

NINETY-FOURTH DAY

St. Paul, Minnesota, Monday, April 23, 1990

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Brandl imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by Mr. David Skilbred.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

April 20, 1990

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 354, 1739, 1772, 2012, 2109, 2179 and 2224.

Sincerely,
Rudy Perpich, Governor

April 20, 1990

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 1990 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 1990	Date Filed 1990
1739		460	1000 hours April 20	April 20
	1952	461	1050 hours April 20	April 20
	1857	462	1005 hours April 20	April 20
	1846	463	1010 hours April 20	April 20
	1730	465	1012 hours April 20	April 20
	2458	466	1053 hours April 20	April 20
	2204	467	1030 hours April 20	April 20
	2401	468	1056 hours April 20	April 20
	1918	469	1059 hours April 20	April 20
2179		470	1035 hours April 20	April 20
2224		472	1104 hours April 20	April 20
1772		473	1115 hours April 20	April 20
2109		475	1014 hours April 20	April 20
354		476	1038 hours April 20	April 20
2012		477	1117 hours April 20	April 20
	2131	478	1041 hours April 20	April 20
	2025	479	1044 hours April 20	April 20

Sincerely,
Joan Anderson Growe
Secretary of State

MOTIONS AND RESOLUTIONS

Mrs. Adkins moved that H.F. No. 2230 and the Conference Committee Report thereon be taken from the table. The motion prevailed.

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2230

A bill for an act relating to public purchasing; establishing programs for purchasing from certain small targeted group businesses and businesses located in economically disadvantaged areas; requiring prompt payment to subcontractors; providing penalties; amending Minnesota Statutes 1988, sections 16B.07, by adding a subdivision; 16B.20, subdivisions 1 and 3; 161.321, subdivisions 1, 4, 5, and by adding a subdivision; Minnesota Statutes 1989 Supplement, sections 16B.19; 16B.20, subdivision 2; 16B.21; 16B.22; 16B.226; 116J.68; 136.27; 136.72; 137.31, subdivision 6; 161.321,

subdivisions 2, 3, and 6; 161.3211; 241.27, subdivision 2; 471.345, subdivision 8; and 473.142; Laws 1989, chapter 352, section 25; proposing coding for new law in Minnesota Statutes, chapters 16A; 16B; and 137; repealing Minnesota Statutes 1989 Supplement, sections 16B.189; 137.31, subdivision 3a; and 645.445, subdivision 5.

April 12, 1990

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. 2230, 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) Richard H. Jefferson, Ted Winter, Sidney Pauly

Senate Conferees: (Signed) Betty A. Adkins, John J. Marty, Cal Larson

Mrs. Adkins moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2230 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. 2230 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	Knaak	Merriam	Ramstad
Beckman	DeCramer	Kroening	Metzen	Reichgott
Belanger	Dicklich	Laidig	Moe, R. D.	Renneke
Benson	Flynn	Langseth	Morse	Samuelson
Berglin	Frank	Lantry	Novak	Schmitz
Bernhagen	Frederick	Larson	Olson	Spear
Bertram	Frederickson, D.J.	Lessard	Pariseau	Storm
Brandl	Frederickson, D.R.	Luther	Pehler	Stumpf
Cohen	Gustafson	Marty	Peterson, R. W.	Vickerman
Dahl	Hughes	McGowan	Piepho	
Davis	Johnson, D.E.	McQuaid	Piper	

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

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 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. 2302: A bill for an act relating to telephone services; requiring local location identification data bases for 911 systems; classifying data provided for data bases; amending Minnesota Statutes 1988, sections 403.02, by adding a subdivision; and 403.07, by adding subdivisions; Minnesota Statutes 1989 Supplement, section 403.11, subdivision 1.

Senate File No. 2302 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 19, 1990

CONCURRENCE AND REPASSAGE

Mr. Stumpf moved that the Senate concur in the amendments by the House to S.F. No. 2302 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2302 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 53 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knutson	Moe, R.D.	Reichgott
Anderson	Decker	Kroening	Morse	Renneke
Beckman	DeCramer	Langseth	Novak	Samuelson
Belanger	Dicklich	Lantry	Olson	Schmitz
Benson	Flynn	Larson	Pariseau	Spear
Berglin	Frank	Luther	Pehler	Storm
Bernhagen	Frederick	Marty	Peterson, R. W.	Stumpf
Bertram	Frederickson, D.J.	McGowan	Piepho	Vickerman
Brandl	Gustafson	McQuaid	Piper	Waldorf
Cohen	Hughes	Merriam	Pogemiller	
Dahl	Johnson, D.E.	Metzen	Ramstad	

So the bill, as amended, 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. 2390, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2390 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 19, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2390

A bill for an act relating to children; providing improved procedures to protect the safety and welfare of abused and neglected children; improving data practices; requiring the commissioner of health to encourage display of posters informing pregnant women of the dangers of alcohol use; excluding persons with a history of child abuse or criminal sexual behavior from certain protections for criminal offenders; increasing penalties for assault against a child when there is a past pattern of child abuse; increasing the penalties for malicious child punishment resulting in great bodily harm and assaulting a child protection worker; including mental injuries and threatened injuries as abuse to be reported as maltreatment of minors; amending Minnesota Statutes 1988, sections 147.09; 259.40, subdivisions 1 and 4; 260.011, subdivision 2; 260.155, subdivision 1; 609.2231, by adding a subdivision; 626.556, subdivisions 1, 3, 4, and by adding a subdivision; 626.559, subdivision 2; Minnesota Statutes 1989 Supplement, sections 179A.03, subdivision 7; 245A.04, subdivision 3; 260.015, subdivision 2a; 260.161, subdivision 2; 260.171, subdivision 4; 260.221, subdivision 1; 364.09; 609.223; 609.377; 626.556, subdivisions 2, 10e, and 11; and 626.558, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 120; 144; and 245.

April 17, 1990

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. 2390, 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. 2390 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. [3.9227] [LEGISLATIVE COMMISSION ON CHILD PROTECTION.]

Subdivision 1. [CREATION.] A legislative commission on child protection is created consisting of ten members. Five members of the house of representatives, including members of the minority caucus, shall be appointed by the speaker and five members of the senate, including members of the minority caucus, shall be appointed by the subcommittee on committees. Members serve until expiration of their legislative terms and vacancies must be filled in the same manner as the original positions.

Subd. 2. [POWERS AND DUTIES.] The commission shall study matters relating to child protection and coordinate and oversee activities of the standing committees dealing with these issues. The commission's agenda shall include:

(1) analyzing and making recommendations regarding federal, state, and county funding and responsibility for the child protection system;

(2) developing ways to maximize the use of federal funding sources to enhance state child protection efforts; and

(3) encouraging and facilitating the funding of child protection services with an emphasis on prevention and treatment.

Subd. 3. [REPORT.] The commission shall report its findings and recommendations to the governor and the legislature by December 15 of each even-numbered year, beginning in 1992.

Subd. 4. [ADMINISTRATION.] The commission shall utilize existing legislative staff in carrying out its duties.

Sec. 2. [144.3871] [POSTERS ON THE DANGERS OF ALCOHOL USE.]

The commissioner of health shall encourage all establishments required to obtain on-sale or off-sale intoxicating liquor licenses under chapter 340A, to display, in a prominent location, posters informing pregnant women of the dangers of alcohol use. The commissioner shall make posters available, at no charge, to establishments with on-sale or off-sale licenses for intoxicating liquors. Posters must provide, in large print, the following message: "Warning: drinking alcoholic beverages during pregnancy can cause birth defects and prematurity" or a similar message approved by the commissioner of health.

Sec. 3. Minnesota Statutes 1988, section 145.88, is amended to read:

145.88 [PURPOSE.]

The legislature finds that it is in the public interest to assure:

(a) Statewide planning and coordination of maternal and child health services through the acquisition and analysis of population-based health data, provision of technical support and training, and coordination of the various public and private maternal and child health efforts; and

(b) Support for targeted maternal and child health services in communities with significant populations of high risk, low income families through a grants process.

Federal money received by the Minnesota department of health, pursuant to United States Code, title 42, sections 701 to 709, shall be expended to:

(1) assure access to quality maternal and child health services for mothers and children, especially those of low income and with limited availability to health services *and those children at risk of physical, neurological, emotional, and developmental problems arising from chemical abuse by a mother during pregnancy;*

(2) reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children;

(3) reduce the need for inpatient and long-term care services and to otherwise promote the health of mothers and children, especially by providing preventive and primary care services for low income mothers and children and prenatal, delivery and postpartum care for low income mothers;

(4) provide rehabilitative services for blind and disabled children under age 16 receiving benefits under Title XVI of the Social Security Act; and

(5) provide and locate medical, surgical, corrective and other service for children who are crippled or who are suffering from conditions that lead to crippling.

Sec. 4. Minnesota Statutes 1989 Supplement, 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, *including pre-pregnancy family planning 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, *including infant mortality, low birth rates, and medical complications arising from chemical abuse by a mother during pregnancy*;

(2) specifically target pregnant women whose age, medical condition, ~~or~~ maternal history, *or chemical abuse* 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, *including physical, neurological, emotional, and developmental problems that arise from chemical abuse by a mother during pregnancy*;

(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 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. 5. Minnesota Statutes 1988, section 147.09, is amended to read:
147.09 [EXEMPTIONS.]

Section 147.081 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) A person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere.

(2) A licensed physician from a state or country who is in actual consultation here.

(3) A licensed or registered physician who treats the physician's home state patients or other participating patients while the physicians and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3. A physician shall first register with the board on a form developed by the board for that purpose. The board shall not be required to promulgate the contents of that form by rule. No fee shall be charged for this registration.

(4) A student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized medical school.

(5) A student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any hospital or institution approved for training by the board.

(6) A person employed in a scientific, sanitary or teaching capacity by the state university, the state department of education, or by any public or private school, college, or other bona fide educational institution, or the state department of health, whose duties are entirely of a public health or educational character, while engaged in such duties.

(7) Physician's assistants registered in this state.

(8) A doctor of osteopathy duly licensed by the state board of osteopathy under Minnesota Statutes 1961, sections 148.11 to 148.16, prior to May 1, 1963, who has not been granted a license to practice medicine in accordance with this chapter provided that the doctor confines activities within the scope of the license.

(9) Any person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health pursuant to section 214.13, including licensed psychologists with respect to the use of hypnosis; provided that the person confines activities within the scope of the license.

(10) A ~~Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer, or who practices ritual circumcision pursuant to the requirements or tenets of any established religion.~~

(11) A ~~Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.~~

Sec. 6. [245.826] [USE OF RESTRICTIVE TECHNIQUES AND PROCEDURES IN FACILITIES SERVING EMOTIONALLY DISTURBED CHILDREN.]

When amending rules governing facilities serving emotionally disturbed children that are licensed under section 245A.09 and Minnesota Rules, parts 9545.0900 to 9545.1090, and 9545.1400 to 9545.1500, the commissioner of human services shall include provisions governing the use of restrictive techniques and procedures. No provision of these rules may encourage or require the use of restrictive techniques and procedures. The rules must prohibit: (1) the application of certain restrictive techniques or procedures in facilities, except as authorized in the child's case plan and monitored by the county caseworker responsible for the child; (2) the use of restrictive techniques or procedures that restrict the clients' normal access to nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, and necessary clothing; and (3) the use of corporal punishment. The rule may specify other restrictive techniques and procedures and the specific conditions under which permitted techniques and procedures are to be carried out.

Sec. 7. Minnesota Statutes 1989 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in clauses (1) to (4) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults 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 juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The

commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

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 include information from the county agency's record of substantiated abuse of adults, neglect of adults, and the maltreatment of minors, and information from the bureau of criminal apprehension.

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).

(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 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.

(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. 8. Minnesota Statutes 1988, section 259.40, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY PAYMENTS.] The commissioner of human services may make subsidy payments as necessary *after the subsidized adoption agreement is approved* to an adoptive parent or parents who adopt a child who *meets the eligibility requirements under title IV-E of the Social Security Act, United States Code, title 42, section 670, or who otherwise meets the requirements in subdivision 4*, is a Minnesota resident and is under guardianship of the commissioner or of a licensed child placing agency after the final decree of adoption is issued. The subsidy payments and any subsequent modifications to the subsidy payments shall be based on the needs of the adopted person that the commissioner has determined cannot be met using other resources including programs available to the adopted person and the adoptive parent or parents.

Sec. 9. Minnesota Statutes 1988, section 259.40, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY CONDITIONS.] The placing agency shall *determine the child's eligibility for adoption assistance under title IV-E of the Social Security Act. If the child does not qualify, the placing agency shall* certify a child as eligible for a *state-funded* subsidy only if the following criteria are met:

(a) A placement agency has made reasonable efforts to place the child for adoption without subsidy, but has been unsuccessful; or

(b) The child's licensed foster parents desire to adopt the child and it is determined by the placing agency that:

(1) The adoption is in the best interest of the child; and,

(2) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without subsidy; and

(c) The child has been a ward of the commissioner, or licensed child placing agency.

Sec. 10. Minnesota Statutes 1988, section 260.011, subdivision 2, is amended to read:

Subd. 2. (a) *The paramount consideration in all proceedings concerning a child alleged or found to be in need of protection or services is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923. The purpose of the laws relating to juvenile courts is to secure for each child alleged or adjudicated in need of protection or services and under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child and the best interests of the state; to provide judicial procedures which protect the welfare of the child; to preserve and*

strengthen the child's family ties whenever possible *and in the child's best interests*, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal; and, when removal from the child's own family is necessary *and in the child's best interests*, to secure for the child custody, care and discipline as nearly as possible equivalent to that which should have been given by the parents.

(b) The purpose of the laws relating to termination of parental rights is to ensure that:

(1) reasonable efforts have been made by the social service agency to reunite the child with the child's parents in a placement that is safe and permanent; and

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement, preferably with adoptive parents.

The paramount consideration in all proceedings for the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 257.351, subdivision 6, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

(c) The purpose of the laws relating to children alleged or adjudicated to be delinquent is to promote the public safety and reduce juvenile delinquency by maintaining the integrity of the substantive law prohibiting certain behavior and by developing individual responsibility for lawful behavior. This purpose should be pursued through means that are fair and just, that recognize the unique characteristics and needs of children, and that give children access to opportunities for personal and social growth.

(d) The laws relating to juvenile courts shall be liberally construed to carry out these purposes.

Sec. 11. Minnesota Statutes 1989 Supplement, 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)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse, or (iv) is a victim of emotional maltreatment as defined in 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 behavior, condition, or environment is 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; or
- (13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.*

Sec. 12. Minnesota Statutes 1988, section 260.155, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12), or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. *Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time and, in the interim. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests*

of the child. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301. The court shall exclude the general public from these hearings and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court; except that, the court shall open the hearings to the public in delinquency proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16 years of age at the time of the offense. In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the reference or adjudicatory hearings, and (2) the disposition of the case. Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

Sec. 13. Minnesota Statutes 1989 Supplement, section 260.161, subdivision 2, is amended to read:

Subd. 2. Except as provided in this subdivision and in subdivision 1, and except for legal records arising from proceedings that are public under section 260.155, subdivision 1, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except (a) by order of a court or (b) as required by sections 245A.04, 611A.03, 611A.04, and 611A.06. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260.255, 260.261, or 260.315 when the proceeding involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

Sec. 14. Minnesota Statutes 1989 Supplement, section 260.171, subdivision 4, is amended to read:

Subd. 4. If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible,

the child's parent, guardian, or custodian:

(a) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility; and

(b) of the location of the juvenile secure detention facility or shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made; and

(c) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the juvenile secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours; and

(d) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility; and

(e) that the child may not be detained for acts as defined in section 260.015, subdivision 5, at a juvenile secure detention facility or shelter care facility longer than 36 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260.172; and

(f) that the child may not be detained for acts defined in section 260.015, subdivision 5, at an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a petition has been filed and the court orders the child's continued detention under section 260.172; and

(g) that the child may not be detained pursuant to section 260.165, subdivision 1, clause (a) or (c)(2), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260.172; and

(h) of the date, time, and place of the detention hearing, *if this information is available to the person who has taken the child into custody*; and

(i) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot afford counsel, counsel will be appointed at public expense for the child, if it is a delinquency matter, or for any party, if it is a child in need of protection or services, neglected and in foster care, or termination of parental rights matter.

After August 1, 1991, the child's parent, guardian, or custodian shall also be informed under clause (f) that the child may not be detained in an adult jail or municipal lockup longer than 24 hours, excluding Saturdays, Sundays, and holidays, or longer than six hours if the adult jail or municipal lockup is in a standard metropolitan statistical area, unless a motion to refer the child for adult prosecution has been made within that time period.

Sec. 15. Minnesota Statutes 1989 Supplement, section 260.221, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY AND INVOLUNTARY.] The juvenile court may upon petition, terminate all rights of a parent to a child in the following cases:

(a) With the written consent of a parent who for good cause desires to terminate parental rights; or

(b) If it finds that one or more of the following conditions exist:

(1) That the parent has abandoned the child. Abandonment is presumed when:

(i) the parent has had no contact or merely incidental contact with the child for six months in the case of a child under six years of age, or for 12 months in the case of a child ages six to 11; and

(ii) the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518. The court is not prohibited from finding abandonment in the absence of this presumption; or

(2) That the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition; or

(3) That a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth; or

(4) That a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. *It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:*

(i) *the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and*

(ii) *within the three-year period immediately prior to that adjudication, the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7) of this paragraph, or under clause (5) of this paragraph if the child was initially determined to be in*

need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); or

(5) That following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child under the age of 12 has resided out of the parental home under court order for more than one year following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) *the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;*

(ii) *the parent has been required by a case plan to participate in a chemical dependency treatment program;*

(iii) *the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;*

(iv) *the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and*

(v) *the parent continues to abuse chemicals.*

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after the effective date of this section; or

(6) *That the parent has been convicted of causing the death of another of the parent's children; or*

(7) That in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.26 and either the person has not filed a notice of intent to retain parental rights under section 259.261 or that the notice has been successfully challenged; or

↔ (8) That the child is neglected and in foster care.

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections

1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Sec. 16. Minnesota Statutes 1989 Supplement, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

(a) This chapter shall not apply to the practice of law enforcement, to fire protection agencies, to eligibility for a private detective or protective agent license, 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, *or to eligibility for juvenile corrections employment where the offense involved child physical or sexual abuse or criminal sexual conduct.*

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

(c) Nothing in this section shall be construed to preclude 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. 17. Minnesota Statutes 1989 Supplement, section 609.223, is amended to read:

609.223 [ASSAULT IN THE THIRD DEGREE.]

Subdivision 1. [SUBSTANTIAL BODILY HARM.] Whoever assaults another and inflicts substantial bodily harm 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.

Subd. 2. [PAST PATTERN OF CHILD ABUSE.] Whoever assaults a minor 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, if the perpetrator has engaged in a past pattern of child abuse against the minor. As used in this subdivision, "child abuse" has the meaning given it in section 609.185, clause (5).

Sec. 18. Minnesota Statutes 1989 Supplement, 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 five years or to payment of a fine of not more than \$10,000, or both. *If the punishment results in great bodily harm, that person 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.*

Sec. 19. Minnesota Statutes 1988, section 609.379, subdivision 2, is amended to read:

Subd. 2. [APPLICABILITY.] This section applies to sections 260.315,

609.255, 609.376, ~~609.377~~, 609.378, and 626.556.

Sec. 20. Minnesota Statutes 1988, section 626.556, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC POLICY.] The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse. *In furtherance of this public policy, it is the intent of the legislature under this section to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings; and to provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.*

In addition, it is the policy of this state to require the reporting of neglect, physical or sexual abuse of children in the home, school, and community settings; to provide for the voluntary reporting of abuse or neglect of children; to require the assessment and investigation of the reports; and to provide protective and counseling services in appropriate cases.

Sec. 21. Minnesota Statutes 1989 Supplement, 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 of a child 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. *Sexual abuse includes threatened sexual abuse.*

(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 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 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" includes prenatal exposure to a controlled substance, as defined in section ~~626.556~~ 253B.02, subdivision 2, 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 2a, clause (5).

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental 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.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Sec. 22. Minnesota Statutes 1988, section 626.556, subdivision 3, is amended to read:

Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report,

shall immediately notify the local welfare agency orally and in writing. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency orally and in writing. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall, upon request to the local welfare agency, receive a summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 23. Minnesota Statutes 1988, section 626.556, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any social worker or supervisor employed by a local welfare agency complying with subdivision 10d or the provisions of section 626.5561; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or social worker employed by a local welfare agency complying with subdivisions 10 and 11 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good

faith and exercising due care.

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 24. Minnesota Statutes 1989 Supplement, 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 physical abuse as defined in subdivision 2, paragraph (d);~~

(2) neglect as defined in subdivision 2, paragraph (c); or

(3) sexual abuse as defined in subdivision 2, paragraph (a); or

(4) mental injury as defined in section 21.

(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. 25. Minnesota Statutes 1988, section 626.556, is amended by adding a subdivision to read:

Subd. 10g. [INTERSTATE DATA EXCHANGE.] All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and

(2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

Sec. 26. Minnesota Statutes 1989 Supplement, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] Except as provided in subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The welfare board shall make available to the investigating, petitioning, or prosecuting authority any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Sec. 27. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 1, is amended to read:

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. *An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter.*

Sec. 28. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 3, is amended to read:

Subd. 3. [RELATED PROVISIONS.] Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, ~~7~~, 8, and 11.

Sec. 29. Minnesota Statutes 1989 Supplement, section 626.5561, subdivision 4, is amended to read:

Subd. 4. [CONTROLLED SUBSTANCES.] For purposes of this section and section 626.5562, "controlled substance" means a controlled substance ~~classified in schedule I, II, or III under chapter 152 listed in section 253B.02, subdivision 2.~~

Sec. 30. Minnesota Statutes 1989 Supplement, section 626.5561, is amended by adding a subdivision to read:

Subd. 5. [IMMUNITY.] (a) *A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.*

(b) *This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.*

Sec. 31. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 1, is amended to read:

Subdivision 1. [TEST; REPORT.] A physician shall administer a toxicology test to a pregnant woman under the physician's care *or to a woman under the physician's care within eight hours after delivery* 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 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Sec. 32. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 2, is amended to read:

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~~ *during the pregnancy*. 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.

Sec. 33. Minnesota Statutes 1989 Supplement, section 626.5562, subdivision 4, is amended to read:

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, *in a woman within eight hours after delivery*, 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.

Sec. 34. Minnesota Statutes 1989 Supplement, section 626.558, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF THE TEAM.] A county ~~may~~ *shall* establish a multidisciplinary child protection team 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, representatives of health and education, representatives of mental health or other appropriate human service agencies, and parent groups.

Sec. 35. Minnesota Statutes 1988, section 626.559, subdivision 2, is amended to read:

Subd. 2. [JOINT TRAINING.] The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260.011 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under section 626.556;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation;

(5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, *including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services*;

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;

(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home;

(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse *and domestic abuse*, and to preserve the family unit, *and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse*; and

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts.

Sec. 36. [ATTORNEY GENERAL DATA PRACTICES STUDY.]

The attorney general and the department of human services, in consultation with the multidisciplinary task force established under section 39, shall:

(1) prepare a plain language interpretation of existing data practices laws that affect the child protection system;

(2) identify ambiguities and inconsistencies in the laws and compare the classification and treatment of data in law enforcement and child protection agencies;

(3) prepare standard forms for giving information to individuals under Minnesota Statutes, section 13.04, subdivision 2, and for reports under Minnesota Statutes, section 626.556;

(4) determine the need for giving mandated reporters, law enforcement, and child protection workers who must diagnose and investigate child abuse increased access to medical records and information on prior abuse; and

(5) consider the desirability of defining false or unfounded reports under Minnesota Statutes, section 626.556.

The attorney general and the department of human services shall report and make recommendations to the legislature by December 15, 1991.

Sec. 37. [CHILD ABUSE; PLAN FOR STATEWIDE COMPUTER DATA SYSTEM.]

Subdivision 1. [APPLICATION.] This section applies only if the commissioner of public safety is required by another law enacted in the 1990 legislative session to prepare a plan for a statewide computer data system containing information on domestic assault crimes and domestic abuse orders for protection.

Subd. 2. [PLAN.] The commissioner of public safety, in consultation with the department of human services, shall determine the feasibility and costs of establishing a statewide computerized data system containing the following information on determinations made under Minnesota Statutes, section 626.556, and on the criminal and juvenile court matters specified in clauses (1) to (6):

(1) identifying information on any individual that a local social service agency has determined under Minnesota Statutes, section 626.556, subdivision 10e, to have been responsible for the maltreatment of a child or to have necessitated the provision of child protective services for a child, and the name and birth date of any child found to have been maltreated or to be in need of child protective services as a result of the individual's actions;

(2) identifying information on individuals arrested for, charged with, or

convicted of malicious punishment of a child or neglect of a child;

(3) pretrial release conditions applicable to individuals charged with an offense listed in clause (2);

(4) probation and supervised release conditions applicable to individuals convicted of an offense listed in clause (2);

(5) identifying information on individuals whose parental rights to a child have been involuntarily terminated under Minnesota Statutes, section 260.226; and

(6) identifying information on individuals who have a child who was found to be in need of protective services as defined in Minnesota Statutes, section 260.015, subdivision 2a.

The commissioner shall also determine the feasibility and costs of requiring all local social service agencies, law enforcement agencies, prosecutors, courts, and court services personnel to report relevant information to the statewide data system; of making the information available to these agencies on request; and of providing a process by which the accuracy of the data may be reviewed at the request of the subject of the data.

The commissioner shall coordinate the study and plan under this section with the study and plan on domestic assault and domestic abuse data.

The commissioner shall report the results of the study and provide an implementation plan to the chairs of the judiciary committees in the house of representatives and the senate on or before February 1, 1991.

Sec. 38. [SUPREME COURT REVIEW OF CERTAIN JUVENILE COURT ISSUES.]

The supreme court is requested to study and review the following two issues:

(1) whether the use of Minnesota Statutes, section 542.16, and Rule 63.03, of the rules of civil procedure, to remove judges in juvenile court cases involving allegations of child abuse or neglect is frequent and appropriate;

(2) whether there is adequate special training for judges who hear juvenile court cases involving allegations of child abuse or neglect.

The supreme court is requested to report to the judiciary committees of the senate and the house of representatives with any findings or recommendations for change resulting from these reviews.

Sec. 39. [ALTERNATIVE DISPOSITIONS STUDY.]

The department of human services shall report and make recommendations regarding the use of permanency planning and alternative dispositions for children who are placed in out-of-home care, cannot be returned to their families, and for whom termination of parental rights is not in the child's best interest. The department shall consult with a multidisciplinary task force, including representatives of the Minnesota Indian affairs council, the council on Black Minnesotans, the council on affairs of Spanish-speaking people, the council on Asian-Pacific Minnesotans, public and private agencies, guardians ad litem, the judiciary, attorneys representing all parties in juvenile court proceedings, and community advocates. The department shall report and make recommendations to the legislature by January 7, 1991.

Sec. 40. [APPROPRIATIONS.]

Notwithstanding Minnesota Statutes, sections 299A.22 to 299A.25, or any other law to the contrary, up to \$45,000 of the money appropriated by Minnesota Statutes, section 299A.27, from the children's trust fund established under Minnesota Statutes, section 299A.22, to be administered by the children's trust fund for the fiscal year ending June 30, 1991, for grants must be used to provide a grant for administration of the professional consultation telephone line and service authorized by Minnesota Statutes, section 626.562. Notwithstanding Minnesota Statutes, section 626.562, subdivision 2, the commissioner of public safety shall provide a grant only to agencies that agree to match 50 percent of the grant amount through cash or in-kind donations.

Sec. 41. [EFFECTIVE DATE.]

Sections 17, 18, and 19 are effective August 1, 1990, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to children; creating a legislative commission on child protection; providing improved procedures to protect the safety and welfare of abused and neglected children; improving data practices; including mental injuries and threatened injuries as abuse to be reported as maltreatment of minors; increasing penalties for assault against a child when there is a past pattern of child abuse; increasing the penalty for malicious child punishment resulting in great bodily harm; excluding persons convicted of child abuse or criminal sexual conduct seeking employment in juvenile corrections from certain protections for criminal offenders; providing for maternal and child health services in chemical abuse situations; defining controlled substances for purposes of reporting prenatal exposure to controlled substances; appropriating money; amending Minnesota Statutes 1988, sections 145.88; 145.882, subdivision 7; 147.09; 259.40, subdivisions 1 and 4; 260.011, subdivision 2; 260.155, subdivision 1; 609.379, subdivision 2; 626.556, subdivisions 1, 3, 4, and by adding a subdivision; and 626.559, subdivision 2; Minnesota Statutes 1989 Supplement, sections 245A.04, subdivision 3; 260.015, subdivision 2a; 260.161, subdivision 2; 260.171, subdivision 4; 260.221, subdivision 1; 364.09; 609.223; 609.377; 626.556, subdivisions 2, 10e, and 11; 626.5561, subdivisions 1, 3, 4, and by adding a subdivision; 626.5562, subdivisions 1, 2, and 4; and 626.558, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; 144; and 245."

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

House Conferees: (Signed) Kathleen Vellenga, Jean Wagenius, Randy C. Kelly, Kathleen Blatz, Jerry Janezich

Senate Conferees: (Signed) Ember D. Reichgott, Allan H. Spear, Carol Flynn, Pat Pariseau

Ms. Reichgott moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2390 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. 2390 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 60 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Berglin 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

S.F. No. 1827 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1827

A bill for an act relating to civil actions; providing for immunity from liability for unpaid members of county agricultural society boards; addressing reduction of damages in an action under no-fault automobile insurance; preserving common law tort law claims against adults who knowingly provide alcoholic beverages to minors; increasing the amount of claims that may be settled without court approval under the municipal compromise of claims statute; changing the standard for awarding punitive damages; addressing when a principal may be held liable for punitive damages for an act of the principal's agent; requiring a separate trial to address punitive damages; requiring the court to review a punitive damages award; making the contributory negligence rule apply to damages resulting from economic loss; redefining fault; abolishing the doctrine of last clear chance; providing immunity from liability for volunteer ski patrollers; allowing recovery of attorney fees by good faith reporters under the child abuse reporting act; repealing the limit on intangible loss damages and the requirement that a jury specify amounts for past, future, and intangible loss damages; amending Minnesota Statutes 1988, sections 38.013; 65B.51, subdivision 1; 340A.801, by adding a subdivision; 466.08; 541.051, subdivision 1; 548.36, subdivision 3; 549.20, subdivisions 1, 2, and by adding subdivisions; 604.01, subdivisions 1, 1a, and 3; 604.05, subdivision 2; 626.556, subdivision 4; repealing Minnesota Statutes 1988, sections 549.23 and 549.24.

April 20, 1990

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. 1827, 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. 1827 be further amended as follows:

Page 1, after line 32, insert:

"Section 1. Minnesota Statutes 1988, section 31.50, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For the purposes of this section, "distressed food" means, in addition to the definition in section 31.495, certain perishable foods, as defined in section 28A.03, which may not be readily marketable due to appearance, freshness, grade, surplus or other considerations and are not suspect of having been rendered unsafe or unsuitable for food use and are adequately labeled.

(b) For the purposes of this section, "food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(c) For the purposes of this section, "food facility" means:

(1) a restaurant, food establishment, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, and mobile food preparation unit;

(2) a place used in conjunction with the operations described in clause (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials; or

(3) a farmers' market.

(d) "Nonprofit charitable organization" means an organization that was organized under the Minnesota nonprofit corporation act and is operating for charitable purposes.

Sec. 2. Minnesota Statutes 1988, section 31.50, subdivision 2, is amended to read:

Subd. 2. [DONATION; DISTRESSED FOOD.] A food manufacturer, distributor, processor or a person who donates or collects distressed food to or for a nonprofit charitable organization as defined in section 309.50, subdivision 4, for distribution at no charge to the elderly or needy, or who directly distributes distressed food to the elderly or needy at no charge, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the distressed food, unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the food manufacturer, processor, distributor or person.

Sec. 3. Minnesota Statutes 1988, section 31.50, subdivision 3, is amended to read:

Subd. 3. [DISTRIBUTION.] A food bank or nonprofit charitable organization as defined in section 309.50, subdivision 4, which in good faith collects or receives distressed food and distributes it at no charge to the elderly or needy, at no charge, food which is fit for human consumption at the time it is distributed, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the distressed food,

unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the *food bank or nonprofit charitable organization*.

Sec. 4. Minnesota Statutes 1988, section 31.50, is amended by adding a subdivision to read:

Subd. 5. [OTHER FOOD DONATION.] A food facility that donates, to a food bank or other nonprofit charitable organization, food which is:

(1) fit for human consumption at the time of donation; and

(2) distributed by the food bank or nonprofit charitable organization to the elderly or needy at no charge;

shall not be liable for any injury, including, but not limited to, liability resulting from ingestion of the food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food facility."

Page 3, after line 5, insert:

"Sec. 7. Minnesota Statutes 1988, section 127.03, is amended by adding a subdivision to read:

Subd. 3. [IMMUNITY FROM CIVIL LIABILITY.] It is a defense to a civil action for damages against a teacher to prove that the force used by the teacher was reasonable, was in the exercise of lawful authority, and was necessary under the circumstances to restrain the pupil.

Sec. 8. Minnesota Statutes 1988, section 169.48, is amended to read:

169.48 [VEHICLE LIGHTING.]

Every vehicle upon a highway within this state, at any time from sunset to sunrise and at any other time when visibility is impaired by weather, smoke, fog or other conditions or there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, shall display lighted lamps and illuminating devices, as hereinafter, respectively, required for different classes of vehicles, subject to exceptions with respect to parked vehicles *and law enforcement vehicles*, as hereinafter stated. In addition to the other requirements of this paragraph, every school bus transporting children upon a highway within this state, at any time from a half hour before sunrise to a half hour after sunset, shall display lighted lamps and illuminating devices as required by this paragraph, except that the operator shall use the lower most distribution of light specified in section 169.60 unless conditions warrant otherwise.

When requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, these provisions shall apply during the time stated in this section upon a straight level unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated and unless otherwise specified the location of lamps and devices shall refer to the center of such lamps or devices. Parking lamps shall not be used in lieu of head lamps to satisfy the requirements of this section.

Sec. 9. [169.541] [LIGHTING EXEMPTIONS; LAW ENFORCEMENT VEHICLES; STANDARDS.]

Subdivision 1. [EXEMPTION.] Sections 84.87, 84.928, 169.48 to 169.65, and 361.15, relating to lighting of vehicles and watercraft, do not apply to a licensed peace officer, as defined in section 626.84, subdivision 1,

paragraph (c), while operating a motor vehicle or watercraft owned, leased, or otherwise the property of the state or a political subdivision, in the performance of the officer's law enforcement duties if the officer's conduct is reasonable and is consistent with the standards adopted under subdivision 2, and if the officer reasonably believes that operating the vehicle without lights is necessary under the circumstances to investigate a criminal violation or suspected criminal violation of state laws, rules, or orders or local laws, ordinances, or regulations.

Subd. 2. [POST BOARD STANDARDS.] The peace officers standards and training board shall adopt standards governing situations in which licensed peace officers as defined in section 626.84, subdivision 1, paragraph (c), may operate a vehicle or watercraft without lights as provided in subdivision 1. The board shall report to the legislature on the standards by January 1, 1991."

Page 3, after line 11, insert:

"Sec. 11. Minnesota Statutes 1988, section 361.15, is amended to read:
361.15 [LIGHTS.]

Subdivision 1. *Except as provided in section 9, each watercraft using the waters of this state, when underway or in use at any time between sunset and sunrise, shall carry and display the lights specified by the commissioner for such watercraft."*

Pages 8 and 9, delete section 15

Page 9, line 11, delete "2, 5 to 13, and 16" and insert "1 to 4, 6, 13 to 21, and 23"

Page 9, line 13, delete "3" and insert "10"

Page 9, delete lines 15 and 16

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 20, delete everything after the semicolon

Page 1, delete line 21 and insert "limiting the liability of food donors; providing a defense for the use of reasonable force by teachers; providing vehicle and watercraft lighting exemptions for law enforcement;"

Page 1, line 25, after "sections" insert "31.50, subdivisions 1, 2, 3, and by adding a subdivision;"

Page 1, line 26, after the first semicolon, insert "127.03, by adding a subdivision; 169.48;" and after the second semicolon, insert "361.15;"

Page 1, line 30, delete "626.556, subdivision 4" and insert "proposing coding for new law in Minnesota Statutes, chapter 169"

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

Senate Conferees: (Signed) Ember D. Reichgott, Richard J. Cohen, Gary W. Laidig

House Conferees: (Signed) Howard Orenstein, Phil Carruthers

Ms. Reichgott moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1827 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. 1827 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	Cohen	Hughes	McGowan	Ramstad
Anderson	Dahl	Johnson, D.E.	McQuaid	Reichgott
Beckman	Davis	Knaak	Merriam	Renneke
Belanger	Decker	Knutson	Metzen	Samuelson
Benson	DeCramer	Kroening	Moe, D.M.	Schmitz
Berg	Dicklich	Laidig	Morse	Spear
Berglin	Flynn	Langseth	Olson	Storm
Bernhagen	Frank	Lantry	Pariseau	Stumpf
Bertram	Frederick	Larson	Pehler	Vickerman
Brandl	Frederickson, D.J.	Lessard	Piepho	Waldorf
Brataas	Frederickson, D.R.	Luther	Piper	
Chmielewski	Gustafson	Marty	Pogemiller	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1896 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1896

A bill for an act relating to health; providing exemptions from the infectious waste control act; requiring hospitals to accept certain infectious waste; modifying standards for ambulance drivers; requiring adoption of rules setting new standards for recertification of and upgrading to emergency care course certificates; increasing reimbursement for volunteers; authorizing an emergency medical services advisory committee; regulating the provision of special transportation services; requiring studies; encouraging rural medical school applicants; requiring a study of medical assistance reimbursement for physicians; creating a rural hospital planning and transition grant program; creating a rural hospital subsidy fund; allowing counties authority to exceed levy limits; appropriating money; amending Minnesota Statutes 1989 Supplement, sections 116.76, subdivision 9; 116.78, by adding subdivisions; 144.804, subdivisions 1 and 7; 144.809; 144.8091; Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 136A; 144; and 174.

April 20, 1990

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. 1896, 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. 1896 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1989 Supplement, section 168.012, subdivision 1, is amended to read:

Subdivision 1. (a) The following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees, except as provided in subdivision 1c:

(1) vehicles owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, the state, or any political subdivision;

(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions;

(3) vehicles owned by nonprofit charities and used exclusively to transport handicapped persons for educational purposes;

(4) vehicles owned and used by honorary consul or consul general of foreign governments; *and*

(5) *ambulances owned by ambulance services licensed under section 144.802, the general appearance of which is unmistakable.*

(b) Vehicles owned by the federal government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall not be required to register or display number plates.

(c) Unmarked vehicles used in general police work and arson investigations, and passenger automobiles, pickup trucks, and buses owned or operated by the department of corrections shall be registered and shall display appropriate license number plates which shall be furnished by the registrar at cost. Original and renewal applications for these license plates authorized for use in general police work and for use by the department of corrections must be accompanied by a certification signed by the appropriate chief of police if issued to a police vehicle, the appropriate sheriff if issued to a sheriff's vehicle, the commissioner of corrections if issued to a department of corrections vehicle, or the appropriate officer in charge if issued to a vehicle of any other law enforcement agency. The certification must be on a form prescribed by the commissioner and state that the vehicle will be used exclusively for a purpose authorized by this section.

(d) Unmarked vehicles used by the department of revenue in conducting seizures or criminal investigations must be registered and must display passenger vehicle classification license number plates which shall be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the commissioner of revenue. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the purposes authorized by this section.

(e) All other motor vehicles shall be registered and display tax exempt

number plates which shall be furnished by the registrar at cost, except as provided in subdivision 1c. All vehicles required to display tax exempt number plates shall have the name of the state department or public subdivision on the vehicle plainly displayed on both sides thereof in letters not less than 2-1/2 inches high and one-half inch wide; except that each state hospital and institution for the mentally ill and mentally retarded may have one vehicle without the required identification on the sides of the vehicle. Such identification shall be in a color giving contrast with that of the part of the vehicle on which it is placed and shall endure throughout the term of the registration. The identification must not be on a removable plate or placard and shall be kept clean and visible at all times; except that a removable plate or placard may be utilized on vehicles leased or loaned to a political subdivision.

Sec. 2. Minnesota Statutes 1989 Supplement, section 168.013, subdivision 1a, is amended to read:

Subd. 1a. [PASSENGER AUTOMOBILES; ~~AMBULANCES~~; HEARSEs.]

(a) On passenger automobiles as defined in section 168.011, subdivision 7, ~~ambulances~~, and hearses, except as otherwise provided, the tax shall be \$10 plus an additional tax equal to 1.25 percent of the base value.

(b) Subject to the classification provisions herein, "base value" means the manufacturer's suggested retail price of the vehicle including destination charge as reflected on the price listing affixed to the vehicle in conformity with United States Code, title 15, sections 1231 to 1233 (Public Law Number 85-506) or otherwise suggested by the manufacturer or determined by the registrar if no suggested retail price exists, and shall not include the cost of each accessory or item of optional equipment separately added to the vehicle and the suggested retail price.

(c) If unable to determine the base value because the vehicle is specially constructed, or for any other reason, the registrar may establish such value upon the cost price to the purchaser or owner as evidenced by a certificate of cost but not including Minnesota sales or use tax or any local sales or other local tax.

(d) The registrar shall classify every vehicle in its proper base value class as follows:

FROM	TO
\$ 0	\$199.99
200	399.99

and thereafter a series of classes successively set in brackets having a spread of \$200 consisting of such number of classes as will permit classification of all vehicles.

(e) The base value for purposes of this section shall be the middle point between the extremes of its class.

(f) The registrar shall establish the base value, when new, of every passenger automobile, ~~ambulance~~ and hearse registered prior to the effective date of Extra Session Laws 1971, chapter 31, using list price information published by the manufacturer or any nationally recognized firm or association compiling such data for the automotive industry. If unable to ascertain the base value of any registered vehicle in the foregoing manner, the registrar may use any other available source or method. The tax on all

previously registered vehicles shall be computed upon the base value thus determined taking into account the depreciation provisions of Extra Session Laws 1971, chapter 31.

(g) Except as provided in paragraph (h), the annual additional tax computed upon the base value as provided herein, during the first and second years of vehicle life shall be computed upon 100 percent of the base value; for the third and fourth years, 90 percent of such value; for the fifth and sixth years, 75 percent of such value; for the seventh year, 60 percent of such value; for the eighth year, 40 percent of such value; for the ninth year, 30 percent of such value; for the tenth year, ten percent of such value; for the 11th and each succeeding year, the sum of \$25.

In no event shall the annual additional tax be less than \$25.

(h) The annual additional tax under paragraph (g) on a motor vehicle on which the first annual tax was paid before January 1, 1990, must not exceed the tax that was paid on that vehicle the year before.

Sec. 3. [174.315] [APPROPRIATE USES OF SPECIAL TRANSPORTATION.]

Special transportation services shall not provide or offer transportation to persons who might reasonably require basic or advanced life support, as defined in section 144.804, while in the special transportation vehicle. The commissioner of health shall investigate all complaints alleging violations of this section and shall report the results of the investigation to the commissioner of transportation. The minimum penalty for a violation shall be revocation of the certificate issued under section 174.30, subdivision 4a.

Sec. 4. 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.

Sec. 5. Minnesota Statutes 1988, section 297A.25, is amended by adding a subdivision to read:

Subd. 44. [AMBULANCES.] The lease of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144.802 is exempt.

Sec. 6. Minnesota Statutes 1989 Supplement, section 297B.03, is amended to read:

297B.03 [EXEMPTIONS.]

There is specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

(1) Purchase or use, including use under a lease purchase agreement or installment sales contract made pursuant to section 465.71, of any motor vehicle by the United States and its agencies and instrumentalities and by any person described in and subject to the conditions provided in section 297A.25, subdivision 18.

(2) Purchase or use of any motor vehicle by any person who was a resident of another state at the time of the purchase and who subsequently becomes a resident of Minnesota, provided the purchase occurred more than 60 days prior to the date such person began residing in the state of Minnesota.

(3) Purchase or use of any motor vehicle by any person making a valid election to be taxed under the provisions of section 297A.211.

(4) Purchase or use of any motor vehicle previously registered in the state of Minnesota by any corporation or partnership when such transfer constitutes a transfer within the meaning of section 351 or 721 of the Internal Revenue Code of 1986, as amended through December 31, 1988.

(5) Purchase or use of any vehicle owned by a resident of another state and leased to a Minnesota based private or for hire carrier for regular use in the transportation of persons or property in interstate commerce provided the vehicle is titled in the state of the owner or secured party, and that state does not impose a sales or motor vehicle excise tax on motor vehicles used in interstate commerce.

(6) Purchase or use of a motor vehicle by a private nonprofit or public educational institution for use as an instructional aid in automotive training programs operated by the institution.

(7) Purchase of a motor vehicle for use as an ambulance by an ambulance service licensed under section 144.802.

Sec. 7. Minnesota Statutes 1988, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized pursuant to sections 469.048 to 469.068; or any hospital district

organized or reorganized prior to July 1, 1975, pursuant to sections 447.31 to 447.37. *A hospital district organized or reorganized on or after July 1, 1975, whose employees are not enrolled and participating in the association, may elect to be excluded from the definition of governmental subdivision for purposes of this chapter. To be excluded, the hospital district must notify the association in writing of its intent to be excluded.*

Sec. 8. [EFFECTIVE DATE.]

Section 7 is effective the day following final enactment. A hospital district that was organized or reorganized within one year prior to the effective date of section 7 and that files a written notice of its intent to be excluded within 60 days after the effective date of the section, but before its employees have become enrolled and participating in the public employee retirement association, is excluded from the definition of governmental entity retroactively to the date the hospital district was organized or reorganized."

Delete the title and insert:

"A bill for an act relating to health; exempting ambulances from certain fees and excise taxes; regulating the provision of special transportation services; clarifying the definition of employee for workers' compensation; allowing certain newly organized hospital districts to elect not to participate in the public employees retirement plan; amending Minnesota Statutes 1988, sections 176.011, subdivision 9; 297A.25, by adding a subdivision; and 353.01, subdivision 6; Minnesota Statutes 1989 Supplement, sections 168.012, subdivision 1; 168.013, subdivision 1a; and 297B.03; proposing coding for new law in Minnesota Statutes, chapter 174."

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

Senate Conferees: (Signed) Jim Vickerman, Don Samuelson, Gary M. DeCramer, Mark Piepho, Keith Langseth

House Conferees: (Signed) Roger Cooper, Wally Sparby, Chuck Brown, Henry J. Kalis, Ben Boo

Mr. Vickerman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1896 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. 1896 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2108 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2108

A bill for an act relating to liquor; regulating the sale of liqueur-filled candy; authorizing municipalities to issue on-sale wine licenses to bed and breakfast facilities; authorizing removal of partially consumed wine bottles from licensed premises; authorizing additional licenses in the cities of Minneapolis, Brooklyn Center, and Duluth; authorizing the issuance of wine and nonintoxicating malt liquor licenses by the city of St. Paul to its parks and recreation division; authorizing the county board of Anoka county to delegate liquor licensing authority to town boards within the county; authorizing the county board of Itasca county to issue an off-sale or combination license within three miles of an incorporated area; providing for the reporting of wine licenses to the commissioner of public safety; eliminating the requirement for a vote on municipal liquor store continuance upon population change; amending Minnesota Statutes 1988, sections 31.121; 340A.101, subdivision 10; 340A.404, subdivisions 3, 5, and by adding a subdivision; 340A.504, subdivision 1; 340A.601, subdivision 2; Minnesota Statutes 1989 Supplement, sections 340A.404, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 340A.

April 19, 1990

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. 2108, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2108 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 31.121, is amended to read:

31.121 [FOOD ADULTERATION.]

A food shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(b) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe

within the meaning of section 31.122; or

(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 31.122; or

(d) If it is or it bears or contains any food additive which is unsafe within the meaning of section 31.122; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 31.122, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 31.122 and this clause, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(e) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(f) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(g) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse; or

(h) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(i) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to section 31.122 or section 409 of the federal act; or

(j) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(k) If any substance has been substituted wholly or in part therefor; or

(l) If damage or inferiority has been concealed in any manner; or

(m) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or

(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) ~~bears or contains any alcohol, other than alcohol not in excess of one half of one percent by volume derived solely from the use of flavoring extracts;~~ or (3) bears or contains any nonnutritive substance; provided, that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of

such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of the Minnesota food law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or

(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or

(p) If it is oleomargarine or margarine or butter and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

Sec. 2. Minnesota Statutes 1988, section 340A.101, subdivision 10, is amended to read:

Subd. 10. [EXCLUSIVE LIQUOR STORE.] "Exclusive liquor store" is an establishment used exclusively for the sale of intoxicating liquor except for the incidental sale of ice, tobacco, nonintoxicating malt liquor, beverages for mixing with intoxicating liquor, soft drinks, *liqueur-filled candies*, cork extraction devices, and books and videos on the use of alcoholic beverages in the preparation of food, and the establishment may offer recorded or live entertainment. "Exclusive liquor store" also includes an on-sale or combination on-sale and off-sale intoxicating liquor establishment which sells food for on-premise consumption when authorized by the municipality issuing the license.

Sec. 3. Minnesota Statutes 1988, section 340A.101, subdivision 25, is amended to read:

Subd. 25. [RESTAURANT.] "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public, and having seating capacity for guests in the following minimum numbers:

- | | |
|--|-----|
| (a) First class cities | 50 |
| (b) Second and third class cities
and statutory cities of over
10,000 population | 30 |
| (c) Unincorporated or unorganized
territory other than in Cook,
Itasca, Lake, <i>Lake of the Woods</i> ,
and St. Louis counties | 100 |
| (d) Unincorporated or unorganized
territory in Cook, Itasca, Lake,
<i>Lake of the Woods</i> , and St. Louis
counties | 50 |

In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.

Sec. 4. Minnesota Statutes 1988, section 340A.301, subdivision 1, is amended to read:

Subdivision 1. [LICENSES REQUIRED.] No person may directly or indirectly manufacture or sell at wholesale intoxicating liquor, or nonintoxicating malt liquor without obtaining an appropriate license from the commissioner, except where otherwise provided in this chapter. A manufacturer's license includes the right to import. ~~A licensed brewer of malt liquor may sell products at wholesale without an additional license. A licensed brewer may sell the brewer's products at wholesale only if the brewer has been issued a wholesaler's license. The commissioner shall issue a wholesaler's license to a brewer only if (1) the commissioner determines that the brewer was selling the brewer's own products at wholesale in Minnesota on January 1, 1991, or (2) the brewer has acquired a wholesaler's business or assets under subdivision 7a, paragraph (c) or (d). A licensed wholesaler of intoxicating malt liquor may sell nonintoxicating malt liquor at wholesale without an additional license. The business of manufacturer and wholesaler may be combined and carried on under a single manufacturer's license.~~

Sec. 5. Minnesota Statutes 1988, section 340A.301, subdivision 7, is amended to read:

Subd. 7. [INTEREST IN OTHER BUSINESS.] (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or nonintoxicating malt liquor license, but a manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales if the manufacturer or wholesaler has owned the property continuously since November 1, 1933.

(b) A licensed brewer of malt liquor described in subdivision 6, clause (d) may be issued an on-sale intoxicating liquor or nonintoxicating malt liquor license by a municipality for a restaurant operated in or immediately adjacent to the place of manufacture.

(c) *Except as provided in subdivision 7a, no brewer as defined in subdivision 7a may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.*

Sec. 6. Minnesota Statutes 1988, section 340A.301, is amended by adding a subdivision to read:

Subd. 7a. [PERMITTED INTERESTS IN WHOLESALE BUSINESS.] (a) *A brewer may financially assist a wholesaler of malt liquor through participation in a limited partnership in which the brewer is the limited partner and the wholesaler is the general partner. A limited partnership authorized in this paragraph may not exist for more than ten years from the date of its creation, and may not, directly or indirectly, be recreated, renewed, or extended beyond that date.*

(b) *A brewer may financially assist a malt liquor wholesaler and collateralize the financing by taking a security interest in the inventory and assets, other than the corporate stock, of the wholesaler. A financial agreement authorized by this paragraph may not be in effect for more than ten years from the date of its creation and may not be directly or indirectly extended or renewed.*

(c) *A brewer who, after creation of a financial agreement authorized by paragraph (b), or after creation of a limited partnership authorized in paragraph (a), acquires legal or equitable title to the wholesaler's business*

which was the subject of the agreement or limited partnership, or to the business assets, must divest the business or its assets within two years of the date of acquiring them. A malt liquor wholesaler whose business or assets are acquired by a brewer as described in this paragraph may not enter into another such financial agreement, or participate in another such limited partnership, for 20 years from the date of the acquisition of the business or assets.

(d) A brewer may have an interest in the business, assets, or corporate stock of a malt liquor wholesaler as a result of (1) a judgment against the wholesaler arising out of a default by the wholesaler or (2) acquisition of title to the business, assets, or corporate stock as a result of a written request of the wholesaler. A brewer may maintain ownership of or an interest in the business, assets, or corporate stock under this paragraph for not more than two years, and only for the purpose of facilitating an orderly transfer of the business to an owner not affiliated with the brewer.

(e) A brewer may continue to maintain an ownership interest in a malt liquor wholesaler if it owned the interest on the effective date of this section.

(f) A brewer that was legally selling the brewer's own products at wholesale in Minnesota on the effective date of this section may continue to sell those products at wholesale in the area where it was selling those products on that date.

(g) A brewer that manufactures malt liquor in Minnesota may, if the brewer does not manufacture in Minnesota in any year more than 25,000 barrels of malt liquor or its metric equivalent, own or have an interest in a malt liquor wholesaler that sells only the brewer's products.

(h) When the commissioner issues a license to a malt liquor wholesaler described in paragraph (a) or (b), the commissioner may issue the license only to the entity which is actually operating the wholesale business and may not issue the license to a brewer that is a limited partner under paragraph (a) or providing financial assistance under paragraph (b) unless the brewer has acquired a wholesaler's business or assets under paragraph (c) or (d).

(i) For purposes of this subdivision and subdivision 7, clause (c), "brewer" means:

- (1) a holder of a license to manufacture malt liquor;*
- (2) an officer, director, agent, or employee of such a license holder; and*
- (3) an affiliate of such a license holder, regardless of whether the affiliation is corporate or by management, direction, or control.*

Sec. 7. Minnesota Statutes 1989 Supplement, section 340A.404, subdivision 2, is amended to read:

Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre, the Cricket Theatre, the Orpheum Theatre, and the State Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theatres and to members of the nonprofit corporations holding the licenses and to their guests.

(b) The city of Minneapolis may issue an intoxicating liquor license to

510 Groveland Associates, a Minnesota cooperative, for use by a restaurant on the premises owned by 510 Groveland Associates, notwithstanding limitations of law, or local ordinance, or charter provision.

(c) Notwithstanding any other law, local ordinance, or charter provision, the city of Minneapolis may issue one or more on-sale intoxicating liquor licenses to the owner of the sports arena located at 600 First Avenue North in the city of Minneapolis or an entity holding a concessions contract with the owner for use on the premises of that sports arena. The license authorizes sales on all days of the week to holders of tickets for sporting events or other events at the sports arena and to the owner of the sports arena and the owner's guests. The licensee may not dispense intoxicating liquor to any person attending or participating in an amateur athletic event held on the premises.

Sec. 8. Minnesota Statutes 1988, section 340A.404, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO THE COMMISSIONER.] A city shall within ten days of the issuance of a license under subdivision 1 or 5, inform the commissioner of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of a license transfer, cancellation, suspension, or revocation during the license period.

Sec. 9. Minnesota Statutes 1988, section 340A.404, subdivision 5, is amended to read:

Subd. 5. [WINE LICENSES.] (a) A municipality may issue an on-sale wine license with the approval of the commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 14 percent alcohol by volume for consumption with the sale of food. A wine license authorizes the sale of wine on all days of the week unless the issuing authority restricts the license's authorization to the sale of wine on all days except Sundays.

(b) The governing body of a municipality may by ordinance authorize a holder of an on-sale wine license issued pursuant to paragraph (a) who is also licensed to sell nonintoxicating malt liquors at on-sale pursuant to section 340A.411, and whose gross receipts are at least 60 percent attributable to the sale of food, to sell intoxicating malt liquors at on-sale without an additional license.

(c) A municipality may issue an on-sale wine license with the approval of the commissioner to a licensed bed and breakfast facility. A license under this paragraph authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility.

Sec. 10. Minnesota Statutes 1988, section 340A.404, is amended by adding a subdivision to read:

Subd. 11. [REMOVAL OF WINE FROM RESTAURANT.] *A restaurant licensed to sell intoxicating liquor or wine at on-sale under this section may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal to remove the bottle on leaving the licensed premises provided that the bottle has been opened and the contents partially consumed. A removal of a bottle under the conditions described in this subdivision is not an off-sale of intoxicating liquor and may be permitted without additional license.*

Sec. 11. Minnesota Statutes 1988, section 340A.405, subdivision 2, is amended to read:

Subd. 2. [COUNTIES.] (a) A county may issue an off-sale intoxicating license with the approval of the commissioner to exclusive liquor stores located within unorganized territory of the county.

(b) A county board of any county except Ramsey county containing a town exercising powers under section 368.01, subdivision 1, may issue an off-sale license to an exclusive liquor store within that town with the approval of the commissioner. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(c) A county board of any county except Ramsey county containing a town that may not exercise powers under section 368.01, subdivision 1, may issue a combination off-sale and on-sale license to restaurants within that town with the approval of the commissioner pursuant to section 340A.404, subdivision 6. No license may be issued under this paragraph unless the town board adopts a resolution supporting the issuance of the license.

(d) No license may be issued under this subdivision unless a public hearing is held on the issuance of the license. Notice must be given to all interested parties and to any city located within three miles of the premises proposed to be licensed. At the hearing the county board shall consider testimony and exhibits presented by interested parties and may base its decision to issue or deny a license upon the nature of the business to be conducted and its impact upon any municipality, the character and reputation of the applicant, and the propriety of the location. Any hearing held under this paragraph is not subject to chapter 14.

(e) A county board may not issue a license under this subdivision to a person for an establishment located less than ~~three miles~~ *one mile* by the most direct route from the boundary of any statutory or home rule city except cities of the first class or within Pine, Carlton, Carver, *Itasca*, or Red Lake county within ~~three miles~~ *one mile* of a statutory or home rule city with a municipal liquor store.

(f) The town board may impose an additional license fee in an amount not to exceed 20 percent of the county license fee.

(g) Notwithstanding any provision of this subdivision or Laws 1973, chapter 566, as amended by Laws 1974, chapter 200, a county board may transfer or renew a license that was issued by a town board under Minnesota Statutes 1984, section 340.11, subdivision 10b, prior to January 1, 1985.

Sec. 12. Minnesota Statutes 1988, section 340A.405, is amended by adding a subdivision to read:

Subd. 6. [AIRPORTS COMMISSION.] *The metropolitan airports commission may with the approval of the commissioner issue licenses for the off-sale of Minnesota-produced wine at the Minneapolis-St. Paul International Airport.*

Sec. 13. Minnesota Statutes 1988, section 340A.413, subdivision 4, is amended to read:

Subd. 4. [EXCLUSIONS FROM LICENSE LIMITS.] On-sale intoxicating liquor licenses may be issued to the following entities by a city, in addition to the number authorized by this section:

- (1) clubs, or congressionally chartered veterans organizations;

- (2) restaurants located at a racetrack licensed under chapter 240;
- (3) ~~restaurants~~ *establishments* that are issued licenses to sell wine under section 340A.404, subdivision 5;
- (4) Lake Superior tour boats that are issued licenses under section 340A.404, subdivision 8; and
- (5) theaters that are issued licenses under section 340A.404, subdivision 2.

Sec. 14. Minnesota Statutes 1988, section 340A.504, subdivision 1, is amended to read:

Subdivision 1. [NONINTOXICATING MALT LIQUOR.] No sale of non-intoxicating malt liquor may be made between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday, provided that an establishment located on land owned by the metropolitan sports commission, *or the sports arena for which one or more licenses have been issued under section 340A.404, subdivision 2, paragraph (c),* may sell nonintoxicating malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.

Sec. 15. Minnesota Statutes 1988, section 340A.601, subdivision 2, is amended to read:

Subd. 2. [POPULATION CHANGE.] A city which has established a municipal liquor store may continue to operate it notwithstanding a subsequent change in population if ~~within one year after the effective date of the census by which the municipality exceeds 10,000 in population, the question, "Shall the city continue to operate its municipal liquor store?" is submitted to the voters of the city at a general or special municipal election and a majority of the voters voting on the question at the election vote in the affirmative on the question. The notice of the election shall state the question to be submitted to the electors at the election.~~

Sec. 16. [340A.908] [LIQUEUR-FILLED CANDY.]

Liqueur-filled candy may only be sold in an exclusive liquor store.

Sec. 17. [SALE OF MINNESOTA BEER AT PUBLIC FACILITIES.]

Subdivision 1. [MINNESOTA-PRODUCED BEER; REQUIRED AVAILABILITY.] *At any permanent or temporary building or structure owned or operated by the state, a political subdivision, or an instrumentality thereof, where beer is sold for on-premise consumption, the entity owning or operating the building or structure must insure that a Minnesota-produced beer is available for purchase at each station where beer is sold. This section applies to all such permanent or temporary buildings or structures without regard to whether sales of beer are made by the owning or operating government entity or employees thereof or by a person holding a lease or concession contract with the government entity.*

Subd. 2. [EXCEPTIONS.] *This section does not apply to:*

- (1) *municipal liquor stores; or*
- (2) *persons holding an event on property owned by a government entity where (a) the event is conducted under a temporary permit from that government entity, and (b) alcoholic beverages are provided to persons attending the event, at no cost to those persons.*

Sec. 18. [ANOKA COUNTIES; LIQUOR LICENSING.]

The county board of Anoka county may, by resolution, delegate to the town board of towns located within the county, powers possessed by the county to issue nonintoxicating malt liquor licenses under Minnesota Statutes, section 340A.403, on-sale intoxicating liquor licenses under section 340A.404, and off-sale intoxicating liquor licenses under section 340A.405, within the unincorporated area of the county; provided that the town board of the respective town consents to the delegation of powers. License fees must be paid to the town and the town board shall assume all powers and duties of the county board in regard to licensing.

Sec. 19. [CITY OF ST. PAUL; WINE AND BEER LICENSES.]

Subdivision 1. [LICENSE AUTHORIZED.] The city of St. Paul may issue on-sale nonintoxicating malt liquor licenses and on-sale wine licenses to the city's division of parks and recreation. The licenses authorize the sale of wine or nonintoxicating malt liquor on property owned by the city and under the jurisdiction of the division by:

- (1) employees of the city;*
- (2) persons holding a permit from the division to conduct an event and sell wine or nonintoxicating malt liquor to persons attending the event; or*
- (3) persons who have contracted with the city to sell wine or nonintoxicating malt liquor on such property.*

Subd. 2. [PERMITS; CONTRACTS.] (a) Permits issued by the city under subdivision 1, clause (2), and contracts entered into by the city under subdivision 1, clause (3), must provide for:

- (1) the duration of the permit or contract;*
- (2) the premises or area in which sales of wine or nonintoxicating malt liquor will be made;*
- (3) the persons to whom such sales will be made;*
- (4) the days and hours in which such sales will be made; and*
- (5) obtaining by the permit holder or contracted vendor of such liquor liability insurance or bond, or both, as the city considers necessary to protect the city's interest as the holder of the license.*

(b) A permit may be issued or a contract entered into under this section with a person who does not hold a license issued under Minnesota Statutes, chapter 340A, for the retail sale of alcoholic beverages.

(c) The division may, without notice or hearing, refuse to issue a permit under subdivision 1, clause (2).

Subd. 3. [CITY COUNCIL APPROVAL.] The St. Paul city council must approve each:

- (1) facility at which wine or nonintoxicating malt liquor will be sold by city employees;*
- (2) permit issued under subdivision 1, clause (2); and*
- (3) contract entered into under subdivision 1, clause (3).*

Subd. 4. [APPLICABILITY OF GENERAL LAW.] All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section apply

to licenses issued under this section. Licenses authorized by this section are in addition to any other licenses authorized by law.

Sec. 20. [EARLE BROWN HERITAGE CENTER LICENSE.]

In addition to any license authorized by law, the city of Brooklyn Center may issue one on-sale intoxicating liquor license for the Earle Brown Heritage Center convention center. The license shall authorize the sale and serving of liquor to persons attending events at the center other than amateur athletic events. The license fee and hours of sale shall be set by the city council within the limits imposed by law. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section apply to this license.

Sec. 21. [CITY OF EVANSVILLE; SUNDAY LIQUOR LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.504, subdivision 3, paragraph (d), the city of Evansville may issue a license authorizing on-sales of intoxicating liquor on Sunday to a restaurant in the city without authorization by the voters of the city. All other provisions of Minnesota Statutes, chapter 340A, apply to a license issued under this section.

Sec. 22. [REPEALER.]

Minnesota Statutes 1988, section 340A.405, subdivision 5, is repealed.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 3, 7, 9 to 13, 15, 16, and 18 to 21 are effective the day following final enactment. Sections 4 to 6 are effective January 1, 1991."

Delete the title and insert:

"A bill for an act relating to liquor; authorizing sale of liqueur-filled candies in exclusive liquor stores; specifying minimum seating capacity of restaurants in certain counties; restricting right of brewers to be beer wholesalers or to have an interest in a beer wholesaler; providing for hours of sale at certain establishments; requiring notification to commissioner of public safety of issuance of wine licenses; repealing requirement that cities conduct a referendum on continuation of municipal liquor operations; modifying restrictions on license issuance by counties; authorizing licenses for sale of Minnesota-produced wine at Minneapolis-St. Paul International Airport; permitting removal of unfinished bottles of wine from restaurants; authorizing issuance of wine licenses to licensed bed and breakfast facilities; authorizing issuance of licenses by Minneapolis, St. Paul, Brooklyn Center, and Evansville; requiring certain establishments to make Minnesota-produced beer available; permitting Anoka county to delegate liquor licensing authority to towns; amending Minnesota Statutes 1988, sections 31.121; 340A.101, subdivisions 10 and 25; 340A.301, subdivisions 1, 7, and by adding a subdivision; 340A.404, subdivisions 3, 5, and by adding a subdivision; 340A.405, subdivision 2, and by adding a subdivision; 340A.413, subdivision 4; 340A.504, subdivision 1; and 340A.601, subdivision 2; Minnesota Statutes 1989 Supplement, section 340A.404, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1988, section 340A.405, subdivision 5."

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

Senate Conferees: (Signed) Sam G. Solon, Allan H. Spear, Don Anderson

House Conferees: (Signed) Joel Jacobs, Rich O'Connor, Doug Carlson

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2108 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. 2108 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 4, as follows:

Those who voted in the affirmative were:

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

Messrs. Bernhagen, Laidig, Larson and Renneke 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

S.F. No. 1703 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1703

A bill for an act relating to natural resources; authorizing the enforcement of certain natural resource laws by conservation officers; amending Minnesota Statutes 1988, section 97A.205.

April 20, 1990

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. 1703, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1703 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 97A.205, is amended to read:

97A.205 [ENFORCEMENT OFFICER POWERS.]

An enforcement officer is authorized to:

(1) execute and serve court issued warrants and processes relating to wild animals, wild rice, public waters, water pollution, conservation, and use of water, in the same manner as a constable or sheriff;

(2) enter any land to carry out the duties and functions of the division;

(3) make investigations of violations of the game and fish laws;

(4) take an affidavit, if it aids an investigation;

(5) arrest, without a warrant, a person who is detected in the actual violation of the game and fish laws, a provision of chapters 84, 84A, 85, 86A, 88 to 106A, 361, sections 89.51 to 89.61; or 609.66, subdivision 1, clauses (1), (2), (5), and (7); and 609.68; and

(6) take an arrested person before a court in the county where the offense was committed and make a complaint.

Sec. 2. Minnesota Statutes 1988, section 97B.055, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTIONS RELATED TO HIGHWAYS.] (a) A person may not discharge a firearm or an arrow from a bow on, over, or across an improved public highway at a big game animal. A person may not discharge a firearm or bow and arrow within the right-of-way of an improved public highway at a big game animal. The commissioner may by order extend the application of this subdivision to the taking of migratory waterfowl in designated locations.

(b) A person may not discharge a firearm or an arrow from a bow on, over, across, or within the right-of-way of an improved public highway at a decoy of a big game animal that has been set out by a licensed peace officer.

Sec. 3. Minnesota Statutes 1988, section 97B.325, is amended to read:

97B.325 [DEER STAND RESTRICTIONS.]

A person may not take deer from a constructed platform or other structure *that is located within the right-of-way of an improved public highway or is higher than 16 feet above the ground.* The *height* restriction does not apply to a portable stand that is chained, belted, clamped, or tied with rope.

Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; authorizing the enforcement of certain natural resource laws by conservation officers; increasing the penalty for wrongful destruction or removal of no trespassing signs; prohibiting shooting at decoys under certain circumstances; prohibiting deer stands on highway right-of-way; amending Minnesota Statutes 1988, sections 97A.205; 97B.055, subdivision 1; and 97B.325."

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

Senate Conferees: (Signed) Charles A. Berg, Ronald R. Dicklich, John Bernhagen

House Conferees: (Signed) Steve Trimble, Wesley J. "Wes" Skoglund, Sylvester Uphus

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1703 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. 1703 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 57 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knaak	Merriam	Ramstad
Anderson	Davis	Knutson	Metzen	Reichgott
Beckman	Decker	Kroening	Moe, D.M.	Schmitz
Belanger	Flynn	Laidig	Moe, R.D.	Solon
Benson	Frank	Langseth	Morse	Spear
Berg	Frederick	Lantry	Novak	Storm
Berglin	Frederickson, D.J.	Larson	Olson	Stumpf
Bernhagen	Frederickson, D.R.	Lessard	Pehler	Vickerman
Bertram	Gustafson	Luther	Peterson, R.W.	Waldorf
Brandl	Hughes	Marty	Piepho	
Chmielewski	Johnson, D.E.	McGowan	Pogemiller	
Cohen	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

S.F. No. 1081 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1081

A bill for an act relating to courts; providing for a study by the supreme court of racial bias in the judicial system; appropriating money.

April 20, 1990

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. 1081, 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. 1081 be further amended as follows:

Page 2, line 6, after the period insert "*In the interim, the task force may report findings as parts of the study are completed.*"

Page 2, delete lines 8 to 11, and insert:

"\$50,000 in fiscal year 1991 is appropriated from the general fund to

the supreme court to carry out the study under section 1. This is a one-time appropriation and is available until expended."

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

Senate Conferees: (Signed) Allan H. Spear, Gene Merriam, Gary W. Laidig

House Conferees: (Signed) Andy Dawkins, Wayne Simoneau, Warren E. Limmer

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1081 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. 1081 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 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

CALL OF THE SENATE

Mr. Benson imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Benson moved that H.F. No. 1843 be taken from the table.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 26 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Decker	Knaak	McQuaid	Vickerman
Beckman	Frederick	Knutson	Olson	Waldorf
Belanger	Frederickson, D.J.	Kroening	Pariseau	
Benson	Frederickson, D.R.	Laidig	Piepho	
Bernhagen	Gustafson	Larson	Ramstad	
Brataas	Johnson, D.E.	McGowan	Storm	

Those who voted in the negative were:

Adkins	Davis	Lantry	Morse	Schmitz
Berg	DeCramer	Lessard	Novak	Solon
Berglin	Dicklich	Luther	Pehler	Spear
Bertram	Flynn	Marty	Peterson, R.W.	Stumpf
Brandl	Frank	Merriam	Piper	
Chmielewski	Hughes	Metzen	Purfeerst	
Cohen	Johnson, D.J.	Moe, D.M.	Reichgott	
Dahl	Langseth	Moe, R.D.	Samuelson	

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1670 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1670

A bill for an act relating to natural resources; prohibiting transportation of Eurasian water milfoil; providing exceptions; providing penalties for not removing Eurasian water milfoil from watercraft; providing penalties; amending Minnesota Statutes 1988, section 361.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 18.

April 20, 1990

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. 1670, 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. 1670 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [18.317] [EURASIAN OR NORTHERN WATER MILFOIL.]

Subdivision 1. [TRANSPORTATION PROHIBITED.] Except as provided in subdivision 2, a person may not transport Eurasian or Northern water milfoil, myriophyllum spicatum or exalbenscens, on a road or highway, as defined in section 160.02, subdivision 7, or on forest roads.

Subd. 2. [EXCEPTION.] A person may transport Eurasian or Northern water milfoil, myriophyllum spicatum or exalbenscens, for disposal as part of a harvest or control activity.

Subd. 3. [LAUNCHING OF WATERCRAFT WITH EURASIAN OR NORTHERN WATER MILFOIL PROHIBITED.] (a) A person may not place a trailer or launch a watercraft with Eurasian or Northern water milfoil attached into waters of the state. A conservation officer or other licensed peace officer may order the removal of Eurasian or Northern water milfoil from a trailer or watercraft before being placed or launched into waters of the state.

(b) For purposes of this section, the meaning of watercraft includes a float plane and "waters of the state" has the meaning given in section 105.37, subdivision 7.

Subd. 4. [ENFORCEMENT.] This section may be enforced by conservation officers under sections 97A.205 and 97A.211, and other licensed peace officers.

Subd. 5. [PENALTY.] A person who violates subdivision 1 or 3 is guilty of a misdemeanor. A person who refuses to obey the order of a peace officer or conservation officer to remove Eurasian or Northern water milfoil from a trailer or watercraft is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 1988, section 361.03, is amended by adding a subdivision to read:

*Subd. 11a. [SUSPENSION FOR NOT REMOVING EURASIAN OR NORTHERN WATER MILFOIL.] The commissioner, after notice and an opportunity for hearing, may suspend for a period of not more than one year the license of a watercraft if the owner or person in control of the watercraft or its trailer refuses to comply with an order of a conservation officer or other licensed peace officer to remove Eurasian or Northern water milfoil, *myriophyllum spicatum* or *exalbensis*, from the watercraft or its trailer as provided in section 18.317, subdivision 3.*

Sec. 3. [EFFECTIVE DATE.]

This act is effective May 12, 1990."

Delete the title and insert:

"A bill for an act relating to natural resources; prohibiting transportation of Eurasian or Northern water milfoil; providing exceptions; providing penalties for not removing Eurasian or Northern water milfoil from watercraft; providing penalties; amending Minnesota Statutes 1988, section 361.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 18."

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

Senate Conferees: (Signed) William P. Luther, Steven G. Novak, Gen Olson

House Conferees: (Signed) Wes Skoglund, Ron Abrams, Willard Munger

Mr. Luther moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1670 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. 1670 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	Dahl	Johnson, D.E.	Merriam	Ramstad
Anderson	Davis	Johnson, D.J.	Metzen	Reichgott
Beckman	Decker	Knaak	Moe, D.M.	Samuelson
Belanger	DeCramer	Knutson	Moe, R.D.	Schmitz
Berg	Dicklich	Kroening	Morse	Solon
Berglin	Flynn	Laidig	Novak	Spear
Bernhagen	Frank	Lantry	Olson	Storm
Bertram	Frederick	Lessard	Pariseau	Stumpf
Brandl	Frederickson, D.J.	Luther	Pehler	Vickerman
Brataas	Frederickson, D.R.	Marty	Peterson, R.W.	Waldorf
Chmielewski	Gustafson	McGowan	Piepho	
Cohen	Hughes	McQuaid	Pogemiller	

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

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. 2474, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2474 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2474

A bill for an act relating to insurance; long-term care; modifying the definition of medically prescribed long-term care; allowing additional licensed health care providers to prepare plans of care; regulating assessments; regulating cancellations; amending Minnesota Statutes 1988, sections 62A.46, subdivisions 2, 4, 5, and 8; 62A.48, subdivision 3, and by adding a subdivision; and 62A.56; Minnesota Statutes 1989 Supplement, section 62A.48, subdivision 1.

April 18, 1990

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. 2474, 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. 2474 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 62A.46, subdivision 2, is

amended to read:

Subd. 2. [LONG-TERM CARE POLICY.] "Long-term care policy" means an individual or group policy, certificate, subscriber contract, or other evidence of coverage that provides benefits for ~~medically~~ prescribed long-term care, including nursing facility services and home care services, pursuant to the requirements of sections 62A.46 to 62A.56. A long-term care policy must contain a designation specifying whether the policy is a long-term care policy AA or A and a caption stating that the commissioner has established two categories of long-term care insurance and the minimum standards for each.

Sections 62A.46, 62A.48, and 62A.52 to 62A.56 do not apply to a long-term care policy issued to (a) an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage or (b) to a labor union or similar employee organization. The associations exempted from the requirements of sections 62A.31 to 62A.44 under 62A.31, subdivision 1, clause (c) shall not be subject to the provisions of sections 62A.46 to 62A.56 until July 1, 1988.

Sec. 2. Minnesota Statutes 1988, section 62A.46, subdivision 4, is amended to read:

Subd. 4. [HOME CARE SERVICES.] "Home care services" means one or more of the following ~~medically~~ prescribed services for the long-term care and treatment of an insured that are provided by a home health agency in a noninstitutional setting according to a written diagnosis *or assessment* and plan of care:

(1) nursing and related personal care services under the direction of a registered nurse, including the services of a home health aide;

(2) physical therapy;

(3) speech therapy;

(4) respiratory therapy;

(5) occupational therapy;

(6) nutritional services provided by a licensed dietitian;

(7) homemaker services, meal preparation, and similar nonmedical services;

(8) medical social services; and

(9) other similar medical services and health-related support services.

Sec. 3. Minnesota Statutes 1988, section 62A.46, subdivision 5, is amended to read:

Subd. 5. [~~MEDICALLY~~ PRESCRIBED LONG-TERM CARE.] "~~Medi-~~
~~ically~~ Prescribed long-term care" means a service, type of care, or procedure that *could not be omitted without adversely affecting the patient's illness or condition* and is specified in a plan of care prepared by *either: (1) a physician and a registered nurse and is appropriate and consistent with the physician's diagnosis and that could not be omitted without adversely affecting the patient's illness or condition; or (2) a registered nurse or licensed social worker based on an assessment of the insured's ability to perform the activities of daily living and to perform basic cognitive functions appropriately.*

Sec. 4. Minnesota Statutes 1988, section 62A.46, subdivision 8, is amended to read:

Subd. 8. [PLAN OF CARE.] "Plan of care" means a written document prepared and signed by *either: (1) a physician and registered nurse that specifies medically prescribed long-term care services or treatment that are consistent with the diagnosis and are; or (2) by a registered nurse or licensed social worker that specifies prescribed long-term care services or treatment that are consistent with an assessment of the insured's ability to perform the activities of daily living and to perform basic cognitive functions appropriately. The plan of care must be prepared in accordance with accepted medical and nursing standards of practice and must contain services or treatment that could not be omitted without adversely affecting the patient's illness or condition.*

Sec. 5. Minnesota Statutes 1989 Supplement, section 62A.48, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state, unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 62A.46 to 62A.56. A long-term care policy must cover ~~medically~~ prescribed long-term care in nursing facilities and at least the ~~medically~~ prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage under a long-term care policy AA must include: a maximum lifetime benefit limit of at least \$100,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums. Coverage under a long-term care policy A must include: a maximum lifetime benefit limit of at least \$50,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums. Prior hospitalization may not be required under a long-term care policy.

Coverage under either policy designation must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage. Coverage under either policy designation may include a waiting period of up to 90 days before benefits are paid, but there must be no more than one waiting period per benefit period. No policy may exclude coverage for mental or nervous disorders which have a demonstrable organic cause, such as Alzheimer's and related dementias. No policy may require the insured to be homebound or house confined to receive home care services. The policy must include a provision that the plan will not be canceled or renewal refused except on the grounds of nonpayment of the premium, provided that the insurer may change the premium rate on a class basis on any policy anniversary date. A provision that the policyholder may elect to have the premium paid in full at age 65 by payment of a higher premium up to age 65 may be offered. A provision that the premium would be waived during any period in which benefits are being paid to the insured during confinement in a nursing facility must be included. A nongroup policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

No individual long-term care policy shall be offered or delivered in this state until the insurer has received from the insured a written designation of at least one person, in addition to the insured, who is to receive notice of cancellation of the policy for nonpayment of premium. The insured has the right to designate up to a total of three persons who are to receive the notice of cancellation, in addition to the insured. The form used for the written designation must inform the insured that designation of one person is required and that designation of up to two additional persons is optional and must provide space clearly designated for listing between one and three persons. The designation shall include each person's full name, home address, and telephone number. Each time an individual policy is renewed or continued, the insurer shall notify the insured of the right to change this written designation.

The insurer may file a policy form that utilizes a plan of care prepared as provided under section 62A.46, subdivision 5, clause (1) or clause (2).

Sec. 6. Minnesota Statutes 1988, section 62A.48, subdivision 3, is amended to read:

Subd. 3. [EXPENSE-INCURRED COVERAGE.] If benefits are provided on an expense-incurred basis, a benefit of not less than 80 percent of covered charges for ~~medically~~ prescribed long-term care must be provided.

Sec. 7. Minnesota Statutes 1988, section 62A.48, is amended by adding a subdivision to read:

Subd. 8. [CANCELLATION FOR NONPAYMENT OF PREMIUM.] *No individual long-term care policy shall be canceled for nonpayment of premium unless the insurer, at least 30 days before the effective date of the cancellation, has given notice to the insured and to those persons designated pursuant to section 62A.48, subdivision 1, at the address provided by the insured for purposes of receiving notice of cancellation.*

Sec. 8. Minnesota Statutes 1988, section 62A.56, is amended to read:

62A.56 [RULEMAKING.]

Subdivision 1. [PERMISSIVE.] The commissioner may adopt rules pursuant to chapter 14 to carry out the purposes of sections 62A.46 to 62A.56. The rules may:

(1) establish additional disclosure requirements for long-term care policies designed to adequately inform the prospective insured of the need and extent of coverage offered;

(2) prescribe uniform policy forms in order to give the purchaser of long-term care policies a reasonable opportunity to compare the cost of insuring with various insurers; and

(3) establish other reasonable minimum standards as needed to further the purposes of sections 62A.46 to 62A.56.

Subd. 2. [MANDATORY.] *The commissioner shall adopt rules under chapter 14 establishing general standards to ensure that assessments used in the prescribing of long-term care are reliable, valid, and clinically appropriate.*

Sec. 9. [APPLICATION.]

Sections 1 to 8 apply to policies issued after the effective date of sections 1 to 8.

For policies issued before the effective date of sections 1 to 8, the insured may exercise the right to designate additional persons under section 5 at each renewal or continuation date after August 1, 1990. The insurer shall notify the insured in writing of this right, and the right to change a written designation, each time the policy is renewed or continued beginning with the first renewal or continuation date after August 1, 1990."

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

House Conferees: (Signed) Wes Skoglund, John Burger, Diane Wray Williams

Senate Conferees: (Signed) Sam G. Solon, James P. Metzen, Cal Larson

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2474 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. 2474 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, D.M.	Samuelson
Anderson	Dicklich	Laidig	Moe, R.D.	Schmitz
Beckman	Flynn	Langseth	Morse	Solon
Belanger	Frank	Lantry	Novak	Spear
Berglin	Frederick	Larson	Olson	Storm
Bernhagen	Frederickson, D.J.	Lessard	Pariseau	Stumpf
Bertram	Frederickson, D.R.	Luther	Pehler	Vickerman
Brandl	Freeman	Marty	Peterson, R.W.	Waldorf
Brataas	Gustafson	McGowan	Piepho	
Chmielewski	Hughes	McQuaid	Pogemiller	
Cohen	Johnson, D.J.	Merriam	Purfeerst	
Davis	Knaak	Metzen	Ramstad	

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. 2457, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2457 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2457

A bill for an act relating to public financing; allocating authority to issue tax exempt revenue bonds; restricting loans from proceeds of mortgage revenue bonds under certain circumstances; amending Minnesota Statutes 1988, sections 474A.02, subdivisions 6, 8, and by adding a subdivision; 474A.03; 474A.061, subdivision 3, and by adding subdivisions; 474A.091, subdivisions 1, 4, and 5; 474A.131, subdivision 2; and 474A.14; Minnesota Statutes 1989 Supplement, section 290.01, subdivision 19a; Minnesota Statutes Second 1989 Supplement, sections 474A.061, subdivisions 1 and 4; and 474A.091, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 474A; repealing Minnesota Statutes 1988, sections 474A.081, subdivisions 1, 2, and 4; and 474A.091, subdivision 4a; Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2.

April 18, 1990

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. 2457, 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. 2457 be further amended as follows:

Pages 1 and 2, delete section 1 and insert:

"Section 1. Minnesota Statutes 1988, section 462A.222, subdivision 3, as amended by Laws 1990, chapter 368, section 6, is amended to read:

Subd. 3. [ALLOCATION PROCEDURE.] (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) ~~In~~ For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) single-room occupancy projects which are affordable by households whose income does not exceed 30 percent of the median income;

(2) family housing projects in which at least 75 percent of the units contain two or more bedrooms and at least ~~25~~ one-third of the 75 percent contain three or more bedrooms;

(3) projects in which at least 50 percent of the units are for mentally ill, mentally retarded, drug dependent, developmentally disabled, or physically handicapped persons;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion

to market rate use; or

(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation."

Page 5, line 13, before the period insert "*or census tract*"

Page 5, line 33, after "*incomes*" insert "*at the time of their initial residency in the project*"

Page 6, line 3, delete "25" and insert "*one-third of the 75*" and delete "*of the units*"

Page 6, line 5, after "*incomes*" insert "*at the time of their initial residency in the project*"

Page 6, line 30, after the period insert "*The commissioner may request from the issuer a copy of the annual certification prepared by the developer. The commissioner may require the issuer to request individual certification of all residents of the project.*"

Page 6, delete lines 31 to 35 and insert:

"*Subd. 3. [PENALTY.] If a project is found out of compliance with the rental rate or income level requirements under subdivision 1, the owner or owners of the project shall pay a penalty to the commissioner equal to one-half of one percent of the total amount of bonds issued for the project under this chapter. For each additional year a project is out of compliance, the annual penalty must be increased by one-half of one percent of the total amount of bonds issued under this chapter for the project. The commissioner shall deposit any penalties collected under this subdivision in the housing trust fund account established under section 462A.201.*"

Page 7, line 9, delete everything after "*occupied*" and insert a period

Page 7, delete line 10

Page 7, line 15, delete everything after "*occupied*" and insert a period

Page 7, delete lines 16 and 17

Page 8, after line 24, insert:

"*Subd. 3. [NONMETROPOLITAN AREA.] The Minnesota housing finance agency and cities shall initiate steps in the nonmetropolitan areas of the state similar to those required for the metropolitan area under subdivision 2 to encourage loans for existing housing or for new housing under the conditions specified in subdivision 2.*"

Renumber the remaining subdivisions

Page 9, line 9, delete "and" and before the period insert ", and steps taken to encourage loan activity as required in subdivision 3"

Page 10, line 24, delete "6" and insert "7"

Page 10, line 35, delete "county" and insert "area"

Page 11, line 4, delete "90" and insert "80"

Page 11, line 7, delete "90" and insert "80"

Page 11, line 13, delete "and"

Page 11, line 14, delete the period and insert " ; and

(5) an application deposit equal to one percent of the requested allocation must be submitted with the city's application. The agency shall submit the application and application deposit to the commissioner when requesting an allocation from the housing pool."

Page 12, line 1, after the period insert "The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (a), clause (5), but was not part of the agreement forwarded to the commissioner under this paragraph."

Page 21, line 2, after "allocation in" insert "the multifamily"

Page 21, line 12, after the comma insert "and"

Page 21, line 13, delete everything after "allocation"

Page 21, delete line 14

Page 21, line 15, delete "6"

Page 21, line 23, after "under" insert "Minnesota Statutes,"

Page 22, line 16, delete everything after the period

Page 22, delete lines 17 to 27

Page 22, line 28, delete "allocation first."

Page 23, lines 1 and 7, after "under" insert "Minnesota Statutes,"

Page 24, after line 31, insert:

"Sec. 23. [TAX CREDIT PROJECTS RECEIVING ALLOCATION PRIOR TO MARCH 31, 1990.]

Projects eligible for federal low-income tax credits that received bonding allocation under Minnesota Statutes, chapter 474A, prior to the effective date of Laws 1990, chapter 368, are subject to the following conditions:

(a) The requirements of Laws 1990, chapter 368, section 6, paragraph (c), do not apply.

(b) The requirements of the applicable qualified allocation plan for the second and third rounds for federal low-income tax credits must apply."

Page 25, delete lines 2 to 5 and insert:

"Sections 2 to 6, 8 to 21, and 24 are effective January 1, 1991. Section 7 applies to projects that receive an allocation of bonding authority after the day of final enactment. Sections 1, 7, 22, and 23 are effective the day following final enactment."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

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

House Conferees: (Signed) Ann H. Rest, Paul Anders Ogren, Dee Long

Senate Conferees: (Signed) Lawrence J. Pogemiller, Douglas J. Johnson, Ember D. Reichgott

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2457 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. 2457 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	Cohen	Hughes	Metzen	Reichgott
Anderson	Dahl	Johnson, D.E.	Morse	Renneke
Beckman	Davis	Johnson, D.J.	Novak	Samuelson
Belanger	Decker	Knaak	Olson	Schmitz
Benson	DeCramer	Langseth	Pariseau	Solon
Berg	Dicklich	Lantry	Pehler	Spear
Berglin	Flynn	Larson	Peterson, R.W.	Storm
Bernhagen	Frank	Lessard	Piepho	Stumpf
Bertram	Frederick	Luther	Piper	Vickerman
Brandl	Frederickson, D.J.	Marty	Pogemiller	Waldorf
Brataas	Frederickson, D.R.	McGowan	Purfeerst	
Chmielewski	Gustafson	McQuaid	Ramstad	

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 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. 2195: A bill for an act relating to waste; prohibiting certain types of low-level radioactive waste from being disposed of at other than licensed facilities; providing for a task force on radioactive waste deregulation; proposing coding for new law in Minnesota Statutes, chapter 116C.

There has been appointed as such committee on the part of the House: Greenfield, Jennings and Ozment.

Senate File No. 2195 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1894: A bill for an act relating to environment and natural resources; amending provisions relating to water management organizations; providing legislative commission oversight of the metropolitan water management act; authorizing management and financing of drainage systems under certain laws; clarifying water management purposes; authorizing counties to remove watershed district managers for just cause; authorizing a technical advisory committee; requiring watershed management organizations to prepare newsletters, annual reports, and audits; providing for preparation of watershed plans and implementation of plans; providing penalties for not implementing plans; authorizing and directing the board of water and soil resources to adopt rules; providing for appeal of plan failures; providing for requests for proposals for certain services; authorizing accumulation of levy proceeds; requiring a draining system report; appropriating money; amending Minnesota Statutes 1988, sections 110B.28; 110B.30; 112.42, by adding a subdivision; 473.875; 473.876, by adding a subdivision; 473.877, subdivision 1; 473.878, subdivisions 1, 1a, 2, 3, 4, 8, and by adding subdivisions; 473.879, subdivision 2; 473.881; 473.882, subdivision 1; and 473.883, subdivisions 3 and 7; Minnesota Statutes 1989 Supplement, section 473.883, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 112 and 473.

There has been appointed as such committee on the part of the House: Price; Johnson, A. and Lynch.

Senate File No. 1894 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2160: A bill for an act relating to education; providing for the environmental education act; creating the office of environmental education; proposing coding for new law as Minnesota Statutes, chapter 126A; repealing Minnesota Statutes 1988, sections 116E.01; 116E.02; 116E.03, subdivisions 2, 3, 4, 5, 6, 7, 7a, 8, and 9; and 116E.04; Minnesota Statutes 1989 Supplement, sections 116E.03, subdivision 1; and 116E.035.

There has been appointed as such committee on the part of the House: Nelson, K.; Bauerly and Ozment.

Senate File No. 2160 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2177: A bill for an act relating to traffic safety; providing for administrative impoundment of license plates of vehicles owned by repeat violators of laws relating to driving while intoxicated; providing for issuance of special plates; requiring peace officers to serve a notice of intent to impound when serving a notice of intent to revoke the violator's driver's license; providing for administrative and judicial review of impoundment orders; eliminating the alcohol problem screening for persons convicted of offenses associated with driving under the influence of alcohol or a controlled substance; modifying procedures for chemical use assessments, programs, and funding; changing the maximum rate for reimbursement of counties from the general fund for the assessments; expanding the crime of refusing to submit to an implied consent test; requiring notice of certain enhanced penalties; expanding the crime of aggravated driving while intoxicated; removing requirement that negligence be proven for conviction of criminal vehicular operation if driver's alcohol concentration was 0.10 or more; imposing penalties for criminal vehicular operation resulting in substantial bodily harm; prohibiting constructive possession of alcohol in a private motor vehicle; expanding the definition of possession; changing provisions about aircraft operation while under the influence of alcohol or controlled substances; imposing penalties; appropriating money; amending Minnesota Statutes 1988, sections 168.041, subdivisions 3, 8, and 10; 169.121, by adding a subdivision; 169.122, subdivision 2; 169.124, subdivision 1; 169.126, subdivisions 1, 2, 6, and by adding a subdivision; 169.129; and 360.015, subdivisions 1 and 6; Minnesota Statutes 1989 Supplement, sections 169.041, subdivision 4; 169.121, subdivisions 1a, 3, and 3b; 169.126, subdivision 4; 260.193, subdivision 8; and 609.21; proposing coding for new law in Minnesota Statutes, chapters 168 and 360; repealing Minnesota Statutes 1988, sections 168.041, subdivision 3a; 169.124, subdivisions 2 and 3; 169.126, subdivisions 2, 3, and 4b; 360.075, subdivision 7; and 360.0751; Minnesota Statutes 1989 Supplement, sections 168.041, subdivision 4a; and 169.126, subdivision 4a.

There has been appointed as such committee on the part of the House:
Rest, Kelly and Swenson.

Senate File No. 2177 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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.

1999, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1999: A bill for an act relating to agriculture; changing certain duties, procedures, and requirements related to organic food; amending Minnesota Statutes 1988, sections 31.92, by adding subdivisions; 31.94; and 31.95.

Senate File No. 1999 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1983, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1983: A bill for an act relating to liquor; authorizing the metropolitan airports commission to issue off-sale liquor licenses for the sale of Minnesota wine; amending Minnesota Statutes 1988, section 340A.405, by adding a subdivision.

Senate File No. 1983 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1874, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1874: A bill for an act relating to meetings of public bodies; government data practices; defining final disposition of a disciplinary action regarding personnel records; making clear that meetings may not be closed on the basis of data classification statutes; providing an exception to the open meeting law for preliminary discussions concerning allegations of misconduct against government employees or evaluations of government employees; amending Minnesota Statutes 1988, sections 13.43, subdivision 2; and 471.705, by adding subdivisions.

Senate File No. 1874 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2156, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2156: A bill for an act relating to local government; allowing municipalities to enter into certain contracts to reduce energy and operating costs; amending Minnesota Statutes 1988, section 471.345, by adding a subdivision; repealing Minnesota Statutes 1988, section 471.345, subdivision 9.

Senate File No. 2156 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2181, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2181: A bill for an act relating to labor; regulating joint labor-management committees; regulating public employee elections; providing for the selection of arbitrators by mutual agreement; amending Minnesota Statutes 1988, sections 179.02, by adding a subdivision; 179.84, subdivision 1; 179.85; 179A.04, subdivision 3; 179A.12, subdivisions 7 and 11; and Minnesota Statutes 1989 Supplement, section 179A.16, subdivision 4.

Senate File No. 2181 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2213, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2213: A bill for an act relating to traffic regulations; regulating wheel flaps and covered loads; imposing a penalty; amending Minnesota Statutes 1988, sections 169.733; and 169.81, subdivision 5, and by adding a subdivision.

Senate File No. 2213 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Freeman moved that the following members be excused for a Conference Committee on H.F. No. 2651 at 2:15 p.m.:

Messrs. Benson; Merriam; Moe, R. D.; Waldorf and Freeman. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Pogemiller moved that S.F. No. 2054 be taken from the table. The motion prevailed.

S.F. No. 2054: A bill for an act relating to courts; staggering the elections of chief judges and assistant chief judges; providing for the adoption of rules by the supreme court governing jury administration; imposing penalties; amending Minnesota Statutes 1988, sections 484.69, subdivision 1, and by adding a subdivision; 593.19; 593.21; 593.31; 593.37, subdivision 2a; 593.40, subdivisions 4, 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 593; repealing Minnesota Statutes 1988, sections 484.69, subdivision 2; 593.01; 593.08; 593.131; 593.135; 593.16; 593.33; 593.34; 593.35; 593.36; 593.37, subdivisions 1, 2, and 3; 593.38; 593.39; 593.40, subdivisions 1, 2, and 3; 593.41; 593.42, subdivisions 1, 2, 3, and 5; 593.43; 593.44; 593.45; 593.46; 593.47; and 593.49.

CONCURRENCE AND REPASSAGE

Mr. Pogemiller moved that the Senate concur in the amendments by the House to S.F. No. 2054 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2054 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 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	McQuaid	Purfeerst
Anderson	Decker	Johnson, D.J.	Metzen	Ramstad
Beckman	DeCramer	Knaak	Morse	Reichgott
Belanger	Dicklich	Knutson	Novak	Renneke
Berglin	Flynn	Langseth	Olson	Samuelson
Bernhagen	Frank	Lantry	Pariseau	Schmitz
Bertram	Frederick	Larson	Pehler	Spear
Brandl	Frederickson, D.I.	Lessard	Peterson, R.W.	Storm
Brataas	Frederickson, D.R.	Luther	Piepho	Stumpf
Cohen	Gustafson	Marty	Piper	Vickerman
Dahl	Hughes	McGowan	Pogemiller	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2173 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2173

A bill for an act relating to the environment; providing assistance to eligible recipients on methods to prevent toxic pollution; providing financial assistance to research and demonstrate alternative means to prevent toxic pollution; requiring facilities to develop plans to prevent toxic pollution; providing for chlorofluorocarbon reduction; requiring an air pollution study; providing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 116 and 325E; proposing coding for new law as Minnesota Statutes, chapter 115D.

April 18, 1990

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. 2173, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2173 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

MINNESOTA TOXIC POLLUTION PREVENTION ACT

Section 1. [115D.01] [CITATION.]

Sections 1 to 11 may be cited as the "Minnesota toxic pollution prevention act."

Sec. 2. [115D.02] [POLICY.]

(a) To protect the public health, welfare, and the environment, the legislature declares that it is the policy of the state to encourage toxic pollution prevention. The preferred means of preventing toxic pollution are techniques and processes that are implemented at the source and that minimize the transfer of toxic pollutants from one environmental medium to another.

(b) The legislature intends that the programs developed under this act shall encourage and lead to a greater awareness of the need for and benefits of toxic pollution prevention, and to a greater degree of cooperation and coordination among all elements of government, industry, and the public in encouraging and carrying out pollution prevention activities.

Sec. 3. [115D.03] [DEFINITIONS.]

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

Subd. 2. [COMMISSION.] "Commission" means the emergency response commission under section 299K.03.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of the pollution control agency.

Subd. 4. [DIRECTOR.] "Director" means the director of the office of waste management.

Subd. 5. [ELIGIBLE RECIPIENTS.] "Eligible recipients" means persons who use, generate, or release toxic pollutants, hazardous substances, or hazardous wastes.

Subd. 6. [FACILITY.] "Facility" means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person, or by any person who controls, is controlled by, or is under common control with such person.

Subd. 7. [PERSON.] "Person" means any individual, partnership, association, public or private corporation or other entity including the United States government, any interstate body, the state and any agency, department or political subdivision of the state.

Subd. 8. [POLLUTION PREVENTION OR PREVENT POLLUTION.] "Pollution prevention" or "prevent pollution" means eliminating or reducing at the source the use, generation, or release of toxic pollutants, hazardous substances, and hazardous wastes.

Subd. 9. [REDUCE, REDUCING, OR REDUCTION.] "Reduce," "reducing," or "reduction" means lessening the quantity or toxicity of toxic pollutants, hazardous substances, and hazardous wastes used, generated, or released at the source. Methods of reducing pollution include, but are not limited to, process modification, inventory control measures, feedstock substitutions, various housekeeping and management practices, and improved efficiency of machinery. Decreases in quantity or toxicity are not reductions where the decrease is solely the result of a decrease in the output of the facility.

Subd. 10. [RELEASE.] "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.

"Release" does not include:

(1) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;

(2) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under United States Code, title 42, section 2014, if the release is subject to requirements with respect to financial protection established by the federal Nuclear Regulatory Commission under United States Code, title 42, section 2210;

(3) release of source, by-product or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under United States Code, title 42, section 7912(a)(1) or 7942(a); or

(4) any release resulting from the application of fertilizer or agricultural or silvicultural chemicals, or disposal of emptied pesticide containers or residues from a pesticide as defined in section 18B.01, subdivision 18.

Subd. 11. [TOXIC POLLUTANT.] "Toxic pollutant" means a chemical identified in United States Code, title 42, section 11023(c).

Sec. 4. [115D.04] [POLLUTION PREVENTION ASSISTANCE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The director shall establish a pollution prevention assistance program to assist eligible recipients in preventing pollution. The program must emphasize techniques and processes that minimize the transfer of pollutants from one environmental medium to another and must focus primarily on toxic pollutants.

Subd. 2. [ASSISTANCE.] The pollution prevention assistance program must include at least the following:

(1) a program to assemble, catalog, and disseminate information on pollution prevention;

(2) a program to provide technical research and assistance, including on-site consultations to identify alternative methods that may be applied to prevent pollution and to provide assistance for planning under section 7, excluding design engineering services; and

(3) outreach programs including seminars, workshops, training programs, and other similar activities designed to provide pollution prevention information and assistance to eligible recipients.

Subd. 3. [ADMINISTRATION.] (a) The pollution prevention assistance program must be coordinated with other public and private programs that provide management and technical assistance to eligible recipients.

(b) The director may make grants to public or private entities to operate elements of the program. Grantees shall provide periodic reports on their efforts to assist eligible recipients to reduce pollution.

Sec. 5. [115D.05] [POLLUTION PREVENTION GRANTS.]

Subdivision 1. [PURPOSE.] The director may make grants to study or demonstrate the feasibility of applying specific technologies and methods to prevent pollution.

Subd. 2. [ELIGIBILITY.] (a) Eligible recipients may receive grants under this section.

(b) Grants may be awarded up to a maximum of two-thirds of the total cost of the project. Grant money awarded under this section may not be spent for capital improvements or equipment.

Subd. 3. [PROCEDURE FOR AWARDED GRANTS.] (a) In determining whether to award a grant, the director shall consider at least the following:

(1) the potential of the project to prevent pollution;

(2) the likelihood that the project will develop techniques or processes that will minimize the transfer of pollution from one environmental medium to another;

(3) the extent to which information to be developed through the project will be applicable to other persons in the state;

(4) the willingness of the grant applicant to implement feasible methods and technologies developed under the grant;

(5) the willingness of the grant applicant to assist the director in disseminating information about the pollution prevention methods to be developed through the project; and

(6) the extent to which the project will conform to the pollution prevention policy established in section 2.

(b) The director shall adopt rules to administer the grant program. Prior to completion of any new rulemaking, the director may administer the program under the procedures established in rules promulgated under section 115A.154.

Sec. 6. [115D.06] [GOVERNOR'S AWARD FOR EXCELLENCE IN POLLUTION PREVENTION.]

The governor may issue annual awards in the form of a commendation for excellence in pollution prevention. Applications for these awards shall be administered by the director.

Sec. 7. [115D.07] [TOXIC POLLUTION PREVENTION PLANS.]

Subdivision 1. [REQUIREMENT TO PREPARE AND MAINTAIN A PLAN.] *(a) Persons who operate a facility required by United States Code, title 42, section 11023, to submit a toxic chemical release form shall prepare a toxic pollution prevention plan for that facility. The plan must contain the information listed in subdivision 2.*

(b) Except for facilities that release less than a total of 10,000 pounds of toxic pollutants annually, the plan must be completed as follows:

(1) on or before July 1, 1991, for facilities having a two-digit standard industrial classification of 35 to 39;

(2) by January 1, 1992, for facilities having a two-digit standard industrial classification of 28 to 34; and

(3) by July 1, 1992, for all other persons required to prepare a plan under this subdivision.

(c) Facilities that release less than a total of 10,000 pounds of toxic pollutants annually must complete their plans by July 1, 1992.

(d) Each plan must be updated every two years and must be maintained at the facility to which it pertains.

Subd. 2. [CONTENTS OF PLAN.] *(a) Each toxic pollution prevention plan must establish a program identifying the specific technically and economically practicable steps that could be taken during at least the three years following the date the plan is due, to eliminate or reduce the generation or release of toxic pollutants reported by the facility. Toxic pollutants resulting solely from research and development activities need not be included in the plan.*

(b) At a minimum, each plan must include:

(1) a policy statement articulating upper management support for eliminating or reducing the generation or release of toxic pollutants at the facility;

(2) a description of the current processes generating or releasing toxic pollutants that specifically describes the types, sources, and quantities of toxic pollutants currently being generated or released by the facility;

(3) a description of the current and past practices used to eliminate or reduce the generation or release of toxic pollutants at the facility and an evaluation of the effectiveness of these practices;

(4) an assessment of technically and economically practicable options available to eliminate or reduce the generation or release of toxic pollutants at the facility, including options such as changing the raw materials,

operating techniques, equipment and technology, personnel training, and other practices used at the facility. The assessment may include a cost benefit analysis of the available options;

(5) a statement of objectives based on the assessment in clause (4) and a schedule for achieving those objectives. Wherever technically and economically practicable, the objectives for eliminating or reducing the generation or release of each toxic pollutant at the facility must be expressed in numeric terms. Otherwise, the objectives must include a clearly stated list of actions designed to lead to the establishment of numeric objectives as soon as practicable;

(6) an explanation of the rationale for each objective established for the facility;

(7) a listing of options that were considered not to be economically and technically practicable; and

(8) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting to the accuracy of the information in the plan.

Sec. 8. [115D.08] [PROGRESS REPORTS.]

Subdivision 1. [REQUIREMENT TO SUBMIT PROGRESS REPORT.]

(a) All persons required to prepare a toxic pollution prevention plan under section 7 shall submit an annual progress report to the commissioner that may be drafted in a manner that does not disclose proprietary information. Progress reports are due on October 1 of each year. The first progress reports are due in 1992.

(b) At a minimum, each progress report must include:

(1) a summary of each objective established in the plan including the schedule for meeting the objective;

(2) a summary of progress made during the past year, if any, toward meeting each objective established in the plan including the quantity of each toxic pollutant eliminated or reduced;

(3) a statement of the methods through which elimination or reduction has been achieved;

(4) if necessary, an explanation of the reasons objectives were not achieved during the previous year, including identification of any technological, economic, or other impediments the facility faced in its efforts to achieve its objectives; and

(5) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting that a plan meeting the requirements of section 7 has been prepared and also attesting to the accuracy of the information in the progress report.

Subd. 2. [REVIEW OF PROGRESS REPORTS.] *(a) The commissioner shall review all progress reports to determine if they meet the requirements of subdivision 1. If the commissioner determines that a progress report does not meet the requirements, the commissioner shall notify the facility in writing and shall identify specific deficiencies and specify a reasonable time period of not less than 90 days for the facility to modify the progress report.*

(b) The commissioner shall be given access to a facility plan required

under section 7 if the commissioner determines that the progress report for that facility does not meet the requirements of subdivision 1. Twenty-five or more persons living within ten miles of the facility may submit a petition to the commissioner that identifies specific deficiencies in the progress report and requests the commissioner to review the facility plan. Within 30 days after receipt of the petition, the commissioner shall respond in writing. If the commissioner agrees that the progress report does not meet requirements of subdivision 1, the commissioner shall be given access to the facility plan.

(c) After reviewing the plan and the progress report with any modifications submitted, the commissioner shall state in writing whether the progress report meets the requirements of subdivision 1. If the commissioner determines that a modified progress report still does not meet the requirements of subdivision 1, the commissioner shall schedule a public meeting. The meeting shall be held in the county where the facility is located. The meeting is not subject to the requirements of chapter 14.

(d) The facility shall be given the opportunity to amend the progress report within a period of not less than 30 days after the public meeting.

(e) If the commissioner determines that a modified progress report still does not meet the requirements of subdivision 1, action may be taken under section 115.071 to obtain compliance with sections 1 to 11.

Sec. 9. [115D.09] [CONFIDENTIALITY.]

Information and techniques developed under section 4, the reduction information and techniques under section 5, and the progress reports required under section 8 are public data under chapter 13. The plans required under section 7 are nonpublic data under chapter 13.

Sec. 10. [115D.10] [TOXIC POLLUTION PREVENTION EVALUATION REPORT.]

The director, in cooperation with the commissioner and commission, shall report to the environment and natural resources committees of the legislature annually on progress being made in achieving the objectives of sections 1 to 11. The report must be submitted by December 15 of each year, beginning in 1992.

Sec. 11. [115D.12] [POLLUTION PREVENTION FEES.]

Subdivision 1. [IMPOSITION.] The pollution prevention fees in this section are imposed on persons and facilities under subdivision 2, paragraphs (a) and (b):

Subd. 2. [FEES.] (a) Persons required by United States Code, title 42, section 11023, to submit a toxic chemical release form to the commission shall pay a pollution prevention fee of \$150 for each toxic pollutant reported released plus a fee based on the total pounds of toxic pollutants reported as released from each facility. Facilities reporting less than 25,000 pounds annually of toxic pollutants released per facility shall be assessed a fee of \$500. Facilities reporting annual releases of toxic pollutants in excess of 25,000 pounds shall be assessed a graduated fee at the rate of two cents per pound of toxic pollutants reported, not to exceed a total of \$30,000 per facility.

(b) Persons who generate more than 1,000 kilograms of hazardous waste per month but who are not subject to the fee under paragraph (a) must

pay a pollution prevention fee of \$500 per facility. Hazardous waste as used in this paragraph has the meaning given it in section 116.06, subdivision 13, and Minnesota Rules, chapter 7045.

(c) Fees required under this subdivision must be paid to the director by January 1 of each year. The fees shall be deposited in the state treasury and credited to the environmental fund.

Sec. 12. [REPORTS TO THE LEGISLATURE.]

Subdivision 1. [REPORT ON BARRIERS TO POLLUTION PREVENTION.] By January 1, 1991, the director shall prepare and submit a report to the environment and natural resources committees of the legislature analyzing the barriers to pollution prevention. At a minimum, the director shall report on regulatory, economic, educational, and institutional barriers and shall recommend strategies to overcome these barriers. Further, the report shall describe ways in which government may serve as a role model in pollution prevention.

Subd. 2. [REPORT ON TOXIC POLLUTANTS USE REPORTING.] By January 1, 1993, the director shall prepare and submit a report to the environment and natural resources committees of the legislature evaluating the utility of requiring companies to prepare toxic pollutant use reports and reduction plans. The report shall discuss, among other information, the potential uses of the data and the potential impact of such requirements on pollution prevention efforts. The report also shall discuss the need for a chemical accident prevention program to promote safety initiatives by industry. The report shall contain a recommendation as to whether to require toxic pollutant use reports and reduction plans.

Sec. 13. [APPROPRIATIONS.]

Subdivision 1. [OFFICE OF WASTE MANAGEMENT.] \$847,000 is appropriated from the environmental fund to the office of waste management to be available for the biennium ending June 30, 1991:

(a) For pollution prevention assistance to eligible recipients	\$560,000
(b) For pollution prevention grants	\$150,000
(c) For reports to the legislature and administration of sections 1 to 12	\$137,000

The approved complement of the office is increased by three positions.

Subd. 2. [POLLUTION CONTROL AGENCY.] \$45,000 is appropriated from the environmental fund to the pollution control agency to be available for the biennium ending June 30, 1991, for the purposes specified in sections 1 to 12.

The approved complement of the agency is increased by one position.

Subd. 3. [DEPARTMENT OF PUBLIC SAFETY.] \$48,000 is appropriated from the environmental fund to the department of public safety to be available for the biennium ending June 30, 1991, to ensure timely and accurate submittal of the toxic chemical release forms and annual progress reports in sections 1 to 12.

The approved complement of the department of public safety is increased by one position.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective the day after final enactment.

ARTICLE 2

COMPREHENSIVE CHLOROFLUOROCARBON REDUCTION
AND RECYCLING ACT OF 1990

Section 1. [CITATION.]

Sections 1 to 8 may be cited as the "comprehensive chlorofluorocarbon reduction and recycling act of 1990."

Sec. 2. [PURPOSE.]

It is the intent of the legislature to reduce the amount of CFCs used and emitted in Minnesota. Towards this goal, it is the legislature's intent that Minnesota industries use alternative chemicals when available and feasible. Where no alternative exists, CFCs should be recaptured and recycled whenever possible.

Sec. 3. Minnesota Statutes 1988, section 116.70, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 116.71 to ~~116.73~~ 116.7397.

Sec. 4. [116.735] [REQUIREMENTS TO RECYCLE CFCs.]

Subdivision 1. [SALVAGE AUTOMOBILES.] A person who processes automobiles for salvage must remove CFCs for recycling prior to disposal or sale of the materials containing CFCs. This subdivision does not apply to crushed automobiles or automobiles that have been processed in a manner that makes removal and recovery of CFCs impossible.

Subd. 2. [REFRIGERATION EQUIPMENT.] A person processing scrap refrigerators, central air conditioning units, or freezers must remove and recycle, destroy, or properly dispose of the CFCs.

Subd. 3. [MOBILE AIR CONDITIONING EQUIPMENT.] A person servicing or removing mobile air conditioning equipment must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

Subd. 4. [SERVICING OF APPLIANCES.] (a) A person servicing refrigerators, central air conditioning units, or freezers must:

(1) recapture CFCs, provide storage for recaptured CFCs, and transfer recaptured CFCs to a recycler; or

(2) recapture CFCs and recycle the CFCs to an allowed use.

(b) The recovered CFCs may be properly disposed of or destroyed.

Subd. 5. [FOAM NOT REQUIRED TO BE RECYCLED.] This section does not require recycling of rigid or flexible foam.

Subd. 6. [RULES.] The agency shall adopt rules for recycling CFCs and establish standards for CFC recycling equipment under this section.

Sec. 5. [116.737] [REQUIREMENT TO RECYCLE FIRE EXTINGUISHER HALONS.]

A person who recharges, services, or retires fire extinguishers must recapture and recycle halons.

Sec. 6. [116.7395] [MEDICAL DEVICE EXEMPTION.]

Sections 1 to 5 do not apply to processes using CFCs or halons on medical devices, in sterilization processes in health care facilities, or by a person or facility in manufacturing or selling of medical devices.

Sec. 7. [116.7397] [UNIFORM CFC REGULATION.]

It is the policy of this state to regulate and manage CFCs in a uniform manner throughout the state. Political subdivisions may not adopt, and are preempted from adopting or enforcing, requirements relating to CFCs that are different than state law.

Sec. 8. [325E.36] [SALE OF CERTAIN CFC PRODUCTS PROHIBITED.]

Subdivision 1. [MOTOR VEHICLE COOLANTS.] A person may not offer for sale or sell CFC coolants in containers weighing less than 15 pounds that are designed for or are suitable for use in motor vehicle air conditioners except to persons who possess CFC recycling equipment and who present proof of ownership of CFC recycling equipment at the time of purchase.

Subd. 2. [SOLVENTS.] A person may not offer for sale or sell solvents containing CFCs in containers weighing 15 pounds or less.

Subd. 3. [PARTY STREAMERS.] A person may not offer for sale or sell CFC propelled party streamers.

Subd. 4. [NOISE HORNS.] A person may not offer for sale or sell CFC noise horns.

Subd. 5. [CFC DEFINITION.] For purposes of this section, the term "CFC" has the definition given in section 116.70, subdivision 3.

Subd. 6. [APPLICABILITY TO NEW CHEMICALS.] For each new chemical added to section 116.70, subdivision 3, after the effective date of this act, the application of this section to the new chemical is effective on the date specified for elimination of production of that chemical in the Montreal Treaty.

Sec. 9. [EFFECTIVE DATE.]

Section 4, subdivisions 1 and 2, are effective July 1, 1991. Section 4, subdivision 4, is effective July 1, 1992. Section 4, subdivision 3, and section 8, subdivisions 1 to 4, are effective January 1, 1993."

Delete the title and insert:

"A bill for an act relating to the environment; providing assistance to eligible recipients on methods to prevent toxic pollution; providing financial assistance to research and demonstrate alternative means to prevent toxic pollution; requiring facilities to develop plans to prevent toxic pollution and to submit progress reports; imposing pollution prevention fees; providing for chlorofluorocarbon reduction; providing regulations relating to chlorofluorocarbons and halons; providing penalties; appropriating money; amending Minnesota Statutes 1988, section 116.70, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116 and 325E;

proposing coding for new law as Minnesota Statutes, chapter 115D.”

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

Senate Conferees: (Signed) Bob Lessard, Gene Merriam, Dennis R. Frederickson

House Conferees: (Signed) Willard Munger, Sidney Pauly, Len Price

Mr. Lessard moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2173 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. 2173 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Metzen	Ramstad
Anderson	Decker	Knaak	Morse	Reichgott
Beckman	DeCramer	Knutson	Novak	Renneke
Berg	Dicklich	Langseth	Olson	Schmitz
Berglin	Flynn	Lantry	Pariseau	Spear
Bernhagen	Frank	Larson	Pehler	Storm
Bertram	Frederick	Lessard	Peterson, R. W.	Stumpf
Brandl	Frederickson, D.J.	Luther	Piepho	Vickerman
Brataas	Frederickson, D.R.	Marty	Piper	
Cohen	Gustafson	McGowan	Pogemiller	
Dahl	Hughes	McQuaid	Purfeerst	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2527 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2527

A bill for an act relating to agriculture; establishing an agricultural liming material law; allowing agreements between the commissioner of agriculture and certain persons required to file reports under the corporate farming law; appropriating money; prescribing penalties; amending Minnesota Statutes 1988, section 500.24, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 18F.

April 20, 1990

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. 2527, 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. 2527 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [CITATION.]

Sections 2 to 11 are known and may be cited as the "Minnesota agricultural liming materials law."

Sec. 2. [18C.531] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 2 to 11.

Subd. 2. [AGRICULTURAL LIMING MATERIALS.] "Agricultural liming materials" means materials whose calcium or magnesium compounds, or both, account for an ENP of 30 percent or more and includes burnt lime, hydrated lime, industrial by-product, limestone, and marl.

Subd. 3. [BRAND.] "Brand" means the term designating trademark, product name, or other specific designation under which individual agricultural liming material is offered for sale.

Subd. 4. [BULK.] "Bulk" means in nonpackaged form.

Subd. 5. [BURNT LIME.] "Burnt lime" means a material made from limestone that consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture and the commissioner's authorized agents.

Subd. 7. [DISTRIBUTOR.] "Distributor" means a person who imports, consigns, produces, or offers for sale, sells, barter, or otherwise supplies agricultural liming material in this state.

Subd. 8. [ENP] "ENP" means effective neutralizing power and is an expression of the neutralizing value of liming material based on the TNP and fineness which is expressed as a dry weight percentage.

Subd. 9. [FINENESS.] "Fineness" means the percentage by weight of material that will pass sieves of specified sizes.

Subd. 10. [GUARANTEED ANALYSIS.] "Guaranteed analysis" means the plant food claim in addition to claims for ENP or the ability to neutralize soil acidity.

Subd. 11. [GUARANTOR.] "Guarantor" means the person who is guaranteeing the agricultural liming material to be as stated in the guaranteed analysis statement.

Subd. 12. [HYDRATED LIME.] "Hydrated lime" means a material made from burnt lime that consists of calcium hydroxide or a combination of calcium hydroxide with either magnesium oxide, magnesium hydroxide, or both.

Subd. 13. [INDUSTRIAL BY-PRODUCT.] "Industrial by-product" means an industrial waste or by-product or the by-product of a municipal water treatment process containing calcium or magnesium or both in a form that may neutralize soil acidity.

Subd. 14. [LABEL.] "Label" means the display of all written, printed,

or graphic matter on the immediate container or the statement accompanying a bulk shipment of agricultural liming material.

Subd. 15. [LABELING.] "Labeling" means written, printed, or graphic matter on or accompanying agricultural liming material and advertisements, brochures, posters, and television, radio, or other announcements used in promoting their sale.

Subd. 16. [LIMESTONE.] "Limestone" means a material consisting of calcium carbonate or a combination of calcium carbonate with magnesium carbonate capable of neutralizing soil acidity.

Subd. 17. [MARL.] "Marl" means a granular or loosely consolidated earthy material composed largely of sea shell fragments and calcium carbonate.

Subd. 18. [OFFICIAL SAMPLE.] "Official sample" means a sample of agricultural liming material taken by the commissioner according to methods prescribed in section 8.

Subd. 19. [PERCENT; PERCENTAGE.] "Percent" or "percentage" means the percentage by weight.

Subd. 20. [PERSON.] "Person" means an individual, firm, corporation, partnership, association, trust, joint stock company, unincorporated organization, the state, a state agency, or a political subdivision.

Subd. 21. [PLANT FOOD.] "Plant food" means one of the following plant nutrients or an additional plant nutrient that might be generally recognized as beneficial for plant growth: nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

Subd. 22. [PRODUCER.] "Producer" means a person who operates a source of production or who blends an agricultural liming material to form a stockpile.

Subd. 23. [SELL.] "Sell" means:

- (1) selling or transferring ownership;
- (2) offering and exposing for sale, exchange, distribution, and transportation in and into this state;
- (3) possession with intent to sell, exchange, distribute, or transport in and into this state;
- (4) storing, carrying, and handling in aid of traffic, whether done in person or through an agent, employee, or others; or
- (5) receiving, accepting, and holding a consignment for sale.

Subd. 24. [SOURCE OF PRODUCTION.] "Source of production" means a plant or facility where agricultural liming materials are produced or stockpiled.

Subd. 25. [STOCKPILE.] "Stockpile" means a supply of agricultural liming material stored for future use.

Subd. 26. [TNP.] "TNP" means total neutralizing power and is the total acid neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate and is equivalent to the term "calcium carbonate equivalent."

Subd. 27. [TON.] "Ton" means a net ton of 2,000 pounds avoirdupois.

Subd. 28. [WEIGHT.] "Weight" means the weight of material as offered for sale.

Sec. 3. [18C.535] [POWERS AND DUTIES OF COMMISSIONER.]

Subdivision 1. [ADMINISTRATION.] The commissioner shall administer, implement, and enforce sections 2 to 11. The department of agriculture is the lead state agency for the regulation of agricultural liming materials which includes the storage, handling, distribution, and use of agricultural liming materials.

Subd. 2. [DELEGATION OF DUTIES.] The commissioner may delegate authorities and duties under sections 2 to 11 to designated employees or agents of the department of agriculture.

Subd. 3. [DELEGATION TO APPROVED AGENCIES.] The commissioner may, by written agreement, delegate specific inspection, enforcement, and other regulatory duties of sections 2 to 11 to officials of approved agencies as defined in section 18B.01, subdivision 2.

Sec. 4. [18C.541] [LICENSE.]

Subdivision 1. [LICENSE TO SELL.] Before a person may sell, offer for sale, or dispose of in this state agricultural liming material to be used for the correction of soil acidity or soil fertility, the distributor and producer must obtain a license by filing with the commissioner an acceptable application for a license to sell, together with the license fee, on or before January 1 of each year. The application must state the name of the producer or distributor, the location of the principal office of the producer or distributor, the number and location of each source of production covered by the license, and the name, brand, or trademark under which the agricultural liming material will be sold.

Subd. 2. [EFFECTIVE DATES.] A license is effective until January 1 following the date of its issuance or approval. A license may not be transferred from one person to another.

Subd. 3. [LICENSE POSTING.] The license must be posted in a conspicuous place in each location where agricultural liming materials are sold.

Subd. 4. [SUBSTANTIATION OF CLAIMS.] The commissioner may require a person applying for a license to sell or produce an agricultural liming material for use in this state to submit authentic experimental evidence or university research data to substantiate the claims made for the product. As evidence to substantiate claims, the commissioner may rely on experimental data, evaluations, or advice furnished by experts at the University of Minnesota and may accept or reject additional sources of evidence in evaluating the agricultural liming material. In all cases, the experimental evidence must relate to conditions in this state for which use of the product is intended. The commissioner may also require evidence of value of the product when used as directed or recommended.

Subd. 5. [INSUFFICIENT EVIDENCE.] If the commissioner determines that the evidence submitted under subdivision 4 does not substantiate the product's usefulness in this state, the commissioner may require the applicant to submit samples, conduct tests, or submit additional information, including conditions affecting performance, to evaluate its performance

and usefulness.

Subd. 6. [INDUSTRIAL BY-PRODUCT WITHOUT CHARGE EXEMPT.] Industrial by-product lime material that is transferred between parties without compensation, except for a fair and reasonable transportation charge, is exempt from fees for licensing and inspection.

Sec. 5. [18C.545] [LABELING.]

Subdivision 1. [PRODUCT LABEL.] An agricultural liming material offered for sale in this state must be labeled in accordance with rules adopted under this chapter.

Subd. 2. [BULK SHIPMENT LABEL.] If agricultural liming material is transported or sold in bulk, an invoice or delivery ticket in written or printed form as required by subdivision 1 must accompany each delivery and be supplied to each purchaser at the time of delivery.

Sec. 6. [18C.551] [LICENSE, SAMPLING, AND INSPECTION FEES.]

Subdivision 1. [APPLICATION FEE.] An application for a license must be accompanied by a nonrefundable license fee of \$150. This fee shall not apply to occasional sales of 50 tons or less on an annual basis.

Subd. 2. [ADDITIONAL FEE AFTER JANUARY 1.] If an application for license renewal is not filed before January 1, an additional nonrefundable application fee of 50 percent of the amount due may be assessed before the renewal license is issued.

Subd. 3. [INSPECTION FEES.] An inspection fee, at the rate of five cents per ton, must be paid to the commissioner for all agricultural liming material offered for sale or sold in this state. If more than one person is involved in the distribution of agricultural liming material the person who first sells or imports the agricultural liming material is responsible for the inspection fee. A person licensed under section 5 must retain invoices showing proof of inspection fees paid.

Subd. 4. [SAMPLE AND ANALYSIS FEE.] The commissioner may sample agricultural liming material from a source of production to the extent the commissioner considers necessary to implement sections 2 to 11. A sampling fee of \$40 must be assessed for each sample collected.

Subd. 5. [DEPOSIT OF FEES] Fees and penalties collected under sections 2 to 11 must be deposited in the general fund.

Sec. 7. [18C.555] [TONNAGE REPORT.]

Subdivision 1. [SEMIANNUAL STATEMENT.] A licensed distributor or producer of agricultural liming material shall file with the commissioner on forms furnished by the commissioner a semiannual statement for the periods ending December 31 and June 30 setting forth the number of net tons of agricultural liming material sold in this state during the reporting period. The report is due on or before the last day of the month following the close of each reporting period of each calendar year. For a tonnage report that is not filed within 31 days after the end of the reporting period, a penalty of \$50 must be paid by the licensee and may be recovered in a civil action against the licensee. The assessment of this penalty does not prevent the department from taking other actions as provided in sections 2 to 11.

Subd. 2. [RECORD VERIFICATION.] Submission of each tonnage report

gives authority to the commissioner to verify the records upon which the statement of tonnage is based.

Sec. 8. [18C.561] [SAMPLING METHODS.]

The methods of sampling and analysis of agricultural liming materials must be those adopted by the Association of Official Analytical Chemists. In cases not covered by those methods, or in cases where methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.

Sec. 9. [18C.565] [FALSE OR MISLEADING STATEMENTS.]

A person may not sell a misbranded agricultural liming material. An agricultural liming material is misbranded if it carries a false or misleading statement on the container or on the label attached to the container, or if false or misleading statements concerning the agricultural liming material are disseminated in any manner or by any means.

Sec. 10. [18C.571] [ADULTERATION.]

A person may not sell an adulterated agricultural liming material. An agricultural liming material is adulterated if:

(1) it contains a deleterious or harmful ingredient in sufficient amount to render it injurious to plant life or the environment when applied in accordance with directions for use on the label;

(2) its composition falls below or differs from that it is purported to possess by its labeling; or

(3) it contains unwanted crop seed or weed seed. Adulterated products that cannot be reconditioned must be disposed of by methods approved by the commissioner.

Sec. 11. [18C.575] [RULES.]

Subdivision 1. [FOR ADMINISTRATION.] The commissioner may adopt emergency or permanent rules necessary to administer sections 2 to 11.

Subd. 2. [LIMING MATERIALS.] The commissioner may adopt rules governing the distribution, labeling, sale, handling, certification, use, application, storage, sampling, and analysis of liming materials.

Sec. 12. Minnesota Statutes 1989 Supplement, section 18D.01, subdivision 3, is amended to read:

Subd. 3. [AGRICULTURAL CHEMICAL.] "Agricultural chemical" means a pesticide as defined under chapter 18B or a fertilizer, *agricultural liming material*, plant amendment, or soil amendment as defined under chapter 18C.

Sec. 13. Minnesota Statutes 1988, section 500.24, subdivision 4, is amended to read:

Subd. 4. [REPORTS.] (a) The chief executive officer of every pension or investment fund, corporation, or limited partnership, except a family farm corporation or a family farm limited partnership, that holds any interest in agricultural land or land used for the breeding, feeding, pasturing, growing, or raising of livestock, dairy or poultry, or products thereof, or land used for the production of agricultural crops or fruit or other horticultural products, other than a bona fide encumbrance taken for purposes of security, or which is engaged in farming or proposing to commence farming in this

state after May 20, 1973, shall file with the commissioner of agriculture a report containing the following information and documents:

(1) The name of the pension or investment fund, corporation, or limited partnership and its place of incorporation, certification, or registration;

(2) The address of the pension or investment plan headquarters or of the registered office of the corporation in this state, the name and address of its registered agent in this state and, in the case of a foreign corporation or limited partnership, the address of its principal office in its place of incorporation, certification, or registration;

(3) The acreage and location listed by quarter-quarter section, township and county of each lot or parcel of land in this state owned or leased by the pension or investment fund, limited partnership, or corporation and used for the growing of crops or the keeping or feeding of poultry or livestock;

(4) The names and addresses of the officers, administrators, directors or trustees of the pension or investment fund, or of the officers, shareholders owning more than ten percent of the stock, including the percent of stock owned by each such shareholder, and the members of the board of directors of the corporation, and the general and limited partners and the percentage of interest in the partnership by each partner;

(5) The farm products which the pension or investment fund, limited partnership, or corporation produces or intends to produce on its agricultural land;

(6) With the first report, a copy of the title to the property where the farming operations are or will occur indicating the particular exception claimed under subdivision 3, clauses (a) to (r); and

(7) With the first or second report, a copy of the conservation plan proposed by the soil and water conservation district, and with subsequent reports a statement of whether the conservation plan was implemented.

The report of a corporation seeking to qualify hereunder as a family farm corporation, an authorized farm corporation, a family farm partnership, or authorized farm partnership shall contain the following additional information: The number of shares or the partnership interests owned by persons residing on the farm or actively engaged in farming, or their relatives within the third degree of kindred according to the rules of the civil law or their spouses; the name, address and number of shares owned by each shareholder or partnership interests owned by each partner; and a statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest and annuities. No pension or investment fund, limited partnership, or corporation shall commence farming in this state until the commissioner of agriculture has inspected the report and certified that its proposed operations comply with the provisions of this section.

(b) Every pension or investment fund, limited partnership, or corporation as described in clause (a) shall, prior to April 15 of each year, file with the commissioner of agriculture a report containing the information required in clause (a), based on its operations in the preceding calendar year and its status at the end of the year. A pension or investment fund, limited partnership, or corporation that does not file the report by April 15 must pay a \$500 civil penalty. The penalty is a lien on the land being farmed

under subdivision 3 until the penalty is paid.

(c) *The commissioner or the commissioner's authorized representative may enter into a written agreement with a person required to file a report under this subdivision who, for good cause shown, has failed to make a timely filing. An agreement must be construed as a "no contest" pleading and may encompass a reduction or waiver of the civil penalty for late filing. The agreement is final and conclusive with respect to the civil penalty, except upon a showing of fraud or malfeasance or misrepresentation of a material fact. The matter agreed upon in the agreement may not be reopened or modified by an officer, employee, or agent of the state. The report required under paragraph (b) must be completed prior to a reduction or waiver under this paragraph. The commissioner may enter into an agreement under this paragraph only once for each person required to file under this subdivision.*

(d) Failure to file a required report, or the willful filing of false information, shall constitute a gross misdemeanor.

Sec. 14. [REVISOR'S INSTRUCTION.]

In the next and subsequent editions of Minnesota Statutes, the revisor shall entitle chapter 18C as "Fertilizers, Soil Amendments, Agricultural Liming, and Plant Amendments."

Sec. 15. [APPROPRIATION.]

\$60,000 is appropriated to the commissioner of agriculture from the general fund to be available until June 30, 1991, for administration and enforcement of sections 2 to 11. The approved complement of the department of agriculture is increased by one.

Sec. 16. [EFFECTIVE DATE.]

This act is effective January 1, 1991."

Delete the title and insert:

"A bill for an act relating to agriculture; establishing an agricultural liming material law; allowing agreements between the commissioner of agriculture and certain persons required to file reports under the corporate farming law; appropriating money; prescribing penalties; amending Minnesota Statutes 1988, section 500.24, subdivision 4; Minnesota Statutes 1989 Supplement, section 18D.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 18C."

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

Senate Conferees: (Signed) Charles R. Davis, John Bernhagen, Joe Bertram, Sr.

House Conferees: (Signed) Loren G. Jennings, Wally Sparby, Elton R. Redalen

Mr. Davis moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2527 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. 2527 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	Dahl	Hughes	Marty	Pogemiller
Anderson	Davis	Johnson, D.E.	McGowan	Purfeerst
Beckman	Decker	Johnson, D.J.	McQuaid	Ramstad
Belanger	DeCramer	Knaak	Metzen	Reichgott
Berg	Dicklich	Knutson	Novak	Renneke
Berglin	Flynn	Kroening	Olson	Schmitz
Bernhagen	Frank	Laidig	Pariseau	Spear
Bertram	Frederick	Lantry	Pehler	Storm
Brandl	Frederickson, D.J.	Larson	Peterson, R.W.	Stumpf
Brataas	Frederickson, D.R.	Lessard	Piepho	
Cohen	Gustafson	Luther	Piper	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Bertram introduced —

Senate Resolution No. 188: A Senate resolution commending Judge Rainer Weis for his many years of dedicated service in the legal profession.

Referred to the Committee on Rules and Administration.

RECESS

Mr. Luther moved that the Senate do now recess until 7:00 p.m. The motion prevailed.

The hour of 7:00 p.m. having arrived, the President called the Senate to order.

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.

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. 2527, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2527: A bill for an act relating to agriculture; establishing an agricultural liming material law; allowing agreements between the commissioner of agriculture and certain persons required to file reports under the corporate farming law; appropriating money; prescribing penalties; amending Minnesota Statutes 1988, section 500.24, subdivision 4; proposing coding for new law as Minnesota Statutes, chapter 18F

Senate File No. 2527 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2173, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2173: A bill for an act relating to the environment; providing assistance to eligible recipients on methods to prevent toxic pollution; providing financial assistance to research and demonstrate alternative means to prevent toxic pollution; requiring facilities to develop plans to prevent toxic pollution; providing for chlorofluorocarbon reduction; requiring an air pollution study; providing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 116 and 325E; proposing coding for new law as Minnesota Statutes, chapter 115D.

Senate File No. 2173 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1896, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1896: A bill for an act relating to health; providing exemptions from the infectious waste control act; requiring hospitals to accept certain infectious waste; modifying standards for ambulance drivers; requiring adoption of rules setting new standards for recertification of and upgrading to emergency care course certificates; increasing reimbursement for volunteers; authorizing an emergency medical services advisory committee; regulating the provision of special transportation services; requiring studies; encouraging rural medical school applicants; requiring a study of medical assistance reimbursement for physicians; creating a rural hospital planning and transition grant program; creating a rural hospital subsidy fund; allowing counties authority to exceed levy limits; appropriating money; amending Minnesota Statutes 1989 Supplement, sections 116.76, subdivision 9; 116.78, by adding subdivisions; 144.804, subdivisions 1 and 7; 144.809; 144.8091; Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 136A; 144; and 174.

Senate File No. 1896 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1827, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1827: A bill for an act relating to civil actions; providing for immunity from liability for unpaid members of county agricultural society boards; addressing reduction of damages in an action under no-fault automobile insurance; preserving common law tort law claims against adults who knowingly provide alcoholic beverages to minors; increasing the amount of claims that may be settled without court approval under the municipal compromise of claims statute; changing the standard for awarding punitive damages; addressing when a principal may be held liable for punitive damages for an act of the principal's agent; requiring a separate trial to address punitive damages; requiring the court to review a punitive damages award; making the contributory negligence rule apply to damages resulting from economic loss; redefining fault; abolishing the doctrine of last clear chance; providing immunity from liability for volunteer ski patrollers; allowing recovery of attorney fees by good faith reporters under the child abuse reporting act; repealing the limit on intangible loss damages and the requirement that a jury specify amounts for past, future, and intangible loss damages; amending Minnesota Statutes 1988, sections 38.013; 65B.51, subdivision 1; 340A.801, by adding a subdivision; 466.08; 541.051, subdivision 1; 548.36, subdivision 3; 549.20, subdivisions 1, 2, and by adding subdivisions; 604.01, subdivisions 1, 1a, and 3; 604.05, subdivision 2; 626.556, subdivision 4; repealing Minnesota Statutes 1988, sections 549.23 and 549.24.

Senate File No. 1827 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1703, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1703: A bill for an act relating to natural resources; authorizing the enforcement of certain natural resource laws by conservation officers; amending Minnesota Statutes 1988, section 97A.205.

Senate File No. 1703 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1670, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1670: A bill for an act relating to natural resources; prohibiting transportation of Eurasian water milfoil; providing exceptions; providing penalties for not removing Eurasian water milfoil from watercraft; providing penalties; amending Minnesota Statutes 1988, section 361.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 18.

Senate File No. 1670 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1081, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1081: A bill for an act relating to courts; providing for a study by the supreme court of racial bias in the judicial system; appropriating money.

Senate File No. 1081 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2108, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2108: A bill for an act relating to liquor; regulating the sale of liqueur-filled candy; authorizing municipalities to issue on-sale wine licenses to bed and breakfast facilities; authorizing removal of partially consumed wine bottles from licensed premises; authorizing additional licenses in the cities of Minneapolis, Brooklyn Center, and Duluth; authorizing the issuance of wine and nonintoxicating malt liquor licenses by the city of St. Paul to its parks and recreation division; authorizing the county board of Anoka county to delegate liquor licensing authority to town boards within the county; authorizing the county board of Itasca county to issue an off-sale or combination license within three miles of an incorporated area; providing for the reporting of wine licenses to the commissioner of public safety; eliminating the requirement for a vote on municipal liquor store continuance upon population change; amending Minnesota Statutes 1988, sections 31.121; 340A.101, subdivision 10; 340A.404, subdivisions 3, 5,

and by adding a subdivision; 340A.504, subdivision 1; 340A.601, subdivision 2; Minnesota Statutes 1989 Supplement, sections 340A.404, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 340A.

Senate File No. 2108 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1674: A bill for an act relating to agriculture; providing grasshopper control; authorizing the commissioner to exempt certain lands from grasshopper control; exempting certain persons from losses relating to grasshopper control; clarifying when public utilities are subject to grasshopper control; providing for notices for control and approval of grasshopper control costs; authorizing levies; appropriating money; amending Minnesota Statutes Second 1989 Supplement, section 275.50, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 18; repealing Minnesota Statutes 1989 Supplement, section 18.0226.

There has been appointed as such committee on the part of the House: Nelson, C.; Sparby; Brown; Wenzel and Girard.

Senate File No. 1674 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2200, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2200 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2200

A bill for an act relating to education; starting, developing, adding to, clarifying, and financing elementary and secondary and related education

programs and services, including those relating to general education, transportation, special programs, drug prevention and other community programs, facilities, programs of cooperation, other aids and levies, rural health care, and the department of education; providing for technical rate changes; authorizing bonds and tax levies; appropriating money; amending Minnesota Statutes 1988, sections 120.062, subdivision 9, and by adding a subdivision; 121.148; 121.15, subdivisions 1 and 7; 121.88, subdivision 6; 121.882, subdivision 9, and by adding a subdivision; 121.908, subdivision 3; 121.917, subdivision 4; 122.91, by adding a subdivision; 122.93, by adding a subdivision; 122.94, subdivision 5; 123.33, subdivision 1; 123.35, by adding subdivisions; 123.3514, subdivisions 6 and 6b; 123.36, subdivision 10; 123.37, subdivision 1; 123.38, subdivisions 1 and 2b; 123.39, subdivision 6; 123.58, subdivisions 2 and 6; 123.9361; 123.947; 124.14, subdivision 7; 124.195, subdivision 10, and by adding subdivisions; 124.26, by adding a subdivision; 124.2711, subdivision 2; 124.494, by adding a subdivision; 124A.02, subdivision 1; 124A.036, subdivision 5, and by adding a subdivision; 125.12, by adding a subdivision; 125.17, by adding a subdivision; 125.185, by adding a subdivision; 125.231, subdivision 6; 125.60, subdivision 2; 126.12, subdivision 2; 126.666, subdivisions 2 and 4; 126.70, subdivision 2a; 129B.53, subdivision 3; 141.25, subdivisions 7 and 9; 181A.04, by adding a subdivision; 181A.12, subdivision 1; 275.125, subdivision 4; and 471.59, subdivision 2; Minnesota Statutes 1989 Supplement, sections 121.111, subdivisions 1 and 2; 121.15, subdivision 2; 121.612, subdivisions 3 and 5; 121.88, subdivision 9; 121.882, subdivision 2; 122.243, subdivision 2; 122.91, subdivisions 1 and 5; 122.92, subdivision 1; 122.94, subdivision 6; 122.945, subdivision 2; 123.58, subdivision 9; 124.10, subdivision 2; 124.155, subdivision 2; 124.19, subdivision 7; 124.225, subdivisions 1, 3a, and 8k; 124.26, subdivisions 7 and 8; 124.2711, subdivisions 1 and 3; 124.2713; 124.2715; 124.2721; 124.2725, subdivision 8, and by adding a subdivision; 124.38, subdivision 7; 124.573, subdivision 2d; 124.83, subdivision 6; 124.90, subdivision 2; 124A.22, subdivision 2a; 126.22, subdivisions 2 and 3; 128B.03, subdivision 4; 129.128; 141.35; 275.125, subdivisions 5c, 5e, 6h, 6i, 8b, 9a, 9b, 9c, 11d, and 18; Minnesota Statutes Second 1989 Supplement, sections 124.2442, subdivision 1; 124.83, subdivisions 1 and 4; 124A.26, subdivision 1; Laws 1959, chapter 462, section 3, subdivision 10, as renumbered, as amended; Laws 1984, chapter 463, article 6, section 15, subdivision 2; Laws 1988, chapter 718, article 6, section 23; and Laws 1989, chapter 329, article 5, section 21, subdivision 4; article 11, sections 15, subdivisions 2 and 12; 16, subdivision 2; article 12, sections 9, subdivision 2; and 11; proposing coding for new law in Minnesota Statutes, chapters 121; 122; 124; 125; 126; 129B; and 237; proposing coding for new law as Minnesota Statutes, chapter 124B; repealing Minnesota Statutes 1988, sections 121.15, subdivision 4; 124.43, subdivisions 2, 3, 4, 5, and 6; Minnesota Statutes 1989 Supplement, section 124.43, subdivision 1.

April 22, 1990

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. 2200, 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. 2200 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 1988, section 124.17, subdivision 1b, is amended to read:

Subd. 1b. [AFDC PUPIL UNITS.] In a district in which the number of pupils from families receiving aid to families with dependent children on October 1 of the previous school year equals six percent or more of the actual pupil units in the district for the ~~same~~ current school year, as computed in subdivision 1, each such pupil shall be counted as an additional one-tenth of a pupil unit for each percent of concentration over five percent of such pupils in the district. The percent of concentration shall be rounded down to the nearest whole percent. In a district in which the percent of concentration is less than six, additional pupil units may not be counted for such pupils. A pupil may not be counted as more than .6 additional pupil unit under this subdivision. The weighting in this subdivision is in addition to the weighting provided in subdivision 1.

Sec. 2. Minnesota Statutes 1988, section 124.195, is amended by adding a subdivision to read:

Subd. 12. [AID ADJUSTMENT FOR TRA CONTRIBUTION RATE CHANGE.] (a) *The department of education shall reduce general education aid or any other aid paid in a fiscal year to school districts, intermediate school districts, education districts, education cooperative service units, special education cooperatives, secondary vocational cooperatives, regional management information centers, or another district or unit providing elementary or secondary education services. The reduction shall equal the following percent of salaries paid in a fiscal year by the entity to members of the teachers retirement association established in chapter 354. However, salaries paid to members of the association who are employed by a technical college shall be excluded from this calculation:*

(1) *in fiscal year 1991, 0.84 percent,*

(2) *in fiscal year 1992 and later years, the greater of*

(i) *zero, or*

(ii) *4.48 percent less the additional employer contribution rate established under section 354.42, subdivision 5.*

(b) *In fiscal year 1991, this reduction is estimated to equal \$14,260,000.*

Sec. 3. Minnesota Statutes Second 1989 Supplement, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM LEVY.] (a) The levy authorized by section 124A.23, subdivision 2, may be increased in the amount 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 must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased levy as a percentage of net tax capacity, 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 shall designate the specific 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 the net tax capacity for the year preceding the year the levy is certified 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.

(b) 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~~ *referendum* 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. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. 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.

The notice must include the following statement: "In 1989 the legislature reduced property taxes for education by increasing the state share of funding for education. However, state aid for cities and townships was reduced by a corresponding amount. As a result, property taxes for cities and townships may increase. Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased levy amount authorized pursuant to paragraph (a) 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 paragraph (a) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction ~~election~~ *referendum* may be held to revoke or reduce a levy for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) shall be effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the school district on the day the petition is filed with the school board. A referendum invoked by petition shall be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) *At least 15 days prior to the day of the referendum, the district shall submit a copy of the notice required under paragraph (b) to the commissioner of education. Within 30 15 days after the district holds a referendum*

~~pursuant to this clause~~ *results of the referendum have been certified by the school board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district shall notify the commissioner of education of the results of the referendum.*

Sec. 4. Minnesota Statutes Second 1989 Supplement, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX CAPACITY RATE.] The general education tax capacity rate for fiscal year 1991 is 26.3 percent. Beginning in 1990, the commissioner of revenue shall establish the general education tax capacity rate and certify it to the commissioner of education by 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 percent, that, when applied to the adjusted net tax capacity for all districts, raises the amount specified in this subdivision. The general education tax capacity rate shall be the rate that raises \$845,000,000 for fiscal year 1992 and \$887,000,000 for fiscal year 1993 and subsequent fiscal years. 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 net tax capacity after the tax capacity rate has been certified.

Sec. 5. Minnesota Statutes Second 1989 Supplement, 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 fund balance~~ pupil units in the prior year. *For purposes of this subdivision only, fund balance pupil units means the number of pupil units in average daily membership enrolled in the district, including shared time pupils, according to section 124A.02, subdivision 20, and excluding pupils for whom payment is made according to section 126.22, subdivision 8, or 126.23.* 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 prior school year.

Sec. 6. [APPROPRIATION CANCELLATION.]

Any excess in the general education appropriation for fiscal years 1990 and 1991 shall cancel to the general fund. Any amount canceled shall not be included in the transfer of excess appropriations under Minnesota Statutes, section 124.14, subdivision 7.

Sec. 7. [SCHOOL DISTRICT LEVY REFERENDUM.]

Notwithstanding Minnesota Statutes, section 124A.03, subdivision 2, independent school districts Nos. 118, Remer, 622, North St. Paul-Maplewood, and 656, Faribault, may conduct one levy referendum authorized by that section before November 1990. Only one levy referendum may be conducted in 1990 by each district.

Sec. 8. [INSTRUCTIONS TO THE DEPARTMENT.]

The department of education shall adjust levies certified in 1990 for the change in the fund balance pupil units in section 5.

Sec. 9. [EFFECTIVE DATE.]

Section 6 is effective the day following final enactment. Section 7 is effective the day after the governing bodies of independent school districts Nos. 118, Remer, 622, North St. Paul-Maplewood, and 656, Faribault, comply with Minnesota Statutes, section 645.021, subdivision 3.

ARTICLE 2

TRANSPORTATION

Section 1. Minnesota Statutes 1988, section 120.73, subdivision 1, is amended to read:

Subdivision 1. A school board is authorized to require payment of fees in the following areas:

(a) In any program where the resultant product, in excess of minimum requirements and at the pupil's option, becomes the personal property of the pupil;

(b) Admission fees or charges for extra curricular activities, where attendance is optional;

(c) A security deposit for the return of materials, supplies, or equipment;

(d) Personal physical education and athletic equipment and apparel, although any pupil may personally provide it if it meets reasonable requirements and standards relating to health and safety established by the school board;

(e) Items of personal use or products which a student has an option to purchase such as student publications, class rings, annuals, and graduation announcements;

(f) Fees specifically permitted by any other statute, including but not limited to section 171.04, clause (1);

(g) Field trips considered supplementary to a district educational program;

(h) Any authorized voluntary student health and accident benefit plan;

(i) For the use of musical instruments owned or rented by the district, a reasonable rental fee not to exceed either the rental cost to the district or the annual depreciation plus the actual annual maintenance cost for each instrument;

(j) Transportation of pupils to and from extra curricular activities conducted at locations other than school, where attendance is optional;

(k) Transportation of pupils to and from school for which aid is not authorized under section 124.223, ~~clause (4)~~ *subdivision 1*, and for which levy is not authorized under section 275.125, subdivision 5e, if a district charging fees for transportation of pupils establishes guidelines for that transportation to ensure that no pupil is denied transportation solely because of inability to pay;

(l) Motorcycle classroom education courses conducted outside of regular school hours; provided the charge shall not exceed the actual cost of these courses to the school district.

Sec. 2. Minnesota Statutes 1988, section 123.39, subdivision 1, is amended

to read:

Subdivision 1. The board may provide for the transportation of pupils to and from school; *and for any other purpose for which aid is authorized under section 124.223 or for which levies are authorized under section 275.125.* The board may also provide for the transportation of pupils to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year, as it may deem advisable, and subject to its rules. Every driver shall possess all the qualifications required by the rules of the state board of education. In any school district, the board shall arrange for the attendance of all pupils living two miles or more from the school through suitable provision for transportation or through the boarding and rooming of the pupils who may be more economically and conveniently provided for by that means. The board shall provide transportation to and from the home of a handicapped child not yet enrolled in kindergarten when special instruction and services under section 120.17 are provided in a location other than in the child's home. When transportation is provided, scheduling of routes, establishment of the location of bus stops, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control, and management of the school board. The district may provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by that means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Sec. 3. Minnesota Statutes 1988, section 123.39, is amended by adding a subdivision to read:

Subd. 8e. School districts may provide bus transportation along school bus routes established to provide nonregular transportation as defined in section 124.225, subdivision 1, paragraph (e)(2)(ii), when space is available, for pupils attending programs at an area learning center. The transportation is only permitted between schools and if it does not increase the district's expenditures for transportation. The cost of these services shall be considered part of the authorized cost for nonregular transportation for the purpose of section 124.225.

Sec. 4. Minnesota Statutes 1989 Supplement, section 124.223, is amended to read:

124.223 [TRANSPORTATION AID AUTHORIZATION.]

School transportation and related services for which state transportation aid is authorized are listed in this section.

(+) Subdivision 1. [TO AND FROM SCHOOL; BETWEEN SCHOOLS.]

(a) State transportation aid is authorized for transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who reside two miles or more from the public schools which they could attend; transportation to and from schools the resident pupils attend according to a program approved by the commissioner of education, or between the schools the resident pupils attend for instructional classes; transportation of resident elementary pupils who reside one mile or more

from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79; transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school.

(b) For the purposes of ~~clause (1)~~ *this subdivision*, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends.

(c) State transportation aid is authorized for transportation to and from school of an elementary pupil who moves during the school year within an area designated by the district as a mobility zone, but only for the remainder of the school year. The attendance areas of schools in a mobility zone must be contiguous. To be in a mobility zone, a school must meet both of the following requirements:

(i) more than 50 percent of the pupils enrolled in the school are eligible for free or reduced school lunch; and

(ii) the pupil withdrawal rate for the last year is more than 12 percent.

(d) A pupil withdrawal rate is determined by dividing:

(i) the sum of the number of pupils who withdraw from the school, during the school year, and the number of pupils enrolled in the school as a result of transportation provided under this paragraph, by

(ii) the number of pupils enrolled in the school.

(e) The district may establish eligibility requirements for individual pupils to receive transportation in the mobility zone.

~~(2)~~ *Subd. 2. [OUTSIDE DISTRICT.]* State transportation aid is authorized for transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school. The pupils may attend a classified secondary school in another district and shall receive board and lodging in or transportation to and from a district having a classified secondary school at the expense of the district of the pupil's residence.

~~(3)~~ *Subd. 3. [SECONDARY VOCATIONAL CENTERS.]* State transportation aid is authorized for transportation to and from a state board approved secondary vocational center for secondary vocational classes for resident pupils of any of the districts who are members of or participating in programs at that center.

~~(4)~~ *Subd. 4. [HANDICAPPED.]* State transportation aid is authorized for transportation or board and lodging of a handicapped pupil when that pupil cannot be transported on a regular school bus, the conveying of handicapped pupils between home or a respite care facility and school and within the school plant, necessary transportation of handicapped pupils from home or from school to other buildings, including centers such as developmental achievement centers, hospitals and treatment centers where

special instruction or services required by section 120.17 are provided, within or outside the district where services are provided, and necessary transportation for resident handicapped pupils required by section 120.17, subdivision 4a. Transportation of handicapped pupils between home or a respite care facility and school shall not be subject to any distance requirement for children not yet enrolled in kindergarten or to the requirement in ~~clause (4)~~ *subdivision 1* that elementary pupils reside at least one mile from school and secondary pupils reside at least two miles from school in order for the transportation to qualify for aid.

~~(5)~~ *Subd. 5.* [BOARD AND LODGING; NONRESIDENT HANDICAPPED.] State transportation aid is authorized for, when necessary, board and lodging for nonresident handicapped pupils in a district maintaining special classes.

~~(6)~~ *Subd. 6.* [SHARED TIME.] State transportation aid is authorized for transportation from one educational facility to another within the district for resident pupils enrolled on a shared time basis in educational programs, and necessary transportation required by section 120.17, subdivision 9, for resident handicapped pupils who are provided special instruction and services on a shared time basis.

~~(7)~~ *Subd. 7.* [FARIBAULT STATE ACADEMIES.] State transportation aid is authorized for transportation for residents to and from the Minnesota state academy for the deaf or the Minnesota state academy for the blind.

~~(8)~~ *Subd. 8.* [SUMMER INSTRUCTIONAL PROGRAMS.] State transportation aid is authorized for services described in ~~clauses (4) to (7), (9), and (10)~~ *subdivisions 1 to 7, 9, and 10* when provided in conjunction with a summer program that meets the requirements of section 124A.27, subdivision 9.

~~(9)~~ *Subd. 9.* [COOPERATIVE ACADEMIC AND VOCATIONAL.] State transportation aid is authorized for transportation to, from or between educational facilities located in any of two or more school districts jointly offering academic classes or secondary vocational classes not provided at a secondary vocational center for resident pupils of any of these districts.

~~(10)~~ *Subd. 10.* [NONPUBLIC SUPPORT SERVICES.] State transportation aid is authorized for necessary transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123.935.

Sec. 5. Minnesota Statutes 1989 Supplement, section 124.225, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given to them.

(a) "FTE" means a transported full-time equivalent pupil whose transportation is authorized for aid purposes by section 124.223.

(b) "Authorized cost for regular transportation" means the sum of:

(1) all expenditures for transportation in the regular category, as defined in paragraph (e), clause (1), for which aid is authorized in section 124.223, plus

(2) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of

12-1/2 percent per year of the cost of the fleet, plus

(3) an amount equal to one year's depreciation on district school buses reconditioned by the department of corrections computed on a straight line basis at the rate of 33-1/3 percent per year of the cost to the district of the reconditioning, plus

(4) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.44, subdivision 15, which were purchased after July 1, 1982, for authorized transportation of pupils, with the prior approval of the commissioner, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses.

(c) "Adjusted authorized predicted cost per FTE" means the authorized cost predicted by a multiple regression formula determined by the department of education and adjusted pursuant to subdivision 7a.

(d) "Regular transportation allowance" for the 1989-1990 school year means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.

(e) For purposes of this section, "transportation category" means a category of transportation service provided to pupils:

(1) regular transportation is transportation services provided during the regular school year under section 124.223, ~~clauses (1) subdivisions 1 and (2) 2~~, excluding the following transportation services provided under section 124.223, ~~clause (1) subdivision 1~~: transportation between schools; noon transportation to and from school for kindergarten pupils attending half-day sessions; late transportation home from school for pupils involved in after school activities; transportation of pupils to and from schools located outside their normal attendance areas under the provisions of a plan for desegregation mandated by the state board of education or under court order; and transportation of elementary pupils to and from school within a mobility zone;

(2) nonregular transportation is transportation services provided under section 124.223, ~~clause (1) subdivision 1~~, that are excluded from the regular category, and transportation services provided under section 124.223, ~~clauses (3), (4), (5), (6), (7), (8), (9), and (10) subdivisions 3, 4, 5, 6, 7, 8, 9, and 10~~;

(3) excess transportation is transportation to and from school for secondary pupils residing at least one mile but less than two miles from the public school they could attend or from the nonpublic school actually attended, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(4) desegregation transportation is transportation of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the state board or under court order.

(f) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123.932, subdivision 9.

(g) "Current year" means the school year for which aid will be paid.

(h) "Base year" means the second school year preceding the school year for which aid will be paid.

(i) "Base cost" for the 1986-1987 and 1987-1988 base years means the ratio of:

(1) the sum of:

(i) the authorized cost in the base year for regular transportation as defined in clause (b), plus

(ii) the actual cost in the base year for excess transportation as defined in paragraph (e), clause (3),

(2) to the sum of:

(i) the number of FTE pupils transported in the regular category in the base year, plus

(ii) the number of FTE pupils transported in the excess category in the base year.

(j) Base cost for the 1988-1989 base year and later years means the ratio of:

(1) the sum of the authorized cost in the base year for regular transportation as defined in clause (b) plus the actual cost in the base year for excess transportation as defined in clause (e);

(2) to the sum of the number of weighted FTE pupils transported in the regular and excess categories in the base year.

(k) "Predicted base cost" for the 1986-1987 and 1987-1988 base years means the base cost as predicted by subdivision 3.

(l) "Predicted base cost" for the 1988-1989 base year and later years means the predicted base cost as computed in subdivision 3a.

(m) "Pupil weighting factor" for the excess transportation category for a school district means the lesser of one, or the result of the following computation:

(1) divide the square mile area of the school district by the number of FTE pupils transported in the regular and excess categories in the base year;

(2) raise the result in clause (1) to the one-fifth power;

(3) divide four-tenths by the result in clause (2).

The pupil weighting factor for the regular transportation category is one.

(n) "Weighted FTE's" means the number of FTE's in each transportation category multiplied by the pupil weighting factor for that category.

(o) "Sparsity index" for a school district means the greater of .005 or the ratio of the square mile area of the school district to the sum of the number of weighted FTE's transported by the district in the regular and excess categories in the base year.

(p) "Density index" for a school district means the greater of one or the result obtained by subtracting the product of the district's sparsity index times 20 from two.

(q) "Contract transportation index" for a school district means the greater

of one or the result of the following computation:

- (1) multiply the district's sparsity index by 20;
- (2) select the ~~greater~~ *lesser* of one or the result in clause (1);
- (3) multiply the district's percentage of regular FTE's transported using vehicles that are not owned by the school district by the result in clause (2).

(r) "Adjusted predicted base cost" for the 1988-1989 base year and after means the predicted base cost as computed in subdivision 3a as adjusted under subdivision 7a.

(s) "Regular transportation allowance" for the 1990-1991 school year and after means the adjusted predicted base cost, inflated and adjusted under subdivision 7b.

(t) "Minimum regular transportation allowance" for the 1990-1991 school year and after means the result of the following computation:

(1) compute the sum of the district's basic transportation aid for the 1989-1990 school year according to subdivision 8a and the district's excess transportation levy for the 1989-1990 school year according to section 275.125, subdivision 5e, clause (a);

(2) divide the result in clause (1) by the sum of the number of weighted FTE's transported by the district in the regular and excess transportation categories in the 1989-1990 school year;

(3) select the lesser of the result in clause (2) or the district's base cost for the 1989-1990 base year according to paragraph (j).

Sec. 6. Minnesota Statutes 1989 Supplement, section 124.225, subdivision 3a, is amended to read:

Subd. 3a. [PREDICTED BASE COST.] A district's predicted base cost for the 1988-1989 base year and later years equals the result of the following computation:

(a) Multiply the transportation formula allowance by the district's sparsity index raised to the one-fourth power. The transportation formula allowance is \$406 for the 1988-1989 base year and *\$421 for the 1989-1990 base year.*

(b) Multiply the result in clause (a) by the district's density index raised to the 35/100 power.

(c) Multiply the result in clause (b) by the district's contract transportation index raised to the 1/20 power.

Sec. 7. Minnesota Statutes 1989 Supplement, section 124.225, subdivision 8k, is amended to read:

Subd. 8k. [CONTRACTED SERVICES AID REDUCTION.] (a) Each year, a district's transportation aid shall be reduced according to the provisions of this subdivision, if the district contracted for some or all of the transportation services provided in the regular category.

(b) For the 1988-1989 and 1989-1990 school years, the department of education shall compute this subtraction by conducting the multiple regression analysis specified in subdivision 3 and computing the district's aid under two circumstances, once including the coefficient of the factor specified in subdivision 4b, clause (3), and once excluding the coefficient of

that factor. The aid subtraction shall equal the difference between the district's aid computed under these two circumstances.

(c) For 1990-1991 and later school years, the department of education shall determine the subtraction by computing the district's regular transportation revenue, *excluding revenue based on the minimum regular transportation allowance*, under two circumstances, once including the factor specified in subdivision 3a, clause (c), and once excluding the factor. The aid subtraction equals the difference between the district's revenue computed under the two circumstances.

Sec. 8. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 5e, is amended to read:

Subd. 5e. [EXCESS TRANSPORTATION LEVY.] A school district may make a levy for excess transportation costs according to this subdivision. The amount of the levy shall be the result of the following computation:

(a) Multiply the lesser of (1) the regular transportation allowance for the fiscal year to which the levy is attributable, or (2) the base cost for the fiscal year to which the levy is attributable, by the number of weighted FTE pupils transported in the excess category in the district in the current school year.

(b) Add to the result in paragraph (a) the actual cost in the fiscal year to which the levy is attributable of other related services that are necessary because of extraordinary traffic, *drug, or crime* hazards.

Sec. 9. Minnesota Statutes 1988, section 275.125, is amended by adding a subdivision to read:

Subd. 5h. [TRANSPORTATION LEVY FOR POST-SECONDARY AGREEMENTS.] A school district may levy an amount equal to the actual cost of transportation of secondary pupils enrolled in courses provided under an agreement authorized by section 123.33, subdivision 7, to and from a pupil's home and a secondary school or a post-secondary institution, between a secondary school and a post-secondary institution, or between post-secondary institutions.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 1988, section 121.88, subdivision 6, is amended to read:

Subd. 6. [PROGRAMS FOR ~~HANDICAPPED~~ ADULTS WITH DISABILITIES.] A school board may offer, as part of a community education program, a program for ~~handicapped~~ adults with disabilities. Boards are encouraged to offer programs cooperatively with other districts and organizations. Programs may not be limited to district residents. Programs may include:

- (1) services enabling the adults to participate in community activities or community education classes;
- (2) classes specifically for ~~handicapped~~ adults with disabilities;
- (3) outreach activities to identify adults needing service;
- (4) activities to increase public awareness of the roles of ~~handicapped~~ people with disabilities;

(5) activities to enhance the role of ~~handicapped~~ *people with disabilities* in the community; and

(6) other direct and indirect services and activities benefiting ~~handi-~~
~~enabled~~ *adults with disabilities*.

Sec. 2. Minnesota Statutes 1989 Supplement, section 124.19, subdivision 7, is amended to read:

Subd. 7. [ALTERNATIVE PROGRAMS.] (a) This subdivision applies to an alternative program that has been approved by the state board of education pursuant to Minnesota Rules, part 3500.3500, as exempt from Minnesota Rules, part 3500.1500, requiring a school day to be at least six hours in duration.

(b) To receive general education revenue for a pupil in an alternative program, a school district must meet the requirements in this paragraph. The program must be approved by the commissioner of education. In approving a program, the commissioner may use the process used for approving state designated area learning centers under section 129B.56.

(c) In addition to the requirements in paragraph (b), to receive general education revenue for a pupil in an alternative program that has an independent study component, a school district must meet the requirements in this paragraph.

~~For a course having an independent study component, the pupil must complete coursework and receive credit for each course for which the aid is claimed.~~

The school district must develop with the pupil a continual learning plan for the pupil. A district must allow a minor pupil's parent or guardian to participate in developing the plan, if the parent or guardian wants to participate. The plan must identify the learning experiences and expected outcomes needed for satisfactory credit for the year and for graduation. The plan must be updated each year.

General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full school year, or its equivalent.

General education revenue for a pupil in an approved alternative program that has an independent study component must be ~~prorated for a pupil receiving fewer than six credits in a year paid for each hour of teacher contact time and each hour of independent study time completed toward a credit necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by 1,020 hours, but not more than one, except as otherwise provided in section 121.585.~~

For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

~~A credit for a year in an approved alternative program shall, for the purposes of audit, be considered to be 170 hours of teacher contact time and independent study time.~~

Sec. 3. Minnesota Statutes 1989 Supplement, section 124.573, subdivision 2d, is amended to read:

Subd. 2d. [ADMINISTRATION.] In making the computation in subdivision 2b, paragraph (a), clause (1), the salaries of ~~the administrator and administrators~~, support service ~~facilitator~~ *facilitators*, vocational evaluators, *supplemental support staff*, and technical tutors must be apportioned among programs based on the number of full-time-equivalent instructors in each program.

Sec. 4. Minnesota Statutes 1989 Supplement, section 124.86, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] Each year each American Indian-controlled contract *or grant* school authorized by the United States Code, title 25, section 450f, that is located on a reservation within the state is eligible to receive tribal contract school aid subject to the requirements in this subdivision.

(a) The school must plan, conduct, and administer an education program that complies with the requirements of chapters 120, 121, 122, 123, 124, 124A, 125, 126, 129, 129A, and 129B.

(b) The school must comply with all other state statutes governing independent school districts.

(c) The state tribal contract *or grant* school aid must be used to supplement, and not to replace, the money for American Indian education programs provided by the federal government.

Sec. 5. Minnesota Statutes 1989 Supplement, section 124.86, subdivision 2, is amended to read:

Subd. 2. [REVENUE AMOUNT.] ~~For 1989-1990 and later school years,~~ An American Indian-controlled contract *or grant* school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive tribal contract *or grant* school aid. The amount of aid is derived by:

(1) multiplying the formula allowance under section 124A.22, subdivision 2, times the *difference between (a) the actual pupil units as defined in section 124A.02, subdivision 15, in attendance during the fall count week, but not including pupil units for which the school has received reimbursement under sections 123.933 and 126.23 for the school for the current school year and (b) the number of pupils for the current school year, weighted according to section 124.17, subdivision 1, receiving benefits under section 123.933 or 123.935 or for which the school is receiving reimbursement under section 126.23;*

(2) subtracting from the result in clause (1) the amount of money allotted to the school by the federal government through the Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section 39, 11, *b for the base rate as applied to kindergarten through twelfth grade, excluding additional weighting*, but not money allotted through subparts F to L for contingency funds, school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section 126.23;

(3) dividing the result in clause (2) by the actual pupil units; and

(4) multiplying the actual pupil units by the lesser of \$1,500 or the result in clause (3).

Sec. 6. Minnesota Statutes 1989 Supplement, section 124.90, is amended by adding a subdivision to read:

Subd 4. [PRIVATE INSURERS.] A school district may enroll as a provider for insurance companies to provide covered special education services to eligible persons. To receive payments, the district must comply with relevant state and federal statutes. A district may contract for services, and may contract with a third party agency to assist in administering and billing for these services.

Sec. 7. Minnesota Statutes 1988, section 124A.036, subdivision 5, is amended to read:

Subd. 5. [ALTERNATIVE ATTENDANCE PROGRAMS.] The general education aid for districts must be adjusted for each pupil, excluding a handicapped pupil as defined in section 120.03 or a nonhandicapped pupil as defined by section 120.181, attending a nonresident district under sections 120.062, 120.075, 120.0751, 120.0752, 123.3515, 126.22, and 129B.52 to 129B.55. The adjustments must be made according to this subdivision.

(a) General education aid paid to a resident district must be reduced by an amount equal to the general education revenue exclusive of compensatory revenue attributable to the pupil in the resident district.

(b) General education aid paid to a district serving a pupil in programs listed in this subdivision shall be increased by an amount equal to the general education revenue exclusive of compensatory revenue attributable to the pupil in the nonresident district.

(c) If the amount of the reduction to be made from the general education aid of the resident district is greater than the amount of general education aid otherwise due the district, the excess reduction must be made from other state aids due the district.

(d) The district of residence shall pay tuition to a district providing special instruction and services to a handicapped pupil, as defined in section 120.03, who is enrolled in a program listed in this subdivision. The tuition shall be equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for debt service and for capital expenditure facilities and equipment, and debt service but not including any amount for transportation, minus (2) the amount of special education aid, attributable to that pupil, that is received by the district providing special instruction and services.

(e) *An area learning center operated by an educational cooperative service unit, intermediate district, education district, or a joint powers cooperative may elect through the action of the constituent boards to charge tuition for nonhandicapped pupils rather than to calculate general education aid adjustments under clause (a), (b), or (c). The tuition must be equal to the average general education revenue per pupil unit attributable to the student, or the average per pupil cost of operating the area learning center, whichever is less.*

Sec. 8. Minnesota Statutes 1989 Supplement, section 128B.03, subdivision 4, is amended to read:

Subd. 4. [DISTRICT 309 FEDERAL AID.] (a) The school board of independent school district No. 309 must transfer to the council, to the extent permissible, any federal aids or grants which the school district is eligible for or entitled to because of:

- (1) the population in the experimental school attendance area;
- (2) the pupils actually attending the experimental school;
- (3) the program of the experimental school;
- (4) the boundaries of the attendance area of the experimental school; or
- (5) a related reason.

(b) For the sole purpose of receiving federal impact aid, the experimental school on the land comprising the former independent school district No. 25 is a local education agency, according to Code of Federal Regulations, title 34, section 222.80. The school and the land must not be included, for the purpose of determining federal impact aid, in independent school district No. 309.

Sec. 9. Minnesota Statutes 1988, section 141.25, subdivision 7, is amended to read:

Subd. 7. [MINIMUM STANDARDS.] No license shall be issued unless the commissioner first determines:

(a) That the applicant has a sound financial condition with sufficient resources available to meet the school's financial obligations; to refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school by the student body; to provide adequate service to its students and prospective students; and for the proper use and support of the school to be maintained;

(b) That the applicant has satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to train adequately the students currently enrolled, and those proposed to be enrolled;

(c) That the applicant employs a sufficient number of qualified instructors trained by experience and education to give the training contemplated;

(d) That the premises and conditions under which the students work and study are sanitary, healthful, and safe, according to modern standards;

(e) That each occupational course or program of instruction or study shall be of such quality and content as to provide education and training which will adequately prepare enrolled students for entry level positions in the occupation for which trained;

(f) That the living quarters which are owned, maintained, or approved by the applicant for students are sanitary and safe;

(g) That the contract or enrollment agreement used by the school complies with the following provisions:

- (1) The name and address of the school must be clearly stated;
- (2) Inclusion of a clear and conspicuous disclosure that such agreement

becomes a legally binding instrument upon written acceptance of the student by the school unless canceled pursuant to section 141.271;

(3) Must contain the school's cancellation and refund policy which shall be clearly and conspicuously entitled, "Buyer's Right to Cancel";

(4) The total cost of the course including tuition and all other charges shall be clearly stated;

(5) The name and description of the course, including the number of hours or credits of classroom instruction and/or home study lessons shall be included;

(6) No contract or agreement shall contain a wage assignment provision and/or a confession of judgment clause;

(7) Each contract or enrollment agreement shall contain a clear and conspicuous explanation of the form and means of notice the student should use in the event the student elects to cancel the contract or sale, the effective date of cancellation, and the name and address of the seller to which the notice should be sent or delivered.

Sec. 10. Minnesota Statutes 1988, section 141.25, subdivision 9, is amended to read:

Subd. 9. [CATALOG OR BROCHURE.] Before a license is issued to a school, other than one which offers exclusively a correspondence course of instruction, the school shall furnish to the commissioner a catalog or brochure containing the following:

(1) identifying data, such as volume number and date of publication;

(2) name and address of the school and its governing body and officials;

(3) a calendar of the school showing legal holidays, beginning and ending dates of each course quarter, term, or semester, and other important dates;

(4) school policy and regulations on enrollment including dates and specific entrance requirements for each course;

(5) school policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance;

(6) school policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of reenrollment for those dismissed for unsatisfactory progress;

(7) school policy and regulations about student conduct and conditions for dismissal for unsatisfactory conduct;

(8) detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) policy and regulations, including an explanation of section 141.271, about refunding tuition, fees, and other charges if the student does not enter the course, withdraws, or is discontinued;

(10) a description of the available facilities and equipment;

(11) a course outline for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and

approximate time, *hours*, or *credits* to be spent on each subject or unit; and

(12) policy and regulations about granting credit for previous education and training.

Sec. 11. Minnesota Statutes 1989 Supplement, section 141.35, is amended to read:

141.35 [EXEMPTIONS.]

None of the provisions of sections 141.21 to 141.36 shall apply to the following:

(a) Colleges authorized by the laws of Minnesota or of any other state or foreign country to grant degrees;

(b) Schools of nursing accredited by the state board of nursing or an equivalent public board of another state or foreign country;

(c) Public schools as defined in section 120.05;

(d) Private schools complying with the requirements of section 120.10, subdivision 2;

(e) Private and parochial nonprofit schools exempt from taxation under the constitution of Minnesota;

(f) Courses taught to students in a valid apprenticeship program taught by or required by a trade union;

(g) Schools exclusively engaged in training physically or mentally handicapped persons for the state of Minnesota;

(h) Schools now or hereafter licensed by boards authorized under Minnesota law to issue such licenses;

(i) Schools and educational programs, or training programs, conducted by persons, firms, corporations, or associations, for the training of their own employees, for which no fee is charged the employee;

(j) Schools engaged exclusively in the teaching of purely avocational or recreational, or remedial subjects as determined by the commissioner. Private schools teaching a method or procedure to increase the speed with which a student reads are not within this exemption;

(k) Driver training schools and instructors as defined in section 171.33, subdivisions 1 and 2;

(l) Classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;

(m) Courses of instruction in the fine arts provided by organizations exempt from taxation pursuant to section 290.05 and registered with the attorney general pursuant to chapter 309. "Fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the commissioner may seek the advice and recommendation of the Minnesota board of the arts;

(n) Classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, which classes, courses, or programs have been approved by a legislatively or

judicially established board or agency responsible for regulating the practice of the profession, and which are offered primarily to a person who currently practices the profession-:

(o) *Classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations;*

(p) *Classes, courses, or programs of a seminar nature providing 16 or fewer hours of instruction that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment;*

(q) *Classes, courses, or programs of a seminar nature providing instruction in personal development, modeling, or acting; and*

(r) *Training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment.*

Sec. 12. [ALTERNATIVE DELIVERY OF SPECIALIZED INSTRUCTIONAL SERVICES.]

Subdivision 1. [COMMISSIONER APPROVAL.] The commissioner of education may approve education proposals from independent school district No. 625, St. Paul, and up to nine additional school districts to provide prevention services as an alternative to special education and other compensatory programs during the 1990-1991, 1991-1992, and 1992-1993 school years. A district with an approved program may, on a pilot basis, provide instruction and services in the regular education classroom to eligible pupils. Pupils eligible to participate in the program are those low-performing pupils who, based on documented experience or the professional judgment of a classroom teacher or a team of licensed professionals, would eventually qualify for special education instruction or related services under Minnesota Statutes, section 120.17 if the intervention services authorized by this section were unavailable. Pupils may be provided services during extended school days and throughout the entire year.

Subd. 2. [PROPOSAL CONTENTS.] The proposal must set forth:

(1) the instructional services available to eligible pupils under Minnesota Statutes, section 124.311, subdivision 3, and handicapped pupils under Minnesota Statutes, section 120.03;

(2) the criteria to select pupils for the program and the assessment procedures to determine eligibility;

(3) the methods to involve parents or guardians of pupils and parent or community special education advocates in the program;

(4) the accounting procedures to document that federal special education money is used to supplement or increase the level of special education instruction and related services provided with state and local revenue, but in no case to supplant that state and local revenue, and that districts are expending at least the amount for special education instruction and related services required by federal law;

(5) the role of regular and special education teachers in planning and implementing the program;

(6) the review and evaluation procedures to be used by the district to address at least the following:

- (i) the number of handicapped and nonhandicapped pupils served;
- (ii) the impact of the program on the academic progress and social adjustment of the pupils;
- (iii) the level of satisfaction teachers, parents, and pupils have with the program;
- (iv) the effect of the program on the number of referrals for special education, chapter 1, and other categorical programs;
- (v) the amount of time spent by teachers on procedural activities;
- (vi) the increase in the amount of time the pupil is in a regular education classroom; and
- (vii) cost implications; and
- (7) any other information requested by the commissioner.

Subd. 3. [REVIEW FOR EXCESS EXPENDITURES.] *The commissioner shall review each proposal to determine whether the personnel, equipment, supplies, residential aid, and summer school are necessary to meet the district's obligation to provide special instruction and services to handicapped children according to Minnesota Statutes, section 120.17. The commissioner shall not approve aid for any expenditures determined to be unnecessary.*

Subd. 4. [ANNUAL REPORT.] *Each year the district must submit to the commissioner a report containing the information described in Minnesota Statutes, section 124.311, subdivision 7, and in subdivision 2, clause (6).*

Subd. 5. [RULE WAIVER.] *The commissioner shall report to the education committees of the legislature any rule the state board of education is requested to waive and the disposition of the request.*

Subd. 6. [PUPILS' RIGHTS.] *Any pupil participating in this program must be individually evaluated based upon the pupil's actual abilities and needs. A pupil who is eligible for services under Minnesota Statutes, section 120.17 is entitled to procedural protections similar to those procedural protections provided under Public Law Number 94-142 in any matter that affects the identification, evaluation, placement, or change in placement of a pupil. A participating district must ensure the protection of a pupil's civil rights, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district to become ineligible to participate in this program. Notwithstanding Minnesota Statutes, section 121.11, subdivision 12, a pupil's rights under this section cannot be waived by the state board of education.*

Subd. 7. [REVENUE AVAILABLE.] *For fiscal year 1991, a district with an approved program shall receive the sum of the revenue it received for fiscal year 1990 for its special education program under Minnesota Statutes, sections 124.32, subdivisions 1b, 2, 5, and 10, and 275.125, subdivision 8c, multiplied by 1.03. For each of fiscal years 1992 and 1993, the amount to be paid to a district with an approved program shall be the amount paid for the previous fiscal year multiplied by 1.03.*

For fiscal years 1991, 1992, and 1993, the ratio of aid payments for special education under Minnesota Statutes, section 124.32, subdivisions 1b, 2, 5, and 10, to the levy for special education salaries under Minnesota Statutes, section 275.125, subdivision 8c, shall be equal to the ratio for

fiscal year 1990.

For fiscal year 1991, aid for a district with an approved program shall not be prorated.

For fiscal years 1991, 1992, and 1993, the state shall not pay a district with an approved program any aid under Minnesota Statutes, section 124.32, subdivisions 1b, 2, 5, and 10, and the district may not levy under Minnesota Statutes, section 275.125, subdivision 8c, except for secondary vocational handicapped teacher salaries, limited English proficiency teacher salaries, deficiencies, and other adjustments.

Revenue under this subdivision shall be available only for the purposes of this section.

Sec. 13. [INSTRUCTION TO REVISOR.]

The revisor of statutes is directed to change the phrase "handicapped adults" wherever it appears in the education code to "adults with disabilities."

Sec. 14. [EFFECTIVE DATES.]

Sections 2, 4, and 8 are retroactively effective July 1, 1989. Sections 6, 9, 10, 11, and 12 are effective the day following final enactment. Section 5 is effective the day following final enactment, except that the subtraction in clause (1)(b)), is effective July 1, 1990.

ARTICLE 4

DRUG PREVENTION AND OTHER COMMUNITY PROGRAMS

Section 1. Minnesota Statutes 1988, section 121.882, subdivision 9, is amended to read:

Subd. 9. [ASSISTANCE.] The department of education shall provide assistance to districts with programs described in this section. *The department must establish guidelines that list barriers to learning and development affecting children served by early childhood family education programs.*

Sec. 2. Minnesota Statutes 1989 Supplement, section 121.912, subdivision 1b, is amended to read:

Subd. 1b. [TRA AND FICA TRANSFER.] (a) Notwithstanding subdivision 1, a district shall transfer money from the general fund to the community ~~education~~ service fund for the employer contributions for teacher retirement and FICA obligations attributable to community education programs for employees who are members of a teacher retirement association and who are paid from the community service fund.

(b) A district shall not transfer money under paragraph (a) for employees who are paid with money other than normal operating funds, as defined in section 354.05, subdivision 27.

Sec. 3. Minnesota Statutes 1988, section 124.261, is amended to read:

124.261 [ADULT HIGH SCHOOL GRADUATION AID.]

Adult high school graduation aid for eligible pupils age 21 or over, equals ~~an allowance of~~ 65 percent of the general education formula allowance times 1.35 times the average daily membership under section 124.17, subdivision 2e. Adult high school graduation aid must be paid in addition to any other aid to the district. ~~Average daily membership of eligible Pupils~~

~~must age 21 or over may not be used in the computation of pupil units under section 124.17, subdivision 1, counted by the district for any purpose other than the computation of adult high school graduation aid.~~

Sec. 4. Minnesota Statutes 1989 Supplement, section 126.22, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE PUPILS.] The following pupils are eligible to participate in the high school graduation incentives program:

(a) any pupil who is between the ages of 12 and 16, *except as indicated in clause (6), and who:*

(1) is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test; or

(2) is at least one year behind in *satisfactorily completing coursework* or obtaining credits for graduation; or

(3) is pregnant or is a parent; or

(4) has been assessed as chemically dependent; or

(5) has been excluded or expelled according to sections 127.26 to 127.39; or

(6) *is between the ages of 12 and 21 and* has been referred by a school district for enrollment in an eligible program or a program pursuant to section 126.23; or

(b) any pupil who is between the ages of 16 and 19 who is attending school, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(c) any person between 16 and 21 years of age who has not attended a high school program for at least 15 consecutive school days, excluding those days when school is not in session, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(d) any person who is at least 21 years of age and who:

(1) has received ~~less~~ fewer than 14 years of public or nonpublic education, beginning at age 5;

(2) has already completed the studies ordinarily required in the 10th grade but has not completed the requirements for a high school diploma or the equivalent; and

(3) at the time of application, (i) is eligible for unemployment compensation benefits or has exhausted the benefits, (ii) is eligible for or is receiving income maintenance and support services, as defined in section 268.0111, subdivision 5, or (iii) is eligible for services under the displaced homemaker program, state wage-subsidy program, or any programs under the federal Jobs Training Partnership Act or its successor.

Notwithstanding section 127.27, subdivision 7, the provisions of section 127.29, subdivision 1, do not apply to a pupil under age 21 who participates in the high school graduation incentives program.

(e) An elementary school pupil who is determined by the district of attendance to be at risk of not succeeding in school is eligible to participate in the program.

Sec. 5. Minnesota Statutes 1989 Supplement, section 126.22, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PROGRAMS.] (a) A pupil who is eligible according to subdivision 2, clause (a), (b), (c), ~~or~~ (d), *or (e)* may enroll in any program approved by the state board of education under Minnesota Rules, part 3500.3500, ~~including~~ *or* area learning centers under sections 129B.52 to 129B.55, or according to section 121.11, subdivision 12.

(b) A pupil who is eligible according to subdivision 2, clause (b), (c), or (d), may enroll in post-secondary courses under section 123.3514.

(c) A pupil who is eligible under subdivision 2, clause (a), (b), (c), ~~or~~ (d), *or (e)* may enroll in any public *elementary or* secondary education program. However, a person who is eligible according to subdivision 2, clause (d), may enroll only if the school board has adopted a resolution approving the enrollment.

(d) A pupil who is eligible under subdivision 2, clause (a), (b), ~~or~~ (c), *or (e)* may enroll *part time or full time* in any nonprofit, nonpublic, non-sectarian school that has contracted with the school district of residence to provide educational services.

(e) An eligible institution providing eligible programs as defined in this subdivision may contract with an entity providing adult basic education programs under the community education program contained in section 121.88 for actual program costs.

Sec. 6. Minnesota Statutes 1989 Supplement, section 126.22, subdivision 8, is amended to read:

Subd. 8. [ENROLLMENT VERIFICATION.] *For a pupil attending an eligible ~~programs~~ program full time* under subdivision 3, paragraph (d), the department of education shall pay 85 percent of the basic revenue of the district to the eligible program and 15 percent of the basic revenue to the resident district within 30 days after *the eligible program verifies enrollment verification.* ~~The department of education shall provide a form for the eligible program to use for enrollment verification using the form provided by the department.~~ *For a pupil attending an eligible program part time, basic revenue shall be reduced proportionately, according to the amount of time the pupil attends the program, and the payments to the eligible program and the resident district shall be reduced accordingly. A pupil for whom payment is made according to this section may not be counted by any district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made for a pupil under this subdivision, a school district shall not reimburse a program under section 126.23 for the same pupil.*

Sec. 7. Minnesota Statutes 1989 Supplement, section 126.23, is amended to read:

126.23 [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for ~~high school dropouts or other eligible students~~

pupils under section 126.22, subdivision 2, the resident district must reimburse the provider an amount equal to at least 85 percent of the basic revenue of the district for each pupil attending the program full time. For a pupil attending the program part time, basic revenue paid to the program shall be reduced proportionately, according to the amount of time the pupil attends the program, and basic revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made to a district or program for a pupil under this section, the department of education shall not make a payment for the same pupil under section 126.22, subdivision 8.

Sec. 8. Minnesota Statutes 1988, section 126.70, subdivision 2a, is amended to read:

Subd. 2a. [PERMITTED USES.] A school board may approve a plan for any of the following purposes:

(1) *for in-service education to increase the effectiveness of teachers in responding to children and young people at risk of not succeeding at school;*

(2) *to participate in the educational effectiveness program according to section 121.609;*

~~(2)~~ (3) *to provide in-service education for elementary and secondary teachers to improve the use of technology in education;*

~~(3)~~ (4) *to provide subject area in-service education emphasizing the academic content of curricular areas determined by the district to be a priority area;*

~~(4)~~ (5) *to use experienced teachers, as mentors, to assist in the continued development of new teachers;*

~~(5)~~ (6) *to increase the involvement of parents, business, and the community in education, including training teachers to plan and implement parental involvement programs that will more fully involve parents in their children's learning development;*

~~(6)~~ (7) *for experimental delivery systems;*

~~(7)~~ (8) *for in-service education to increase the effectiveness of principals and administrators;*

~~(8)~~ (9) *for in-service education or curriculum development for programs for gifted and talented pupils;*

~~(9)~~ (10) *for in-service education or curriculum development for cooperative efforts to increase curriculum offerings;*

~~(10)~~ (11) *for improving curriculum, according to the needs identified under the planning, evaluation, and reporting process set forth in section 126.666;*

~~(11)~~ (12) *for in-service education and curriculum development designed to promote sex equity in all aspects of education, with emphasis on curricular areas such as mathematics, science, and technology programs;*

~~(12)~~ (13) *for in-service education or curriculum modification for handicapped pupils and low-achieving pupils;*

~~(13)~~ (14) *for short-term contracts as described in section 126.72; or*

(14) (15) to employ teachers for an extended year to perform duties directly related to improving curriculum or teaching skills.

Sec. 9. Laws 1989, chapter 329, article 4, section 19, subdivision 2, is amended to read:

Subd. 2. [ADULT BASIC EDUCATION AID.] For adult basic education aid according to Minnesota Statutes, section 124.26:

\$4,780,000 1990

\$5,043,000 1991

The 1990 appropriation includes \$638,000 for 1989 and \$4,142,000 for 1990.

The 1991 appropriation includes \$731,000 for 1990 and \$4,312,000 for 1991.

Up to \$235,000 in 1990 and \$250,000 in 1991 may be used for contracts with private, nonprofit organizations for approved programs.

Up to \$50,000 in 1991 may be used for small grants to adult basic education providers, including private nonprofit organizations providing basic education services, to fund service delivery projects that are ineligible for funding as approved programs. Projects may include developing innovative curriculum for adult learners or meeting adult learners' needs for child care and transportation services.

Sec. 10. Laws 1989, chapter 329, article 4, section 19, subdivision 5, is amended to read:

Subd. 5. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid according to Minnesota Statutes, section 124.2711:

~~\$9,635,900~~ \$9,742,000 1990

\$10,262,000 1991

The 1990 appropriation includes \$1,235,000 for 1989 and ~~\$8,400,000~~ \$8,507,000 for 1990.

The 1991 appropriation includes \$1,484,000 for 1990 and \$8,778,000 for 1991.

Sec. 11. [EXPANDED ECFE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A grant program for fiscal year 1991 is established to develop expanded early childhood family education programs that effectively integrate the roles of families, regular classroom teachers, and community-based social service agencies. Notwithstanding the direction to serve children in the period of life from birth to kindergarten contained in Minnesota Statutes, section 121.882, the expanded programs shall be for children who are in kindergarten through grade 3 and their families who require:

(1) basic knowledge about the physical, mental, emotional, or educational development of their children;

(2) basic skills to provide for their children's learning and development;

(3) self-esteem; or

(4) information about availability or access to community-based social

service agencies.

Subd. 2. [ELIGIBILITY.] An applicant for a grant must be a school district, an education district, or districts that cooperate for a particular purpose. To be eligible for a grant, a district or districts must meet all of the following criteria:

(1) have operated an early childhood family education program, according to Minnesota Statutes, section 121.882, for at least two years before applying for the grant;

(2) include families described in subdivision 1 in the early childhood family education programs of the district or districts; and

(3) ensure that families participating in the early childhood family education program reflect the demographic composition of the district or districts.

Subd. 3. [APPLICATION PROCESS.] To obtain a grant to expand an existing early childhood family education program, a district or districts must submit an application to the commissioner of education in the form and manner established by the commissioner. The application must describe how the applicant will integrate the roles of families, regular classroom teachers, and community-based social service agencies and what resources will be available to continue the program if it is found to be effective. The commissioner may require additional information from an applicant.

Subd. 4. [REVIEWING APPLICATIONS.] When reviewing applications, the commissioner shall determine whether all of the requirements in subdivision 2 are met. The commissioner may also use the following criteria when reviewing applications:

(1) the location of the proposed program;

(2) the number of children and families who would receive services;

(3) days and times that programs would be available, including after school, evenings, and weekends; and

(4) willingness of the district to provide information about the program to other districts and organizations.

Subd. 5. [GRANT AWARDS.] The commissioner may award up to ten grants. Grant recipients must be located throughout the state. The amount of a grant shall be based on the number of children and families expected to participate in the program.

Subd. 6. [PROCEEDS OF GRANTS.] Grant money shall be used to implement the expanded early childhood family education programs. At least two grant recipients must provide transportation for participating children and their families to and from the program. The commissioner must approve expenditures for transportation.

Subd. 7. [EVALUATION.] The commissioner shall provide for an evaluation of the grant sites and shall recommend to the education committees of the legislature by January 1, 1992, whether or not programs for children in kindergarten through grade 3 and their families should be extended statewide. If the commissioner recommends that the programs be made available statewide, the commissioner also shall recommend a process for implementing the program. The commissioner shall evaluate the effectiveness of the expanded early childhood and family education programs as a component of the drug prevention initiative.

Sec. 12. [GRANTS TO MEET THE NEEDS OF TARGETED CHILDREN AND YOUNG PEOPLE.]

Subdivision 1. [TARGETED CHILDREN AND YOUNG PEOPLE.] A grant program for fiscal year 1991 is established to develop effective programs to help targeted children and young people overcome barriers to learning. Targeted children and young people are those individuals, whether or not enrolled in school, who are under 21 years of age and who:

- (1) are school dropouts;*
- (2) have failed in school;*
- (3) have become pregnant;*
- (4) are economically disadvantaged;*
- (5) are children of drug or alcohol abusers;*
- (6) are victims of physical, sexual, or psychological abuse;*
- (7) have committed a violent or delinquent act;*
- (8) have experienced mental health problems;*
- (9) have attempted suicide;*
- (10) have experienced long-term physical pain due to injury;*
- (11) are at risk of becoming or have become drug or alcohol abusers;*
- (12) have experienced homelessness;*
- (13) have been excluded or expelled from school under Minnesota Statutes, sections 127.26 to 127.39; or*
- (14) have been adjudicated children in need of protection or services.*

Subd. 2. [PLANNING GRANTS.] (a) The commissioner of education may award up to 20 planning grants to districts, community groups, or regional entities to:

- (1) train individuals working with targeted children and young people;*
- (2) expand a community's ability to meet the needs of targeted children and young people by locating appropriate services and resources at or near a school site; and*
- (3) involve parents of targeted children and young people more fully in the education process.*

(b) All planning grant recipients must offer vocational training or employment services, health screening and referrals, and mental health or family counseling.

Subd. 3. [IMPLEMENTATION GRANTS.] Grants may be awarded to six of the 20 planning grant recipients to implement their plans for meeting the needs of targeted children and young people. These grants are available on a one-time basis only. A district or districts receiving a grant may use the grant money in fiscal year 1991 and may carry forward any unencumbered money into fiscal year 1992.

Subd. 4. [DEPARTMENT'S ROLE.] The commissioner of education shall develop criteria for awarding planning grants and implementation grants. The criteria must include:

- (1) targeting families confronting social or economic adversity;*
- (2) offering programs to targeted children and young people during and after school hours and during the summer;*
- (3) recognizing cultural and linguistic diversity among an area's population; and*
- (4) involving targeted children and young people in the planning and implementing processes.*

Subd. 5. [EVALUATION.] The commissioner of education shall provide for an evaluation of the demonstration sites and report to the legislature by February 1, 1992.

Sec. 13. [DISTRICT REPORTS ON DELIVERING SERVICES TO TARGETED CHILDREN AND YOUNG PEOPLE.]

Subdivision 1. [REPORT REQUIRED.] Each district shall report to the education department by November 15, 1990, the district's strategies for delivering services intended to help targeted children and young people overcome barriers to learning that are associated with characteristics listed in section 12, subdivision 1. Based upon a compilation of the district reports, the commissioner of education shall recommend to the education committees of the legislature and the office of drug policy by January 1, 1991, those services and strategies that successfully help targeted children and young people overcome barriers to learning that are associated with characteristics listed in subdivision 1.

Subd. 2. [REPORT CONTENT.] The department shall develop the form and content of the district report. The report must at least identify:

- (1) components of the service delivery system intended to help targeted children and young people overcome barriers to learning;*
- (2) persons involved in training district staff to assist targeted children and young people to overcome barriers to learning;*
- (3) individuals and institutional resources available to assist targeted children and young people to overcome barriers to learning; and*
- (4) how to coordinate community services and school programs to most effectively enable targeted children and young people to overcome barriers to learning.*

Sec. 14. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years indicated.

Subd. 2. [ECFE GRANTS.] For early childhood family education grants according to section 11:

\$450,000 1991

Up to \$50,000 of this amount may be used for evaluation of the grant sites and for contracting for services to administer the program.

Subd. 3. [TARGETED GRANTS.] For grants to meet the needs of targeted children and young people according to section 12:

\$400,000 1991

This amount includes funding for up to 20 planning grants of up to \$5,000 each and implementation grants of up to \$50,000 each to up to six of the 20 sites receiving planning grants.

\$25,000 is for evaluation of the six sites receiving implementation grants.

Subd. 4. [EVALUATING PREVENTION STRATEGIES.] For evaluating drug abuse prevention strategies:

\$75,000 1991

The commissioner shall evaluate up to 20 drug abuse prevention strategies and shall coordinate the evaluation with the office of drug policy and other entities conducting similar evaluations. The commissioner shall report the results of the evaluation to the legislature, districts, and social service agencies by February 15, 1992.

Subd. 5. [SURVEY.] For a survey of targeted children and young people, including those attending alternative education programs:

\$50,000 1991

The department must report the survey results to the legislature by February 15, 1992.

Sec. 15. [EFFECTIVE DATE.]

Sections 3, 4, clause (e), 6, and 7 are retroactively effective July 1, 1989. Section 10 is effective the day after final enactment.

ARTICLE 5

FACILITIES

Section 1. Minnesota Statutes 1988, section 121.148, is amended to read:

121.148 [SCHOOL DISTRICT CONSTRUCTION.]

Subdivision 1. [COMMISSIONER APPROVAL.] In determining whether to give a school facility a positive, negative, or unfavorable review and comment, the commissioner must evaluate the proposals for facilities using the information provided under section 121.15, subdivision 7.

Subd. 2. [POSITIVE REVIEW AND COMMENT.] If the commissioner submits a positive review and comment for a proposal according to section 121.15, the school board may proceed with the construction according to the requirements of applicable laws.

Subd. 3. [NEGATIVE REVIEW AND COMMENT.] If the commissioner submits a negative review and comment for a proposal according to section 121.15, the school board, ~~by resolution of the board, shall reconsider~~ must not proceed with construction.

Subd. 4. [UNFAVORABLE REVIEW AND COMMENT.] If the commissioner submits an unfavorable review and comment for a proposal under section 121.15, the school board, ~~by resolution of the board, must reconsider~~ construction. If, upon reconsideration, the school board decides to proceed with construction, it may initiate proceedings for issuing bonds to finance construction under sections 475.51 to 475.76. Unless 60 percent of the voters at the election approve of issuing the obligations, the board is not authorized to issue the obligations.

Sec. 2. Minnesota Statutes 1988, section 121.15, subdivision 1, is amended

to read:

Subdivision 1. [CONSULTATION.] A school district shall consult with the commissioner of education before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility, other than a technical institute, for which the estimated cost exceeds \$100,000. This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 124.243, subdivision 6, clause (2). *The commissioner may require the district to participate in a management assistance plan before conducting a review and comment on the project.*

Sec. 3. Minnesota Statutes 1989 Supplement, section 121.15, subdivision 2, is amended to read:

Subd. 2. [PLAN SUBMITTAL.] For a project for which consultation is required under subdivision 1, the commissioner, after the consultation required in subdivision 1, may require a school district to submit the following for approval:

- (a) two sets of preliminary plans for each new building or addition, and
- (b) one set of final plans for each construction, remodeling, or site improvement project. The commissioner shall approve or disapprove the plans within ~~60~~ 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73. The department may furnish to a school district plans and specifications for temporary school buildings containing two classrooms or less.

Sec. 4. Minnesota Statutes 1988, section 121.15, subdivision 7, is amended to read:

Subd. 7. [INFORMATION REQUIRED.] A school board proposing to construct a facility described in subdivision 6 shall submit to the commissioner a proposal containing information including at least the following:

(a) the geographic area proposed to be served, whether within or outside the boundaries of the school district;

(b) the people proposed to be served, including census findings and projections for the next ten years of the number of preschool and school-aged people in the area;

(c) the reasonably anticipated need for the facility or service to be provided;

(d) a description of the construction in reasonable detail, including: the expenditures contemplated; the estimated annual operating cost, including the anticipated salary and number of new staff necessitated by the proposal; and an evaluation of the energy efficiency and effectiveness of the construction, including estimated annual energy costs;

(e) a description of existing facilities within the area to be served and within school districts adjacent to the area to be served; the extent to which existing facilities or services are used; the extent to which alternate space is available, including other school districts, post-secondary institutions, ~~or other public or private buildings, or other noneducation community resources~~; and the anticipated effect that the facility will have on existing facilities and services;

(f) the anticipated benefit of the facility to the area;

(g) if known, the relationship of the proposed construction to any priorities that have been established for the area to be served;

(h) the availability and manner of financing the facility and the estimated date to begin and complete the facility;

(i) desegregation requirements that cannot be met by any other reasonable means; ~~and~~

(j) the relationship of the proposed facility to the cooperative integrated learning needs of the area; *and*

(k) the effects of the proposed facility on the district's operating budget.

Sec. 5. [121.1502] [INSPECTION OF PUBLIC SCHOOLS.]

Subdivision 1. [INSPECTION.] The commissioner and the state fire marshal shall develop a plan to inspect once every three years every public school facility used for educational purposes. Inspections must begin during the 1990-1991 school year. The plan must provide for continued inspection by local units of government of public school facilities that have been inspected by a local unit of government between January 1, 1987 and January 1, 1990, and may provide for inspections by local units of government in other situations. Each inspection report must be filed with the commissioner, the local school board, and the state fire marshal. Notwithstanding section 299F.011, subdivisions 5a and 5b, a variance from the code must be approved by the state fire marshal before taking effect. The state board may request that the state fire marshal inspect a particular school facility.

Subd. 2. [CONTRACTING.] The commissioner may contract with the state fire marshal to provide the inspections provided in subdivision 1.

Sec. 6. Minnesota Statutes 1989 Supplement, section 124.243, subdivision 2, is amended to read:

Subd. 2. [CAPITAL EXPENDITURE FACILITIES REVENUE.] Capital expenditure facilities revenue for a district equals the lesser of:

(1) \$130 times its actual pupil units for the school year; or

(2) the difference between \$400 times the actual pupil units for the school year and the unreserved balance in the capital expenditure facilities account on June 30 of the ~~second~~ prior school year. For the purpose of determining revenue for the 1989-1990 and the 1990-1991 school years, the unreserved balance in the capital expenditure facilities account on June 30 of the ~~second~~ prior school year is zero.

Sec. 7. Minnesota Statutes Second 1989 Supplement, section 124.2442, subdivision 1, is amended to read:

Subdivision 1. [INSUFFICIENT FUNDS.] If the total appropriation for capital expenditure equipment aid or capital expenditure facilities aid for any fiscal year, *plus any amount transferred under section 124.14, subdivision 7*, is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's capital expenditure facilities and equipment revenue according to the calculations in subdivisions 2 to 4.

Sec. 8. Minnesota Statutes 1989 Supplement, section 124.83, subdivision 6, is amended to read:

Subd. 6. [USES OF HEALTH AND SAFETY REVENUE.] Health and safety revenue may be used only for approved expenditures necessary to correct fire safety hazards, life safety hazards, or for the removal or encapsulation of asbestos from school buildings or property, asbestos-related repairs, cleanup and disposal of polychlorinated biphenyls found in school buildings or property, or the cleanup, removal, disposal, and repairs related to storing heating fuel or transportation fuels such as alcohol, gasoline, fuel oil, and special fuel, as defined in section 296.01. *Health and safety revenue must not be used for the construction of new facilities or the purchase of portable classrooms.*

Sec. 9. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 11d, is amended to read:

Subd. 11d. [EXTRA CAPITAL EXPENDITURE LEVY FOR LEASING BUILDINGS.] When a district finds it economically advantageous to rent or lease a building, ~~or to purchase a building and site under an installment purchase agreement, lease purchase agreement, or any other deferred payment agreement authorized under section 465.71,~~ for any instructional purposes and it determines that the capital expenditure facilities revenues authorized under section 124.243 are insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease ~~or agreement~~, and a description of the space to be leased ~~or purchased according to any type of deferred payment agreement~~, and its proposed use. The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the *leased* building, conformity of the lease ~~or agreement~~ to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease ~~or agreement~~ to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing ~~or purchasing~~ a building for approved purposes. The proceeds of this levy must not be used *for leasing or renting a facility owned by a district or for custodial or other maintenance services or to purchase a building newly constructed under an installment purchase agreement, lease purchase agreement, or any other deferred payment agreement authorized under section 465.71.*

Sec. 10. Minnesota Statutes 1988, section 275.125, is amended by adding a subdivision to read:

Subd. 11f. [LEVY FOR CERTAIN LEASE PURCHASES.] A district may annually levy the amount needed to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payment agreement authorized by Minnesota Statutes 1989 Supplement, section 465.71, if:

(1) the agreement was approved by the commissioner before July 1, 1990, according to Minnesota Statutes 1989 Supplement, section 275.125, subdivision 11d; or

(2) the district levied in 1989 for the payments.

Sec. 11. Minnesota Statutes 1989 Supplement, section 326.03, subdivision 2, is amended to read:

Subd. 2. Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

(a) Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;

(b) Two family dwellings;

(c) Any farm building or accessory thereto; or

(d) Temporary buildings or sheds used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters; or

(e) ~~Any public work or public improvement done by a public body in this state where the cost of the work or improvement does not exceed \$100,000.~~

Sec. 12. Minnesota Statutes 1989 Supplement, section 465.71, is amended to read:

465.71 [INSTALLMENT AND LEASE PURCHASES; CITIES; COUNTIES; SCHOOL DISTRICTS.]

A home rule charter city, statutory city, county, town, or school district may purchase ~~real or~~ personal property under an installment contract, or lease real or personal property with an option to purchase under a lease purchase agreement, by which contract or agreement title is retained by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the lease under a lease-purchase agreement. The obligation created by a lease purchase agreement ~~or installment contract~~ shall not be included in the calculation of net debt for purposes of section 475.53, ~~shall be deemed to constitute the issuance of an obligation under section 475.58, subdivision 1, clause (6), and shall not constitute debt under any other statutory provision.~~ No election shall be required in connection with the execution of a lease purchase agreement ~~or installment contract~~ authorized by this section. The city, county, town, or school district must have the right to terminate a lease purchase agreement at the end of any fiscal year during its term.

Sec. 13. [FACILITIES REVIEW.]

(a) *The commissioner of education, in consultation with appropriate state and local officials, shall:*

(1) *prepare a document for school districts that explains all statutes and rules that apply to facilities used for instruction;*

(2) *develop a comprehensive on-site review form to be used when school buildings are inspected for educational adequacy, health and safety, and handicapped accessibility;*

(3) *determine whether standard plans for instructional facilities should be developed by a state architect;*

(4) *define the data elements related to instructional facilities that must be submitted by school districts to the department;*

(5) *conduct an inventory of the condition of existing facilities; and*

(6) *conduct a regional demographic and economic analysis.*

(b) A recommendation must not conflict with or supplant existing law, including any law regarding inspections by the office of the state fire marshal, or any requirement contained in the life safety code.

(c) Any survey of school buildings by the department of administration to determine the degree of handicapped accessibility must be conducted in conjunction with the inventory of school facilities required in this section.

Sec. 14. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for fiscal year 1991.

Subd. 2. [FIRE MARSHAL CONTRACT.] \$200,000 for contracting with the state fire marshal to provide the services required under section 5.

Subd. 3. [FACILITIES REVIEW.] \$50,000 for the facilities review required in section 13.

The commissioner must transfer 1.0 state complement from any other section to the financial management and transportation section.

Sec. 15. [EFFECTIVE DATE.]

Sections 1, 2, 3, 4, 5, and 7 are effective the day after their final enactment.

Section 8 is effective for health and safety projects approved the day after its final enactment.

Section 11 is effective March 15, 1991.

ARTICLE 6

COOPERATIVE PROGRAMS

Section 1. Minnesota Statutes 1988, section 120.062, is amended by adding a subdivision to read:

Subd. 8a. [WAIVER OF DEADLINES.] (a) Notwithstanding subdivision 4, upon agreement of the resident and nonresident school districts, a pupil may submit an application to a nonresident district after January 1 for enrollment beginning the following school year. The pupil, the pupil's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4 and 6, except that the application and notice deadlines do not apply.

(b) Notwithstanding subdivision 4, if as a result of an agreement under section 122.541 or 122.535 entered into after January 1 a pupil is assigned to a different school, the pupil may submit an application to a nonresident district after January 1 but before June 1 for enrollment beginning the following school year. The pupil, the pupil's parent or guardian, the district of residence, and the district of attendance must observe, in a prompt and efficient manner, the application and notice procedures in subdivisions 4

and 6, except that the application and notice deadlines do not apply.

Sec. 2. Minnesota Statutes 1988, section 120.062, subdivision 9, is amended to read:

Subd. 9. [TRANSPORTATION.] If requested by the parent of a pupil, the nonresident district shall provide transportation within the district. The state shall pay transportation aid to the district according to section 124.225.

The resident district is not required to provide or pay for transportation between the pupil's residence and the border of the nonresident district. A parent may be reimbursed by the nonresident district for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government.

At the time a nonresident district notifies a parent or guardian that an application has been accepted under subdivision 5 or 6, the nonresident district must provide the parent or guardian with the following information regarding the transportation of nonresident pupils under this section:

(1) a nonresident district may transport a pupil within the pupil's resident district under this section only with the approval of the resident district; and

(2) a parent or guardian of a pupil attending a nonresident district under this section may appeal under section 16, the refusal of the resident district to allow the nonresident district to transport the pupil within the resident district.

Sec. 3. Minnesota Statutes Second 1989 Supplement, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to sections 124.2721, subdivision 3; 124.575, subdivision 3; and 275.125, subdivision 9a; and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus 31.0 percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) 31.0 percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

(i) reducing or eliminating projected deficits in the reserved fund balance accounts for unemployment insurance and bus purchases;

(ii) statutory operating debt pursuant to section 275.125, subdivision 9a,

and Laws 1976, chapter 20, section 4; and

(iii) retirement and severance pay pursuant to sections 124.2725, subdivision 15, 124.4945, and 275.125, ~~subdivision subdivisions 4 and 6a,~~ and Laws 1975, chapter 261, section 4; and

(iv) amounts levied for bonds issued and interest thereon, amounts levied for debt service loans and capital loans, amounts levied for down payments under section 124.82, subdivision 3, amounts levied for education district bonds under section 122.96, subdivision 5, and amounts levied pursuant to section 275.125, subdivision 14a.

(c) In July of each year, the school district shall recognize as revenue that portion of the school district tax settlement revenue received in that calendar year and not recognized as revenue for the previous fiscal year pursuant to clause (b).

(d) All other school district tax settlement revenue shall be recognized as revenue in the fiscal year of the settlement. Portions of the school district levy assumed by the state, including prior year adjustments and the amount to fund the school portion of the reimbursement made pursuant to section 273.425, shall be recognized as revenue in the fiscal year beginning in the calendar year for which the levy is payable.

Sec. 4. Minnesota Statutes 1989 Supplement, section 122.241, subdivision 2, is amended to read:

Subd. 2. [COOPERATION REQUIREMENTS.] Cooperating districts shall:

(1) ~~have implement~~ a written agreement according to section 122.541 *no later than the first year of cooperation*;

(2) all be members of one education district, if any one of the districts is a member, *no later than the end of the second year of cooperation*; and

(3) all be members of one ECSU, if any one of the districts is a member.

Sec. 5. Minnesota Statutes 1989 Supplement, section 122.243, subdivision 2, is amended to read:

Subd. 2. [VOTER APPROVAL.] During the *first or second* year of cooperation, a referendum on the question of combination shall be conducted. The referendum shall be on a date called by the school boards. The referendum shall be conducted by the school boards according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following school year. If a question is submitted, the second referendum must be conducted on a date before October 1. If the referendum fails again, the same question may not be submitted. A different question may be submitted on any date before October 1. Referendums shall be conducted on the same date in all districts.

Sec. 6. Minnesota Statutes 1988, section 122.535, is amended by adding a subdivision to read:

Subd. 6. [SEVERANCE PAY.] *A district shall pay severance pay to a teacher who is:*

(1) placed on unrequested leave of absence by the district because the teacher's position is discontinued as a result of the agreement; and

(2) *not employed by another district for the school year following the teacher's placement on unrequested leave of absence.*

The severance pay shall be equivalent to the teacher's salary for one year and is subject to section 465.72. The district may levy according to section 33 for the severance pay.

Sec. 7. [122.539] [MEETINGS.]

(a) Notwithstanding any law to the contrary, a joint powers board established under section 124.494 or article 11, section 1, and the board of each of its member districts may hold meetings at a facility operated by the joint powers board.

(b) The joint powers board shall establish and maintain a schedule of the time and place of its meetings and shall give notice of regular and special meetings as required under section 471.705.

Sec. 8. Minnesota Statutes 1989 Supplement, section 122.91, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of an education district is to increase educational opportunities for learners by increasing cooperation and coordination among school districts and post-secondary institutions and to replace other existing cooperative structures.

Sec. 9. Minnesota Statutes 1989 Supplement, section 122.91, subdivision 5, is amended to read:

Subd. 5. [JOINDER AND WITHDRAWAL.] ~~A process for a district to join or withdraw from an education district shall be included in the education district agreement.~~

~~If (a) A member school district withdraws must not withdraw from an education district that receives revenue under section 124.2721 before the end of the fiscal year for which a levy under section 124.2721 has been certified; a reduction in the school district's general education aid for the fiscal year to which the levy is attributable must be made. The amount of aid reduction equals the amount that the school district certified for that year under section 124.2721 minus transition aid allocated for that levy according to section 273.1398, subdivision 6. The amount of the aid reduction shall be paid to the education district. The school district need not transfer the revenue required under section 124.2721, subdivision 3a.~~

~~(b) Notwithstanding paragraph (a), a school district that certified a levy under section 124.2725 for fiscal year 1991 may transfer from one education district to another to comply with section 122.241, subdivision 2, clause (2). The commissioner must adjust the revenue of both education districts so that the education district revenue attributable to the transferring school district is transferred from the previous education district to the new education district.~~

~~(c) By August 1 of each year, an education district must notify the department of education concerning which school districts will be members of the education district for the purposes of certifying to the department of education the amount of revenue to be raised under section 124.2721.~~

Sec. 10. [122.937] [EDUCATION DISTRICT BARGAINING.]

Subdivision 1. [EDUCATION DISTRICT AGREEMENT.] *The education*

district agreement may contain a provision adopted by a vote of the majority of the full membership of the board of each member school district that grants the education district board the authority to negotiate a collective bargaining agreement for teachers on behalf of all member school districts under this section. This authority may allow the education district to be the public employer of teachers for the purposes of chapter 123, 125, or 179A if provided for in the plan under subdivision 2. If this provision is not adopted by the board of any member district, the provision must not be included in the education district agreement. As used in this section, "teacher" has the meaning given it in section 179A.03, subdivision 18.

To negotiate a collective bargaining agreement under this section, an education district must:

(1) agree to negotiate collective bargaining agreements for teachers on behalf of all member districts for at least two consecutive two-year periods beginning July 1 of an odd-numbered year;

(2) agree to certify to the department of education the amount of general education revenue to be raised for all member districts for each year that a collective bargaining agreement negotiated by the education district under this section is in effect; and

(3) adopt a plan under subdivision 2 that is agreed upon by the school board and the exclusive representative of teachers in each member district and approved by the commissioner of education and the commissioner of mediation services under subdivision 3.

Unless otherwise specified, all provisions in this section apply only to an education district that negotiates a collective bargaining agreement under this section.

Subd. 2. [EDUCATION DISTRICT BARGAINING IMPLEMENTATION PLAN.] *An education district board with a collective bargaining provision under subdivision 1 must adopt, by resolution, a plan for implementing education district teacher collective bargaining. The plan must specify:*

(1) whether a new bargaining unit structure will be put in place covering all teachers in the education district;

(2) the procedure used to establish a new bargaining unit structure, which may include certification of a new exclusive representative for the teachers in the education district;

(3) whether technical college teachers in the education district will be included in a new bargaining unit structure covering all teachers in the education district or whether a separate technical college bargaining unit will be established;

(4) whether the education district board or member school boards will be the public employer of teachers for the purposes of chapter 123, 125, or 179A and any other laws governing the employment of teachers;

(5) the process for ratifying contracts by the teachers in the education district and by the member school boards or the education district board;

(6) the specific fiscal duties and responsibilities that belong to member district boards and to the education district board;

(7) the procedures required to allow member district boards to fulfill their fiscal duties and responsibilities;

- (8) *the financial status of each member district;*
- (9) *a description of labor-management relations in each member district over the past ten years;*
- (10) *whether the education district will implement a combined seniority list under section 125.12, subdivision 6b;*
- (11) *a provision for the transition to a successor employer and exclusive representative of teachers for a member district that withdraws from the education district under subdivision 4 and a definition of teachers who will be affected by the transition;*
- (12) *the date by which a collective bargaining agreement must be signed that is no later than June 30 of the odd-numbered calendar year; and*
- (13) *any additional information requested by the commissioner of education or the commissioner of mediation services.*

All fiscal duties and responsibilities not specifically assigned to the education district board under clause (6) remain with the member district boards.

Subd. 3. [APPROVAL OF THE BARGAINING IMPLEMENTATION PLAN.] *A plan developed under subdivision 2 must be submitted to the commissioner of education and the commissioner of mediation services for approval. The commissioners shall jointly determine the date for submitting the plan. The commissioners must jointly approve or disapprove the plan within 60 days. The commissioners may disapprove the plan if they jointly determine that the plan will not provide stable and constructive labor-management relations in the education district or if the plan or any modification of the plan is incomplete. An education district may revise and resubmit a disapproved plan on a date jointly determined by the commissioners. The commissioners must jointly approve or disapprove the resubmitted plan within 30 days.*

Subd. 4. [JOINDER AND WITHDRAWAL.] *(a) Notwithstanding section 122.91, subdivision 5, a member district of an education district that has entered into a collective bargaining agreement negotiated by the education district under this section may withdraw from the education district only at the end of a two-year period for which the collective bargaining agreement is in effect. A member district withdrawing under this subdivision must notify the education district board at least 365 days before withdrawing. The teachers in a withdrawing member district are governed by the collective bargaining agreement in effect for the education district until a successor agreement is negotiated by the withdrawing district.*

(b) Notwithstanding section 122.91, subdivision 5, a school district may join an education district that has entered into a collective bargaining agreement negotiated by the education district under this section only at the end of the two-year period for which the collective bargaining agreement is in effect.

Subd. 5. [COMBINED SENIORITY LIST.] *Notwithstanding any law to the contrary, the school board of each member district may negotiate a plan with the exclusive representative of the teachers in the member district to provide for unrequested leave of absence for teachers in the education district under section 125.12, subdivision 6a.*

If compatible plans for unrequested leave are not negotiated under section 125.12, subdivision 6a, by July 1 of the first year of the two-year period for which the education district negotiates a collective bargaining agreement under this section, the education district shall be governed by section 125.12, subdivision 6b, on the basis of a combined seniority list of all the teachers in the education district. For the purpose of establishing a combined seniority list, each member district must be considered to have started school on the same date.

Subd. 6. [BARGAINING AGREEMENT.] The terms and conditions of employment of teachers in a member district of an education district will be governed by the contract executed by the exclusive bargaining representative and that member district until a successor contract is executed.

Subd. 7. [GRIEVANCES.] A grievance in a member district must be resolved under the terms of the collective bargaining agreement for teachers in effect at the time the grievance arose.

Subd. 8. [AUTHORITY.] An education district with a plan approved under subdivision 3 has the authority to implement that plan. When a provision in the plan required under subdivision 2, clauses (1) to (13) conflicts with any law in chapter 123, 125, or 179A, the education district and member districts will be governed by the provision in the plan.

Unless specifically provided otherwise in the plan, chapter 179A governs the rights and duties of employers and employees in an education district.

Subd. 9. [CONTRACT DEADLINE AND PENALTIES.] Notwithstanding any law to the contrary, an education district that negotiates a collective bargaining agreement for teachers under this section is exempt from contract deadlines and penalties for a two-year period beginning July 1, 1991.

Sec. 11. Minnesota Statutes 1988, section 122.94, subdivision 5, is amended to read:

Subd. 5. [ATTENDANCE IN OTHER DISTRICTS.] (a) The agreement may provide for a pupil who is a resident of a member district to enroll in programs or courses offered by another member district or transfer to another member district. A pupil and parent shall consult with a career teacher, counselor, or principal before transferring to another district. The agreement shall specify procedures for reimbursement among the member districts. The district of residence shall count all resident pupils who enroll in programs or courses or transfer to another district as its pupils for the purpose of state aid and levy limitations. The agreement shall determine whether transportation is available for pupils enrolled in programs or courses or transferring to another district.

(b) Paragraph (a) does not limit any rights or duties under section 120.062.

Sec. 12. Minnesota Statutes 1989 Supplement, section 122.94, subdivision 6, is amended to read:

Subd. 6. [COMMON ACADEMIC CALENDAR.] For ~~1990-1991~~ 1991-1992 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include at least the following:

- (1) the number of days of instruction;
- (2) the first and last days of instruction in a school year; and
- (3) the specific days reserved for staff development.

Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 122.945. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.

Sec. 13. Minnesota Statutes 1989 Supplement, section 122.945, subdivision 2, is amended to read:

Subd. 2. [SUBMISSION AND APPROVAL OF FIVE-YEAR PLAN.] Each education district must submit a five-year plan developed according to subdivision 1 to the state board of education. An education district established before ~~January~~ November 1, ~~1990~~ 1989, must submit a plan to the state board by April 1, 1990. An education district established after ~~December~~ October 31, 1989, must submit a plan to the state board by ~~April~~ June 1 of the first year that the education district will certify the amount of education district revenue to be raised under section 124.2721. The board must approve or disapprove the plan within 60 days of ~~receiving it from the education district the required submission date.~~

Sec. 14. Minnesota Statutes 1988, section 123.3514, subdivision 6, is amended to read:

Subd. 6. [FINANCIAL ARRANGEMENTS.] At the end of each school year, the department of education shall pay the tuition reimbursement amount within 30 days to the post-secondary institutions for courses that were taken for secondary credit. The amount of tuition reimbursement shall equal the lesser of:

- (1) the actual costs of tuition, textbooks, materials, and fees directly related to the course taken by the secondary pupil; or
- (2) an amount equal to the difference between the basic revenue of the district for that pupil and an amount computed by multiplying the basic revenue of the district for that pupil by a ratio. The ratio to be used is the total number of hours that the pupil is enrolled in courses in the secondary school during the regular school year over the total number of secondary instructional hours per pupil in that pupil's resident district.

The amount paid for each pupil shall be subtracted from the general education aid paid to the pupil's ~~resident~~ district of attendance. If the amount to be subtracted is greater than the amount of general education aid due the district, the excess reduction shall be made from other state aids due to the district. If a pupil is enrolled in a course for post-secondary credit, the school district shall include the pupil in the average daily membership only for the portion of time during which the pupil is enrolled in courses at the secondary school and enrolled in courses at a post-secondary institution for secondary credit.

The department shall not pay any tuition reimbursement or other costs of a course taken for post-secondary credit only.

Sec. 15. Minnesota Statutes 1988, section 123.3514, subdivision 6b, is amended to read:

Subd. 6b. [FINANCIAL ARRANGEMENTS, PUPILS AGE 21 OR OVER.] At the end of each school year, the department of education shall pay the tuition reimbursement amount to the post-secondary institutions for courses taken to fulfill high school graduation requirements by pupils eligible for adult high school graduation aid. The amount of the tuition reimbursement equals the lesser of:

(1) the actual costs of tuition, textbooks, materials, and fees directly related to the course or program taken by the pupil; or

(2) an amount equal to the difference between the adult high school graduation aid attributable to that pupil and an amount computed by multiplying the adult high school graduation aid by the ratio of the total number of hours that the pupil is enrolled in courses in the secondary school during the regular school year over the total number of secondary instructional hours per pupil in that pupil's resident district.

The amount of tuition reimbursement paid for each pupil shall be subtracted from the adult high school graduation aid paid to the pupil's ~~resident district of attendance~~. If a pupil is enrolled in a course for post-secondary credit, the school district shall include the pupil in average daily membership as computed under section 120.17, subdivision 1, only for the portion of time during which the pupil is enrolled in courses at the secondary school and enrolled in courses at the post-secondary institution for secondary credit.

The department must not pay any tuition reimbursement or other costs of a course taken for post-secondary credit only.

Sec. 16. Minnesota Statutes 1988, section 123.39, subdivision 6, is amended to read:

Subd. 6. ~~The board may transport pupils residing outside of the district but attending school therein if these pupils present themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district.~~ ~~district.~~ For the purposes of this subdivision, a "non-resident pupil" is a pupil who resides in one district, defined as the "resident district" and attends school in another district, defined as the "nonresident district."

A nonresident district may transport a nonresident pupil within its borders. A nonresident district may not transport a nonresident pupil on a school district owned or contractor operated school bus within the pupil's resident district without the approval of the resident district under section 120.062.

The parent or guardian of a nonresident pupil attending a nonresident district under section 120.062 may submit a written request to the resident district asking that the resident district allow the nonresident district to provide transportation for the pupil within the pupil's resident district. The resident district must approve or disapprove the request, in writing, within 30 days. The parent or guardian may appeal the refusal of the resident district to the commissioner of education. The commissioner must act on the appeal within 30 days.

Sec. 17. Minnesota Statutes 1988, section 123.58, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT OF EDUCATIONAL COOPERATIVE

SERVICE UNITS.] (a) In furtherance of this policy, ten educational cooperative service units are designated. Each unit, should it become operational, shall be termed an educational cooperative service unit, hereafter designated as an ECSU. Geographical boundaries for each ECSU shall coincide with those identified in governor's executive orders 8, dated September 1, 1971, and 59, dated May 29, 1973, issued pursuant to the regional development act of 1969, Minnesota Statutes, sections 462.381 to 462.397, with the following exceptions:

(i) Development regions one and two shall be combined to form a single ECSU;

(ii) Development regions six east and six west shall be combined to form a single ECSU;

(iii) Development regions seven east and seven west shall be combined to form a single ECSU.

(b) The ECSU shall cooperate with the regional development commission for the region with which its boundaries coincide but shall not be responsible to nor governed by that regional development commission.

~~(b)~~ (c) The geographic location of the central administrative office of a school district shall determine the membership of the total school district in a particular ECSU. Existing school district boundaries shall not be altered as a result of this section.

~~(c)~~ (d) *Notwithstanding paragraphs (a), (b), and (c), a school district may become a full member of an ECSU other than the one in which its central administrative office is located if the district is a member of an education district or a participant in another cooperative agreement, and more than half of the member districts of the education district or participants in the cooperative agreement are members of another ECSU.*

(e) Two or more identified ECSU units may, upon approval by a majority of school boards of participating school districts in each affected ECSU, be combined and administered as a single ECSU unit but state assistance shall be allocated on the basis of two or more ECSU units.

~~(d)~~ (f) The initial organization of each ECSU may occur only upon petition to the state board of education by a majority of all school districts in an ECSU. The state board of education shall, upon receipt of this petition, invite representation from all public school districts and shall encourage the participation of nonpublic school administrative units to the extent allowed by law in an ECSU at a regional meeting. The state board of education shall then assist in the necessary organizational activities for establishment of an ECSU pursuant to the requirements of this section.

Sec. 18. Minnesota Statutes 1989 Supplement, section 123.58, subdivision 9, is amended to read:

Subd. 9. [FINANCIAL SUPPORT FOR THE EDUCATIONAL COOPERATIVE SERVICE UNITS.] (a) Financial support for ECSU programs and services shall be provided by participating local school districts and nonpublic school administrative units with private, state and federal financial support supplementing as available. The ECSU board of directors may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district and nonpublic school administrative unit its proportionate share of any and all expenses. This share shall be based

upon the extent of participation by each district or nonpublic school administrative unit and shall be in the form of a service fee. Each participating district and nonpublic school administrative unit shall remit its assessment to the ECSU board as provided in the ECSU bylaws. The assessments shall be paid within the maximum levy limitations of each participating district. No participating school district or nonpublic school administrative unit shall have any additional liability for the debts or obligations of the ECSU except that assessment which has been certified as its proportionate share or any other liability the school district or nonpublic school administrative unit agrees to assume.

(b) Any property acquired by the ECSU board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state or political subdivision thereof. If the ECSU is dissolved, its property must be distributed to the member public school districts at the time of the dissolution.

(c) A school district or nonpublic school administrative unit may elect to withdraw from participation in the ECSU by a majority vote of its full board membership and upon compliance with the applicable withdrawal provisions of the ECSU organizational agreement. Upon receipt of the withdrawal resolution reciting the necessary facts, the ECSU board shall file a certified copy with the state board of education. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal at least six months prior to June 30. Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing school district or nonpublic school administrative unit for the ECSU shall be paid to the ECSU board.

(d) Notwithstanding paragraph (c), if a member school district of an education district withdraws from an ECSU to comply with subdivision 4, the school district's withdrawal is effective on June 30, following receipt by the board of directors of the district's written notification.

(e) The ECSU is a public corporation and agency and its board of directors may make application for, accept and expend private, state and federal funds that are available for programs of educational benefit approved by the state board of education in accordance with rules adopted by the state board of education pursuant to chapter 14. The state board of education shall not distribute special state aid or federal aid directly to an ECSU in lieu of distribution to a school district within the ECSU which would otherwise qualify for and be entitled to this aid without the consent of the school board of that district.

~~(e)~~ (f) The ECSU is a public corporation and agency and as such, no earnings or interests of the ECSU may inure to the benefit of an individual or private entity.

Sec. 19. Minnesota Statutes 1989 Supplement, section 124.155, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENT TO AIDS.] The amount specified in subdivision 1 shall be used to adjust the following state aids and credits in the order listed:

- (a) general education aid authorized in ~~section~~ sections 124A.23 and 32;
- (b) secondary vocational aid authorized in section 124.573;

- (c) special education aid authorized in section 124.32;
- (d) secondary vocational aid for handicapped children authorized in section 124.574;
- (e) aid for pupils of limited English proficiency authorized in section 124.273;
- (f) transportation aid authorized in section 124.225;
- (g) community education programs aid authorized in section ~~124.271~~ 124.2713;
- (h) adult education aid authorized in section 124.26;
- (i) early childhood family education aid authorized in section 124.2711;
- (j) capital expenditure aid authorized in sections 124.243, 124.244, and 124.83;
- (k) education district aid according to section 124.2721;
- (l) secondary vocational cooperative aid according to section 124.575;
- (m) homestead credit under section 273.13 for taxes payable in 1989 and additional homestead and agricultural credit guarantee under section 273.1398, subdivision 5, for taxes payable in 1990 and thereafter;
- (n) agricultural credit under section 273.132 for taxes payable in 1989 and additional homestead and agricultural credit guarantee under section 273.1398, subdivision 5, for taxes payable in 1990 and thereafter;
- (o) homestead and agricultural credit aid and disparity reduction aid authorized in section 273.1398, subdivision 2; and
- (p) attached machinery aid authorized in section 273.138, subdivision 3.

The commissioner of education shall schedule the timing of the adjustments to state aids and credits specified in subdivision 1, as close to the end of the fiscal year as possible.

Sec. 20. Minnesota Statutes 1988, section 124.195, subdivision 10, is amended to read:

Subd. 10. [AID PAYMENT PERCENTAGE.] Except as provided in subdivisions 8 and 9, each fiscal year, all education aids and credits in this chapter and chapters 121, 123, 124A, ~~124B~~, 125, 126, 134, and section 273.1392, except post-secondary vocational shall be paid at 85 percent of the estimated entitlement during the fiscal year of the entitlement, unless a higher rate has been established according to section 121.904, subdivision 4d. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement shall be paid as the final adjustment payment according to subdivision 6.

Sec. 21. Minnesota Statutes 1989 Supplement, section 124.2721, is amended to read:

124.2721 [EDUCATION DISTRICT REVENUE.]

Subdivision 1. [ELIGIBILITY.] An education district is eligible for education district revenue if the department certifies that it meets the requirements of sections 122.91, subdivisions 3 and 4, and 122.945. The pupil units of a school district that is a member of intermediate district No. 287,

916, or 917 may not be used to obtain revenue under this section. The pupil units of a school district may not be used to obtain revenue under this section and section 124.575.

Subd. 2. [REVENUE.] Each year the education district board shall certify to the department of education the amount of *education district* revenue to be raised. ~~Revenue for the~~ Education district revenue shall be the lesser of:

- (1) ~~\$60 times the actual pupil units in the education district; or~~
- ~~(2) the amount certified by the education district board; or~~
- (2) the sum of:
 - (i) \$60 in basic education district revenue; and
 - (ii) \$50 for education districts authorized to receive revenue under section 36, subdivision 2,

times the actual pupil units in the education district.

Subd. 3. [LEVY.] The education district levy is equal to the following:

- (1) the education district revenue according to subdivision 2, times
- (2) the lesser of
 - (a) one, or
 - (b) the ratio of the ~~adjusted gross tax capacity for taxes payable in 1990 and adjusted net tax capacity for taxes payable in 1991 and thereafter~~ of the education district divided by the number of actual pupil units in the education district to an amount equal to ~~\$60 the sum of subdivision 2, clause (2), items (i) and (ii) for which the education district is eligible divided by 1.5 percent for taxes payable in 1990 and 1.87 percent for taxes payable in 1991 and thereafter.~~

The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.

Subd. 3a. [REVENUE TRANSFER.] Each year a member district shall transfer revenue to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount shall be transferred equal to:

- (1) 50 percent times
- (2) the amount certified in subdivision 3 minus ~~transition homestead and agricultural credit~~ aid allocated for that levy according to section 273.1398, subdivision 6.

Subd. 4. [AID.] The aid for an education district equals its education district revenue minus its education district levy, times the ratio of the actual amount levied to the permitted levy.

Subd. 5. [USES OF REVENUE.] Education district revenue is under the control of the education district board. Education district revenue must be used by the education district board to provide educational programs according to the agreement adopted by the education district board, as required by section 122.94.

The education district board may pay to member school districts a part of the education district revenue received by the education district under this section only for programs that are (1) available to all member districts, and (2) included in the five-year plan under section 122.945.

Subd. 6. [CONSOLIDATION.] If all member districts of an education district receiving revenue under this section or a group of member districts of an education district receiving revenue under this section that would qualify as an education district under section 122.91, subdivision 3, consolidate into a single independent school district by proceedings taken in accordance with section 122.23, that consolidated district may continue to receive education district revenue according to this section.

Sec. 22. Minnesota Statutes 1989 Supplement, section 124.2725, subdivision 3, is amended to read:

Subd. 3. [COOPERATION AND COMBINATION LEVY.] To obtain cooperation and combination revenue, a district may levy an amount equal to the cooperation and combination revenue multiplied by the lesser of one or the following ratio:

(1) the quotient derived by dividing the adjusted ~~gross~~ *net* tax capacity for the district in the year preceding the year the levy is certified by the actual pupil units in the district for the year to which the levy is attributable, to

(2) the percentage, specified in subdivision 4, of the equalizing factor for the school year to which the levy is attributable.

Sec. 23. Minnesota Statutes 1989 Supplