota Statutes 1988, section 275.065, is amended by adding a subdivision to read:

Subd. 6a. [APPROVAL OF COMMISSIONER.] *(a) A taxing authority may appeal to the commissioner of revenue for authorization to levy an amount over the amount of the proposed levy. The taxing authority must provide evidence satisfactory to the commissioner that it has incurred costs for the purposes specified in paragraph (b). The commissioner may approve an increase in the taxing authority's levy of up to the amount of costs incurred or a lesser amount determined by the commissioner. The commissioner's decision is final.*

(b) A levy addition may be made under paragraph (a) for the following costs incurred after the proposed levy is certified: (1) the unreimbursed costs to satisfy judgments rendered against the taxing authority by a court of competent jurisdiction in a tort action in excess of $50,000 or ten percent of the current year's proposed certified levy whichever is less; and (2) the costs incurred in clean up of a natural disaster. For purposes of this subdivision, "natural disaster" includes the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from causes such as earthquake, fire, flood, windstorm, wave action, oil spill, water contamination, air contamination, or drought.

Sec. 36. Minnesota Statutes 1988, section 275.065, subdivision 7, is

amended to read:

Subd. 7. [CERTIFICATION OF COMPLIANCE.] ~~At the time~~ The taxing authority ~~certifies its tax levy under section 275.07, it~~ shall certify to the commissioner of revenue its compliance with this section. The certification must contain ~~copies of the advertisement required under subdivision 5, the resolution adopting the final property tax levy under subdivision 6, and any other~~ *the* information required by the commissioner of revenue *to determine compliance with this section*. If the commissioner determines that the taxing authority has failed to substantially comply with the requirements of this section, the commissioner of revenue shall notify the county auditor. *The decision of the commissioner is final.* When fixing rates under section 275.08 for a taxing authority that has not complied with this section, the county auditor must use the ~~no increase tax rate~~ *taxing authority's previous year's levy*.

Sec. 37. Minnesota Statutes 1988, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before ~~October~~ 25 *five working days after December 20* in each year. The taxes certified shall not be adjusted by the aid received under section 273.1398, subdivisions 2 and 3. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. ~~If the local unit notifies the commissioner of revenue before October 25 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension.~~

Sec. 38. Minnesota Statutes 1988, section 275.07, is amended by adding a subdivision to read:

Subd. 4. [REPORT TO COMMISSIONER.] *On or before September 30 for taxes levied in 1989, and on or before September 15 for taxes levied thereafter, the county auditor shall report to the commissioner of revenue the proposed levy certified by local units of government under section 275.065, subdivision 1. On or before January 15, the county auditor shall report to the commissioner of revenue the final levy certified by local units of government under subdivision 1. The levies must be reported in the manner prescribed by the commissioner. The reports must show a total levy and the amount of each special levy.*

Sec. 39. Minnesota Statutes 1988, section 275.08, subdivision 2, is amended to read:

Subd. 2. [ESTIMATES.] If, by ~~December~~ *January* 15 of any year, the county auditor has not received from another county auditor the tax capacity rate or gross tax capacity applicable to any taxing district lying in two or more counties, the county auditor who has not received the necessary information may levy taxes for the overlapping district by estimating the tax capacity rate or the gross tax capacity.

Sec. 40. Minnesota Statutes 1988, section 275.08, subdivision 3, is amended to read:

Subd. 3. [ASSISTANCE OF COUNTY AUDITOR.] A county auditor who has not furnished the tax capacity rate or gross tax capacity of property in the county by ~~December~~ *January* 15 shall, on request, furnish the county auditor of a county in the overlapping district an estimate of the tax capacities or the tax capacity rate. The auditor may request the assistance of the county assessor in determining the estimate.

Sec. 41. Minnesota Statutes 1988, section 275.124, is amended to read:

275.124 [REPORT OF CERTIFIED LEVY.]

Prior to ~~February 1~~ *April 1* of each year, each county auditor shall report to the commissioner of education on forms furnished by the commissioner, the amount of the certified levy made by each school district within the county which has taxable property and any other information concerning these levies that is deemed necessary by the commissioner.

Sec. 42. Minnesota Statutes 1988, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax capacity rate times the adjusted gross tax capacity of the district for the preceding year. The commissioner of revenue shall establish the basic transportation tax capacity rate and certify it to the commissioner of education by ~~September 1~~ *July 1* of each year for levies payable in the following year. The basic transportation tax capacity rate shall be a rate, rounded up to the nearest hundredth of a mill, that, when applied to the adjusted gross tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax capacity rate for transportation for the 1990 fiscal year shall be the rate that raises $72,681,200. The basic transportation tax capacity rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted gross tax capacity after the tax capacity rate has been certified.

Sec. 43. Minnesota Statutes 1988, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] In any fiscal year, if the basic transportation levy under subdivision 5 in a district attributable to a particular fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the *second* year following each fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.

Sec. 44. Minnesota Statutes 1988, section 275.14, is amended to read:

275.14 [CENSUS.]

For the purposes of sections 275.11 to 275.16, the population of a city shall be that established by the last federal census, by a special census taken by the United States Bureau of the Census, by an estimate made by

the metropolitan council, or by the state demographer made according to section 116K.04, subdivision 4, whichever has the latest stated date of count or estimate, before July 2 of the current levy year. The population of a school district must be determined by the most recent federal census.

In any year in which no federal census is taken pursuant to law in any school district affected by sections 275.11 to 275.16 a population estimate may be made and submitted to the state demographer for approval as hereinafter provided. The school board of a school district, in case it desires a population estimate, shall pass a resolution by ~~September~~ *July* 1 containing a current estimate of the population of the school district and shall submit the resolution to the state demographer. The resolution shall describe the criteria on which the estimate is based and shall be in a form and accompanied by the data prescribed by the state demographer. The state demographer shall determine whether or not the criteria and process described in the resolution provide a reasonable basis for the population estimate and shall inform the school district of that determination within 30 days of receipt of the resolution. If the state demographer determines that the criteria and process described in the resolution do not provide a reasonable basis for the population estimate, the resolution shall be of no effect. If the state demographer determines that the criteria and process do provide a reasonable basis for the population estimate, the estimate shall be treated as the population of the school district for the purposes of sections 275.11 to 275.16 until the population of the school district has been established by the next federal census or until a more current population estimate is prepared and approved as provided herein, whichever occurs first. The state demographer shall establish guidelines for acceptable population estimation criteria and processes. The state demographer shall issue advisory opinions upon request in writing to cities or school districts as to proposed criteria and processes prior to their implementation in an estimation. The advisory opinion shall be final and binding upon the demographer unless the demographer can show cause why it should not be final and binding.

In the event that a census tract employed in taking a federal or local census overlaps two or more school districts, the county auditor shall, on the basis of the best information available, allocate the population of said census tract to the school districts involved.

The term "council," as used in sections 275.11 to 275.16, means any board or body, whether composed of one or more branches, authorized to make ordinances for the government of a city within this state.

Sec. 45. Minnesota Statutes 1988, section 275.28, subdivision 1, is amended to read:

Subdivision 1. [AUDITOR TO MAKE.] The county auditor shall make out the tax lists according to the prescribed form, and to correspond with the assessment districts. The rate percent necessary to raise the required amount of the various taxes shall be calculated on the gross tax capacity of property as determined by the state board of equalization, but, in calculating such rates, no rate shall be used resulting in a fraction other than a decimal fraction, or less than one-tenth of a mill; and, in extending any tax, whenever it amounts to the fractional part of a cent, it shall be made one cent. The tax lists shall also be made out to correspond with the assessment books in reference to ownership and description of property, with columns for the valuation and for the various items of tax included in the total amount of all taxes set down opposite each description; and

opposite each description which has been sold for taxes, and which is subject to redemption, but not redeemed, shall be placed the words "sold for taxes." The amount of all special taxes shall be entered in the proper columns, but the general taxes may be shown by entering the rate percent of each tax at the head of the proper columns, without extending the same, in which case a schedule of the rates percent of such taxes shall be made on the first page of each tax list. If the auditor shall fail to enter on any such list before its delivery to the treasurer any tax levied, such tax may be subsequently entered. The tax lists shall be deemed completed, and all taxes extended thereon, as of ~~October 16~~ *January 1* annually.

Sec. 46. Minnesota Statutes 1988, section 275.29, is amended to read:

275.29 [ABSTRACTS TO COMMISSIONER OF REVENUE.]

~~On or before January 1~~ *Not later than March 31*, in each year, the county auditor shall make and transmit to the commissioner of revenue, in such form as may be prescribed by the commissioner of revenue, complete abstracts of the tax lists of the county, showing the number of acres of land assessed; its value, including the structures thereon; the value of town and city lots, including structures; the total value of all taxable personal property in the several assessment districts; the aggregate amount of all taxable property in the county, and the total amount of taxes levied therein for state, county, town, and all other purposes for that year.

Sec. 47. Minnesota Statutes 1988, section 275.51, is amended by adding a subdivision to read:

Subd. 7. [LEVY LIMIT CERTIFICATION.] *The commissioner of revenue must certify the levy limitations under sections 275.50 to 275.58 to each governmental subdivision by August 1 of the levy year.*

Sec. 48. Minnesota Statutes 1988, section 275.58, subdivision 2, is amended to read:

Subd. 2. A levy limit base per capita adjustment approved pursuant to subdivision 1 at a general or special election held prior to ~~October 1~~ *five working days after December 20* in any levy year increases the levy limit base per capita in that same levy year by the approved per capita amount and provides a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy limit base per capita adjustment approved pursuant to subdivision 1 at a general or special election held *on or* after ~~September 30~~ *five working days after December 20* in any levy year shall not increase the levy limit base per capita in that same levy year but shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years.

Sec. 49. Minnesota Statutes 1988, section 275.58, subdivision 3, is amended to read:

Subd. 3. An additional levy approved pursuant to subdivision 1 at a general or special election held prior to ~~October 1~~ *five working days after December 20* in any levy year may be levied in that same levy year and in any levy years thereafter. An additional levy approved pursuant to subdivision 1 at a general or special election held *on or* after ~~September 30~~ *five working days after December 20* in any levy year shall not be levied in that same levy year, but may be levied in the subsequent levy year and in levy years thereafter.

Sec. 50. Minnesota Statutes 1988, section 276.04, subdivision 2, is

amended to read:

Subd. 2. [CONTENTS OF TAX STATEMENTS.] (a) The treasurer shall~~, whether or not directed by the county board, cause to be printed on all~~ *provide for the printing of the* tax statements~~, or on an attachment,~~. *The commissioner of revenue shall prescribe the form of the property tax statement and its contents. The statement must contain* a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district must be separately stated. The amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in boldface print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT."

(b) The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property.

(c) ~~For taxes payable in 1990 and thereafter, real and personal property tax statements must contain (1) the property's market value, as defined in section 272.03, subdivision 8, (2) the net tax capacity rate applicable to the property's classification under section 273.13, and the product of (1) and (2), the property's initial tax. The statement must show the difference between a property's gross tax capacity and net tax capacity multiplied by the tax capacity rate as "state paid homestead and agricultural credit." The statement must also show the decrease in tax attributable to that portion of the sum of the following aids attributable to the property as "state paid tax relief": (i) education aids payable under chapters 124 and 124A, (ii) local government aid for cities, towns, and counties under chapter 477A, (iii) disparity reduction aid paid under section 273.1398, and (iv) income maintenance aids as defined in section 273.1398, subdivision 1, paragraph (i). The commissioner of revenue shall certify to the county auditor the actual or estimated aids local governments will receive in the following year.~~

~~(d) For taxes payable in 1989 only, the statement must show the property's market value, as defined in section 272.03, subdivision 8, and the amount attributable to section 273.13, subdivisions 22 and 23, as "state paid homestead credit" and the amount attributable to section 273.132 as "state paid agricultural credit." The statement must also show the decrease in tax attributable to that portion of the sum of the following aids attributable to the property as "state paid tax relief": (i) education aids under chapters 124 and 124A, (ii) local government aid for cities, towns, and counties under chapter 477A, and (iii) disparity reduction aid under section 273.1398. The commissioner of revenue shall certify to the county auditor the actual or estimated aids local governments will receive in the following year.~~

Real and personal property tax statements must contain the following information in the order given in this paragraph. The information must

contain the current year tax information in the left column with the corresponding information for the previous year in a column on the right:

(1) the property's estimated market value as defined in section 272.03, subdivision 8, and the limited market value under section 273.11, subdivision 11;

(2) the property's gross tax, calculated by multiplying the property's gross tax capacity times the total tax capacity rate plus any credits received under sections 273.119; 273.123; 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and 473H.10 and adding to the result the sum of the aids enumerated in clause (3);

(3) a total of the following aids:

(i) education aids payable under chapters 124 and 124A;

(ii) local government aids for cities, towns, and counties under chapter 477A; and

(iii) disparity reduction aid under section 273.1398;

(4) for homestead residential and agricultural properties, the homestead and agricultural credit aid apportioned to the property. This amount is obtained by multiplying the total tax capacity rate by the difference between the property's gross and net tax capacities under section 273.13. This amount must be separately stated and identified as "homestead and agricultural credit." For purposes of comparison with the the previous year's amount for the statement for taxes payable in 1990, the statement must show the homestead credit for taxes payable in 1989 under section 273.13, and the agricultural credit under section 273.132 for taxes payable in 1989;

(5) any credits received under sections 273.119; 273.123; 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and 473H.10; and

(6) the net tax payable in the manner required in paragraph (a).

The commissioner of revenue shall certify to the county auditor the actual or estimated aids enumerated in clauses (3) and (4) that local governments will receive in the following year. In the case of a county containing a city of the first class, or a county that has adopted the provisions of section 80, the commissioner must certify this amount by September 1.

Sec. 51. Minnesota Statutes 1988, section 276.04, subdivision 3, is amended to read:

Subd. 3. [MAILING OF TAX STATEMENTS.] The county treasurer shall mail to taxpayers statements of their personal property taxes due not later than ~~February 15~~ *March 31*, except in the case of manufactured homes and sectional structures taxed as personal property. Statements of the real property taxes due shall be mailed not later than ~~January 31~~ *March 31*. The validity of the tax shall not be affected by failure of the treasurer to mail the statement. The taxpayer is defined as the owner who is responsible for the payment of the tax.

Sec. 52. Minnesota Statutes 1988, section 276.09, is amended to read:

276.09 [SETTLEMENT BETWEEN AUDITOR AND TREASURER.]

On ~~March 5, and~~ May 20 of each year, the county treasurer shall make full settlement with the county auditor of all receipts collected for all

purposes, from the date of the last settlement up to and including each day mentioned. The county auditor shall, within 30 days after ~~each~~ *the* settlement, send an abstract of it to the state auditor in the form prescribed by the state auditor. At ~~each~~ *the* settlement the treasurer shall make complete returns of the receipts on the current tax list, showing the amount collected on account of the several funds included in the list.

Settlement of receipts from May 20 to December 31 of each year must be made as provided in section 276.111.

For purposes of this section, "receipts" includes all tax payments received by the county treasurer on or before the settlement date.

Sec. 53. Minnesota Statutes 1988, section 276.10, is amended to read:

276.10 [APPORTIONMENT AND DISTRIBUTION OF FUNDS.]

On the settlement day in ~~March and~~ May of each year, the county auditor and county treasurer shall distribute all undistributed funds in the treasury. The funds must be apportioned as provided by law, and credited to the state, town, city, school district, special district and each county fund. Within 20 days after the distribution is completed, the county auditor shall report to the state auditor in the form prescribed by the state auditor. The county auditor shall issue a warrant for the payment of money in the county treasury to the credit of the state, town, city, school district, or special districts on application of the persons entitled to receive the payment. The county auditor may apply the tax capacity rate from the year before the year of distribution when apportioning and distributing delinquent tax proceeds, if the composition of the previous year's tax capacity rate between taxing districts is not significantly different than the tax capacity rate that existed for the year of the delinquency.

Sec. 54. Minnesota Statutes 1988, section 276.11, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] As soon as practical after the ~~March and~~ May ~~settlements~~ *settlement* the county treasurer shall pay to the state treasurer or the treasurer of a town, city, school district, or special district, on the warrant of the county auditor, all receipts of taxes levied by the taxing district and deliver up all orders and other evidences of indebtedness of the taxing district, taking triplicate receipts for them. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its receipt to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall keep the receipt in the clerk's office. Upon written request of the taxing district, to the extent practicable, the county treasurer shall make partial payments of amounts collected periodically in advance of the next settlement and distribution. A statement prepared by the county treasurer must accompany each payment. It must state the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties on the tax. Upon written request of a taxing district, except school districts, the county treasurer shall pay at least 70 percent of the estimated collection within 30 days after the ~~March and~~ May settlement ~~dates~~ *date*. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district. The remaining 50 percent of the estimated collections must be paid to the treasurer of the school district within the next seven business days. The

treasurer shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the ~~March and~~ May settlement ~~dates~~ *date*. After 45 days interest at an annual rate of eight percent accrues and must be paid to the taxing district. Interest must be paid upon appropriation from the general revenue fund of the county. If not paid, it may be recovered by the taxing district, in a civil action.

Sec. 55. Minnesota Statutes 1988, section 277.01, subdivision 1, is amended to read:

Subdivision 1. All unpaid personal property taxes ~~where the amount is $50 or less~~ shall be deemed delinquent on ~~the later of March 1~~ *May 16* next after they become due ~~or 30 days after the postmark date on the envelope containing the property tax statement~~, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. ~~When the amount of such tax exceeds the sum of $50 the first half shall become delinquent if not paid prior to March 1 or 30 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on such unpaid first half. The second half of a tax in excess of $50 shall become delinquent if not paid prior to July 1 and thereupon a penalty of eight percent shall attach on such unpaid second half.~~ This section shall not apply to class 2a property.

A county may provide by resolution that in the case of a property owner that has multiple personal property tax statements with the aggregate taxes exceeding $50, payments may be made in installments as provided in this subdivision.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 56. Minnesota Statutes 1988, section 277.02, is amended to read:

277.02 [DELINQUENT LIST FILED IN COURT.]

~~On the last secular day of July,~~ *By June 15* of each year, the county treasurer shall make a list of all personal property taxes remaining delinquent ~~July first~~ *May 16*, and shall immediately certify to and file the same with the court administrator of the district court of the county, and upon such filing the list shall be prima facie evidence that all of the provisions of law in relation to the assessment and levy of such taxes have been complied with.

Sec. 57. Minnesota Statutes 1988, section 277.05, is amended to read:

277.05 [SHERIFF TO FILE LIST OF UNCOLLECTED TAXES.]

If the sheriff is unable, for want of goods and chattels whereon to levy, to collect by a distress, or otherwise, the taxes, or any part thereof, assessed upon the personal property of any persons, the sheriff shall file with the court administrator of the district court, on ~~September first~~ *July 15* following, a list of such taxes, with an affidavit of the sheriff, or of the deputy sheriff entrusted with the collection thereof, stating that the affiant has made diligent search and inquiry for goods and chattels from which to

collect such taxes, and is unable to collect the same. The list of such taxes as they apply to manufactured homes shall be filed on December 1. The sheriff shall note on the margin of such list the place to which any delinquent taxpayer may have removed, with the date of removal, if known. At the time of filing the list the sheriff shall also return all the warrants with endorsements thereon showing the doings of the sheriff or deputy in the premises, and the court administrator shall file and preserve the same. On or before September tenth thereafter, the court administrator shall deliver such list and affidavit to the county treasurer, who shall, by comparison of such list with the tax duplicates in the treasurer's office, ascertain whether or not all personal property taxes reported by the treasurer to the court administrator as delinquent, except those included in such list, have been paid into the treasurer's office, and shall attach to the list a certificate stating whether or not all taxes reported by the treasurer to the court administrator as delinquent and not included in the list have been received, and stating the items of such taxes, if any, as have been received. The court administrator shall deliver such list and affidavit as they apply to manufactured homes on or before December 10. The treasurer shall deliver such list and affidavit, with the certificate attached, to the county board at its first session thereafter, which shall cancel such taxes as it is satisfied cannot be collected. A copy of the tax list so revised, and also a separate list of the taxes so canceled, shall be included in the records of the proceedings of the board, and published in full, as a part of the proceedings.

Sec. 58. Minnesota Statutes 1988, section 277.06, is amended to read:

277.06 [CITATION TO DELINQUENTS; DEFAULT JUDGMENT.]

On ~~October 20~~ *September 5*, or within ten days after the adjournment of the county board, whichever occurs first, the county auditor shall file a copy of such revised list with the court administrator of the district court. The county auditor shall file a copy of the revised list as it applies to manufactured homes on January 20. Within ten days after the list has been filed, the court administrator shall issue a citation to each delinquent named in the list, stating the amount of tax and penalty, and requiring such delinquent to appear on a day to be set by the district court in the county, appointed to be held at a time not less than 30 days after the issuance of such citation, and show cause, if any there be, why the delinquent should not pay the tax and penalty. The citation shall be delivered for service to the sheriff of the county where such person may at the time reside or be. If such person, after service of the citation, fails to pay such tax, penalty, and costs to the sheriff before the first day of the term, or on such day to show cause as aforesaid, the court shall direct judgment against the person for the amount of such tax, penalty, and costs. When unable to serve the citation, the sheriff shall return the same to the court administrator, with a return thereto to that effect, and thereupon, or if the court decides that the service of such citation made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation, requiring such delinquent to appear on the first day of the next general term to be held in the county, and show cause as aforesaid, and if the delinquent fails to pay or to show cause, the court shall direct judgment as aforesaid. Whenever the sheriff has been unable to serve any such citation theretofore issued in any year or years, or whenever the court decides that the service of any such citation theretofore made or attempted to be made, or the issuance thereof by the court administrator, was illegal, the court administrator shall issue another like citation requiring

such delinquent to appear, as in the case last provided, and with like effect; provided, that all citations other than the first shall be issued only on the request of the county attorney.

Sec. 59. Minnesota Statutes 1988, section 277.13, is amended to read:

277.13 [REMOVAL OF DELINQUENT; DUTY OF COUNTY AUDITOR.]

~~Within 30 days after June first~~ *By July 30*, in each year, the county auditor shall make out and forward to the court administrator of the district court of any county to which any delinquent personal property taxpayer may have removed a statement of such delinquent taxes, specifying the value of the property on which such taxes were levied and the amount of the taxes, to which the auditor shall add an amount equal to 25 percent on the taxes levied if such delinquent taxpayer left the county in which the taxes were levied after the day upon which they became due, but not otherwise. On receipt of such statement or account, the court administrator shall issue a warrant to the sheriff of the county, who shall immediately proceed to collect the same of the person so charged with the taxes and percent, together with a court administrator's fee of 25 cents for each warrant so issued. The sheriff shall deliver such warrant, with the doings thereunder, to the court administrator, together with the amount of collections thereon. The court administrator shall remit all taxes thus collected to the treasurer of the county to which they belong, and at the same time shall return the original statement to the auditor of such county, certifying the amount of such collections, and, if any taxes remain unpaid, the reason why they could not be collected. The auditor shall charge the treasurer to whom such remittance is made with the amount thereof, and cancel such taxes from the list. Receipts shall be issued to the sheriff for delinquent taxes collected and the payment shall be made in the manner provided in section 276.05.

Sec. 60. Minnesota Statutes 1988, section 469.171, is amended by adding a subdivision to read:

Subd. 7a. [PROPERTY TAX CREDIT; APPROPRIATION.] *There is annually appropriated from the general fund to the commissioner of revenue the amounts required to reimburse taxing jurisdictions for the revenue lost due to the property tax credit provided in subdivision 1, clause (4). Payment shall be made to taxing jurisdictions in the same proportion that the ad valorem tax is distributed. Payment shall be made to taxing jurisdictions, other than school districts, at the times provided in section 477A.015.*

Sec. 61. Minnesota Statutes 1988, section 469.177, subdivision 6, is amended to read:

Subd. 6. [REQUEST FOR CERTIFICATION OF NEW TAX INCREMENT FINANCING DISTRICT.] A request for certification of a new tax increment financing district pursuant to subdivision 1 or of a modification to an existing tax increment financing district pursuant to section 469.175, subdivision 4, received by the county auditor on or before ~~October 10~~ *July 1* of the calendar year shall be recognized by the county auditor in determining tax capacity rates for the current and subsequent levy years. Requests received by the county auditor after ~~October 10~~ *July 1* of the calendar year shall not be recognized by the county auditor in determining tax capacity rates for the current levy year but shall be recognized by the county auditor in determining tax capacity rates for subsequent levy years.

Sec. 62. Minnesota Statutes 1988, section 473.167, subdivision 4, is amended to read:

Subd. 4. [STATE REVIEW.] *The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax for the right-of-way acquisition loan fund certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

Sec. 63. Minnesota Statutes 1988, section 473.249, subdivision 2, is amended to read:

Subd. 2. *The council must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the ad valorem property tax certified by the metropolitan council for levy following the adoption of its budget is within the levy limitation imposed by this section. ~~To the extent practicable,~~ The determination shall be completed prior to ~~December~~ *September* 1 of each year. If current information regarding gross tax capacity in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current gross tax capacity within that county for purposes of making the calculation.

Sec. 64. Minnesota Statutes 1988, section 473.446, subdivision 8, is amended to read:

Subd. 8. [STATE REVIEW.] *The board must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax for general purposes certified by the regional transit board for levy following the adoption of its budget is within the levy limitation imposed by subdivision 1. The commissioner shall also annually determine whether the transit tax imposed on all taxable property within the metropolitan transit area but outside of the metropolitan transit taxing district is within the levy limitation imposed by subdivision 1a. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculations.

Sec. 65. Minnesota Statutes 1988, section 473.711, subdivision 5, is amended to read:

Subd. 5. [STATE REVIEW.] *The commission must certify its property tax levy to the commissioner of revenue by August 1 of the levy year.* The commissioner of revenue shall annually determine whether the property tax certified by the metropolitan mosquito control commission for levy following the adoption of its budget is within the levy limitation imposed by subdivision 2. ~~To the extent practicable,~~ The determination must be completed prior to ~~November~~ *September* 1 of each year. If current information regarding market valuation in any county is not transmitted to the commissioner in a timely manner, the commissioner may estimate the current market valuation within that county for purposes of making the calculation.

Sec. 66. Minnesota Statutes 1988, section 473F.05, is amended to read:

473F.05 [GROSS TAX CAPACITY; ~~1988 AND SUBSEQUENT~~ YEARS.]

On or before ~~November 20~~ *August 5* of ~~1988~~ ~~and~~ each ~~subsequent~~ year, the assessors within each county in the area shall determine and certify to the county auditor the gross tax capacity in that year of commercial-industrial property subject to taxation within each municipality in the county, determined without regard to section 469.177, subdivision 3.

Sec. 67. Minnesota Statutes 1988, section 473F.06, is amended to read:

473F.06 [INCREASE IN GROSS TAX CAPACITY.]

On or before ~~September 1~~ *July 15* of ~~1976~~ ~~and~~ each ~~subsequent~~ year, the auditor of each county in the area shall determine the amount, if any, by which the gross tax capacity determined in the preceding year pursuant to section 473F.05, of commercial-industrial property subject to taxation within each municipality in the auditor's county exceeds the gross tax capacity in 1971 of commercial-industrial property subject to taxation within that municipality. If a municipality is located in two or more counties within the area, the auditors of those counties shall certify the data required by section 473F.05 to the county auditor who is responsible under other provisions of law for allocating the levies of that municipality between or among the affected counties. That county auditor shall determine the amount of the net excess, if any, for the municipality under this section, and certify that amount under section 473F.07. Notwithstanding any other provision of sections 473F.01 to 473F.13 to the contrary, in the case of a municipality which is designated on July 24, 1971, as a redevelopment area pursuant to section 401(a)(4) of the Public Works and Economic Development Act of 1965, Public Law Number 89-136, the increase in its gross tax capacity of commercial-industrial property for purposes of this section shall be determined in each year subsequent to the termination of such designation by using as a base the gross tax capacity of commercial-industrial property in that municipality in the year following that in which such designation is terminated, rather than the gross tax capacity of such property in 1971. The increase in gross tax capacity determined by this section shall be reduced by the amount of any decreases in the gross tax capacity of commercial-industrial property resulting from any court decisions, court related stipulation agreements, or abatements for a prior year, and only in the amount of such decreases made during the 12-month period ending on ~~June 30~~ *May 1* of the current assessment year, where such decreases, if originally reflected in the determination of a prior year's gross tax capacity under section 473F.05, would have resulted in a smaller contribution from the municipality in that year. An adjustment for such decreases shall be made only if the municipality made a contribution in a prior year based on the higher gross tax capacity of the commercial-industrial property.

Sec. 68. Minnesota Statutes 1988, section 473F.07, subdivision 1, is amended to read:

Subdivision 1. Each county auditor shall certify the determinations pursuant to sections 473F.05 and 473F.06 to the administrative auditor on or before ~~November 20~~ *August 1* of each year. The administrative auditor shall determine the sum of the amounts certified pursuant to section 473F.06, and divide that sum by 2-1/2. The resulting amount shall be known as the "areawide gross tax capacity for . . . . . (year)."

Sec. 69. Minnesota Statutes 1988, section 473F.07, subdivision 2, is

amended to read:

Subd. 2. The commissioner of revenue shall certify to the administrative auditor, on or before ~~November 20~~ *August 10* of each year, the population of each municipality for the *second* preceding year, the proportion of that population which resides within the area, the average fiscal capacity of municipalities for the preceding year, and the fiscal capacity of each municipality for the preceding year.

Sec. 70. Minnesota Statutes 1988, section 473F.07, subdivision 5, is amended to read:

Subd. 5. The product of the multiplication prescribed by subdivision 4 shall be known as the "areawide gross tax capacity for . . . . . (year) attributable to . . . . . (municipality)." The administrative auditor shall certify such product to the auditor of the county in which the municipality is located on or before ~~November 25~~ *August 15*.

Sec. 71. Minnesota Statutes 1988, section 473F.08, subdivision 3, is amended to read:

Subd. 3. ~~On or before October 15 of 1976 and each subsequent year,~~ The county auditor shall apportion the levy of each governmental unit in the auditor's county in the manner prescribed by this subdivision. The auditor shall:

(a) *by August 20,* determine the areawide portion of the levy for each governmental unit by multiplying the tax capacity rate of the governmental unit for the preceding levy year times the distribution value set forth in subdivision 2, clause (b); and

(b) *by September 5,* determine the local portion of the current year's levy by subtracting the resulting amount from clause (a) from the governmental unit's current year's levy.

Sec. 72. Minnesota Statutes 1988, section 473F.08, subdivision 5, is amended to read:

Subd. 5. On or before ~~November 30 of 1972 and~~ *August 25 of* each ~~subsequent~~ year, the county auditor shall certify to the administrative auditor that portion of the levy of each governmental unit determined pursuant to subdivision 3, clause (a). The administrative auditor shall then determine the tax capacity rate sufficient to yield an amount equal to the sum of such levies from the areawide gross tax capacity. On or before ~~December 5~~ *September 1 of each year,* the administrative auditor shall certify said rate to each of the county auditors.

Sec. 73. Minnesota Statutes 1988, section 473F.09, is amended to read:

473F.09 [ADJUSTMENTS IN DATES.]

If, by reason of the enactment of any other law, the date by which the commissioner of revenue is required to certify to the county auditors the records of proceedings affecting the gross tax capacity of property is advanced to a date earlier than ~~November 15~~ *June 30*, the dates specified in sections 473F.07 and 473F.10 may be modified in the years to which such other law applies in the manner and to the extent prescribed by the administrative auditor.

Sec. 74. Minnesota Statutes 1988, section 473H.10, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF TAX; STATE REIMBURSEMENT.] (a) After having determined the market value of all land valued according to

subdivision 2, the assessor shall compute the gross tax capacity of those properties by applying the appropriate classification percentages. When computing the rate of tax pursuant to section 275.08, the county auditor shall include the gross tax capacity of land as provided in this clause.

(b) The county auditor shall compute the tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the gross tax capacity times the total rate of tax for all purposes as provided in clause (a).

(c) The county auditor shall then compute the maximum ad valorem property tax on lands valued according to subdivision 2 and nonresidential buildings by multiplying the gross tax capacity times 105 percent of the previous year's statewide average tax capacity rate levied on property located within townships for all purposes.

(d) The tax due and payable by the owner of preserve land valued according to subdivision 2 and nonresidential buildings will be the amount determined in clause (b) or (c), whichever is less. If the gross tax in clause (c) is less than the gross tax in clause (b), the state shall reimburse the taxing jurisdictions for the amount of difference. Residential buildings shall continue to be valued and classified according to the provisions of sections 273.11 and 273.13, as they would be in the absence of this section, and the tax on those buildings shall not be subject to the limitation contained in this clause.

The county may transfer money from the county conservation account created in section 40A.152 to the county revenue fund to reimburse the fund for the tax lost as a result of this subdivision or to pay taxing jurisdictions within the county for the tax lost. The county auditor shall certify to the commissioner of revenue on or before June 1 the total amount of tax lost to the county and taxing jurisdictions located within the county as a result of this subdivision and the extent that the tax lost exceeds funds available in the county conservation account. Payments shall be made by the state ~~as provided in section 273.13, subdivision 15a,~~ *at the times provided in section 477A.015* to each of the affected taxing jurisdictions, *other than school districts, in the same proportion that the ad valorem tax is distributed* if the county conservation account is insufficient to make the reimbursement. There is annually appropriated from the Minnesota conservation fund under section 40A.151 to the commissioner of revenue an amount sufficient to make the reimbursement provided in this subdivision. If the amount available in the Minnesota conservation fund is insufficient, the balance that is needed is appropriated from the general fund.

Sec. 75. Minnesota Statutes 1988, section 477A.011, subdivision 3, is amended to read:

Subd. 3. [POPULATION.] Population means the population established by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the metropolitan council, or by a population estimate of the state demographer made pursuant to section 116K.04, subdivision 4, clause (10), whichever is the most recent as to the stated date of the count or estimate *for the preceding calendar year*. The term "per capita" refers to population as defined by this subdivision.

Sec. 76. Minnesota Statutes 1988, section 477A.011, subdivision 3a, is amended to read:

Subd. 3a. [NUMBER OF HOUSEHOLDS.] Number of households means the number of households established by the most recent federal census, by

a special census conducted under contract with the United States bureau of the census, by an estimate made by the metropolitan council, or by an estimate of the state demographer made pursuant to section 116K.04, subdivision 4, whichever is the most recent as to the stated date of the count or estimate *for the preceding calendar year.*

Sec. 77. [APPROPRIATION.]

$1,840,000 is appropriated for fiscal year 1990 from the general fund to the commissioner of revenue to reimburse counties for costs of compliance with Minnesota Statutes, section 275.065, for taxes payable in 1990. This appropriation must be apportioned among the counties and distributed by the commissioner of revenue in the same manner that the appropriation in Laws 1988, chapter 719, article 5, section 85, was apportioned and distributed.

Sec. 78. [APPROPRIATION; COMPLEMENT INCREASE.]

$80,000 is appropriated for fiscal year 1990 and $80,000 for fiscal year 1991 is appropriated from the general fund to the commissioner of education for costs to administer Minnesota Statutes, section 275.065. The complement of the department of education is increased by two.

Sec. 79. [SCHOOL DISTRICT CASH FLOW FUND.]

A permanent school district cash flow revolving fund of $1,000,000 is created. $1,000,000 is appropriated from the general fund to the cash flow fund. The amount in the fund is annually appropriated to the commissioner of education. The commissioner may loan the money in the fund to school districts who demonstrate to the satisfaction of the commissioner that the delay of property tax settlement payments due to implementation of this article has an adverse cash flow impact on the district. Each school district receiving money under this section must reimburse the commissioner at the time required by the commissioner. The reimbursements must be deposited by the commissioner in the revolving fund.

Sec. 80. [KOOCHICHING COUNTY TAXING AUTHORITIES; PROPOSED PROPERTY TAX NOTICE.]

Subdivision 1. [APPLICABILITY.] *Notwithstanding Minnesota Statutes, section 275.065, for property taxes payable in 1991, and thereafter, proposed budgets and property tax levies shall be certified and adopted in Koochiching county under this section.*

Subd. 2. [PROPOSED LEVY.] *On or before September 1, each taxing authority shall adopt a proposed budget and certify to the county auditor the proposed property tax levy for taxes payable in the following year. For purposes of this section, "taxing authority" includes the county of Koochiching and home rule and statutory cities with a population of over 2,500 within the county. If the taxing authority's proposed levy and estimated local government aid under chapter 477A payable in the following year have a total increase of more than "normal growth" over the taxing authority's current year's levy plus local government aid, the taxing authority shall be required to comply with the provisions contained in this section. The county auditor shall notify those taxing authorities which exceed the limit of "normal growth." For purposes of this section, "normal growth" is defined as the sum of 5.0 percent and the taxing authority's annual percent increase, if any, in population, based on the most recent available estimates.*

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] *(a) All taxing*

authorities for which a notice is required under subdivision 1, shall, on or before November 10, prepare and deliver by first class mail to each taxpayer within the boundaries of the taxing authority at the address listed on its current year's assessment roll, a notice of its proposed property tax levy.

(b) The commissioner of revenue shall prescribe the form of the notice. The notice must be easy to read and understand.

(c) The notice must inform taxpayers that it contains the amount of property taxes the taxing authority proposes to collect for taxes payable the following year. It must clearly state that the taxing authority will hold a public meeting to receive public testimony on the proposed budget. It must clearly state the time and place of the taxing authority's meeting and an address where comments will be received by mail.

The notice must show for the taxing authority the following proposed amounts for taxes payable in the current year compared to actual amounts for taxes payable in the previous year, and expressed as a percentage increase or decrease:

(1) the amount of property taxes before reduction for state aid described in clause (2);

(2) the amount of aid paid by the state to reduce property taxes; and

(3) the amount of property tax to be collected.

Subd. 4. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] *Between November 15 and December 20, the governing body of the taxing authority shall hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year.*

At the hearing the taxing authority may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy. The adopted property tax levy must not exceed the proposed levy stated in the notice under subdivision 3, paragraph (c), clause (3).

At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding the proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body shall adopt its final property tax levy prior to adopting its final budget.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. A city council shall not schedule public meetings on the day scheduled for the hearing by the county board.

If the hearing is recessed, the taxing authority shall publish a notice in a qualified newspaper of general paid circulation in the taxing authority. The notice must state the time and place for the continuation of the hearing and must be published at least two days but not more than five days prior to the date the hearing will be continued.

Subd. 5. [CERTIFICATION OF COMPLIANCE.] *The taxing authority shall certify to the commissioner of revenue its compliance with this section. The certification must contain the information required by the commissioner of revenue to determine compliance with this section. If the commissioner*

determines that the taxing authority has failed to substantially comply with the requirements of this section, the commissioner of revenue shall notify the taxing authority and the county auditor. The decision of the commissioner is final. When fixing rates under section 275.08 for a taxing authority that has not complied with this section, the county auditor must use the taxing authority's previous year's levy.

Sec. 81. [KOOCHICHING COUNTY TAXING AUTHORITIES; PROPERTY TAX NOTICES.]

Subdivision 1. [APPLICABILITY.] *Notwithstanding Minnesota Statutes, section 276.04, for property taxes payable in 1991, and thereafter, property tax notices shall be mailed and payments collected in Koochiching county as provided in this section.*

Subd. 2. [MAILING OF STATEMENTS.] *On or before March 31, 1991, and each year thereafter, and on or before August 31, 1991, and each year thereafter, the treasurer shall mail to the owner of each parcel of real property located in the county, three separate statements of the real property taxes due, each for one-half of the current year amount due. One statement shall contain the taxes due to the county, a second statement shall contain the taxes due to the city or township, and a third statement shall contain the taxes due to the school district. For purposes of this paragraph, the amount of tax levied by a special taxing district shall be included, but aggregated as one separate amount, on the county statement. For 1991 only, the statement for the county taxes which are due shall be mailed five days prior to the statements for the city, township, and school district. An insert shall be included in the county tax envelope stating:*

"This is the first of three separate tax bills you will be receiving. Your property taxes will be paid directly to each taxing jurisdiction which levies taxes.

Your county tax will be mailed to your county.

Your city/township taxes will be mailed to your city/township.

Your school taxes will be mailed to your school district."

Each statement shall be mailed in a separate envelope and the statement, along with a return address envelope, shall be color coded so that the taxpayer can easily identify the three separate taxing jurisdiction statements from each other. The contents of the statement shall be in substantially the following form. If any special assessments are due on the property, the dollar amount of the special assessments shall be itemized clearly and separately on the statement to which the assessments are due.

City/Township of . . . . . .

. . . . .	. . . . .
Taxpayer's Name	*Property Description*
Social Security No.	
Address	
City, State, ZIP	
. . . . .	. . . . .

The property taxes you owe this year on the property described above go directly to the taxing authority listed at the top of this bill. You will be receiving a separate property tax bill on this parcel from the county, city/

township, and school district.

. . . . . .

The state does not receive any property tax revenues. The state of Minnesota does, however, pay "property tax relief" to the above taxing jurisdiction. The relief is paid by the state in various forms, such as education aid for schools, local government aid to counties and cities, homestead credit, etc. The state uses money collected primarily from individual income, corporate, and sales taxes to provide you with relief to reduce your property tax.

The gross amount of dollars required by the city/township on this parcel last year was $	*The gross amount of dollars required by the city/township on this parcel this year was* $ . . . . .
The state of Minnesota reduced that amount on your parcel last year by $	*The state of Minnesota reduced that amount on your parcel this year by* $ . . . . .
Therefore, the net property taxes you actually paid last year was $	*Therefore, the net property taxes due this year are* $ . . . . .

. . . . . .

The total tax amount due to the city/township for this year is $ . . . . . *It is due in two equal installments, shown on the right.*	*Pay this amount by May 15, 19 . . . . .,* $ . . . . .
	Pay this amount by . . . . . 15, 19 . . . . ., $ . . . . .

The name on each of the return envelopes shall be the name of the taxing jurisdiction to which the tax is due. Unless an agreement has been made under subdivision 5, the address on each return envelope shall be to a uniform post office box within the county.

Subd. 3. [DIRECT PAYMENTS.] *A school district or city which decides to require that the real property tax payments be mailed directly to it shall notify the county treasurer, in writing, by January 15 of the year in which the taxes are due. In those instances, the address on the return envelope, which will be mailed with the tax statement, shall be the school district or city's address, as provided by the school or city official making the request. The county treasurer shall furnish the taxing authority with a list containing the owner of each parcel of real property located within the district, its property identification number, and the amount of real property taxes due for each installment. On or before January 1 of the year following the year the tax is due, the finance officer of the school district or city shall provide the county auditor with a list identifying the unpaid tax amounts. The unpaid amounts shall be treated in the same manner as provided in section 279.02.*

If a school district requires direct payments under this subdivision, payments received by the district shall be included in and treated as school district tax settlement revenue under Minnesota Statutes, section 121.904, subdivision 4a.

Sec. 82. [PRESCRIPTION OF TAX STATEMENTS; NOTIFICATION.]

At least 15 working days before the commissioner prescribes the property

tax statement for taxes payable in 1990 as required under Minnesota Statutes, section 276.04, the commissioner shall notify the chairs of the senate committee on taxes and tax laws and the house committee on taxes of the property tax statement that the commissioner proposes to prescribe. The commissioner shall consider the advice and comments of the chairs before prescribing the statement.

Sec. 83. [REPEALER.]

Minnesota Statutes 1988, sections 270.81, subdivision 5; and 275.065, subdivisions 2 and 5, are repealed.

Sec. 84. [EFFECTIVE DATES.]

Section 5 is effective for school district referenda held after July 15, 1989, for property taxes levied in 1989, payable in 1990, and thereafter.

Sections 2 to 4, 6, 7, 12, 17, 19, 21 to 24, 37 to 60, 62 to 65, 74, and 83 are effective for taxes levied in 1989, payable in 1990, and thereafter.

Sections 1, 8 to 11, 13, 16, 20, 25 to 29, and 66 to 73 are effective for taxes levied in 1990, payable in 1991, and thereafter.

Section 18 is effective for sales after July 1, 1989.

Sections 30 to 36 are effective for taxes levied in 1989, payable in 1990, except as otherwise provided.

Sections 61 and 77 to 79 are effective July 1, 1989.

Sections 80 and 81 are effective for taxes payable in 1991 and thereafter upon approval by the Koochiching county board and compliance with Minnesota Statutes, section 645.021.

Section 82 is effective the day following final enactment.

ARTICLE 6

LOCAL GOVERNMENT AIDS

Section 1. Minnesota Statutes 1988, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before October 25 in each year. The taxes certified shall not be adjusted by the aid received under section 273.1398, subdivisions 2 and 3 *and section 477A.013, subdivision 5*. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 25 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension.

Sec. 2. Minnesota Statutes 1988, section 275.07, subdivision 3, is amended to read:

Subd. 3. The county auditor shall adjust each local government's levy certified under subdivision 1 by the amount of ~~transition~~ *homestead and agricultural credit* aid certified by section 273.1398, subdivision 2 *and*

section 477A.013, subdivision 5. If a local government's ~~transition~~ *homestead and agricultural credit* aid was further allocated between portions of its levy pursuant to section 273.1398, subdivision 2, paragraph (b)(2), the levy or fund to which the ~~transition~~ *homestead and agricultural credit* aid was allocated is the levy or fund which must be adjusted.

Sec. 3. Minnesota Statutes 1988, section 477A.011, subdivision 1a, is amended to read:

Subd. 1a. [CITY.] City means a statutory or home rule charter city. *City also means a town having a population of 5,000 or more for purposes of the aid payable under section 477A.013, subdivision 3. Towns are not eligible to be treated as cities for purposes of aid payable under section 477A.013, subdivision 4.*

Sec. 4. Minnesota Statutes 1988, section 477A.011, is amended by adding a subdivision to read:

Subd. 1b. [TOWN.] *"Town" means a township with a population of less than 5,000.*

Sec. 5. Minnesota Statutes 1988, section 477A.011, subdivision 20, is amended to read:

Subd. 20. [CITY TAX CAPACITY.] "City tax capacity" means (1) 23 percent of the net tax capacity computed using *the net tax capacity rates listed in Minnesota Statutes 1988, section 273.13, for aids payable in 1990 and* the net tax capacity rates listed in section 273.13 *for aids payable in 1991 and subsequent years* for all taxable property within the city based on the assessment two years prior to that for which aids are being calculated, plus (2) a city's levy on the fiscal disparities distribution under section 473F.08, subdivision 3, paragraph (a), for taxes payable in the year prior to that for which aids are being calculated. The market value utilized in computing net tax capacity shall be reduced by the sum of (1) a city's market value of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 2, paragraph (a), ~~and~~ (2) the market value of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, *and (3) the market value of transmission lines deducted from a city's total net tax capacity under section 273.425.* The net tax capacity will be computed using equalized market values.

Sec. 6. Minnesota Statutes 1988, section 477A.011, is amended by adding a subdivision to read:

Subd. 25. [NET TAX CAPACITY.] *"Net tax capacity" means for aids payable under section 477A.013, subdivision 5, the net tax capacity of a city computed using the net tax capacity rates in Minnesota Statutes 1988, section 273.13, and based on 1988 estimated market values. The market value utilized in computing net tax capacity shall be reduced by the sum of (1) a city's market value of commercial industrial property as defined in section 473F.02, subdivision 3, multiplied by the ratio determined pursuant to section 473F.08, subdivision 2, paragraph (a), (2) the market value of the captured value of tax increment financing districts as defined in section 469.177, subdivision 2, and (3) the market value of transmission lines deducted from a city's total net tax capacity under section 273.425. The net tax capacity will be computed using equalized market values.*

Sec. 7. Minnesota Statutes 1988, section 477A.013, subdivision 1, is

amended to read:

Subdivision 1. [TOWNS.] ~~In calendar year 1988, each town which had levied for taxes payable in the previous year at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to the greater of: (a) 60 percent of the amount received in 1983 pursuant to Minnesota Statutes 1982, sections 273.138, 273.139, and 477A.011 to 477A.03; or (b) the amount certified in 1987 pursuant to sections 477A.011 to 477A.03.~~ In calendar year 1989, each town that had levied for taxes payable in 1988 at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to 106 percent of the distribution received under Minnesota Statutes 1987 Supplement, section 477A.013, subdivision 1, in 1988. In calendar year 1990 and subsequent years, each town that had levied for taxes payable in the prior year a tax capacity rate of at least .0125 shall receive a distribution equal to *106 percent of* the amount received in 1989 under this subdivision.

Sec. 8. Minnesota Statutes 1988, section 477A.013, subdivision 3, is amended to read:

Subd. 3. [CITY AID DISTRIBUTION.] In 1989, a city whose initial aid is greater than $0 will receive the following aid increases in addition to an amount equal to the local government aid it received in 1988 under Minnesota Statutes 1987 Supplement, section 477A.013:

(1) for a city whose expenditure/unlimited aid ratio is at least 1.5, two percent of city revenue;

(2) for a city whose expenditure/unlimited aid ratio is at least 1.4 but less than 1.5, 2.5 percent of city revenue;

(3) for a city whose expenditure/unlimited aid ratio is at least 1.3 but less than 1.4, three percent of city revenue;

(4) for a city whose expenditure/unlimited aid ratio is at least 1.2 but less than 1.3, four percent of city revenue;

(5) for a city whose expenditure/unlimited aid ratio is at least 1.1 but less than 1.2, five percent of city revenue;

(6) for a city whose expenditure/unlimited aid ratio is at least 1.05 but less than 1.1, six percent of city revenue;

(7) for a city whose expenditure/unlimited aid ratio is at least 1.0 but less than 1.05, seven percent of city revenue;

(8) for a city whose expenditure/unlimited aid ratio is at least .95 but less than 1.0, 7.5 percent of city revenue;

(9) for a city whose expenditure/unlimited aid ratio is at least .75 but less than .95, 8.5 percent of city revenue; and

(10) for a city whose expenditure/unlimited aid ratio is less than .75, nine percent of city revenue.

In 1990 and subsequent years, a city whose initial aid is greater than $0 will receive an amount equal to the aid it received under this ~~subdivision and subdivision 4~~ *section* in the year prior to that for which aids are being calculated plus an aid increase equal to 50 percent of the rates listed in clauses (1) to (10) multiplied by city revenue.

A city's aid increase under this subdivision is limited to the lesser of (1)

20 percent of its levy for taxes payable in the year prior to that for which aids are being calculated after the adjustments provided in section 273.1398, subdivision 2, or (2) its initial aid amount, *or (3) 15 percent of the total amount received under this section in the previous year,* provided that no city will receive an increase that is less than two percent of its ~~1988~~ *1989* local government aid for aids payable in ~~1989~~ *1990*.

A city whose initial aid is $0 will receive in ~~1989~~ *1990* an amount equal to 102 percent of the local government aid it received in ~~1988~~ *1989* under Minnesota Statutes ~~1987 Supplement~~ *1988*, section 477A.013. A city whose initial aid is $0 will receive in ~~1990~~ *1991* and subsequent years an amount equal to the aid it received in the previous year under this ~~subdivision and subdivision~~ 4 *section. For purposes of this subdivision the term "local government aid" includes equalization aid for aids payable in 1991 and thereafter.*

Sec. 9. Minnesota Statutes 1988, section 477A.013, is amended by adding a subdivision to read:

Subd. 5. [EQUALIZATION AID.] *A city is eligible for equalization aid in 1990 only. The amount of the aid is equal to (1) the product of (i) a city's average levy for the three immediately preceding years less the disparity reduction aids allocated to the city pursuant to Minnesota Statutes 1988, section 273.1398, subdivision 3, (ii) .36, and (iii) one minus the ratio of the net tax capacity per capita to 900; less (2) the local government aid increase for the city under subdivision 3. The aid under this section is limited to 15 percent of the total local government aid the city received in 1989. The aid under this section cannot be less than zero. For the purposes of this subdivision "levy" includes a city's levy on fiscal disparities distribution under section 473F.08, subdivision 3, paragraph (a).*

Sec. 10. [REPEALER.]

Minnesota Statutes 1988, sections 477A.011, subdivision 24, and 477A.013, subdivision 4, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 and 2 are effective for taxes levied in 1989 and thereafter, payable in 1990, and thereafter. Sections 3 to 9 are effective for local government aid paid in 1990.

ARTICLE 7

INSURANCE PREMIUMS AND SALES TAXES

Section 1. Minnesota Statutes 1988, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES.] (a) On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies and domestic mutual insurance companies, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. ~~For insurers other than town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) principally writing workers' compensation insurance, (ii) writing life insurance, or (iii) whose total assets at the end of the preceding calendar year exceed $1,600,000,000~~ *Except as provided in paragraph (b),* installments must be based on a sum equal to two percent

of the premiums described in paragraph ~~(b)~~ *(c)*.

(b) For town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) ~~principally writing workers' compensation insurance,~~ ~~(ii)~~ writing life insurance, or ~~(iii)~~ *(ii)* whose total assets at the end of the preceding calendar year exceed $1,600,000,000, the installments must be based on an amount equal to the following percentages of the premiums described in paragraph ~~(b)~~ *(c)*:

~~(1) for premiums paid after December 31, 1987, and before January 1, 1989, 1.5 percent;~~

~~(2)~~ for premiums paid after December 31, 1988, and before January 1, 1992, one percent; and

~~(3)~~ *(2)* for premiums paid after December 31, 1991, one-half of one percent.

~~(b)~~ *(c)* Installments under paragraph (a) *or (b)* are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6.

~~(c)~~ *(d)* Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section.

Sec. 2. Minnesota Statutes 1988, section 270.77, is amended to read:

270.77 [SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.]

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner, *except a tax imposed under chapter 297A*.

There must be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) $10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) $5,000 in the case of any other taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer

acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 3. Minnesota Statutes 1988, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals or drinks, not including meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges. "Sales" also includes meals furnished by employers to employees at less than fair market value, except meals furnished at no charge to employees of hospitals, nursing homes, boarding care homes, sanitariums, group homes, and correctional, detention, and detoxification facilities, who are required to eat with the patients, residents, or inmates residing in them. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

(vi) gum;

(vii) ice;

(viii) all food sold in vending machines;

(ix) party trays prepared by the retailers; and

(x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, massage parlors, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. *The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause.* Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;

(g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;

(h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association;

(i) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(j) The furnishing for a consideration of services listed in this paragraph:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin-operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) services provided by detective agencies, security services, burglar, fire alarm, and armored car services not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1;

(v) pet grooming services; and

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; arborist services; tree, bush, and shrub planting, pruning, bracing, spraying, and surgery; and tree trimming for

public utility lines.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as a member of an affiliated group under United States Code, title 26, section 1504, and who are eligible to file a consolidated tax return for federal income tax purposes;

(k) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equipment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(l) The granting of membership in a club, association, or other organization if:

(1) the club, association, or other organization makes available for the use of its members sports and athletic facilities (without regard to whether a separate charge is assessed for use of the facilities); and

(2) use of the sports and athletic facilities is not made available to the general public on the same basis as it is made available to members.

Granting of membership includes both one-time initiation fees and periodic membership dues. Sports and athletic facilities include golf courses, tennis, racquetball, handball and squash courts, basketball and volleyball facilities, running tracks, exercise equipment, swimming pools, and other similar athletic or sports facilities. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1986, for educational and social activities for young people primarily age 18 and under.

Sec. 4. Minnesota Statutes 1988, section 297A.02, subdivision 2, is amended to read:

Subd. 2. [MACHINERY AND EQUIPMENT.] Notwithstanding the provisions of subdivision 1, the rate of the excise tax imposed upon sales of special tooling, ~~and capital equipment~~ is four percent, *and upon sales of capital equipment is three percent,* and upon sales of farm machinery is two percent.

Sec. 5. Minnesota Statutes 1988, section 297A.25, subdivision 3, is amended to read:

Subd. 3. [MEDICINES; MEDICAL DEVICES.] The gross receipts from the sale of prescribed drugs, prescribed medicine and insulin, intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings are exempt, together with prescription glasses, therapeutic, and prosthetic devices. "Prescribed drugs" or "prescribed medicine" includes over-the-counter drugs or medicine prescribed by a licensed physician. *"Therapeutic devices" includes reusable finger pricking devices for the extraction of blood and blood glucose monitoring machines used in the treatment of diabetes.* Nonprescription analgesics consisting principally (determined by the weight of all ingredients) of acetaminophen, acetylsalicylic acid, ibuprofen, or a combination thereof are exempt.

Sec. 6. Minnesota Statutes 1988, section 297A.257, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION OF DISTRESSED COUNTIES.] (a) The commissioner of trade and economic development shall annually on June 1 designate those counties which are distressed. A county is distressed if it satisfies at least one of the following criteria:

(1) the county has an average unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; or

(2) the unemployment rate for the entire county was greater than 110 percent of the state average for the 12-month period ending the previous April 30, and 20 percent or more of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture; or

(3) for counties designated for periods beginning after June 30, 1986, but before July 1, 1988, at least 20 percent of the county's economy, as determined by the commissioner of jobs and training, is dependent upon agriculture and the total market value of real and personal property for the entire county for taxes payable in 1986, as determined by the commissioner of revenue, has decreased by at least 22 percent from the total market value of real and personal property for the entire county for taxes payable in 1984.

If, as a result of a plant closing, layoffs, or another similar event affecting a significant number of employees in the county, the commissioner has reason to believe that the average unemployment in the county will exceed ten percent during the one-year period beginning April 30, the commissioner may designate the county as distressed, notwithstanding clause (1).

(b) The commissioner shall designate a portion of a county containing a city of the first class located outside of the metropolitan area as a distressed county if:

(1) that portion of the county has an unemployment rate of ten percent or more for the one-year period ending on April 30 of the year in which the designation is made; and

(2) that portion of the county has a population of at least 50,000 as determined by the 1980 federal census.

(c) A county or the portion of a county designated pursuant to this subdivision shall be considered a distressed county for purposes of this section and chapter 116M.

(d) Except as otherwise specifically provided, the determination of whether a county is distressed must be made using the most current data available from the state demographer. The designation of a distressed county is effective for the 12-month period beginning July 1, *except that a designation made June 1, 1988 shall remain in effect until December 31, 1989 with respect to equipment placed in service by December 31, 1989.* A county may be designated as distressed as often as it qualifies.

(e) The authority to designate counties as distressed expires on June 30, ~~1989~~ *1988.*

Sec. 7. Minnesota Statutes 1988, section 297A.257, is amended by adding a subdivision to read:

Subd. 4. [CONTINUED EXEMPTION.] *The exemptions provided under subdivisions 2 and 2a apply to capital equipment and construction materials and supplies purchased by a person, partnership, or corporation in connection with the expansion of a major manufacturing facility in any county that was designated as a distressed county under subdivision 1 for any year from 1985 through 1989. For the purposes of this subdivision, "expansion of a major manufacturing facility" means an expansion of an existing manufacturing facility requiring at least $100,000,000 of capital investment over a three-year period. To qualify for the exemption under this subdivision, contracts for purchase of the capital equipment and the construction materials and supplies must be executed by June 30, 1992.*

Sec. 8. [297A.259] [LOTTERY TICKETS; IN LIEU TAX.]

Sales of state lottery tickets are exempt from the tax imposed under section 297A.02. The state agency responsible for operating a state lottery must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the tax rate under section 297A.02, subdivision 1. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the moneys transmitted in the general fund as provided by section 297A.44 and the moneys must be treated as other proceeds of the sales tax. Gross receipts for purposes of this section mean the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.

Sec. 9. Minnesota Statutes 1988, section 297A.39, is amended by adding a subdivision to read:

Subd. 9. [INTENTIONAL DISREGARD OF LAW OR RULES.] *If any part of any underpayment resulting from an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The penalty imposed by this subdivision must be collected as part of the tax and is in addition to any other penalties provided by this chapter. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.*

Sec. 10. [REFUND ON ACCESS CHARGES.]

All persons, other than persons in the business of providing telecommunications services, who purchased telecommunications services from a

long distance carrier and who on January 1, 1988, utilized customer provided access for such long distance telecommunication services but who were directly or indirectly billed by the long distance carrier a surcharge, reflecting the tax on long distance access charges under Minnesota Statutes, section 295.34, subdivision 1, are entitled to a refund of all such amounts. The refund claim shall be filed at the end of each calendar year with the commissioner of revenue and shall set forth the basis for the refund and the amount to be refunded. The money necessary to pay the refunds is hereby appropriated to the commissioner out of the general fund. This section is effective for all amounts paid in calendar year 1989.

Sec. 11. [EFFECTIVE DATE.]

Section 1 is effective for premiums paid after December 31, 1988. Sections 2 and 9 are effective for penalties imposed after June 30, 1989. Sections 3 to 5 and 7 are effective for sales after June 30, 1989, provided that section 4 does not apply to sales made under bona fide contracts that were enforceable before July 1, 1989, if delivery is made before January 1, 1990.

Section 6 is effective the day following final enactment.

ARTICLE 8

LAWFUL GAMBLING TAX

Section 1. Minnesota Statutes 1988, section 349.12, subdivision 11, is amended to read:

Subd. 11. [LAWFUL PURPOSE.] *(a)* "Lawful purpose" means one or more of the following: ~~(a)~~

(1) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; ~~(b)~~

(2) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; ~~(c)~~

(3) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; ~~or~~ ~~(d)~~

(4) payment of *local* taxes ~~imposed~~ *authorized* under this chapter, and ~~other~~ taxes imposed by ~~the~~ ~~state~~ ~~or~~ the United States on receipts from lawful gambling*;*

(5) payment of real estate taxes and assessments on licensed gambling premises wholly owned by the licensed organization; or

(6) if approved by the board, construction, improvement, expansion, maintenance, and repair of athletic fields and outdoor ice rinks and their appurtenances, owned by the organization or a public agency.

(b) "Lawful purpose" does not include the erection, acquisition, improvement, expansion, repair, or maintenance of any real property owned or leased by ~~the~~ *an* organization, unless the board *has first* specifically ~~authorizes~~ *authorized* the expenditures after finding*:*

(1) that the property will be used exclusively for one or more of the purposes specified in *paragraph (a)*, clauses ~~(a)~~ *(1)* to ~~(c)~~ *(3)*; *or*

(2) with respect to expenditures for repair or maintenance only, that the property is or will be used as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; or

(3) with respect to expenditures for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance. The board ~~may~~ *shall* by rule adopt procedures and standards to administer this subdivision.

Sec. 2. Minnesota Statutes 1988, section 349.12, subdivision 13, is amended to read:

Subd. 13. [GROSS PROFIT.] "*Gross* profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes *and less the tax imposed by section 349.212*.

Sec. 3. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 21. [GROSS RECEIPTS.] *"Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:*

(1) gross sales of pull-tab and tipboard tickets or cards before reduction for prizes, expenses, or any other charges or offsets;

(2) gross sales of raffle tickets before reduction for prizes, expenses, or any other charges or offsets;

(3) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(4) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3, for duly licensed bingo hall lessors.

Sec. 4. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 22. [FISCAL YEAR.] *"Fiscal year" means the period from July 1 to June 30.*

Sec. 5. Minnesota Statutes 1988, section 349.15, is amended to read:

349.15 [USE OF PROFITS.]

Profits from lawful gambling may be expended only for lawful purposes or *allowable* expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 55 percent of ~~profits~~ *the gross profit* from bingo, and no more than ~~45~~ *50* percent ~~for~~ *of the gross profit from* other forms of lawful gambling, may be expended for ~~necessary~~ *allowable* expenses related to lawful gambling.

The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense from the gross receipts from lawful gambling. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross receipts which may be expended for certain expenses.

Sec. 6. Minnesota Statutes 1988, section 349.16, is amended by adding a subdivision to read:

Subd. 1a. [RESTRICTIONS ON LICENSE ISSUANCE.] *On and after July 1, 1989, the board shall not issue an initial license to any organization if the board, in consultation with the department of revenue, determines that the organization is seeking licensing for the primary purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.*

Sec. 7. Minnesota Statutes 1988, section 349.161, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.] No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt from licensing under section 349.214, except to an organization licensed for lawful gambling; ~~or~~

(2) sell, offer for sale, or furnish gambling equipment to an organization licensed for lawful gambling without having obtained a distributor license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.

Sec. 8. Minnesota Statutes 1988, section 349.163, subdivision 3, is amended to read:

Subd. 3. [PROHIBITED SALES.] A manufacturer may not:

(1) sell gambling equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; *or*

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use in this state.

Sec. 9. Minnesota Statutes 1988, section 349.19, subdivision 6, is amended to read:

Subd. 6. [PRESERVATION OF RECORDS.] ~~The board may require that~~

Records required to be kept by this section must be preserved by a licensed organization for at least ~~two~~ *3-1/2* years and may be inspected by ~~employees of~~ the ~~board~~ *commissioner of revenue* at any reasonable time without notice or a search warrant.

Sec. 10. Minnesota Statutes 1988, section 349.212, subdivision 1, is amended to read:

Subdivision 1. [~~RATE~~ *IMPOSITION.*] There is hereby imposed a tax on all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, ~~and~~ (2) tipboards purchased and placed into inventory after June 30, 1988, ~~conducted by organizations licensed by the board~~ *and (3) bingo* at the rate ~~specified in this subdivision~~ *of two percent of actual gross receipts. A tax is imposed at the rate of ten percent on the gross revenues of a licensed organization from bingo less prizes actually paid.* The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

~~On all lawful gambling, other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988,~~ The tax *imposed under this subdivision* is ~~ten percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out,~~ payable by the organization *or party conducting, directly or indirectly, the gambling.*

Sec. 11. Minnesota Statutes 1988, section 349.212, subdivision 2, is amended to read:

Subd. 2. [COLLECTION; DISPOSITION.] The ~~tax must be paid to the board at times and in a manner the board prescribes by rule~~ *taxes imposed by this section are due and payable to the commissioner of revenue at the time when the gambling tax return is required to be filed. Returns covering the taxes imposed under this section must be filed with the commissioner of revenue on or before the 20th day of the month following the close of the previous calendar month.* The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.21 and 349.211, 349.212, and 349.213, must be paid to the state treasurer for deposit in the general fund.

Sec. 12. Minnesota Statutes 1988, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB AND TIPBOARD TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs and tipboards sold by a licensed distributor ~~to a licensed organization, or to an organization holding an exemption identification number~~. The rate of the tax is ~~ten~~ *two* percent of the ideal ~~net~~ *gross* of the pull-tab ~~and~~ *or* tipboard deal. ~~The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund.~~ The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the licensed distributor ~~to an organization~~ is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards ~~by the organization~~ is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the ~~licensed or exempt organization~~ *customer*, to a common or contract carrier for delivery to the ~~organization~~ *customer*, or when received by the ~~organization's~~ *customer's* authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under this chapter;

(3) sales to distributors licensed under the laws of another state or of a Province of Canada, as long as all statutory and regulatory requirements are met in the other state or province; and

(4) sales of promotional tickets as defined in section 349.12.

(c) ~~The exemptions contained in section 349.214, subdivision 2, paragraph (b), do not apply to the tax imposed in this subdivision.~~ *Pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.214, subdivision 2, paragraph (b), are exempt from the tax imposed by this subdivision. A distributor must require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to such an organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.*

Sec. 13. Minnesota Statutes 1988, section 349.212, is amended by adding a subdivision to read:

Subd. 6. [COMBINED RECEIPTS TAX.] *In addition to the taxes imposed under subdivisions 1 and 4, there is imposed a tax on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling other than bingo for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:*

If the combined receipts for the fiscal year are:	*The tax is:*
Not over $500,000	*zero*
Over $500,000 but not over $700,000	*two percent of the amount over $500,000 but not over $700,000*
Over $700,000 but not over $900,000	*$4,000 plus four percent of the amount over $700,000 but not over $900,000*
Over $900,000	*$12,000 plus six percent of the amount over $900,000*

Sec. 14. Minnesota Statutes 1988, section 349.214, subdivision 2, is amended to read:

Subd. 2. [LAWFUL GAMBLING.] (a) Raffles may be conducted by an organization ~~as defined in section 349.12, subdivision 12,~~ without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed $750.

(b) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.212 if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a $250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

(d) Merchandise prizes must be valued at their fair market value.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 349.212, subdivision 4, paragraph (c), must return to the distributor tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

Sec. 15. [349.215] [EXAMINATIONS.]

Subdivision 1. [EXAMINATION OF TAXPAYER.] *To determine the accuracy of a return or report, or in fixing liability under this chapter, the commissioner of revenue may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.*

Subd. 2. [ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER.] *When conducting an investigation or an audit of a taxpayer, the commissioner of revenue may examine, except where privileged by law, the relevant records and files of a person, business, institution, financial institution, state agency, agency of the United States government, or agency of another state where permitted*

by statute, agreement, or reciprocity. The commissioner of revenue may compel production of these records by subpoena. A subpoena may be served directly by the commissioner of revenue.

Subd. 3. [POWER TO COMPEL TESTIMONY.] *In the administration of this chapter, the commissioner of revenue may:*

(1) Administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data.

(2) Examine under oath or affirmation any person regarding the business of a taxpayer concerning a matter relevant to the administration of this chapter. The fees of witnesses required by the commissioner of revenue to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law.

(3) In addition to other remedies available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state shall have jurisdiction over the action and disobedience of an injunction issued under this clause shall be punished as a contempt of district court.

Subd. 4. [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN.] *An investigation may extend to any person that the commissioner of revenue determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records under subdivision 2 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner of revenue.*

Subd. 5. [THIRD PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN.] *A subpoena that does not identify the person or persons whose tax liability is being investigated may be served only if:*

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with tax laws administered by the commissioner of revenue;

(3) the subpoena is clear and specific concerning information sought to be obtained; and

(4) the information sought to be obtained is limited solely to the scope of the investigation.

A party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within three days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination whether the commissioner of revenue has complied with all the requirements in clauses (1) to (4), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the

subpoena has the effect of a court order.

Subd. 6. [REQUEST BY TAXPAYER FOR SUBPOENA.] *When the commissioner of revenue has the power to issue a subpoena for investigative or auditing purposes, then the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf, if in connection with the investigation or audit.*

Subd. 7. [APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.] *The commissioner of revenue or the taxpayer may apply to the district court of the county of the taxpayer's residence, place of business, or county where the subpoena can be served as with any other case at law, for any order compelling the appearance of the subpoenaed witness or the production of the subpoenaed records. Failure to comply with the order of the court for the appearance of a witness or the production of records may be punished by the court as for contempt.*

Subd. 8. [COST OF PRODUCTION OF RECORDS.] *The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner of revenue. In other cases where the taxpayer is unable to produce records and the commissioner of revenue then initiates a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner of revenue may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.*

Sec. 16. [349.2151] [ASSESSMENTS.]

Subdivision 1. [GENERALLY.] *The commissioner of revenue shall make determinations, corrections, and assessments with respect to taxes (including interest, additions to taxes, and assessable penalties) imposed under this chapter.*

Subd. 2. [COMMISSIONER OF REVENUE FILED RETURNS.] *If a taxpayer fails to file a return required by this chapter, the commissioner of revenue may make a return for the taxpayer from information in the commissioner's possession or obtainable by the commissioner. The return is prima facie correct and valid.*

Subd. 3. [ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER.] *(a) When a return has been filed and the commissioner of revenue determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An assessment by the commissioner of revenue must be made by recording the liability of the taxpayer in the office of the commissioner of revenue, which may be done by keeping a copy of the order of assessment sent to the taxpayer. An order of assessment is final when made but may be reconsidered by the commissioner under section 349.219.*

(b) The amount of unpaid tax shown on the order must be paid to the commissioner of revenue: (1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner of revenue; or (2) if an administrative appeal is filed under section 349.219 within 60 days following the determination or compromise of the appeal.

Subd. 4. [ERRONEOUS REFUNDS.] *An erroneous refund is considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.*

Subd. 5. [ASSESSMENT PRESUMED VALID.] *A return or assessment made by the commissioner of revenue is prima facie correct and valid. The taxpayer has the burden of establishing the incorrectness or invalidity of the return or assessment in any action or proceeding in respect to it.*

Subd. 6. [AGGREGATE REFUND OR ASSESSMENT.] *On examining returns of a taxpayer for more than one year or period, the commissioner of revenue may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.*

Subd. 7. [SUFFICIENCY OF NOTICE.] *An order of assessment sent by United States mail, postage prepaid to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.*

Sec. 17. [349.2152] [EXTENSIONS FOR FILING RETURNS AND PAYING TAXES.]

When, in the commissioner of revenue's judgment, good cause exists, the commissioner may extend the time for filing tax returns and/or paying taxes for not more than six months.

Sec. 18. [349.216] [LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.]

Subdivision 1. [GENERAL RULE.] *Except as otherwise provided in this chapter, the amount of taxes assessable must be assessed within 3-1/2 years after the return is filed (whether or not the return is filed on or after the date prescribed). A return must not be treated as filed until it is in processible form. A return is in processible form when it is filed on a permitted form and contains sufficient data to identify the taxpayer and permit the mathematical verification of the tax liability shown on the return.*

Subd. 2. [FALSE OR FRAUDULENT RETURN.] *Notwithstanding subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or if a taxpayer fails to file a return.*

Subd. 3. [OMISSION IN EXCESS OF 25 PERCENT.] *Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if the taxpayer omits from a tax return taxes in excess of 25 percent of the taxes reported in the return.*

Subd. 4. [TIME LIMIT FOR REFUNDS.] *Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or two years from the time the tax is paid, whichever period expires later. Interest on refunds must be computed at the rate specified in section 270.76 from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.*

Subd. 5. [BANKRUPTCY; SUSPENSION OF TIME.] *The time during which a tax must be assessed or collection proceedings begun is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either: (1) notice to the commissioner of revenue that the bankruptcy proceedings have been closed or dismissed, or (2) the automatic stay has been ended or has expired, whichever occurs first.*

The suspension of the statute of limitations under this section applies to the person the petition in bankruptcy is filed against, and all other persons who may also be wholly or partially liable for the tax.

Subd. 6. [EXTENSION AGREEMENT.] *If before the expiration of time prescribed in subdivisions 1 and 4 for the assessment of tax or the filing of a claim for refund, both the commissioner of revenue and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.*

Sec. 19. [349.217] [CIVIL PENALTIES.]

Subdivision 1. [PENALTY FOR FAILURE TO PAY TAX.] *If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is three percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 24 percent in the aggregate.*

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. [PENALTY FOR FAILURE TO MAKE AND FILE RETURN.] *If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days, during which the failure continues, not exceeding 23 percent in the aggregate.*

If a taxpayer fails to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must be at least the lesser of: (1) $200; or (2) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (b) $50.

Subd. 3. [COMBINED PENALTIES.] *When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.*

Subd. 4. [PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES.] *If part of an additional assessment is due to negligence or intentional disregard of the provisions of the applicable chapters of rules of the commissioner of revenue (but without intent to defraud), there is added to*

the tax an amount equal to ten percent of the additional assessment.

Subd. 5. [PENALTY FOR FALSE OR FRAUDULENT RETURN; EVASION.] *If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.*

Subd. 6. [PENALTY FOR SALES AFTER REVOCATION, SUSPENSION, OR EXPIRATION.] *A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of $1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.*

Subd. 7. [PAYMENT OF PENALTIES.] *The penalties imposed by this section must be collected and paid in the same manner as taxes.*

Subd. 8. [PENALTIES ARE ADDITIONAL.] *The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.*

Subd. 9. [ORDER PAYMENTS CREDITED.] *All payments received may be credited first to the oldest liability not secured by a judgment or lien in the discretion of the commissioner of revenue, but in all cases must be credited first to penalties, next to interest, and then to the tax due.*

Sec. 20. [349.2171] [TAX-RELATED CRIMINAL PENALTIES.]

Subdivision 1. [PENALTY FOR FAILURE TO FILE OR PAY.] *(a) A person required to file a return, report, or other document with the commissioner of revenue, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.*

(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required, is guilty of a felony.

Subd. 2. [FALSE OR FRAUDULENT RETURNS; PENALTIES.] *(a) A person required to file a return, report, or other document with the commissioner of revenue, who delivers to the commissioner of revenue a return, report, or other document known by the person to be fraudulent or false concerning a material matter, is guilty of a felony.*

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. [SALES WITHOUT PERMIT; VIOLATIONS.] *(a) A person who engages in the business of selling pull-tabs or tipboards in Minnesota without the licenses or permits required under this chapter, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.*

(b) A person selling gambling equipment in Minnesota after revocation of a license or permit under this chapter, when the commissioner of revenue or the board has not issued a new license or permit, is guilty of a felony.

Subd. 4. [CRIMINAL PENALTIES.] *Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.*

Subd. 5. [STATUTE OF LIMITATIONS.] *Notwithstanding section 628.26, or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this section, in the proper court within six years after the offense is committed.*

Sec. 21. [349.218] [INTEREST.]

Subdivision 1. [INTEREST RATE.] *When an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.*

Subd. 2. [LATE PAYMENT.] *If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.*

Subd. 3. [EXTENSIONS.] *If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.*

Subd. 4. [ADDITIONAL ASSESSMENTS.] *If a taxpayer is liable for additional taxes because of a redetermination by the commissioner of revenue, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.*

Subd. 5. [ERRONEOUS REFUNDS.] *In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.*

Subd. 6. [INTEREST ON JUDGMENTS.] *Notwithstanding section 549.09, if judgment is entered in favor of the commissioner of revenue with regard to any tax, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.*

Subd. 7. [INTEREST ON PENALTIES.] *(a) A penalty imposed under section 349.217, subdivision 1, 2, 3, 4, or 5 bears interest from the date the return or payment was required to be filed or paid (including any extensions) to the date of payment of the penalty.*

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

Sec. 22. [349.219] [ADMINISTRATIVE REVIEW.]

Subdivision 1. [TAXPAYER RIGHT TO RECONSIDERATION.] *A taxpayer may obtain reconsideration by the commissioner of revenue of an order assessing tax, a denial of a request for abatement of penalty assessed*

under section 349.152, subdivision 1, clause (5), or 349.217, or a denial of a claim for refund of money paid to the commissioner of revenue under provisions, assessments, or orders under this chapter by filing an administrative appeal as provided in subdivision 4. A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.

Subd. 2. [APPEAL BY TAXPAYER.] *A taxpayer who wishes to seek administrative review must follow the procedure provided by subdivision 4.*

Subd. 3. [NOTICE DATE.] *For purposes of this section the term "notice date" means the date of the order adjusting the tax or order denying a request for abatement, or, in the case of a denied refund, the date of the notice of denial.*

Subd. 4. [TIME AND CONTENT FOR ADMINISTRATIVE APPEAL.] *Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner of revenue. The appeal need not be in any particular form but must contain the following information:*

(1) name and address of the taxpayer;

(2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;

(3) the Minnesota identification number or social security number of the taxpayer;

(4) the type of tax involved;

(5) the date;

(6) the tax years or periods involved and the amount of tax involved for each year or period;

(7) the findings in the notice that the taxpayer disputes;

(8) a summary statement that the taxpayer relies on for each exception; and

(9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. [EXTENSIONS.] *When requested in writing and within the time allowed for filing an administrative appeal, the commissioner of revenue may extend the time for filing an appeal for a period not to exceed 30 days from the expiration of the 60 days from the notice date.*

Subd. 6. [AUTOMATIC EXTENSION OF STATUTE OF LIMITATIONS.] *Notwithstanding any statute of limitations to the contrary, when the commissioner of revenue has made a determination and the taxpayer has authority to file an administrative appeal, the period during which the commissioner can make further assessments or other determinations does not expire before:*

(1) 90 days after the notice date if no protest is filed under subdivision 4; or

(2) 90 days after the commissioner of revenue notifies the taxpayer of the determination on the appeal.

Subd. 7. [DETERMINATION OF APPEAL.] *On the basis of applicable*

law and available information, the commissioner of revenue shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

Subd. 8. [AGREEMENT DETERMINING TAX LIABILITY.] *When it appears to be in the best interests of the state, the commissioner of revenue may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner of revenue and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. An agreement must be filed in the office of the commissioner of revenue.*

Subd. 9. [APPEAL OF AN ADMINISTRATIVE APPEAL.] *Following the determination or settlement of an appeal, the commissioner of revenue must issue an order reflecting that disposition. Except in the case of an agreement determining tax under this section, the order is appealable to the Minnesota tax court under section 271.06.*

Subd. 10. [APPEAL WHERE NO DETERMINATION.] *If the commissioner of revenue does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.*

Subd. 11. [EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.] *This section is not subject to chapter 14.*

Sec. 23. [STATE TO BE SUPPLIER OF GAMBLING EQUIPMENT.]

Notwithstanding any other law to the contrary, after June 30, 1990, the state of Minnesota will be the sole supplier of all gambling equipment under Minnesota Statutes, chapter 349. The commissioner of revenue shall no later than January 15, 1990, submit to the legislature a bill making all statutory changes required to implement this section including proposing the required staff and appropriation. The bill shall include provisions requiring the state to provide an adequate supply and variety of gambling equipment and to supply it efficiently. The commissioner of revenue shall provide copies of this bill to the chair of the house of representatives tax committee and to the chair of the senate committee on taxes and tax laws.

Sec. 24. [INSTRUCTION TO THE REVISOR.]

The revisor of statutes is directed to change the words "charitable gambling" wherever they appear in Minnesota Statutes to "lawful gambling" in Minnesota Statutes 1990 and subsequent editions of the statutes.

Sec. 25. [REPEALER.]

Minnesota Statutes 1988, section 349.2121, subdivision 4, is repealed.

Sec. 26. [EFFECTIVE DATE.]

Sections 1 to 14 and 25 are effective July 1, 1989.

Section 19 is effective for tax or reporting periods beginning on or after July 1, 1989.

Sections 15 to 18, 21, and 22 are effective for returns and reports becoming due on or after July 1, 1989.

Section 20 is effective for violations occurring on or after July 1, 1989.

ARTICLE 9

TAX INCREMENT FINANCING

Section 1. Minnesota Statutes 1988, section 469.174, subdivision 7, is amended to read:

Subd. 7. [ORIGINAL GROSS TAX CAPACITY.] (a) Except as provided in paragraph (b), "original gross tax capacity" means the gross tax capacity of all taxable real property within a tax increment financing district as most recently certified by the commissioner of revenue as of the date of the request by an authority for certification by the county auditor, together with subsequent adjustments as set forth in section 469.177, subdivisions 1 and 4. In determining the original gross tax capacity the gross tax capacity of real property exempt from taxation at the time of the request shall be zero, except for real property which is tax exempt by reason of public ownership by the requesting authority and which has been publicly owned for less than one year prior to the date of the request for certification, in which event the gross tax capacity of the property shall be the gross tax capacity as most recently determined by the commissioner of revenue.

(b) The original gross tax capacity of any designated hazardous substance site or hazardous substance subdistrict shall be determined ~~on January 2 following~~ *as of* the date the ~~agency or municipality~~ *authority* certifies to the county auditor that the agency or municipality has entered a redevelopment or other agreement for the removal actions or remedial actions specified in a development response action plan, or otherwise provided funds to finance the development response action plan. The original gross tax capacity equals (i) the gross tax capacity of the parcel *or parcels in the site or subdistrict*, as most recently determined by the commissioner of revenue, less (ii) the estimated ~~reasonable and necessary~~ costs of the removal actions and remedial actions as specified in a development response action plan to be undertaken with respect to the parcel ~~as certified to the county auditor by the municipality or agency~~ *or parcels*, (iii) but not less than zero.

(c) The original gross tax capacity of a hazardous substance site or subdistrict shall be increased by the amount by which it was reduced pursuant to paragraph (b), clause (ii), upon certification by the municipality that the *cost of the* removal and remedial actions specified in the development response action plan, except for long-term monitoring and similar activities, have been ~~completed~~ *paid or reimbursed*.

(d) For purposes of this subdivision, "real property" shall include any property normally taxable as personal property by reason of its location on or over publicly owned property.

Sec. 2. Minnesota Statutes 1988, section 469.174, subdivision 10, is amended to read:

Subd. 10. [REDEVELOPMENT DISTRICT.] (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one of the following conditions, reasonably distributed throughout the district, exists:

(1) *parcels consisting of* 70 percent of the ~~parcels in~~ *area of* the district are occupied by buildings, streets, utilities, or other improvements and

more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) *parcels consisting of* 70 percent of the ~~parcels in~~ *area of* the district are occupied by buildings, streets, utilities, or other improvements and 20 percent of the buildings are structurally substandard and an additional 30 percent of the buildings are found to require substantial renovation or clearance in order to remove such existing conditions as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvement or conversion, or other identified hazards to the health, safety, and general well-being of the community; or

~~(3) the property consists of underutilized air rights existing over a public street, highway, or right-of-way; or~~

~~(4)~~ the property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way; ~~or~~

~~(5) the district consists of an existing or proposed industrial park no greater in size than 250 acres, which contains a sewage lagoon contaminated with polychlorinated biphenyls~~.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

(c) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, or other improvements unless 15 percent of the area of the parcel contains improvements.

(d) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a), clauses (1) to (3), to be included in the district, and the entire area of the district must satisfy paragraph (a).

Sec. 3. Minnesota Statutes 1988, section 469.174, subdivision 16, is amended to read:

Subd. 16. [DESIGNATED HAZARDOUS SUBSTANCE SITE.] "Designated hazardous substance site" means any parcel or parcels with respect to which the authority ~~or municipality~~ has certified to the county auditor that the authority ~~or municipality~~ has entered into a redevelopment or other agreement providing for the removal actions or remedial actions specified in a development response action plan or the ~~municipality or~~ authority will use other available money, including without limitation tax increments, to finance the removal or remedial actions. *A parcel described in the plan or plan amendment may be designated for inclusion in the hazardous substance subdistrict prior to approval of the development action response plan on the basis of the reasonable expectation of the municipality. Such parcel may not be certified as part of the subdistrict until the development action response plan has been approved.*

Sec. 4. Minnesota Statutes 1988, section 469.174, subdivision 17, is amended to read:

Subd. 17. [DEVELOPMENT ACTION RESPONSE PLAN.] "Development action response plan" means a plan or proposal for removal actions or remedial actions if the plan or proposal is submitted to the pollution control agency and the actions ~~contained~~ *recommended* in the plan or proposal are approved in writing by the commissioner of the agency as reasonable and necessary to protect the public health, welfare, and environment. *The commissioner shall review the development action response plan and approve, modify or reject the recommended actions within 60 days after submission of the plan (or revised plan) by the authority. The commissioner shall notify the authority in writing of the decision on the recommended actions within 30 days after the decision and, if the recommended actions are rejected, shall specify the reasons for rejection.*

Sec. 5. Minnesota Statutes 1988, section 469.174, is amended by adding a subdivision to read:

Subd. 20. [INTERNAL REVENUE CODE.] *"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1988.*

Sec. 6. Minnesota Statutes 1988, section 469.175, subdivision 3, is amended to read:

Subd. 3. [MUNICIPALITY APPROVAL.] A county auditor shall not certify the original gross tax capacity of a tax increment financing district until the tax increment financing plan proposed for that district has been approved by the municipality in which the district is located. If an authority that proposes to establish a tax increment financing district and the municipality are not the same, the authority shall apply to the municipality in which the district is proposed to be located and shall obtain the approval of its tax increment financing plan by the municipality before the authority may use tax increment financing. The municipality shall approve the tax increment financing plan only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. ~~This~~ *The published notice must include a map of the area of the district from which increments may be collected and, if the project area includes additional area, a map of the project area in which the increments may be expended. The* hearing may be held before or after the approval or creation of the project or it may be held in conjunction with a hearing to approve the project. Before or at the time of approval of the tax increment financing plan, the municipality shall make the following findings, and shall set forth in writing the reasons and supporting facts for each determination:

(1) that the proposed tax increment financing district is a redevelopment district, a mined underground space development district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) to (5), must be retained and made available to the public by the authority until the district has been terminated.

(2) that the proposed development or redevelopment, in the opinion of the municipality, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future and therefore the use of tax increment financing is deemed necessary.

(3) that the tax increment financing plan conforms to the general plan for the development or redevelopment of the municipality as a whole.

(4) that the tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or redevelopment of the project by private enterprise.

(5) that the municipality elects the method of tax increment computation set forth in section 469.177, subdivision 3, clause (b), if applicable.

When the municipality and the authority are not the same, the municipality shall approve or disapprove the tax increment financing plan within 60 days of submission by the authority, or the plan shall be deemed approved. When the municipality and the authority are not the same, the municipality may not amend or modify a tax increment financing plan except as proposed by the authority pursuant to subdivision 4. Once approved, the determination of the authority to undertake the project through the use of tax increment financing and the resolution of the governing body shall be conclusive of the findings therein and of the public need for the financing.

Sec. 7. Minnesota Statutes 1988, section 469.175, is amended by adding a subdivision to read:

Subd. 6a. [REPORTING REQUIREMENTS.] *(a) The municipality must annually report to the commissioner of revenue the following amounts for the entire municipality:*

(1) the total principal amount of nondefeased tax increment financing bonds that are outstanding at the end of the previous calendar year; and

(2) the total annual amount of principal and interest payments that are due for the current calendar year on (i) general obligation tax increment financing bonds, and (ii) other tax increment financing bonds.

(b) The municipality must annually report to the commissioner of revenue the following amounts for each tax increment financing district located in the municipality:

(1) the type of district, whether economic development, redevelopment, housing, soils condition, mined underground space, or hazardous substance site;

(2) the date on which the district is required to be decertified;

(3) the captured tax capacity of the district, by property class as specified by the commissioner of revenue, for taxes payable in the current calendar year;

(4) the tax increment revenues for taxes payable in the current calendar year; and

(5) whether the tax increment financing plan or other governing document permits increment revenues to be expended (i) to pay bonds, the proceeds of which were or may be expended on activities located outside of the district, (ii) for deposit into a common fund from which money may be expended on activities located outside of the district, or (iii) to otherwise finance activities located outside of the tax increment financing district.

(c) The report required by this subdivision must be filed with the commissioner of revenue on or before March 1 of each year.

(d) This section applies to districts certified before, on, and after August

1, 1979.

Sec. 8. Minnesota Statutes 1988, section 469.175, subdivision 7, is amended to read:

Subd. 7. [CREATION OF HAZARDOUS SUBSTANCE SUBDISTRICT; RESPONSE ACTIONS.] (a) ~~A municipality or~~ *An* authority which is creating or has created a tax increment financing district may establish within the district a hazardous substance subdistrict upon the notice and after the discussion, public hearing, and findings required for approval of *or modification to* the original plan. The geographic area of the subdistrict is made up of any parcels in the district designated for inclusion by the municipality or authority that are designated hazardous substance sites, and any additional parcels in the district designated for inclusion that are contiguous *to the hazardous substance site* except for the interposition of a right-of-way. Before or at the time of approval of the tax increment financing plan *or plan modification providing for the creation of the hazardous substance subdistrict*, the ~~municipality~~ *authority* must make the findings under paragraphs (b) to (d), and set forth in writing the reasons and supporting facts for each.

(b) Development or redevelopment of the site, in the opinion of the ~~municipality~~ *authority*, would not reasonably be expected to occur solely through private investment and tax increment otherwise available, and therefore the hazardous substance district is deemed necessary.

(c) Other parcels that are not designated hazardous substance sites are expected to be developed together with a designated hazardous substance site.

(d) The subdistrict is not larger than, and the period of time during which increments are elected to be received is not longer than, that which is necessary in the opinion of the municipality to provide for the additional costs due to the designated hazardous substance site.

(e) Upon request by ~~a municipality or~~ *an* authority that has incurred expenses for removal or remedial actions to implement a development response action plan, the attorney general may:

(1) bring a civil action on behalf of the ~~municipality or~~ authority to recover the expenses, including administrative costs and litigation expenses, under section 115B.04 or other law; or

(2) assist the ~~municipality or agency~~ *authority* in bringing an action as described in clause (1), by providing legal and technical advice, intervening in the action, or other appropriate assistance.

The decision to participate in any action to recover expenses is at the discretion of the attorney general.

(f) If the attorney general brings an action as provided in paragraph (e), clause (1), the ~~municipality or~~ authority shall certify its reasonable and necessary expenses incurred to implement the development response action plan and shall cooperate with the attorney general as required to effectively pursue the action. The certification by the ~~municipality or~~ authority is prima facie evidence that the expenses are reasonable and necessary. The attorney general may deduct litigation expenses incurred by the attorney general from any amounts recovered in an action brought under paragraph (e), clause (1). The ~~municipality or~~ authority shall reimburse the attorney

general for litigation expenses not recovered in an action under paragraph (e), clause (1), ~~and~~ *but only from the additional tax increment required to be used as described in section 469.176, subdivision 4e. The authority must reimburse the attorney general* for litigation expenses incurred to assist in bringing an action under paragraph (e), clause ~~(1)~~ *(2), but only from amounts recovered by the authority in an action or, if the amounts are insufficient, from the additional tax increment required to be used as described in section 469.176, subdivision 4e.* All money recovered or paid to the attorney general for litigation expenses under this paragraph shall be paid to the general fund of the state for deposit to the account of the attorney general. For the purposes of this section, "litigation expenses" means attorney fees and costs of discovery and other preparation for litigation.

(g) The ~~municipality or~~ authority shall reimburse the pollution control agency for its administrative expenses incurred to review and approve a development action response plan ~~and associated activities, and~~. *The authority must reimburse the pollution control agency* for expenses incurred for any services rendered to the attorney general to support the attorney general in actions brought or assistance provided under paragraph (e), *but only from amounts recovered by the municipality or authority in an action brought under paragraph (e) or from the additional tax increment required to be used as described in section 469.176, subdivision 4e.* All money paid to the pollution control agency under this paragraph shall be deposited in the environmental response, compensation and compliance fund.

(h) Actions taken by ~~a municipality or~~ *an* authority consistent with a development response action plan are deemed to be authorized response actions for the purpose of section 115B.17, subdivision 12. ~~A municipality or agency~~ *An authority* that takes actions consistent with a development response action plan qualifies for the defenses available under sections 115B.04, subdivision 11, and 115B.05, subdivision 9.

(i) All money recovered by ~~a municipality or~~ *an* authority in an action brought under paragraph (e) in excess of the amounts paid to the attorney general and the pollution control agency must be treated as excess increments and be distributed as provided in section 469.176, subdivision 2, clause (4), to the extent the removal and remedial actions were initially financed with increment revenues.

Sec. 9. Minnesota Statutes 1988, section 469.176, subdivision 1, is amended to read:

Subdivision 1. [DURATION OF TAX INCREMENT FINANCING DISTRICTS.] (a) Subject to the limitations contained in paragraphs (b) to ~~(f)~~ *(g)*, any tax increment financing district as to which bonds are outstanding, payment for which the tax increment and other revenues have been pledged, shall remain in existence at least as long as the bonds continue to be outstanding. *The municipality may, at the time of approval of the initial tax increment financing plan, provide for a shorter maximum duration limit than specified in paragraphs (b) to (g). The specified limit applies in place of the otherwise applicable limit.*

(b) The tax increment pledged to the payment of the bonds and interest thereon may be discharged and the tax increment financing district may be terminated if sufficient funds have been irrevocably deposited in the debt service fund or other escrow account held in trust for all outstanding bonds to provide for the payment of the bonds at maturity or date of redemption and interest thereon to the maturity or redemption date.

(c) For bonds issued pursuant to section 469.178, subdivisions 2 and 3, the full faith and credit and any taxing powers of the municipality or authority shall continue to be pledged to the payment of the bonds until the principal of and interest on the bonds has been paid in full.

(d) No tax increment shall be paid to an authority for a tax increment financing district after three years from the date of certification of the original gross tax capacity of the taxable real property in the district by the county auditor or after August 1, 1982, for tax increment financing districts authorized prior to August 1, 1979, unless within the three-year period (1) bonds have been issued pursuant to section 469.178, or in aid of a project pursuant to any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979, or (2) the authority has acquired property within the district, or (3) the authority has constructed or caused to be constructed public improvements within the district.

(e) No tax increment shall in any event be paid to the authority from a redevelopment district after 25 years from date of receipt by the authority of the first tax increment, after 25 years from the date of the receipt for a housing district, after 25 years from the date of the receipt for a mined underground space development district, after 12 years from approval of the tax increment financing plan for a soils condition district, and after eight years from the date of the receipt, or ten years from approval of the tax increment financing plan, whichever is less, for an economic development district.

For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or defease (i) bonds issued before April 1, 1990, or (ii) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs, provided the average maturity of the refunding bonds does not exceed the bonds refunded.

(f) Modification of a tax increment financing plan pursuant to section 469.175, subdivision 4, shall not extend the durational limitations of this subdivision.

(g) If a parcel of a district is part of a designated hazardous substance site or a hazardous substance subdistrict, tax increment may be paid to the authority from the parcel for longer than the period otherwise provided by this subdivision. The extended period for collection of tax increment begins on the date of receipt of the first tax increment from the parcel that is more than any tax increment received from the parcel before the date of the certification under section 469.175, subdivision 7, paragraph (b), and received after the date of certification to the county auditor described in section 469.175, subdivision 7, paragraph (b). The extended period for collection of tax increment is the lesser of: (1) 25 years from the date of commencement of the extended period; or (2) the period necessary to recover the costs of removal actions or remedial actions specified in a development response action plan.

Sec. 10. Minnesota Statutes 1988, section 469.176, is amended by adding a subdivision to read:

Subd. 4j. [REDEVELOPMENT DISTRICTS.] *At least 90 percent of the revenues derived from tax increments from a redevelopment district must be used to finance the cost of correcting conditions that allow designation of redevelopment districts under section 469.174, subdivision 10. These costs include acquiring properties containing structurally substandard buildings or improvements, acquiring adjacent parcels necessary to provide a site of sufficient size to permit development, demolition of structures, clearing of the land, and installation of utilities, roads, sidewalks, and parking facilities for the site. The allocated administrative expenses of the authority may be included in the qualifying costs.*

Sec. 11. Minnesota Statutes 1988, section 469.176, subdivision 6, is amended to read:

Subd. 6. [ACTION REQUIRED.] If, after four years from the date of certification of the original gross tax capacity of the tax increment financing district pursuant to section 469.177, no demolition, rehabilitation, or renovation of property or other site preparation, including *qualified* improvement of a street adjacent to a parcel but not installation of utility service including sewer or water systems, has been commenced on a parcel located within a tax increment financing district by the authority or by the owner of the parcel in accordance with the tax increment financing plan, no additional tax increment may be taken from that parcel, and the original gross tax capacity of that parcel shall be excluded from the original gross tax capacity of the tax increment financing district. If the authority or the owner of the parcel subsequently commences demolition, rehabilitation, or renovation or other site preparation on that parcel including *qualified* improvement of a street adjacent to that parcel, in accordance with the tax increment financing plan, the authority shall certify to the county auditor that the activity has commenced, and the county auditor shall certify the gross tax capacity thereof as most recently certified by the commissioner of revenue and add it to the original gross tax capacity of the tax increment financing district. The county auditor must enforce the provisions of this subdivision. The authority must submit to the county auditor evidence that the required activity has taken place for each parcel in the district. The evidence for a parcel must be submitted by February 1 of the fifth year following the year in which the parcel was certified as included in the district. *For purposes of this subdivision, qualified improvements of a street are limited to (1) construction or opening of a new street, (2) relocation of a street, and (3) substantial reconstruction or rebuilding of an existing street.*

Sec. 12. [469.1761] [INCOME REQUIREMENTS; HOUSING PROJECTS.]

Subdivision 1. [REQUIREMENT IMPOSED.] *In order for a tax increment financing district to qualify as a housing district, the income limitations provided in this section must be satisfied. The requirements imposed by this section apply to residential property receiving assistance financed with tax increments, including interest reduction, land transfers at less than the authority's cost of acquisition, utility service or connections, roads, or other subsidies. The provisions of this section do not apply (1) to interest reduction programs, provided that the duration of the district is limited to 12 years from the collection of the first increment or (2) to*

districts located in a targeted area as defined in section 462C.08, subdivision 9, clause (e).

Subd. 2. [OWNER OCCUPIED HOUSING.] *For owner occupied residential property, 95 percent of the housing units must be initially purchased and occupied by individuals whose family income is less than or equal to the income requirements for qualified mortgage bond projects under section 143(f) of the Internal Revenue Code.*

Subd. 3. [RENTAL PROPERTY.] *For residential rental property, the property must satisfy the income requirements for a qualified residential rental project as defined in section 142(d) of the Internal Revenue Code. A property also satisfies the requirements of section 142(d) if 50 percent of the residential units in the project are occupied by individuals whose income is 80 percent or less of area median gross income. The requirements of this subdivision apply for the duration of the tax increment financing district.*

Subd. 4. [NONCOMPLIANCE; ENFORCEMENT.] *Failure to comply with the requirements of this section results in application of the duration limits for economic development districts to the district. If at the time of the noncompliance the district has exceeded the duration limits for an economic development district, the district must be decertified effective for taxes assessed in the next calendar year. The commissioner of revenue shall enforce the provisions of this section. The commissioner may waive insubstantial violations. Appeal of the commissioner's orders of noncompliance must be made to the tax court in the manner provided in section 271.06.*

Sec. 13. Minnesota Statutes 1988, section 469.177, subdivision 10, is amended to read:

Subd. 10. [PAYMENT TO SCHOOL FOR REFERENDUM LEVY.] The provisions of this subdivision apply to tax increment financing districts and projects for which certification was requested before May 1, 1988, that are located in a school district in which the voters have approved new tax capacity rates or an increase in tax capacity rates after the tax increment financing district was certified (1) if there are no outstanding bonds on May 1, 1988, to which increment from the district is pledged, or (2) if the referendum is approved after May 1, 1988, and there are no bonds outstanding at the time the referendum is approved, that were issued before May 1, 1988, or (3) if the referendum increasing the tax capacity rate was approved after the most recent issue of bonds to which increment from the district is pledged. If clause (1) or (2) applies, the authority must annually pay to the school district an amount of increment equal to the increment that is attributable to the increase in the tax capacity rate under the referendum. If clause (3) applies, upon approval by a majority vote of the governing body of the municipality and the school board, the authority must pay to the school district an amount of increment equal to the increment that is attributable to the increase in the tax capacity rate under the referendum. The amounts of these increments may be expended and must be treated by the school district in the same manner as provided for the revenues derived from the referendum levy approved by the voters. *The provisions of this subdivision apply to projects for which certification was requested before, on, and after August 1, 1979.*

Sec. 14. Laws 1988, chapter 719, article 12, section 29, is amended to read:

Sec. 29. [TRANSITION RULES.]

(a) The provisions of sections 3, 6, 10, and ~~14~~ *16* do not apply to proposed tax increment financing districts for which the authority called for a public hearing in a resolution dated March 23, 1987, and for which a public hearing was held on April 28, 1987. The provisions of Minnesota Statutes 1987 Supplement, section 469.174, subdivision 10, and 469.176, subdivision 4, apply to such districts.

(b) The provisions of sections 3, 6, 10, and ~~14~~ *16* do not apply to candidate sites ~~in the old highway 8 corridor tax increment project area,~~ identified in the old highway 8 corridor plan as approved by an authority on October 14, 1986, if the requests for certification of the districts are filed with the county before January 1, 1998. The provisions of Minnesota Statutes 1987 Supplement, sections 469.174, subdivision 10, and 469.176, subdivision 4, apply to such districts.

(c) The provisions of section ~~14~~ *16*, subdivision 4c, do not apply to an economic development district located in a development district approved on November 9, 1987, provided the request for certification of the tax increment district is submitted to the county by ~~September 30, 1988~~ *August 15, 1989*.

Sec. 15. [HOMESTEAD AND AGRICULTURAL CREDIT AID; TIF DISTRICTS; FALCON HEIGHTS AND LAUDERDALE.]

Subdivision 1. [PAYMENT OF AID.] *The commissioner of revenue shall pay the cities of Falcon Heights and Lauderdale homestead and agricultural credit aid as provided by this section. The payments must be made at the times provided by Minnesota Statutes, section 273.1398.*

Subd. 2. [DEFINITIONS.] *For purposes of this section, (1) the definitions contained in Minnesota Statutes, section 273.1398 apply, and (2) qualified tax increment financing district means a tax increment financing district comprised exclusively of class 1 and class 4 property.*

Subd. 3. [CALCULATION OF AID AMOUNT.] *(a) Homestead and agricultural credit aid for a qualified tax increment financing district for taxes payable in 1990 equals the lesser of the following:*

(1) total tax increment revenues for the district for taxes payable in 1989, minus the product of (i) the qualified tax increment financing district's gross tax capacity rate; (ii) its net tax capacity based on payable 1989 market values and net tax capacity percentages in effect for taxes payable in 1990, and (iii) 1.028146; or

(2) 105 percent of the principal and interest, due during the calendar year, on bonds that were issued before January 1, 1989, and to which the qualified district's increment revenues are pledged, less the total tax capacity rate year multiplied by the captured tax capacity of the tax increment financing district.

(b) For 1991 and later years, the district must receive aid equal to the amount it received in 1990 or the amount under paragraph (a), clause (2), for the year, whichever is less.

Subd. 4. [APPROPRIATION.] *The amount necessary to make the payments required by this section is annually appropriated to the commissioner of revenue.*

Subd. 5. [CITY INFORMATION.] *The cities of Falcon Heights and Lauderdale must provide the commissioner of revenue with the information necessary to make the calculations required under subdivision 3, clause (2).*

Sec. 16. [MOORHEAD TAX INCREMENT FINANCING.]

In the case of a tax increment financing district in the city of Moorhead created prior to August 1, 1979, and used to finance a hotel, parking facility, and conference project, the date "April 1, 1992" must be substituted for "April 1, 1990" in Minnesota Statutes, section 469.176, subdivision 1, paragraph (e), each place it occurs.

Sec. 17. [DURATION OF TAX INCREMENT FINANCING DISTRICT.]

Notwithstanding Minnesota Statutes, section 469.176, subdivision 1, tax increment financing district No. 2 in development district No. 1 within the city of Chanhassen may continue to receive tax increments through the year 1992, provided that any increment received during the years 1990 through 1992 may only be used to pay development costs associated with improvement of those portions of state trunk highway 101 or 5 within the development district or to pay the administrative expenses of the tax increment financing district.

Sec. 18. [TRANSITION RULES.]

Subdivision 1. Section 10 does not apply to tax increment financing districts established in development districts approved by an authority under Minnesota Statutes, sections 469.124 through 469.134 on April 24, 1989, provided the request for certification of the district is submitted to the county before June 1, 1991.

Subd. 2. Sections 2 and 10 do not apply to municipal redevelopment districts established or enlarged in a development district originally approved by an authority on September 1, 1980, under Minnesota Statutes 1978, chapter 472A, if those redevelopment districts are established or enlarged for proposed projects identified in exclusive negotiations agreements dated March 7, 1989.

Subd. 3. Section 10 does not apply to a redevelopment district in the city of Minneapolis that includes the former Sheraton Ritz hotel site, provided the request for certification of the district is submitted to the county before June 1, 1991.

Sec. 19. [EFFECTIVE DATE.]

Sections 2, 6, 9, 10, 11, and 12 are effective for districts for which the request for certification was filed with the county after June 30, 1989. Sections 1, 3, 4, 5, 7, 8, 13, 14, 15, and 18, subdivisions 1 and 2 are effective the day following final enactment. Section 16 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Moorhead. Section 17 is effective the day after compliance with Minnesota Statutes, section 645.021, by the Chanhassen city council. Section 18, subdivision 3, is effective upon compliance by the city council of the city of Minneapolis with Minnesota Statutes, section 645.021.

ARTICLE 10

BUDGET RESERVE

Section 1. Minnesota Statutes 1988, section 16A.15, subdivision 6, is amended to read:

Subd. 6. [BUDGET AND CASH FLOW RESERVE ACCOUNT.] A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. The commissioner of finance shall transfer to the budget and cash flow reserve account such amounts as are available to bring the total amount, including any existing balance in the account on June 30, ~~1988~~ *1989*, to ~~$265,000,000~~ *$550,000,000*. The amounts restricted shall remain in the account until drawn down under subdivision 1 or increased under section 16A.1541.

Sec. 2. Minnesota Statutes 1988, section 16A.1541, is amended to read:

16A.1541 [ADDITIONAL REVENUES; PRIORITY.]

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget and cash flow reserve account until the total amount in the account equals ~~$550,000,000~~ *five percent of total general fund appropriations for the current biennium as established by the most recent legislative session*.

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 270.067, subdivision 1, is amended to read:

Subdivision 1. [STATEMENT OF PURPOSE.] State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the ability of the state and local governments to lower tax rates or to increase expenditures. As a result, tax expenditures should receive a regular and comprehensive review by the legislature as to (a) their total cost, (b) their effectiveness in achieving their objectives, (c) their effect on the fairness and equity of the distribution of the tax burden, and (d) the public and private cost of administering tax expenditure financed programs. This section is intended to facilitate a regular review of the state and local tax expenditure budget by the legislature by providing for the preparation of a regular ~~biennial~~ tax expenditure budget.

Sec. 2. Minnesota Statutes 1988, section 270.067, subdivision 2, is amended to read:

Subd. 2. [PREPARATION; SUBMISSION.] The commissioner of revenue shall prepare a tax expenditure budget for the state *every four years*. The tax expenditure budget report shall be submitted to the legislature as a supplement to the governor's budget and at the same time as provided for submission of the budget pursuant to section 16A.11, subdivision 1, *except that the next such report shall be submitted in 1993, and every four years thereafter*.

Sec. 3. Minnesota Statutes 1988, section 295.34, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2, every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, including long distance access charges, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, 1988, four percent,

for calendar year 1989, three percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of four percent,

for calendar year 1990, 1.5 percent,

for calendar year 1991, one percent, and

for calendar years beginning after December 31, 1991, exempt; and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, 1988, seven percent,

for calendar year 1989, 5.5 percent, provided that the estimated tax payments made on March 15 and June 15, 1989, pursuant to section 295.365, must be made as if the tax were imposed at a rate of seven percent,

for calendar year 1990, three percent,

for calendar year 1991, 2.5 percent, and

for calendar years beginning after December 31, 1991, exempt.

A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating outside of Minnesota, except that the gross earnings tax is imposed on all long distance access charges allocated to interstate service received in payment from a telephone company before December 31, 1989.

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in 1989, payable in 1990, and sales and use taxes imposed as a result of chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid. For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

(c) For the period January 1, 1984 through December 31, 1986, all money paid by a company for connecting fees and switching charges,

including carriers access charges except that portion paid for directory assistance and billing and collection services, to any other company must be reported as earnings by the company to which they are paid, but are not deemed to be earnings of the collecting and paying company.

(d) Gross earnings include customer access charges. Customer access charges are not gross earnings from business originating or terminating outside of Minnesota for purposes of the gross earnings tax. Customer access charges include the flat rate monthly charges received by a telephone company from its customers, that are authorized by the Federal Communications Commission and that compensate a telephone company for the cost of a local telephone plant to the extent attributable to interstate service.

Sec. 4. [STATEMENT OF PURPOSE.]

The purpose of section 3 is to confirm and clarify the original intent of the legislature in enacting the exemption for gross earnings from business originating or terminating outside of Minnesota in Minnesota Statutes, section 295.34. Section 3 does not create a new category of earnings subject to the gross earnings tax. It ratifies existing state interpretation of the telephone gross earnings tax and Minnesota Statutes, section 295.34.

Sec. 5. Minnesota Statutes 1988, section 373.40, subdivision 1, is amended to read:

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

(a) "Bonds" means an obligation as defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings, or other improvements within the county for the purpose of a county courthouse, administrative building, health or social service facility, correctional facility, jail, law enforcement center, hospital, morgue, library, park, and roads and bridges. An improvement must have an expected useful life of five years or more to qualify. "Capital improvement" does not include light rail transit or any activity related to it *or a recreation or sports facility building (such as, but not limited to, a gymnasium, ice arena, racquet sports facility, swimming pool, exercise room or health spa), unless the building is part of an outdoor park facility and is incidental to the primary purpose of outdoor recreation.*

(c) "Commissioner" means the commissioner of trade and economic development.

(d) "Metropolitan county" means a county located in the seven-county metropolitan area as defined in section 473.121 or a county with a population of 90,000 or more.

(e) "Population" means the population established by the most recent of the following (determined as of the date the resolution authorizing the bonds was adopted):

(1) the federal decennial census,

(2) a special census conducted under contract by the United States Bureau of the Census, or

(3) a population estimate made either by the metropolitan council or by the state demographer under section 116K.04, subdivision 4, clause (10).

(f) "~~Taxable gross~~ Tax capacity" means total taxable ~~gross~~ tax capacity, but does not include captured ~~gross~~ tax capacity.

Sec. 6. Minnesota Statutes 1988, section 373.40, subdivision 2, is amended to read:

Subd. 2. [APPLICATION OF ELECTION REQUIREMENT.] (a) Bonds issued by a county to finance capital improvements under an approved capital improvement plan are not subject to the election requirements of section 375.18 or 475.58. The bonds must be approved by vote of at least three-fifths of the members of the county board. In the case of a metropolitan county, the bonds must be approved by vote of at least two-thirds of the members of the county board.

(b) Before ~~each~~ issuance of bonds qualifying under this section, the county must publish a notice of its intention to issue the bonds and the date and time of a hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the county or in a newspaper of general circulation in the county. The notice must be published at least 14, but not more than 28, days before the date of the hearing.

(c) A county may issue the bonds only upon obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the county in the last general election and is filed with the county auditor within 30 days after the public hearing. The commissioner of revenue shall prepare a suggested form of the question to be presented at the election.

Sec. 7. Minnesota Statutes 1988, section 444.075, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the term "municipality" means a home rule charter or statutory city, ~~wherever located,~~ except a city of the first class, or a town ~~located in a metropolitan county as defined in section 473.121, subdivision 4~~ *that is not in an orderly annexation process on the date of enactment of this act*. The term "governing body" means the town board ~~of supervisors~~ with respect to towns.

Sec. 8. Minnesota Statutes 1988, section 444.16, is amended to read:

444.16 [STORM SEWER IMPROVEMENT DISTRICTS; ~~MUNICIPALITY DEFINED~~.]

Subdivision 1. [DEFINITIONS.] For the purposes of ~~Laws 1974, chapter 206 "municipality" means any city, however organized~~ *sections 444.16 to 444.21 the terms in this section have the meanings given them.*

Subd. 2. [MUNICIPALITY.] *"Municipality" means a home rule charter or statutory city or a town that is not in an orderly annexation process on the date of enactment of this act.*

Subd. 3. [GOVERNING BODY.] *"Governing body" means the city council for a city and the town board for a town.*

Sec. 9. Minnesota Statutes 1988, section 444.17, is amended to read:

444.17 [ESTABLISHMENT OF DISTRICT.]

The ~~council~~ *governing body* of a municipality may by ordinance adopted by a two-thirds vote of all of its members, establish within its ~~corporate~~ *territorial* limits a storm sewer improvement tax district. The ordinance

shall describe with particularity the territory or area within the municipality to be included within the district. No such ordinance shall be adopted until after a public hearing has been held on the question. A notice of the time, place and purpose of the hearing shall be published for two successive weeks in the official newspaper of the municipality *or in a qualified newspaper of general circulation in the municipality* and the last notice shall be at least seven days prior to the day of the hearing. The ordinance when adopted shall be filed with the county auditor and county recorder.

Sec. 10. Minnesota Statutes 1988, section 444.18, is amended to read:

444.18 [AUTHORITY OF ~~COUNCIL~~ *GOVERNING BODY*; RECOVERY OF COST; IMPROVEMENT PROCEDURES.]

Subdivision 1. Following the adoption of an ordinance ~~pursuant to Laws 1974, chapter 206~~ *under sections 444.16 to 444.21*, the ~~council~~ *governing body* may acquire, construct, reconstruct, extend, maintain, and otherwise improve storm sewer systems and related facilities within the district. Storm water holding areas and ponds within and without the ~~corporate limits~~ *municipality* may also be acquired, constructed, maintained, and improved for the benefit of any such district. The cost of the systems and facilities described in this subdivision may be recovered by the tax authorized in section 444.20.

Subd. 2. The procedures of sections 429.031 to 429.081 shall apply when the ~~council~~ *governing body* of a municipality determines to make an improvement pursuant to this section.

Sec. 11. Minnesota Statutes 1988, section 444.19, is amended to read:

444.19 [BONDS.]

At any time after a contract for the construction of all or part of an improvement has been entered into or the work has been ordered done by day labor, the ~~council~~ *governing body* may issue obligations in ~~such~~ *an* amount ~~as~~ it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making the improvement, including every item of cost from inception to completion and all fees and expenses incurred in connection with the improvement or the financing thereof. The obligations shall be payable primarily out of the proceeds of the tax levied pursuant to section 444.20. The ~~council~~ *governing body* may by resolution adopted prior to the sale of obligations pledge the full faith, credit and taxing power of the municipality to assure payment of the principal and interest in the event the proceeds of the tax levy in the district are insufficient to pay ~~such~~ *the* principal and interest. Obligations shall be issued in accordance with chapter 475, except that an election is not required, and the amount of ~~any such~~ *the* obligations is not included in determining the net indebtedness of the municipality under the provisions of any law or charter limiting such indebtedness.

Sec. 12. Minnesota Statutes 1988, section 444.20, is amended to read:

444.20 [TAXES.]

The ~~council~~ *governing body* of a municipality may levy *a tax* on all taxable property within the district ~~such taxes as are~~ *in an amount* necessary to finance the cost of the improvement, including maintenance and to pay the principal and interest on obligations issued pursuant to section 444.19. ~~Such taxes~~ *The tax* shall be collected and paid over as other taxes, but shall be spread only upon the property described in the ordinance. ~~Such taxes~~

The tax shall be disbursed by the ~~council~~ *governing body* only for the benefit of district as established by the ordinance.

Sec. 13. Minnesota Statutes 1988, section 469.167, subdivision 2, is amended to read:

Subd. 2. [DURATION.] The designation of an area as an enterprise zone shall be effective for seven years after the date of designation, *except that enterprise zones in border cities eligible to receive allocations for tax reductions under section 469.169, subdivisions 7 and 8, and under section 469.171, subdivision 6a, shall be effective until these allocations have been expended.*

Sec. 14. Minnesota Statutes 1988, section 469.171, subdivision 7, is amended to read:

Subd. 7. [DURATION.] Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business unless the business is located in a border city enterprise zone designated under section 469.168, subdivision 4, clause (c), that is not a city of the first class. Each tax reduction provided to a business that is located in a border city enterprise zone designated under section 469.168, subdivision 4, clause (c), that is not located in a city of the first class ~~shall terminate not longer than seven years after the effective date of the tax reduction for the business~~, *may be provided until the allocations provided under subdivision 6a, and under section 469.169, subdivisions 7 and 8, have been expended.* Subject to the ~~five-year or the seven-year~~ limitation *in this subdivision*, the tax reductions may be provided after expiration of the zone's designation.

Sec. 15. [KANDIYOHI COUNTY RURAL DEVELOPMENT FINANCE AUTHORITY.]

Subdivision 1. [ESTABLISHMENT.] *The Kandiyohi county board may, by adopting a written enabling resolution, establish a county rural development finance authority that, subject to subdivision 2, has the following powers: powers of an economic development authority under Minnesota Statutes, sections 469.090 to 469.107, except for the authority to issue general obligation bonds under Minnesota Statutes, section 469.102; and powers of a rural development financing authority under sections 469.142 to 469.151.*

Subd. 2. [ECONOMIC DEVELOPMENT AUTHORITY POWERS.] *If the county rural development finance authority exercises the powers of an economic development authority, the county may exercise all of the powers relating to an economic development authority granted to a city under Minnesota Statutes, sections 469.090 to 469.108. The levy imposed by the county board under Minnesota Statutes, section 469.107, is not subject to the levy limitations in Minnesota Statutes, sections 275.50 to 275.56. The county rural development finance authority may create and define the boundaries of economic development districts at any place or places within the county. Minnesota Statutes, section 469.174, subdivision 10, and the contiguity requirement specified under Minnesota Statutes, section 469.101, subdivision 1, do not apply to limit the areas that may be designated as county economic development districts.*

Subd. 3. [LIMIT OF POWERS.] *(a) The enabling resolution may impose the following limits on the actions of the authority:*

(1) that the authority may not exercise any of the powers contained in subdivision 1 unless those powers are specifically authorized in the enabling resolution; and

(2) any other limitation or control established by the county board by the enabling resolution.

(b) The enabling resolution may be modified at any time, but may not be applied in a manner that impairs contracts executed before the modification is made. All modifications to the enabling resolution must be by written resolution.

(c) Before the commencement of a project by the authority, the governing body of the municipality in which the project is to be located or the Kandiyohi county board, if the project is outside municipal corporate limits, shall by majority vote approve the project as recommended by the authority.

Subd. 4. [BOARD OF DIRECTORS.] *(a) The authority consists of a board of seven directors. The directors shall be appointed by the Kandiyohi county board. Each director shall be appointed to serve for three years or until a successor is appointed and qualified. No director may serve more than two consecutive terms. The initial appointment of directors must be made so that no more than one-third of the directors' positions will require appointment in any one year due to fulfillment of their three-year appointment. The appointment of directors must be made to reflect representation of the entire county by population, appointing one director to represent each of the five county commissioner districts. The other two directors must be representatives of various county-based economic development organizations or be directors at-large. No more than two directors may reside in any one county commissioner district.*

(b) Two of the directors initially appointed shall serve for terms of one year, two for two years, and three for three years. Each vacancy must be filled for the unexpired term in the manner in which the original appointment was made. A vacancy occurs if a director no longer resides in the county. No director shall be an officer, employee, director, shareholder, or member of any corporation, firm, or association with which the authority has entered into any operating lease, or other agreement. The directors may be removed by the county for the reasons and in the manner provided under Minnesota Statutes, section 469.010, and shall receive no compensation other than reimbursement for expenses incurred in the performance of their duties. Directors shall have no personal liability for obligations of the authority or the methods of enforcement and collection of the obligations.

Sec. 16. [TOWN OF OTSEGO; ECONOMIC DEVELOPMENT.]

Subdivision 1. [ECONOMIC DEVELOPMENT AUTHORITY.] *The town of Otsego may establish an economic development authority. The town may establish the authority in the manner provided in Minnesota Statutes, sections 469.091 to 469.101, and may impose the limits on the authority enumerated in Minnesota Statutes, section 469.092. An authority established under this subdivision has all the powers and duties granted to or imposed upon economic development authorities under Minnesota Statutes, sections 469.090 to 469.106 and 469.174 to 469.178.*

Subd. 2. [POWERS OF A CITY OR MUNICIPALITY.] *The town of Otsego and its governing body have all the powers and duties granted to*

or imposed upon (1) a city and the governing body of a city under Minnesota Statutes, sections 469.090 to 469.107, including the power to levy a tax subject to referendum under Minnesota Statutes, section 469.107; and (2) a municipality and the governing body of a municipality under Minnesota Statutes, sections 469.174 to 469.178 with respect to a project undertaken by an economic development authority under subdivision 1. General obligation bonds may be issued and a tax imposed to pay the principal and interest on the bonds only if the issuance and the tax are approved by a vote of the electors of the town at a regular town meeting. A tax may be levied under Minnesota Statutes, section 469.107, only if approved by a vote of the electors of the town at a regular town meeting.

Sec. 17. [CONTINUATION OF PRODUCTION TAX LIABILITY.]

Notwithstanding Minnesota Statutes, section 298.25, or any other law to the contrary, the provisions of Minnesota Statutes, section 298.24, will continue to apply to a taconite production facility that has ceased production in 1986 for production years 1989 and 1990 if ownership of that facility is transferred in 1989 to a new owner that intends to resume taconite production at that facility no later than December 31, 1991. The new owner must provide evidence to the commissioner of revenue of its intent and ability to do so. If the new owner fails to resume taconite production at the facility by December 31, 1991, the property shall become subject to ad valorem taxes for the 1991 levy year, taxes payable in 1992, and thereafter, and an additional tax equal to the amount of ad valorem tax that would have been payable on the property for taxes payable in 1990 and 1991, less any taxes paid under Minnesota Statutes, section 298.24, during 1990 and 1991, shall also be extended against the property on the tax list for 1992.

Sec. 18. [APPROPRIATIONS.] *There is appropriated from the general fund to the commissioner of revenue the following amounts for the administration of this act.*

	Fiscal Year 1990	*Fiscal Year 1991*
Total	*$763,300*	*$446,730*
Summary by purpose		
Truth in Taxation	*$147,800*	*$ 92,000*
UBIT and Corporate Tax Changes	*$113,000*	*$153,530*
Charitable Gambling	*$132,500*	*$103,200*
Property Tax Refunds	*$ 94,000*	*$ 98,000*
Systems	*$200,000*	
Tax Samples	*$ 76,000*	

Sec. 19. [APPROVED COMPLEMENT.] *The approved complement of the department of revenue is increased by nine for fiscal year 1990 and by ten for fiscal year 1991.*

Sec. 20. [REPEALER.]

Minnesota Statutes 1989, sections 60A.151 and 271.061, are repealed.

Sec. 21. [EFFECTIVE DATE.]

Sections 1, 2, 13, 14, and 17 are effective the day following final

enactment. Section 3 is effective retroactive to January 1, 1986. Sections 5 and 6 are effective July 1, 1989, and for bonds issued after June 30, 1989. Section 15 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the county board of Kandiyohi county. Section 16 is effective the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the town board of the town of Otsego. Section 20 is effective for appeals filed after the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the administration, collection, and enforcement of taxes; imposing taxes; creating tax exemptions; changing the computation, administration, and payment of aids, credits, and refunds; providing new aids and credits; making technical corrections and clarifications; changing proposed property tax notice provisions; changing levy limits and other local government powers and duties; changing tax increment financing provisions; providing that the state will be supplier of gambling equipment; authorizing establishment of an economic development authority in the city of Otsego and in Kandiyohi county; exempting Itasca county from a levy limit penalty and authorizing a special levy; providing for payment of certain aid to the cities of Falcon Heights and Lauderdale; extending the duration of tax increment financing districts in the cities of Moorhead and Chanhassen; exempting a redevelopment district in the city of Minneapolis from certain requirements; granting certain powers to towns; setting the amount of the budget reserve; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.31, subdivision 5; 16A.15, subdivision 6; 16A.1541; 60A.15, subdivision 1; 124.2131, subdivision 1; 124.42, subdivisions 1 and 4; 124.83, subdivision 1; 124A.03, subdivision 2; 124A.23, subdivisions 1 and 2; 124A.26, subdivision 1; 256.018; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256B.041, subdivision 5; 256B.091, subdivision 8; 256B.19, subdivision 1; 256D.03, subdivision 2; 270.067, subdivisions 1 and 2; 270.11, subdivision 2; 270.12, subdivisions 2, 3, and by adding a subdivision; 270.13; 270.18; 270.77; 270.82; 270.84; 270.85; 270.87; 272.02, subdivisions 1, 4, and by adding subdivisions; 272.025, subdivision 1; 272.115, subdivision 1; 273.061, subdivision 1; 273.064; 273.065; 273.11, subdivision 1, and by adding a subdivision; 273.111, subdivision 4; 273.119, subdivision 2; 273.123, subdivisions 4 and 5; 273.124, subdivision 6; 273.13, subdivisions 22, 23, 24, 25, and 31; 273.135, subdivision 2; 273.1391, subdivision 2; 273.1392; 273.1398, subdivisions 1, 2, 3, 5, 6, and by adding subdivisions; 273.33, subdivision 2; 273.37, subdivision 2; 274.14; 275.065, subdivisions 1, 3, 4, 6, 7, and by adding subdivisions; 275.07, subdivisions 1, 3, and by adding a subdivision; 275.08, subdivisions 2 and 3; 275.124; 275.125, subdivisions 5 and 5b; 275.14; 275.28, subdivision 1; 275.29; 275.50, subdivision 5; 275.51, subdivisions 3f, 3h, 3i, 3j, 4, 6, and by adding a subdivision; 275.58, subdivisions 1, 2, and 3; 276.04, subdivisions 2 and 3; 276.09; 276.10; 276.11, subdivision 1; 277.01, subdivision 1; 277.02; 277.05; 277.06; 277.13; 290.015, subdivisions 3 and 4; 290.02; 290.05, subdivision 3; 290.06, subdivisions 1, 21, and by adding a subdivision; 290.067, subdivision 2, and by adding a subdivision; 290.0802, subdivision 1; 290.091, subdivision 2, and by adding a subdivision; 290.17, subdivision 2, and by adding a subdivision; 290.191, subdivision 6; 290.21, subdivision 4; 290.37,

subdivision 1; 290.38; 290.92, subdivisions 4b, 21, and by adding a subdivision; 290.934, subdivision 3a; 290A.04, subdivisions 2, 2h, and by adding subdivisions; 295.34, subdivision 1; 297A.01, subdivision 3; 297A.02, subdivision 2; 297A.25, subdivision 3; 297A.257, subdivision 1, and by adding a subdivision; 297A.39, by adding a subdivision; 298.01, by adding subdivisions; 298.28, subdivision 6; 349.12, subdivisions 11, 13, and by adding subdivisions; 349.15; 349.16, by adding a subdivision; 349.161, subdivision 1; 349.163, subdivision 3; 349.19, subdivision 6; 349.212, subdivisions 1, 2, 4, and by adding a subdivision; 349.214, subdivision 2; 373.40, subdivisions 1 and 2; 398A.04, by adding a subdivision; 444.075, subdivision 1; 444.16; 444.17; 444.18; 444.19; 444.20; 469.167, subdivision 2; 469.171, subdivision 7, and by adding a subdivision; 469.174, subdivisions 7, 10, 16, 17, and by adding a subdivision; 469.175, subdivisions 3, 7, and by adding a subdivision; 469.176, subdivisions 1, 6, and by adding a subdivision; 469.177, subdivisions 6 and 10; 473.167, subdivisions 3, 4, and 5; 473.249, subdivisions 1 and 2; 473.446, subdivision 8; 473.711, subdivision 5; 473F.05; 473F.06; 473F.07, subdivisions 1, 2, and 5; 473F.08, subdivisions 3 and 5; 473F.09; 473H.10, subdivision 3; 477A.011, subdivisions 1a, 3, 3a, 20, and by adding subdivisions; 477A.012, by adding a subdivision; 477A.013, subdivisions 1, 3, and by adding a subdivision; and Laws 1988, chapter 719, articles 1, section 22; and 12, section 29; proposing coding for new law in Minnesota Statutes, chapters 273; 274; 290; 297A; 349; and 469; repealing Minnesota Statutes 1988, sections 60A.151; 270.81, subdivision 5; 271.061; 273.135, subdivision 2a; 273.1391, subdivision 2a; 275.065, subdivisions 2 and 5; 290.092, subdivision 5; 349.2121, subdivision 4; 473.249, subdivision 3; 477A.011, subdivision 24; 477A.013, subdivision 4; and Laws 1989, chapter 27, article 2, sections 2, 3, and 5."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Dee Long, Ann Wynia, Alan W. Welle, Edgar L. Olson, Ann H. Rest

Senate Conferees: (Signed) Douglas J. Johnson, John E. Brandl, Steven G. Novak, Lawrence J. Pogemiller, LeRoy A. Stumpf

Mr. Johnson, D.J. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1734 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1734 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 37 and nays 29, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Langseth	Novak	Schmitz
Beckman	Dicklich	Lantry	Peterson, D.C.	Solon
Berglin	Diessner	Luther	Peterson, R.W.	Spear
Brandl	Frank	Marty	Piper	Stumpf
Brataas	Frederickson, D.J.	Merriam	Pogemiller	Vickerman
Cohen	Freeman	Moe, D.M.	Purfeerst	
Dahl	Hughes	Moe, R.D.	Reichgott	
Davis	Johnson, D.J.	Morse	Samuelson	

Those who voted in the negative were:

Anderson	Chmielewski	Knaak	McQuaid	Ramstad
Belanger	Decker	Knutson	Mehrkens	Renneke
Benson	Frederick	Kroening	Metzen	Storm
Berg	Frederickson, D.R.	Laidig	Olson	Taylor
Bernhagen	Gustafson	Larson	Pariseau	Waldorf
Bertram	Johnson, D.E.	McGowan	Pehler	

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

MESSAGES FROM THE HOUSE - CONTINUED

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. 1625, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1625: A bill for an act relating to public administration; appropriating money for education and related purposes to the higher education coordinating board, state board of vocational technical education, state board for community colleges, state university board, University of Minnesota, and the Mayo medical foundation, with certain conditions; amending Minnesota Statutes 1988, sections 121.93, subdivisions 2, 3, and 4; 136.31, subdivisions 3 and 5; 136A.04; 136A.05; 136A.08; 136A.095; 136A.101, subdivisions 1 and 7; 136A.121; 136A.131; 136A.132; 136A.134, subdivision 4; 136A.15, subdivision 1; 136A.16, subdivisions 1, 2, 5, 8, 9, and 10; 136A.17, subdivision 1; 136A.1701, subdivisions 1, 2, and 5; 136A.172; 136A.173, subdivision 1; 136A.174; 136A.175, subdivision 4; 136A.176; 136A.177; 136A.178; 136A.179; 136A.29, subdivision 9; 136C.04, subdivisions 1, 2, 6, 10, and 18; 136C.042, subdivision 2; 136C.05, by adding a subdivision; 136C.07, subdivision 4; 136C.075; 136C.08, subdivision 1; 136C.15; 136C.31, by adding a subdivision; 136C.36; 136C.43, subdivision 1; 169.44, subdivision 18; 275.125, subdivision 14a; 354.094, subdivisions 1a and 1b; 354A.091, subdivision 1a; 355.46, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 135A and 136A; repealing Minnesota Statutes 1988, sections 121.936, subdivision 1a; 136A.042; 136A.09; 136A.101, subdivision 6; 136A.111; 136A.121, subdivisions 1, 4, and 15; 136A.14; 136A.141; 136A.142; 136A.51; 136A.52; 136A.53; 136C.07, subdivisions 1, 2, 3, and 6; 136C.21; 136C.211; 136C.212; 136C.213; 136C.22; 136C.221; 136C.222; 136C.223; 136C.25; 136C.26, subdivisions 1, 3, 4, 5, 6, 7, and 9; 136C.27, subdivision 2; 136C.28, subdivisions 1 and 2; 136C.29; 136C.33, subdivisions 1 and 2; 136C.42; and 136C.43, subdivisions 1, 2, and 3.

Senate File No. 1625 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 738

and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 738: A bill for an act relating to traffic regulations; providing for special permits for vehicles transporting pole-length pulpwood; setting a fee; amending Minnesota Statutes 1988, section 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

Senate File No. 738 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 139, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 139: A bill for an act relating to liquor; increasing age for provisional driver's license to 21 years; changing provisional licenses to "under-21" licenses; prohibiting the issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages; providing penalty for misuse of Minnesota identification card; increasing the period for suspension of a drivers license for use of a license to illegally purchase alcohol; including other forms of identification and persons who lend identification; increasing the penalty for counterfeiting a drivers license or Minnesota identification card; prohibiting lending any form of identification for use by an underage person to purchase alcohol; clarifying the application of the carding defense for illegal sales; providing for transfer of confiscated identification; amending Minnesota Statutes 1988, sections 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 340A.

Senate File No. 139 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

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. 299, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 299: A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally

killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

Senate File No. 299 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 20, 1989

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 46, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 46 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 20, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 46

A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; providing for deficiencies in and supplementing appropriations for the expenses of state government; authorizing issuance of state bonds; providing for the maximum effort school loan program and the cooperative secondary facilities grant program; clarifying the definition of mental health service provider and providing for a fee for the providers; clarifying requirements of manufactured home parks in certain cases; reducing certain bond sales authorizations; distributing the proceeds of certain litigation; increasing authorizations for certain state transportation bonds; increasing the allocation for bridges to political subdivisions; providing for certain adjustment grants; approving a capital loan; appropriating money; amending Minnesota Statutes 1988, sections 116.18, subdivision 3d; 124.477; 124.493, subdivision 1; 124.494, subdivisions 1, 2, and 4; 124.495; 129B.72, subdivision 2, and by adding a subdivision; 129B.73, subdivision 4, and by adding a subdivision; 148B.40, subdivision 3; 148B.42, by adding a subdivision; 327.20, subdivision 1; and Laws 1979, chapter 280, sections 1 and 2, as amended; proposing coding for new law in Minnesota Statutes, chapter 129B; repealing Laws 1987, chapter 400, section 59, as amended; and Laws 1988, chapter 686, article 1, section 37, subdivision 10.

May 20, 1989

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 46, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 46 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. [CAPITAL IMPROVEMENTS APPROPRIATIONS.]

The sums in the column marked "APPROPRIATIONS" are appropriated from the state building fund, or another named fund, to the state agencies indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this act.

SUMMARY

TECHNICAL INSTITUTES	$ 5,485,000
COMMUNITY COLLEGES	5,805,000
STATE UNIVERSITIES	27,830,000
UNIVERSITY OF MINNESOTA	14,415,000
EDUCATION	2,703,000
HUMAN SERVICES	11,751,000
CORRECTIONS	2,600,000
HEALTH	390,000
VETERANS HOMES BOARD	165,000
JOBS AND TRAINING	1,000,000
BOARD OF WATER AND SOIL RESOURCES	1,500,000
MINNESOTA HISTORICAL SOCIETY	301,000
ADMINISTRATION	38,312,000
CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD	450,000
NATURAL RESOURCES	6,857,000
POLLUTION CONTROL AGENCY	10,125,000
PUBLIC FACILITIES AUTHORITY	12,700,000
TRADE AND ECONOMIC DEVELOPMENT	6,780,000
MILITARY AFFAIRS	400,000
TRANSPORTATION	8,000,000
BOND SALE EXPENSES	119,000
TOTAL	$157,688,000
General Fund	2,103,000
Building Fund	142,585,000
Reinvest in Minnesota Resources Fund	5,000,000
Transportation Fund	8,000,000

APPROPRIATIONS

$

Sec. 2. TECHNICAL INSTITUTES

Subdivision 1. To the state board of vocational technical education for the purposes specified in this section 5,485,000

The state board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Post-secondary vocational technical construction in the school districts listed in this subdivision 675,000

(a) Independent School District No. 564, Thief River Falls 505,000

This appropriation is added to the appropriation in Laws 1987, chapter 400, section 17, subdivision 2, clause (p), for the same purposes. The total amount of the project may not exceed $2,708,000.

(b) Independent School District No. 819, Wadena 170,000

This appropriation is added to the appropriation in Laws 1987, chapter 400, section 17, subdivision 2, clause (q), for the same purposes. The total amount of the project may not exceed $2,321,000.

Subd. 3. Statewide

Notwithstanding Minnesota Statutes, section 136C.44, during the biennium ending June 30, 1991, the state board of vocational technical education must not make grants to school districts but shall directly supervise and control the preparation of plans and specifications to construct, alter, or enlarge the technical institute buildings, structures, and improvements provided for in this subdivision. The state board of vocational technical education may provide grants to school districts for land purchases authorized in this act. The school district must still finance 15 percent of the cost of each project, other than in a joint

vocational technical district as defined in Minnesota Statutes, section 136C.60.

During the biennium, the state board of vocational technical education shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Plans must be paid for out of this appropriation. The remainder of the appropriation must not be spent until the board has secured suitable plans and specifications, prepared by a competent architect or engineer. The plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this act. The state board of vocational technical education may employ appropriate staff to implement this subdivision and may delegate responsibilities to technical institute staff.

(a) Acquire land 950,000

This appropriation is to acquire land at the campuses at Bemidji, Detroit Lakes, Pine City, St. Paul, and Winona.

(b) To continue development of the master facility plan at each technical institute campus 250,000

(c) Miscellaneous 3,610,000

This appropriation is for capital improvement grants to school districts for roofs, parking lots, hazardous material abatement, fuel tank removal, electrical, mechanical, and other physical plant repairs and betterments at technical institute campuses.

Sec. 3. COMMUNITY COLLEGES

Subdivision 1. To the commissioner of administration for the purposes specified in the following subdivisions 5,805,000

Notwithstanding Minnesota Statutes, section 16B.24, subdivision 2, the state board for community colleges shall supervise and control the making of necessary repairs to all state community college buildings and structures during the biennium ending June 30, 1991.

The state board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Brainerd Community College 360,000

This appropriation is to prepare working drawings to provide space for drama, child care, physical education, laboratories, biology, a library, classrooms, a campus center, an art studio and classroom, offices, parking, and storage areas.

Subd. 3. Fergus Falls Community College 200,000

This appropriation is to prepare working drawings for a campus center, child care, laboratories, offices, administration and counseling, classrooms, continuing education, physical education, parking, and storage.

Subd. 4. Fond du Lac Center 100,000

This appropriation is to prepare working drawings for classrooms, laboratories, offices, and other necessary purposes. This appropriation is available only after receipt of a gift of land upon which the structures will be located.

Subd. 5. Hibbing Community College 25,000

This appropriation is to prepare working drawings for athletic facilities. The plans must be developed in cooperation with the local school board.

Subd. 6. Lakewood Community College 320,000

This appropriation is to prepare working drawings to provide space for classrooms, child care, continuing education, physical education, parking, student services, administration, laboratories, campus center, and faculty office areas.

Subd. 7. Normandale Community College 580,000

This appropriation is to prepare working drawings to provide space for administration, classrooms, a campus center, laboratories, a library, continuing education, maintenance, student services areas, and parking areas.

Subd. 8. Rainy River Community College 155,000

This appropriation is to prepare working drawings for classrooms, laboratories, student services areas, faculty offices, a bookstore, child care, maintenance facilities, library, administration areas, and parking areas.

Subd. 9. Southeastern Education Center 825,000

This appropriation is to prepare working drawings for: (1) a facility to be shared by the University of Minnesota, Rochester Community College, and Winona State University; and (2) the space vacated on the community college campus as a result of the new structure.

Subd. 10. Willmar Community College 185,000

This appropriation is to prepare working drawings for laboratories, a library, offices, parking, heating systems, fine arts, and classroom areas.

Subd. 11. Systemwide

(a) Acquire land 1,000,000

This appropriation is to the community college board to acquire land at Willmar, Brainerd, and Anoka-Ramsey community colleges.

Before taking action, the board shall consult with the chairs of the senate finance committee and the house appropriations committee about the proposed action. The board shall explain the need to acquire property, specify the property to be acquired, and indicate the source and amount of money needed for the

acquisition. Should either chair object to the proposed purchase, then further action must be suspended pending presentation of the proposal to the legislature for consideration.

The community college board may pay relocation costs, at its discretion, when acquiring property.

(b) To continue effective facility and program planning at community college campuses 250,000

(c) Miscellaneous 1,805,000

This appropriation is for capital improvements at community colleges statewide, including roofs, hazardous material abatement, repair or construction of parking lots, electrical, mechanical, and other physical plant repairs and betterments.

Sec. 4. STATE UNIVERSITIES

Subdivision 1. To the state university board for the purposes specified in the following subdivisions 27,830,000

Notwithstanding Minnesota Statutes, sections 16B.30 and 16B.31, during the biennium, the state university board shall supervise and control the preparation of plans and specifications for the construction, alteration, or enlargement of the state university buildings, structures, and improvements provided for in this section. During the biennium, the board shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Plans must be paid for out of this appropriation. The remainder of the appropriation must not be spent until the board has secured suitable plans and specifications, prepared by a competent architect or engineer. The plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no

improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided in this act.

The board shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

Notwithstanding Minnesota Statutes, section 16B.24, subdivision 2, the state university board shall supervise and control the making of necessary repairs to all state university buildings and structures during the biennium ending June 30, 1991.

Notwithstanding other law, during the biennium, the state university board, on behalf of St. Cloud State and Winona State universities, may purchase property adjacent to or in the vicinity of the campuses as necessary for the development of the universities.

Before taking action, the board shall consult with the chairs of the senate finance committee and the house appropriations committee about the proposed action. The board shall explain the need to acquire property, specify the property to be acquired, and indicate the source and amount of money needed for the acquisition. Should either chair object to the proposed purchase, then further action must be suspended pending presentation of the proposal to the legislature for consideration.

The state university board may pay relocation costs, at its discretion, when acquiring property.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Bemidji Campus 150,000

This appropriation is from the general fund to replace the theater lighting in Bangsberg Hall.

Subd. 3. Mankato Campus

(a) Val Imm Drive	500,000
This appropriation is to pay a special assessment by the city of Mankato for the cost of reconstruction and improvement of Val Imm Drive.	
During the biennium ending June 30, 1991, the city of Mankato may assess the state university board for costs of a storm water system. The assessment must not be made until completion of the work and must not be more than $275,000 or 50 percent of the project, whichever is less.	
(b) Remodel and construct an addition to Memorial Library	11,200,000
Subd. 4. Metropolitan Campus	
Plan for a consolidated administrative and student center - working drawings	600,000
Subd. 5. Moorhead Campus	
Prepare working drawings for a classroom and office building	210,000
Subd. 6. St. Cloud Campus	
Repair exterior of business building	295,000
Subd. 7. Southwest Campus	
Waterproof tunnels	365,000
The appropriation in Laws 1987, chapter 400, section 19, subdivision 6, item (e), must not be spent for telecommunication towers and equipment for the southwest regional microwave system, but must be spent to develop the facilities and purchase the necessary fiber optic and microwave equipment to develop the regional system.	
Subd. 8. Winona Campus	
Construct Health And Applied Science Building.	10,310,000
Subd. 9. This appropriation is for capital improvements on state university campuses statewide.	
(a) Abate hazardous materials	1,200,000
(b) Replace roofs	1,400,000
(c) Acquire land	1,600,000
This appropriation is to acquire land adjacent to or in the vicinity of the Winona	

and St. Cloud campuses.

Up to $350,000 of the unencumbered balance remaining from the money appropriated in Laws 1987, chapter 400, section 19, subdivision 7, for planning and land acquisition at Winona State University may be used for acquiring additional land adjacent to or in the vicinity of the Winona State campus.

Options for purchase of land may be negotiated for the Science Center at Moorhead.

Subd. 10. Wood-Fired Boilers

Effective upon enactment of this act, no more money shall be paid out of the treasury of this state in connection with an agreement under Minnesota Statutes, section 16B.16, to provide a wood-fired boiler heating system at the campus of either Bemidji State University or St. Cloud State University. This prohibition is intended to be permanent.

Minnesota Statutes, section 16B.16, authorizes the commissioner of administration to enter into installment purchase agreements to acquire equipment that will improve the energy efficiency of a state building or facility if, among other things, the entire cost of the contract is a percentage of the resultant savings in energy costs and the state may unilaterally cancel the agreement if the legislature fails to appropriate funds to continue the contract. Section 16B.16 does not authorize the commissioner to commit the state to pay for equipment that does not work nor to pay more for energy as a result of the installment purchase agreement than would be needed without the agreement. If there are no savings in energy costs through use of the equipment, there should be no compensation due under the agreement.

The commissioner of administration acted under Minnesota Statutes, section 16B.16, when entering into installment purchase agreements to install wood-fired boiler heating systems at the campuses of Bemidji State University and St. Cloud State University. The wood-fired boiler heating system installed at the Bemidji campus did not work as promised and

the promised energy savings were not achieved. The state refused to make further payments under the agreement for Bemidji and canceled the agreement for St. Cloud. The state later resumed making payments under the agreement for Bemidji, even though it believed there had been a complete failure of consideration.

The purpose of this subdivision is to make clear to all potential investors in state and local bonds and to financial institutions that the state is not and never has been responsible for financing the wood-fired boiler heating systems at Bemidji and St. Cloud state universities, other than through payment to the vendor of a percentage of the resultant savings in energy costs. Since the equipment and technology chosen by the vendor did not produce savings in energy costs, the entire loss should be borne by the vendor and by the vendor's financial backers, not by the state.

Sec. 5. UNIVERSITY OF MINNESOTA

Subdivision 1. To the regents of the University of Minnesota for the purposes specified in the following subdivisions 14,415,000

The regents shall review and report to the house appropriations and senate finance committees by January 15 of each year on the status of the capital improvement projects in this section.

As part of the planning process for any new building, consideration must be given to the child care needs of a campus and the feasibility of locating child care facilities in the new building.

Subd. 2. Twin Cities Campus

(a) Plan Walter Library Renovation 2,270,000

(b) Biological Sciences and Basic Sciences Construction Projects - Working Drawings 5,114,000

(c) Upgrade Indoor-Outdoor Track 270,000

(d) Physiology Building - Working Drawings 60,000

(e) Earth Sciences and Materials Engineering Building - Schematic Plans 1,035,000

Subd. 3. Waseca Campus

Prepare working drawings for a food service and campus center	266,000
Subd. 4. Statewide	5,400,000
$3,040,000 is for health and life safety improvements at University of Minnesota facilities statewide.	
$2,200,000 is the final appropriation for the state's share of the cost of clean up of the Rosemount Research Center.	
$160,000 is to prepare schematic plans for integrated waste management.	
Subd. 5. Other Provisions	
The regents of the University of Minnesota may use nonstate money to plan an addition to Ferguson Hall and to plan the next phase of the recreation sports facility.	
In addition to the purpose stated in Laws 1987, chapter 400, section 20, subdivision 8, clause (a), the regents are authorized to use the appropriation to construct an attached greenhouse.	
Sec. 6. EDUCATION	
Subdivision 1. To the commissioner of administration for the purposes specified in this section	2,703,000
Subd. 2. Minnesota State Academy for the Blind and Deaf - Faribault	
(a) Rewire Rodman Service Building and Tate Hall	318,000
(b) Abate asbestos	135,000
Subd. 3. Minnesota School and Resource Center for the Arts - St. Paul	
Demolish buildings on the art school site	250,000
Subd. 4. Desegregation Grants	2,000,000
This appropriation is for desegregation grants to school districts under the desegregation capital improvement grant act according to Minnesota Statutes, sections 129B.71 to 129B.73.	
Sec. 7. HUMAN SERVICES	
To the commissioner of administration for the purposes specified in this section	11,751,000
(a) Plan and construct eight state-operated community service facilities, to be owned by the state	2,640,000

(b) Upgrade or install heating, ventilating, and air conditioning equipment in state-owned residential and program buildings 4,200,000

This appropriation is for Anoka, Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar regional treatment centers, and for Ah-Gwah-Ching and Oak Terrace state nursing homes. The commissioner of human services shall determine the priority for each project.

$150,000 is for the state board for community colleges and the commissioner of human services to jointly study the feasibility of converting buildings at the Cambridge regional treatment center for use by the Cambridge community college center. The study must be submitted to the chairs of the senate finance committee and house appropriations committee for their advisory recommendations. Following receipt of the recommendations, the state board and the commissioner shall prepare a preliminary plan for the conversion and submit it to the legislature by January 1, 1990. The plan must include a timetable for the transfer and for any construction, remodeling, or repairs required to make the facilities ready for use by the college center. It must also include the estimated costs of the facility improvements required to convert the buildings to college use.

(c) Prepare working drawings to renovate and reconstruct Anoka, Cambridge, Moose Lake, and Fergus Falls regional treatment centers, and evaluate the need for additional security and nursing home beds in the metropolitan area 1,228,000

(d) Remodel residential buildings at regional treatment centers to meet standards for skilled nursing facilities 3,000,000

This appropriation is to remodel and plan to remodel buildings at Brainerd and Fergus Falls and to plan to remodel buildings at Faribault and Moose Lake.

(e) Replace boilers and make related steam system renovations at Ah-Gwah-Ching State Nursing Home 683,000

Sec. 8. CORRECTIONS

Subdivision 1. To the commissioner of administration for the purposes specified in this section 2,600,000

Subd. 2. Minnesota Correctional Facility — Red Wing	
Install and upgrade appropriate fire and safety equipment on boilers #1 and #2	300,000
Subd. 3. Minnesota Correctional Facility — St. Cloud	
Replace and reinsulate steam, condensate, sewer, and water lines in utility tunnels	1,100,000
Subd. 4. Minnesota Correctional Facility — Shakopee	
Demolish old Shakopee correctional facility	250,000
Subd. 5. Minnesota Correctional Facility — Stillwater	
Complete various projects required to comply with OSHA regulations	350,000
Subd. 6. Systemwide	
Repair roofs at various state correctional facilities	600,000
Sec. 9. HEALTH	
To the commissioner of administration for the purposes specified in this section	390,000
(a) Conduct evaluation of public health laboratories ventilation system and make structural changes necessary for adequate ventilation	260,000
(b) Conduct long-range space utilization study of the laboratories at the present health building focusing on safety and changing laboratory technologies	130,000
Sec. 10. VETERANS HOMES BOARD	
Subdivision 1. To the commissioner of administration for the purpose specified in this section.	
Subd. 2. Minnesota Veterans Home — Minneapolis	
Demolish Building 5	165,000
Sec. 11. JOBS AND TRAINING	
Acquire site and building in Minneapolis for department offices	1,000,000
Sec. 12. BOARD OF WATER AND SOIL RESOURCES	
To the board of water and soil resources for the reinvest in Minnesota resources program	1,500,000

This appropriation is from the reinvest in Minnesota resources fund to acquire conservation easements under Minnesota Statutes, section 40.43, subdivision 3. The board shall give priority to acquiring easements on cropland in sensitive groundwater areas. The approved complement of the board of water and soil resources is increased by one position to administer these projects, to be paid from this appropriation.

Sec. 13. MINNESOTA HISTORICAL SOCIETY

To the Minnesota historical society for the purposes specified in this section 301,000

(a) Red Lake Tribal Information Center 165,000

This appropriation is to prepare working drawings for a Red Lake Tribal Information Center to be owned by the state or a political subdivision.

(b) Red Wing Energy Park Archaeological Site 136,000

This appropriation is for a grant to Goodhue county to acquire Lot 6, Block 2, Red Wing Energy Park, city of Red Wing for historic preservation and educational purposes. The property consists of archaeological lands and resources adjacent to the Cannon Valley Trail and affords unique educational opportunities.

Sec. 14. ADMINISTRATION

To the commissioner of administration for the purposes specified in this section 38,312,000

(a) Provide handicapped persons with access to state buildings - statewide 29,000,000

$390,000 is for use by the state board of vocational technical education.

$95,000 is for use by the state board for community colleges.

$400,000 is for the regents of the University of Minnesota.

$2,050,000 is for use by the commissioner of administration.

No more than $2,935,000 of this $29,000,000 may be spent before June 30, 1990.

The legislature declares its continuing intent

to make state-owned buildings fully accessible to disabled persons by June 30, 1993.

The commissioner of administration shall update and review the 1984 accessibility survey for accuracy, completeness, and currency; shall prepare preliminary plans and specifications to correct identified deficiencies; shall prepare a report and work plan, including schedules and updated cost estimates for submission to the legislature by February 15, 1990; and shall begin construction and remodeling of buildings identified in the report and work plan as having the greatest need. In preparing the report and work plan and any changes to it, the commissioner shall consult with and receive the recommendations and priorities of the council on people with disabilities. The commissioner of administration shall submit by each February 15 a progress report to the chair of the senate committee on finance and the house committee on appropriations on the status of the construction and remodeling of state buildings paid for out of this appropriation.

The commissioner of administration shall apply for the maximum federal share for each capital improvement project for which money is appropriated in this item.

The commissioner of finance shall schedule the sale of state general obligation bonds so that during fiscal years 1990 and 1991 no more than $811,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest expenses resulting from the expenditure of $2,935,000 appropriated in this item. Additional amounts may be transferred for debt service related to this item only as specifically authorized by law.

(b) Remove or encapsulate asbestos in state buildings - statewide 1,500,000

(c) Remodel State Capitol 3,000,000

The commissioner of administration must not prepare final plans and specifications for projects included in this appropriation until the commissioner has presented the program and schematic plans and cost estimates for all elements necessary to complete the projects to the committee on rules and administration of the senate and the

committee has made its recommendations on the plans. The recommendations are advisory only. Failure or refusal to make a recommendation is deemed a negative recommendation.

$400,000 of this appropriation is from the general fund to the senate for relocation and other expenses related to remodeling senate space.

(d) Restore State Capitol 575,000

This appropriation is to replace interior downspouts and replace the northwest plaza.

(e) Relocate state agencies 1,160,000

This appropriation is from the general fund to relocate state agencies to the Judicial Center and move the department of commerce.

(f) Renovate house space in state capitol 2,200,000

This appropriation for the remodeling of the house space, including the house chamber. Any plans developed for the project shall include design requirements for an automated chamber.

(g) Minnesota Public Radio 393,000

This appropriation is from the general fund for equipment grants to Minnesota Public Radio for its Appleton, Thief River Falls, and central Minnesota stations.

(h) Select site and plan for new agriculture department building 420,000

This appropriation is to the commissioner of administration to plan, select a site, and prepare schematic plans for a new agriculture department building. In the planning and site selection process, the commissioner shall give priority to a building site within or in close proximity to the University of Minnesota St. Paul campus. Before preparing the schematic plans, the commissioner shall report to the legislature by February 15, 1990, with a recommendation for a new location for the state department of agriculture. The report must include a recommended site, cost, and timetable for implementing the recommendations.

(i) Interest on arbitration award for remodeling State Office Building 64,000

This appropriation is to pay to the parties receiving a portion of the arbitrator's award for remodeling the state office building, other than the prime contractor, an amount to make up the difference between the interest paid on the award, which was at a rate of eight percent a year, and the average interest rate paid by them on money borrowed to provide them with operating capital pending receipt of the arbitrator's award, assumed to be 11.1 percent.

Sec. 15. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

Plan for office building 450,000

This appropriation is for the site selection work to select a site in the capitol area for the construction of future state office buildings to house executive branch agencies and for the design competition necessary for one office building in the capitol area for housing executive branch agencies.

Sec. 16. NATURAL RESOURCES

Subdivision 1. To the commissioner of natural resources for the purposes specified in this section 6,857,000

Subd. 2. Reinvest in Minnesota 3,500,000

This appropriation is from the reinvest in Minnesota resources fund for fish and wildlife land acquisition and development.

$1,000,000 of this appropriation is for transfer to the private sector critical habitat matching account under Minnesota Statutes, section 84.943.

Subd. 3. Other Programs

(a) Acquire and develop trails 1,200,000

Included in this appropriation is money to appraise the Paul Bunyan trail, engineer and begin development of the Soo Line trail, and acquire land for the Red River, Minnesota Valley, and Heartland state trails.

(b) Water Bank Program under Minnesota Statutes, section 105.392 600,000

(c) Flood damage reduction and prevention under Minnesota Statutes, section 104.11 1,032,000

(d) Construct hazardous chemical storage buildings at six regional headquarters and restore Hibbing airport apron 525,000

Sec. 17. POLLUTION CONTROL AGENCY

To the pollution control agency for the purposes specified in this section 10,125,000

(a) Combined sewer overflow grants 6,750,000

(b) State match to federal grants for construction of wastewater treatment facilities 2,500,000

Any money remaining after all grants have been awarded under this section may be used for the award of grants under Minnesota Statutes, section 116.18, subdivision 3a. The pollution control agency may transfer appropriations to the public facilities authority to accomplish this purpose.

(c) Grant administration 875,000

This appropriation is for 23 administrative positions that are directly related to the construction of these projects.

Sec. 18. PUBLIC FACILITIES AUTHORITY

To the public facilities authority for the purposes specified in this section 12,700,000

(a) State Independent Grants Program 8,000,000

For fiscal year 1990, money appropriated for the state independent grants program is not subject to Minnesota Statutes, section 116.18, subdivision 3a, paragraph (b), or section 116.181.

$2,000,000 is for new grants for reimbursement or new projects under Minnesota Statutes, section 116.18, subdivision 3a, paragraph (c). This appropriation is not available to communities that are eligible for federal grants and must be divided pro rata among the communities in amounts not to exceed their eligible grants.

$3,000,000 is for continuation grants under Minnesota Statutes, section 116.18, subdivision 3a, paragraphs (a) and (b). A continuation grant must not exceed $654,900 to a grantee.

$3,000,000 of this appropriation is for grant adjustments to those municipalities identified in Minnesota Statutes, section 116.18, subdivision 3d. A supplemental grant must not exceed two and one-half percent of the total eligible costs of construction. A municipality is eligible for this grant

increase if it meets the requirements of Minnesota Statutes, section 116.18, subdivision 3d.

The public facilities authority may transfer appropriations to the pollution control agency to address insufficient state match to federal grants under Minnesota Statutes, section 116.18, subdivision 2a.

(b) State match to federal grants to capitalize the state water pollution control revolving fund 4,700,000

Any money in excess of the amount needed for the 20 percent state match to the federal grant may be used for grants under Minnesota Statutes, section 116.18, subdivision 3a, paragraph (a) or (c).

Sec. 19. TRADE AND ECONOMIC DEVELOPMENT

To the commissioner of trade and economic development for the purposes specified in this section 6,780,000

(a) Dredge upper harbor area of Duluth Harbor 6,100,000

This appropriation is for payment of a grant to the seaway port authority of Duluth and is available only after the commissioner of trade and economic development has determined that it will be matched by at least $7,100,000 of federal money and $2,850,000 of private investment.

(b) National shooting sports center 400,000

This appropriation is for the planning for the construction of a national shooting sports center to be located at Giant's Ridge in Biwabik.

(c) Kayaking center 280,000

This appropriation is for a grant to Carlton county for the planning and construction of facilities for the kayaking center at Carlton.

Sec. 20. MILITARY AFFAIRS

To the adjutant general for the purpose specified in this section.

Remove asbestos from national guard facilities statewide and correct code violations at building U-1 at Camp Ripley 400,000

The appropriation for building U-1 is only

available upon demonstration to the commissioner of finance that federal money is available for this project.

Sec. 21. BOND SALE EXPENSES

To the commissioner of finance for bond sale expenses under Minnesota Statutes, section 16A.641, subdivision 8 119,000

Sec. 22. DEBT SERVICE

The commissioner of finance shall schedule the sale of state general obligation bonds so that, during the biennium ending June 30, 1991, no more than $369,000,000 will need to be transferred from the general fund to the state bond fund to pay principal and interest due and to become due on outstanding state general obligation bonds. Before each sale of state general obligation bonds, the commissioner of finance shall calculate the amount of debt service payments needed on bonds previously issued and shall estimate the amount of debt service payments that will be needed on the bonds scheduled to be sold. The commissioner shall adjust the amount of bonds scheduled to be sold so as to remain within the limit set by this section. The amount needed to make the debt service payments is appropriated from the general fund as provided in Minnesota Statutes, section 16A.641.

Sec. 23. [BOND SALE.]

Subdivision 1. [BUILDING FUND.] *To provide the money appropriated in this act from the state building fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $142,585,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

Subd. 2. [REINVEST IN MINNESOTA FUND.] *To provide the money appropriated in this act from the reinvest in Minnesota resources fund the commissioner of finance on request of the governor shall sell and issue bonds of the state in an amount up to $5,000,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

Sec. 24. Minnesota Statutes 1988, section 16A.69, is amended to read:

16A.69 [APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.]

Subdivision 1. [APPROPRIATIONS INTO SINGLE PROJECT ACCOUNT.] The commissioner shall place the money from two or more appropriations for the same or related projects in one account if all the

appropriations do not lapse until their purposes are accomplished or abandoned. The commissioner of administration shall first certify which accounts are involved to the commissioner.

Subd. 2. [TRANSFER BETWEEN ACCOUNTS.] *Upon the awarding of final contracts for the completion of a project for construction or other permanent improvement, or upon the abandonment of the project, the agency to whom the appropriation was made may transfer the unencumbered balance in the project account to another project enumerated in the same section of that appropriation act. The transfer must be made only to cover bids for the other project that were higher than was estimated when the appropriation for the other project was made and not to cover an expansion of the other project. The money transferred under this section is appropriated for the purposes for which transferred. For transfers by the state board of vocational technical education, the total cost of both projects and the required local share for both projects are adjusted accordingly. The agency proposing a transfer shall report to the chair of the senate finance committee and the chair of the house appropriations committee before the transfer is made under this subdivision.*

Sec. 25. Minnesota Statutes 1988, section 16B.31, subdivision 3, is amended to read:

Subd. 3. [FEDERAL AID.] (a) [APPLICATION FOR AID.] *The commissioner, or any other agency to whom an appropriation is made for a capital improvement, shall apply for the maximum federal share for each project.*

(b) [ACCEPTANCE OF AID.] The commissioner is the state agency empowered to accept money provided for or made available to this state by the United States of America or any federal department or agency for the construction and equipping of any building for state purposes not otherwise provided for by law, other than University of Minnesota buildings, in accordance with the provisions of federal law and any rules or regulations promulgated under federal law. The commissioner may do whatever is required of this state by federal law, rules, and regulations in order to obtain the federal money.

~~(b)~~ *(c)* [FEDERAL FUNDS CONSIDERED PART OF APPROPRIATION.] The commissioner may after consultation with the chairs of the senate finance committee and house of representatives appropriations committee, adopt a plan, provide for an improvement, or construct a building that contemplates expenditure for its completion of more money than the appropriation for it, if the excess money is provided by the United States government and granted to the state of Minnesota under federal law or any rule or regulation promulgated under federal law. This federal money, for the purpose of this section, is a part of the appropriation for the project.

~~(c)~~ *(d)* [DELAYED FEDERAL MONEY.] If an amount is payable to a creditor of the state from a project account which is financed partly with federal money and the project is included in appropriations made to the commissioner for public buildings and equipment, and the amount cannot be paid on time because of a deficiency of money in the project account caused by a delay in the receipt of federal money, the commissioner may provide money needed to pay the amount by temporarily transferring the sum to the project account from any other appropriation made to the commissioner in the same act. Required money for a payment is appropriated

for that purpose. When the delayed federal money is received, the commissioner shall have the amount of money transferred returned to the account from which it came.

Sec. 26. Minnesota Statutes 1988, section 16B.31, is amended by adding a subdivision to read:

Subd. 5. [METHODS OF ACQUISITION.] *If money has been appropriated to the commissioner to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 27. [16B.335] [REVIEW OF PLANS AND PROJECTS.]

Subdivision 1. [CONSTRUCTION AND MAJOR REMODELING.] *The commissioner, or any other agency to whom an appropriation is made to acquire or better public lands or buildings or other public improvements of a capital nature, must not prepare final plans and specifications for any construction, major remodeling, or land acquisition authorized by the appropriation until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house appropriations committee and the chairs have made their recommendations. "Construction or major remodeling" means construction of a new building or substantial alteration of the exterior dimensions or interior configuration of an existing building. The presentation must note any significant changes in the work that will be done, or in its cost, since the appropriation for the project was enacted. The program plans and estimates must be presented for review at least two weeks before a recommendation is needed. The recommendations are advisory only. Failure or refusal to make a recommendation is considered a negative recommendation.*

Subd. 2. [OTHER PROJECTS.] *All other projects, including building improvements, small structures at experiment stations, asbestos removal, life safety, PCB removal, tuckpointing, roof repair, code compliance, landscaping, drainage, electrical and mechanical systems work, paving of streets, parking lots, and the like must not proceed until the agency undertaking the project has notified the chair of the senate finance committee and the chair of the house appropriations committee that the work is ready to begin.*

Sec. 28. Minnesota Statutes 1988, section 116.18, subdivision 3d, is amended to read:

Subd. 3d. [ADJUSTMENTS TO MATCHING GRANTS AND STATE INDEPENDENT GRANTS.] A municipality with a population of 25,000 or less that was tendered a state matching grant under subdivision 2a, or a state independent grant under subdivision 3a, or a federal grant under the federal Water Pollution Control Act, United States Code, title 33, sections 1281 to 1299, from October 1, 1984, through September 30, 1987, shall, after the municipality has awarded bids for construction of the treatment works, and upon request, receive a grant increase of ~~five~~ *2.5* percent of the total eligible costs of construction, up to the maximum entitlement for grants awarded on or after October 1, 1987, under subdivisions 2a and 3a. The municipality must inform other entities that are providing funding for construction of the treatment works of the grant increase, and repay any funds to which it is not entitled. A municipality must not receive funding

for more than 100 percent of the total costs of the treatment works. Documentation of money received from other sources must be submitted with the request for the grant increase. Money remaining after all grants have been awarded under this subdivision may be used for the award of grants under subdivisions 2a and 3a. *An adjustment grant awarded after July 1, 1989, that is a continuation of a previously awarded adjustment grant must be awarded through a letter from the agency to the municipality stating the grant amount. A formal grant agreement is not required.*

Sec. 29. Minnesota Statutes 1988, section 136.03, is amended to read:

136.03 [MANAGEMENT OF STATE UNIVERSITIES.]

Subdivision 1. [MANAGEMENT.] The state universities shall be under the management, jurisdiction, and control of the state university board; and it shall have and possess all of the powers, jurisdiction, and authority, and shall perform all of the duties by them possessed and performed on and prior to April 1, 1901, except as hereinafter stated. Notwithstanding the provisions of sections 136.01, 136.015, and 136.017, the state university board, as it deems necessary, may close state universities under its jurisdiction. Prior to closing a state university the board shall hold a public hearing on the issue in the area which would be affected by the closing. At the hearing affected persons shall have an opportunity to present testimony. The hearing shall be conducted by the office of administrative hearings. The administrative law judge shall prepare a summary of testimony received at the hearing for the board. The board shall give notice of this hearing by publishing notice in the State Register and in a newspaper of general circulation in the affected area at least 30 days before the scheduled hearing.

Subd. 2. [METHODS OF ACQUISITION.] *If money has been appropriated to the state university board to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 30. Minnesota Statutes 1988, section 136.65, is amended by adding a subdivision to read:

Subd. 3. [METHODS OF ACQUISITION.] *If money has been appropriated to the community college board to acquire lands or sites for public buildings or real estate, the acquisition may be by gift, purchase, or condemnation proceedings. Condemnation proceedings must be under chapter 117.*

Sec. 31. Minnesota Statutes 1988, section 137.02, is amended by adding a subdivision to read:

Subd. 3a. [CONSULTATION REQUIRED.] *Land must not be purchased and a building must not be purchased, constructed, or erected on land of the University of Minnesota until the regents have first consulted with the chair of the senate finance committee and the chair of the house appropriations committee and obtained their advisory recommendations.*

Sec. 32. Minnesota Statutes 1988, section 268.027, is amended to read:

268.027 [DEPARTMENT OF JOBS AND TRAINING; MINNEAPOLIS LOCATION; *RIGHT OF EMINENT DOMAIN.*]

Notwithstanding sections 16B.24 and 268.026 or chapter 94, the commissioner of administration, in consultation with the commissioner of jobs and training, is authorized to buy and sell real property in Minneapolis and the greater Minneapolis area for the purpose of relocating department offices to locations more accessible to the residents of Minneapolis and colocating with other social service agencies.

Property acquired under authority of this section may be acquired by gift, purchase, or condemnation proceedings. Condemnation proceedings must be done under chapter 117. Condemnation proceedings authorized by this section may be used to acquire property at only one proposed office site.

Sec. 33. Laws 1979, chapter 280, section 1, is amended to read:

Section 1. [STATE TRANSPORTATION BONDS; ISSUANCE AND SALE.] The commissioner of finance shall, upon the request of the commissioner of transportation, issue and sell Minnesota state transportation bonds for the purposes provided in Minnesota Statutes, Section 174.51, Subdivision 1, in the aggregate principal amount of ~~$52,000,000~~ *$60,000,000* in the manner and upon the conditions prescribed in Minnesota Statutes, Section 174.51 and in Article XI of the Minnesota Constitution. The proceeds of the bonds, except as provided in Minnesota Statutes, Section 174.51, Subdivision 5, shall be deposited in the Minnesota state transportation fund for expenditure in accordance with section 2, subdivisions 2 and 3, and Minnesota Statutes, Section 174.50.

Sec. 34. Laws 1979, chapter 280, section 2, as amended by Laws 1982, chapter 617, section 25, Laws 1985, chapter 299, section 39, and Laws 1985, First Special Session, chapter 16, article 2, section 16, is amended to read:

Sec. 2. [APPROPRIATION.] Subdivision 1. ~~$52,000,000~~ *$60,000,000*, or so much thereof as is determined to be needed, is appropriated from the Minnesota state transportation fund to the department of transportation to be expended for disbursement in the form of grants by the commissioner of transportation for construction and reconstruction of key bridges on the state transportation system and shall be allocated pursuant to subdivisions 2 and 3. The appropriation shall not lapse, but shall remain available until expended.

Subd. 2. ~~$50,500,000~~ *$58,500,000* or so much thereof as is needed, is available for expenditure ~~at a rate not exceeding $12,500,000 per fiscal year~~ for grants to political subdivisions for construction and reconstruction of key bridges on highways, streets and roads under their jurisdiction. The grants shall not exceed the following aggregate amounts:

(1) To counties . . . . . ~~$11,500,000~~ *$16,220,000*

(2) To home rule charter and statutory cities . . . . . ~~$1,500,000~~ *$2,620,000*

(3) To towns . . . . . ~~$21,000,000~~ *$23,160,000*

Grants under clauses (1) to (3) may be used by political subdivisions to match federal-aid grants for construction and reconstruction of key bridges under their jurisdictions. Additional grants may be made in an aggregate amount not to exceed $16,500,000 to the political subdivisions to match federal-aid grants for construction and reconstruction of key bridges under their jurisdiction. Appropriations made in subdivisions 1, 2, or 3 may also be used

for the following purposes:

(1) The costs of abandoning an existing bridge that is deficient and is in need of replacement, but where no replacement will be made.

(2) The costs of constructing a road or street that would facilitate the abandonment of an existing bridge determined to be deficient. The construction of the road or street must be judged to be more cost efficient than the reconstruction or replacement of the existing bridge.

Subd. 3. An additional amount not to exceed $1,500,000 is available for grants for preliminary engineering and environmental studies pursuant to section 3.

Sec. 35. [BOND SALE REDUCTIONS.]

The bond sale authorization in Laws 1981, chapter 334, section 12, is reduced by $37,880,000.

Sec. 36. [EFFECTIVE DATE.]

This article is effective the day after its final enactment.

ARTICLE 2

ELEMENTARY AND SECONDARY EDUCATION

Section 1. Minnesota Statutes 1988, section 124.477, is amended to read:

124.477 [BOND ISSUE; MAXIMUM EFFORT SCHOOL LOANS; 1988.]

To provide money to be loaned to school districts as agencies and political subdivisions of the state to acquire and to better public land and buildings and other public improvements of a capital nature, in the manner provided by the maximum effort school aid law, the commissioner of finance shall issue and sell school loan bonds of the state of Minnesota in the maximum amount of ~~$20,000,000~~ *$22,000,000*, in addition to the bonds already authorized for this purpose. The same amount is appropriated to the maximum effort school loan fund and must be spent under the direction of the commissioner of education to make debt service loans and capital loans to school districts as provided in sections 124.36 to 124.47. The bonds must be issued and sold and provision for their payment must be made according to section 124.46. Enough money to pay interest on the bonds to and including July 1 in the second year after the date of issue must be credited from the bond proceeds to the school loan bond account in the state bond fund. Expenses incidental to the sale, printing, execution, and delivery of the bonds, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for those purposes, must be paid from the maximum effort school loan fund, and the money necessary for the expenses is appropriated from that fund.

Sec. 2. Minnesota Statutes 1988, section 124.494, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATION.] Any group of school districts that meets the criteria required under subdivision 2 may apply for an incentive grant in an amount ~~up to~~ *not to exceed the lesser of $6,000,000 or* 75 percent of the approved construction costs of a cooperative secondary education facility.

Sec. 3. Minnesota Statutes 1988, section 124.494, subdivision 2, is

amended to read:

Subd. 2. [REVIEW BY COMMISSIONER.] (a) Any group of districts that submits an application for a grant shall submit a proposal to the commissioner for review and comment under section 121.15, and the commissioner shall prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to acquire, construct, remodel or improve the secondary facility. The commissioner must not approve an application for an incentive grant for any secondary facility unless the facility receives a favorable review and comment under section 121.15 and the following criteria are met:

(1) a minimum of three or more districts, with kindergarten to grade 12 enrollments in each district of no more than ~~1,000~~ *1,200* pupils, enter into a joint powers agreement;

(2) a joint powers board representing all participating districts is established under section 471.59 to govern the cooperative secondary facility;

(3) the planned secondary facility will result in the joint powers district meeting the requirements of Minnesota Rules, parts 3500.2010 and 3500.2110;

(4) at least 240 pupils would be served in grades 10 to 12, 320 pupils would be served in grades 9 to 12, or 480 pupils would be served in grades 7 to 12;

(5) no more than one superintendent is employed by the joint powers board as a result of the cooperative secondary facility agreement;

(6) a statement of need is submitted, that may include reasons why the current secondary facilities are inadequate, unsafe or inaccessible to the handicapped;

(7) an educational plan is prepared, that includes input from both community and professional staff;

(8) a combined seniority list for all participating districts is developed by the joint powers board;

(9) an education program is developed that provides for more learning opportunities and course offerings, *including the offering of advanced placement courses,* for students than is currently available in any single member district; and

(10) a plan is developed for providing instruction of any resident students in other districts when distance to the secondary education facility makes attendance at the facility unreasonably difficult or impractical.

(b) To the extent possible, the joint powers board is encouraged to provide for severance pay or for early retirement incentives under section 125.611, for any teacher or administrator, as defined under section 125.12, subdivision 1, who is placed on unrequested leave as a result of the cooperative secondary facility agreement.

Sec. 4. Minnesota Statutes 1988, section 124.494, subdivision 4, is amended to read:

Subd. 4. [AWARD OF GRANTS.] The commissioner shall examine and consider all applications for grants, and if any joint powers district is found not qualified, the commissioner shall promptly notify that joint powers board. On July 1 of ~~1988~~ *1989*, the commissioner shall make awards to no

more than two qualified applicants whose applications have been on file with the commissioner more than one month. A grant award is subject to verification by the joint powers districts as specified in subdivision 6. *A grant award must not be made until the site of the secondary facility has been determined.* If the total amount of the approved applications exceeds the amount that is or can be made available, the commissioner shall allot the available amount equally between the approved applicant districts. The commissioner shall promptly certify to each qualified joint powers district the amount, if any, of the grant awarded to it.

Sec. 5. Minnesota Statutes 1988, section 124.495, is amended to read:

124.495 [STATE BOND AUTHORIZATION.]

To provide money for the cooperative secondary facilities grant program, the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of ~~$16,000,000~~ *$14,000,000* in the manner, upon the terms and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 6. Minnesota Statutes 1988, section 129B.72, subdivision 2, is amended to read:

Subd. 2. [APPLICATION FORMS; ~~RULES~~.] The commissioner of education shall prepare application forms *and establish application dates*. ~~The state board of education shall adopt rules under chapter 14 to govern the application process set out in section 129B.73.~~

Sec. 7. Minnesota Statutes 1988, section 129B.72, is amended by adding a subdivision to read:

Subd. 3. [CRITERIA.] *A district applying for a grant under this section must match with local district funds to be used for construction, enlarging, or modifying school buildings. The commissioner of education must determine that the costs are directly related to reducing or eliminating racial imbalance and are part of an approved desegregation plan. The district must also certify that the district has sought all available federal funds before submitting a grant application.*

Sec. 8. Minnesota Statutes 1988, section 129B.73, subdivision 4, is amended to read:

Subd. 4. [MATCHING REVENUE.] Upon being awarded a grant under subdivision 3, the board shall determine the need to bond for additional revenue. If the board determines that there is no need to bond, it shall certify to the commissioner of education that other funds are available for the purpose. If a bond issue is required, the board shall submit, within 90 days, the question of authorizing the borrowing of funds for remodeling or improvements to the voters of the district at a special election, that may be held in conjunction with the annual election of the school board members. If a majority of those voting on the question do not vote in the affirmative, *and the district does not have other funds available,* the grant must be canceled.

Sec. 9. Minnesota Statutes 1988, section 129B.73, is amended by adding a subdivision to read:

Subd. 5. [PROJECT BUDGET.] *A district that receives a grant must provide the commissioner with the project budget and any other information*

the commissioner requests.

Sec. 10. [129B.76] [ISSUANCE AND SALE OF BONDS.]

To provide money for grants under the desegregation capital improvement grant act, the commissioner of finance, upon the request of the commissioner of education, shall issue and sell bonds of the state up to the amount of $2,000,000 in the manner, upon the terms, and with the effect prescribed by sections 16A.631 to 16A.675 and the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 11. [CAPITAL LOAN; FOLEY AND OGILVIE SCHOOL DISTRICTS.]

Subdivision 1. [FOLEY SCHOOL DISTRICT.] *A capital loan in an amount not to exceed $4,853,000 to independent school district No. 51, Foley, is approved.*

Subd. 2. [OGILVIE SCHOOL DISTRICT.] *A capital loan in an amount not to exceed $11,341,048 to independent school district No. 333, Ogilvie, is approved. Notwithstanding Minnesota Statutes, section 124.43, subdivision 3a, if the aggregate amount of the capital loans approved exceeds the amount that is or can be made available, the commissioner of education shall reduce the amount allotted to independent school district No. 333, Ogilvie, by the amount of the deficit, rather than pro rating the deficit between Ogilvie and Foley.*

Sec. 12. [MAXIMUM EFFORT SCHOOL LOAN AND COOPERATIVE SECONDARY FACILITIES STUDY.]

The commissioner of education shall evaluate the effectiveness of the maximum effort school loan program and the cooperative secondary facilities capital grant program, both individually and as they compare to each other, and recommend changes in one or both programs, if appropriate, in a report that must be submitted to the legislature by January 1, 1990.

Sec. 13. [REPEALER.]

Laws 1987, chapter 400, section 59, as amended by Laws 1988, chapter 718, article 8, section 22, is repealed. The sections repealed by Laws 1987, chapter 400, section 59, as amended by Laws 1988, chapter 718, article 8, section 22, remain effective.

Sec. 14. [EFFECTIVE DATE.]

This article is effective the day after its final enactment.

ARTICLE 3

DEFICIENCY APPROPRIATIONS

Section 1. [APPROPRIATIONS.]

The sums shown in the column marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this article, to be available for the fiscal year ending June 30, 1989.

SUMMARY BY FUND

General	$2,849,000
Game and Fish	260,000
Special Revenue	642,000

TOTAL $3,751,000

APPROPRIATIONS
Available for the Year
Ending June 30, 1989

Sec. 2. EDUCATION AIDS

Department of Education

Education Aids Law Litigation $ 116,000

This appropriation is added to the appropriation in Laws 1987, chapter 398, article 10, section 2, subdivision 3.

Sec. 3. HEALTH AND HUMAN SERVICES

Subdivision 1. Human Services Residents of Institutions for Mental Disease 957,000

This appropriation is to pay the cost of Minnesota supplemental assistance and general assistance medical care to replace medical assistance formerly provided to residents of institutions for mental disease and is added to the appropriation in Laws 1987, chapter 403, article 1, section 2, subdivision 6.

Notwithstanding any other law to the contrary, and with the approval of the commissioner of finance, the commissioner of human services may transfer any unencumbered funds from any department account, except the income maintenance entitlement accounts, to the regional treatment salary account during fiscal year 1989. Any such funds moved must be identified to the chair of the senate finance subcommittee on health and human services and the house appropriations division on health and human services.

Subd. 2. Health-Related Boards

The appropriations in this subdivision are from the special revenue fund and are added to the appropriations in Laws 1987, chapter 403, article 1, section 10.

(a) Board of Optometry 4,000

(b) Board of Podiatry 16,000

(c) Board of Pharmacy 10,000

(d) Board of Psychology 6,000

(e) Board of Veterinary Medicine 6,000

Sec. 4. AGRICULTURE, TRANSPORTATION, SEMI-STATE ACTIVITIES

Subdivision 1. Public Safety

Disaster Relief 212,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 5, subdivision 3.

Subd. 2. Agriculture

(a) Laboratory Equipment to Test for Aflatoxin 75,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 7, subdivision 2.

(b) Costs of Testing for the Varroa Mite 52,000

This appropriation is added to the appropriation in Laws 1987, chapter 358, section 7, subdivision 2.

(c) Haylift 100,000

This appropriation is for another haylift to help farmers who are short of hay to feed their livestock.

Sec. 5. STATE DEPARTMENTS

Subdivision 1. Court of Appeals

Disability Retirement 78,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 4.

Subd. 2. Trial Courts

Workers Compensation 146,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 5.

Subd. 3. Board of Public Defense

Trial Transcripts 160,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 7.

Subd. 4. Attorney General

(a) Education Aids Law Litigation 61,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 13, subdivision 4.

(b) LTV and Reserve Bankruptcy Litigation 75,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 13, subdivision 5.

Subd. 5. Secretary of State

The reimbursement to the general fund of $500,000 required by Laws 1987, chapter 356, section 5, subdivision 2, is reduced to $200,000.

Subd. 6. Administration

Volunteer Services 70,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 16, subdivision 2.

Subd. 7. Finance

(a) Biennial Budget System 150,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 18, subdivision 4.

(b) College Savings Bonds 22,000

Subd. 8. Employee Relations

Applicant Processing System 40,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 31, subdivision 4.

Subd. 9. Natural Resources

(a) Drought Emergency 201,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 22, subdivisions 3 and 8.

(b) Park Operations 600,000

This appropriation is from the state park maintenance and operation account in the special revenue fund and is added to the appropriation in Laws 1987, chapter 404, section 22, subdivision 5.

(c) Deer Feeding 260,000

This appropriation is from the game and fish fund and is added to the appropriation in Laws 1987, chapter 404, section 22, subdivision 7.

Subd. 10. Pollution Control Agency

Waste Management Board Audit 279,000

This appropriation is for transfer to the siting bond account in the state building fund to reimburse the account for routine

operating expenses of the waste management board inappropriately charged to the bond account.

Subd. 11. Veterans Affairs

Veterans Relief 55,000

This appropriation is added to the appropriation in Laws 1987, chapter 404, section 36, subdivision 2.

Sec. 6. Minnesota Statutes 1988, section 148B.40, subdivision 3, is amended to read:

Subd. 3. [MENTAL HEALTH SERVICE PROVIDER.] "Mental health service provider" or "provider" means any person who provides, for a remuneration, mental health services as defined in subdivision 4. It does not include persons licensed by the board of medical examiners under chapter 147; the board of nursing under sections 148.171 to 148.285; or the board of psychology under sections 148.88 to 148.98; the board of social work under sections 148B.18 to 148B.28; the board of marriage and family therapy under sections 148B.29 to 148B.39; or another licensing board if the person is practicing within the scope of the license. *In addition, the term does not include employees of the state of Minnesota or any of its political subdivisions while acting within the scope of their public employment; hospital and nursing home social workers exempt from licensure by the board of social work under section 148B.28, subdivision 6, including hospital and nursing home social workers acting as marriage and family counselors within the scope of their employment by the hospital or nursing home; and persons certified as chemical dependency professionals by the Institute for Chemical Dependency Professionals of Minnesota, Inc.*

Sec. 7. Minnesota Statutes 1988, section 148B.42, is amended by adding a subdivision to read:

Subd. 6. [FILING FEE.] *The fee for filing as an unlicensed mental health service provider is $50 until permanent rules establishing fees for filing under this section are in effect.*

Sec. 8. [TEMPORARY PROVISIONS RELATING TO INSTITUTIONS FOR MENTAL DISEASES.]

Subdivision 1. [ELIGIBILITY FOR GENERAL ASSISTANCE MEDICAL CARE AND MINNESOTA SUPPLEMENTAL AID.] *For the period beginning January 1, 1989, and ending June 30, 1989, general assistance medical care and Minnesota supplemental aid may be paid for any person who is over age 18 and would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases.*

Subd. 2. [COVERED SERVICES.] *For the period beginning January 1, 1989, and ending June 30, 1989, reimbursement under general assistance medical care includes, in addition to services covered under Minnesota Statutes 1988, section 256D.03, subdivision 4, the following services for a person who would be eligible for medical assistance except that the person resides in a facility that is determined by the commissioner of human*

services or the federal health care financing administration to be an institution for mental diseases:

(1) case management services for a person with serious and persistent mental illness;

(2) medical supplies and equipment; and

(3) psychological services.

Subd. 3. [EXCEPTION TO RESIDENTIAL FACILITY LIMITS.] *For the period beginning January 1, 1989, and ending June 30, 1989, a residential facility certified to participate in the medical assistance program, licensed as a boarding care home or nursing home, and determined by the commissioner of human services or the federal health care financing administration to be an institution for mental diseases is exempt from the maximum negotiated rate in Minnesota Statutes, section 256D.37. The rate for eligible individuals residing in these facilities is the individual's medical assistance rate using the individual's assigned case mix classification. Counties must be reimbursed for payments made between January 1, 1989, and June 30, 1989, to certified nursing homes and boarding care homes declared institutions for mental diseases by January 1, 1989, on behalf of persons otherwise eligible for medical assistance. The reimbursement must not exceed the state share of supplemental aid funds expended for each person at the appropriate medical assistance rate.*

Sec. 9. [EFFECTIVE DATE.]

This article is effective the day after its final enactment."

Delete the title and insert:

"A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state bonds; providing for deficiencies in and supplementing appropriations for the expenses of state government; setting filing fees for mental health service providers; appropriating money; amending Minnesota Statutes 1988, sections 16A.69; 16B.31, subdivision 3, and by adding a subdivision; 116.18, subdivision 3d; 124.477; 124.494, subdivisions 1, 2, and 4; 124.495; 129B.72, subdivisions 2, and by adding a subdivision; 129B.73, subdivision 4, and by adding a subdivision; 136.03; 136.65, by adding a subdivision; 137.02, by adding a subdivision; 148B.40, subdivision 3; 148B.42, by adding a subdivision; and 268.027; Laws 1979, chapter 280, sections 1 and 2, as amended; proposing coding for new law in Minnesota Statutes, chapters 16B and 129B; repealing Minnesota Statutes 1988, section 268.027; and Laws 1987, chapter 400, section 59, as amended."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Glen H. Anderson, Bob Anderson, Lyndon R. Carlson, John Dorn, Richard Krueger

Senate Conferees: (Signed) Michael O. Freeman, Don Samuelson, Gene Waldorf, Steven Morse, Dean E. Johnson

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 46 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 46 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 59 and nays 6, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Adkins	Berg	Diessner	McQuaid	Storm
Benson				

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Kroening moved that the following members be excused for a Conference Committee on H.F. No. 372 at 9:30 p.m.:

Messrs. Kroening, Luther, Solon, Merriam and Frederickson, D.R. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be so far suspended as to allow bills to be designated as Special Orders. The motion prevailed.

Mr. Luther moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1194 and that the rules of the Senate be so far suspended as to give H.F. No. 1194, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

H.F. No. 1194: A bill for an act relating to insurance; requiring obligors to issue an insurance identification card; requiring a driver or owner to produce an insurance identification card, policy, or written statement; providing for administrative review; exempting certain vehicles; providing for the impoundment of license plates; providing for a limited license in certain circumstances; defining terms; providing penalties; amending Minnesota Statutes 1988, sections 65B.67, subdivisions 2 and 4; 168.041, subdivisions 4, 4a, and by adding a subdivision; 169.09, subdivision 14; and 171.30, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 65B and 169; repealing Minnesota Statutes 1988, section 65B.481.

Mr. Luther moved that the amendment made to H.F. No. 1194 by the Committee on Rules and Administration in the report adopted May 20, 1989, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mr. Luther then moved to amend H.F. No. 1194 as follows:

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. [65B.482] [INSURANCE IDENTIFICATION CARDS.]

Subdivision 1. [ISSUANCE OF CARD.] *Every obligor transacting business in this state shall provide an insurance identification card for each vehicle covered at the time of initiating each policy of automobile insurance, as defined in section 65B.14, subdivision 2, and at the time of policy renewal. When an insured has five or more vehicles registered in this state, the obligor may use the designation "all owned vehicles" on each identification card in lieu of a specified description. The card must state:*

(1) the insured's name;

(2) the policy number;

(3) the policy dates of coverage;

(4) the make, model, and year of the vehicle being covered;

(5) the vehicle identification number or at least the last three digits of that number; and

(6) the name of the obligor providing coverage.

Subd. 2. [NOTICE OF CRIMINAL PENALTIES.] *Every obligor transacting business in this state shall provide to the insured at the time of issuing an insurance identification card under subdivision 1 a plain-language summary of the criminal penalties imposed by section 65B.67, section 10, and section 12.*"

Page 3, line 2, strike "misdemeanor" and insert "*crime*"

Page 3, lines 3 to 6, delete the new language

Page 3, delete section 4 and insert:

"Sec. 3. Minnesota Statutes 1988, section 65B.67, subdivision 3, is amended to read:

Subd. 3. [VIOLATION BY DRIVER.] Any other person who operates a motor vehicle or motorcycle upon a public highway, street or road in this state who knows or has reason to know that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a ~~misdemeanor~~ *crime* and shall be sentenced as provided in subdivision 4.

Sec. 4. Minnesota Statutes 1988, section 65B.67, subdivision 3a, is amended to read:

Subd. 3a. [FALSE STATEMENTS.] Any owner of a motor vehicle or motorcycle who falsely claims to have a plan of reparation security in effect at the time of registration of a motor vehicle or motorcycle pursuant to section 65B.48 is guilty of a ~~misdemeanor~~ *crime* and shall be sentenced as provided in subdivision 4.

Sec. 5. Minnesota Statutes 1988, section 65B.67, subdivision 4, is amended

to read:

Subd. 4. [PENALTY.] ~~Any operator of a motor vehicle or motorcycle~~ *(a) A person* who ~~is convicted under the terms of~~ *violates* this section~~,~~ is guilty of a misdemeanor~~, and shall be sentenced as provided in section 609.03, clause (3)~~. ~~Also~~ *A person who violates this section within ten years of the first of two prior convictions under this section, or a statute or ordinance from another state in conformity with this section, is guilty of a gross misdemeanor. The operator of a motor vehicle or motorcycle who violates subdivision 3 and who causes or contributes to causing a motor vehicle or motorcycle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section.*

(b) In addition to the criminal penalty, the ~~operator's~~ driver's license *of an operator convicted under this section* shall be revoked for not more than 12 months. If the operator is also an owner of the motor vehicle or motorcycle, the registration of the motor vehicle or motorcycle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

(c) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of motor vehicles or motorcycles required to maintain a plan of reparation security."

Page 4, line 9, delete everything after "*safety*" and insert a period

Page 4, delete line 10

Page 6, line 26, delete "AN" and insert "PROOF OF" and delete "IDENTIFICATION CARD"

Page 6, after line 26, insert:

"*Subdivision 1.* [TERMS.] *(a) For purposes of this section and sections 11 to 15, the following terms have the meanings given.*

(b) "Commissioner" means the commissioner of public safety.

(c) "Insurance identification card" means a card issued by an obligor to an insured stating that security as required by section 65B.48 has been provided for the insured's vehicle.

(d) "Proof of insurance" means an insurance identification card, written statement, or insurance policy as defined by section 65B.14, subdivision 2.

(e) "Written statement" means a written statement by a licensed insurance agent in a form acceptable to the commissioner stating that security has been provided for the insured's vehicle and the dates of the coverage."

Page 6, line 28, delete "*immediate*"

Page 6, line 29, delete everything after "*vehicle*" and insert "*and shall produce on demand of a peace officer proof of insurance in force at the time of the demand covering the vehicle being operated.*"

Page 6, delete lines 30 and 31

Page 6, line 32, delete everything before "*If*"

Page 6, line 34, delete "*an*" and insert "*proof of insurance*"

Page 6, delete lines 35 and 36

Page 7, delete line 1

Page 7, line 2, delete everything before "*stating*"

Page 7, line 7, delete "*2*" and insert "*3*"

Page 7, line 22, delete "*then*"

Page 7, line 31, delete "*or motorcycle*"

Page 7, line 32, delete the first "*the*" and insert "*proof of*" and delete "*identification card or policy*"

Page 7, line 33, delete everything after "*operated*"

Page 7, delete line 34

Page 7, line 35, delete "*operated*"

Page 7, line 36, delete "*within*"

Page 8, line 7, delete "*an*" and insert "*proof of*" and delete everything after "*insurance*"

Page 8, line 8, delete "*statement*"

Page 8, line 9, after "*to*" insert "*a charge against*"

Renumber the subdivisions in sequence

Page 8, line 26, delete "AN" and insert "PROOF OF" and delete "IDENTIFICATION CARD"

Page 8, lines 28, 33, and 34, delete "*or motorcycle*"

Page 9, line 4, delete "*or motorcycle*" and delete "*either immediately or*"

Page 9, line 5, delete "*an*" and insert "*proof of insurance*"

Page 9, delete lines 6 to 9

Page 9, line 10, before "*for*" insert "*in force*"

Page 9, line 23, delete everything after "*produce*" and insert "*proof of insurance in force at the time of the demand covering the motor vehicle being operated.*"

Page 9, delete lines 24 and 25

Page 9, line 26, delete everything before the third "*The*"

Page 9, line 35, delete "*an*" and insert "*proof of*"

Page 9, line 36, delete "*identification card*"

Page 10, line 8, delete everything after "*the*" and insert "*proof of insurance*"

Page 10, line 9, delete "*written statement*"

Page 10, line 11, before "*policy*" insert "*insurance*"

Page 10, line 21, delete everything after "*privileges*" and insert "*for a minimum of 30 days;*"

Page 10, delete lines 22 to 28

Page 10, lines 30, 34, and 35, before "*policy*" insert "*insurance*"

Page 11, line 2, delete "*a valid*" and insert "*the required proof of*" and delete everything after "*insurance*"

Page 11, line 3, delete "*policy, or written statement*"

Page 11, line 5, delete "*of public safety*"

Page 11, line 6, delete "*a*" and insert "*the required proof of insurance*"

Page 11, delete line 7

Page 11, line 8, delete "*statement*"

Page 11, line 9, delete "*of public safety*"

Page 11, lines 11 and 12, delete "*of public safety*"

Page 11, line 19, delete "*not less than*"

Page 11, line 22, delete everything after "*safety*" and insert a period

Page 11, delete line 23

Page 11, line 27, delete "*of public safety*"

Page 12, line 14, delete everything after "*produce*" and insert "*proof of insurance*"

Page 12, line 15, delete "*statement*"

Page 12, lines 16 and 17, delete "*of public safety*"

Page 13, line 15, delete "*1*" and insert "*6*"

Page 13, line 23, before the period, insert ", *arising in connection with the release of the information*"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 4, delete "an" and insert "proof of" and delete everything after "insurance"

Page 1, line 5, delete everything before the semicolon

Page 1, line 11, after "2" insert ", 3, 3a,"

The motion prevailed. So the amendment was adopted.

Mr. Luther then moved to amend H.F. No. 1194 as follows:

Page 14, lines 30 and 31, delete "*under section 169.792*"

The motion prevailed. So the amendment was adopted.

H.F. No. 1194 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 41 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Knaak	Novak	Spear
Anderson	Chmielewski	Laidig	Olson	Storm
Beckman	Decker	Lantry	Pariseau	Taylor
Belanger	Diessner	Larson	Piper	Vickerman
Berg	Frank	Luther	Pogemiller	Waldorf
Berglin	Frederick	McGowan	Ramstad	
Bernhagen	Freeman	Mehrkens	Reichgott	
Bertram	Gustafson	Moe, D.M.	Renneke	
Brandl	Johnson, D.E.	Moe, R.D.	Schmitz	

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

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 257 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 257: A bill for an act relating to state government; regulating markings on state vehicles; eliminating the requirement that certain reports of occupational licensing boards be summarized; eliminating certain prohibitions against state purchase of insurance; regulating state sale of goods and services; regulating certain small business assistance programs; clarifying responsibility for the operation and maintenance of certain buildings; regulating government record keeping; prescribing compensation for certain board members; amending Minnesota Statutes 1988, sections 15.0575, subdivision 3; 15.16; 15.17, subdivision 1; 15.39, subdivision 1; 15A.081, subdivisions 1 and 7; 16A.85, subdivision 2; 16B.06, subdivision 4; 16B.19, subdivision 6; 16B.20, subdivision 2; 16B.22, subdivision 1; 16B.24, subdivisions 1, 5, and 6; 16B.405, subdivision 1; 16B.48; 16B.54, subdivision 2; 138.17, subdivision 1; 214.07, subdivision 2; 214.09, subdivision 3; 473.141, subdivision 3; and 600.135, subdivision 1; repealing Minnesota Statutes 1988, section 15.38.

Mr. Moe, D.M. moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 10, line 10, delete "*and*"

Page 10, line 13, delete the period and insert "*; and*

(7) develop a plan for interconnection of the network with private colleges in the state.

Subd. 4. [PROGRAM PARTICIPATION.] *The commissioner may require the participation of state agencies and the governing boards of the state universities, the community colleges, and the technical institutes, and may request the participation of the board of regents of the University of Minnesota, in the planning and implementation of the network to provide interconnective technologies. The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.*"

Renumber the subdivisions in sequence

The motion prevailed. So the amendment was adopted.

Mr. Moe, D.M. then moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 7, after line 20, insert:

"Sec. 10. Minnesota Statutes 1988, section 16B.24, is amended by adding a subdivision to read:

Subd. 6a. [LEASE MORATORIUM.] *The commissioner may not rent or lease space in a new or substantially renovated building for the purpose of providing office space for state agencies if the terms of the lease or rental are negotiated before the construction or renovation of the space and the cost of the construction or renovation exceeds $2,000,000.*"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Mr. Knaak moved to amend the second Moe, D.M., amendment to H.F. No. 257, adopted by the Senate May 19, 1989, as follows:

Page 2, line 32, after "*to*" insert "*a total expenditure, for each institution, of more than $5,000 for*"

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

Mr. Frank moved to amend H.F. No. 257, as amended pursuant to Rule 49, adopted by the Senate May 12, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 257.)

Page 17, delete section 20

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Mr. Frank imposed a call of the Senate for the balance of the proceedings on H.F. No. 257. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment of Mr. Frank.

The roll was called, and there were yeas 19 and nays 36, as follows:

Those who voted in the affirmative were:

Berglin	Davis	Kroening	Novak	Samuelson
Chmielewski	Diessner	Lantry	Piper	Solon
Cohen	Frank	Marty	Pogemiller	Spear
Dahl	Freeman	Moe, R.D.	Reichgott	

Those who voted in the negative were:

Adkins	Brandl	Knaak	Moe, D.M.	Storm
Anderson	Brataas	Knutson	Morse	Stumpf
Beckman	Decker	Laidig	Olson	Taylor
Belanger	Frederick	Langseth	Pariseau	Vickerman
Benson	Frederickson, D.J.	Larson	Purfeerst	
Berg	Frederickson, D.R.	McGowan	Ramstad	
Bernhagen	Gustafson	McQuaid	Renneke	
Bertram	Johnson, D.E.	Mehrkens	Schmitz	

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

RECONSIDERATION

Having voted on the prevailing side, Mrs. Adkins moved that the vote whereby the second Moe, D.M. amendment to H.F. No. 257 failed on May 20, 1989, be now reconsidered.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 21 and nays 37, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Moe, D.M.	Reichgott	Waldorf
Beckman	Davis	Moe, R.D.	Renneke	
Berg	Luther	Morse	Schmitz	
Berglin	Marty	Peterson, D.C.	Spear	
Bertram	Merriam	Piper	Stumpf	

Those who voted in the negative were:

Anderson	Dicklich	Johnson, D.E.	McGowan	Ramstad
Benson	Diessner	Johnson, D.J.	McQuaid	Samuelson
Bernhagen	Frank	Knaak	Mehrkens	Solon
Brandl	Frederick	Knutson	Metzen	Storm
Cohen	Frederickson, D.J.	Kroening	Novak	Vickerman
Dahl	Frederickson, D.R.	Laidig	Olson	
Decker	Freeman	Langseth	Pariseau	
DeCramer	Hughes	Larson	Purfeerst	

The motion did not prevail.

H.F. No. 257 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 48 and nays 12, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Knaak	Metzen	Schmitz
Anderson	Davis	Knutson	Moe, D.M.	Solon
Beckman	Decker	Laidig	Morse	Spear
Belanger	DeCramer	Langseth	Olson	Storm
Benson	Diessner	Larson	Pariseau	Stumpf
Berg	Frederick	Luther	Pehler	Taylor
Bernhagen	Frederickson, D.J.	McGowan	Peterson, R.W.	Vickerman
Bertram	Frederickson, D.R.	McQuaid	Purfeerst	Waldorf
Brandl	Hughes	Mehrkens	Ramstad	
Brataas	Johnson, D.E.	Merriam	Renneke	

Those who voted in the negative were:

Berglin	Frank	Lantry	Novak	Pogemiller
Dahl	Freeman	Marty	Peterson, D.C.	Samuelson
Dicklich	Johnson, D.J.			

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Morse moved that the names of Messrs. Moe, R.D. and Pogemiller be added as co-authors to S.F. No. 813. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1532:

H.F. No. 1532: A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Dawkins, Jacobs, Ogren, Haukoos and Carlson, D. have been appointed as such committee on the part of the House.

House File No. 1532 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 20, 1989

Mr. Dicklich moved that H.F. No. 1532 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Pehler moved that S.F. No. 1254, No. 34 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

MEMBERS EXCUSED

Mr. Frank was excused from the Session of today from 12:00 noon to 2:45 p.m. Mr. Lessard was excused from the Session of today from 2:00 to 4:00 p.m., from 7:00 to 8:00 p.m. and at 10:00 p.m. Mr. Johnson, D.J. was excused from the Session of today from 3:00 to 5:00 p.m. and other brief periods of time. Mr. Kroening was excused from the Session of today from 3:00 to 9:30 p.m. Ms. Reichgott was excused from the Session of today from 4:00 to 4:45 p.m. Mr. Spear was excused from the Session of today from 7:30 to 9:30 p.m. Mr. Pogemiller was excused from the Session of today from 1:00 to 6:00 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:00 a.m., Monday, May 22, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate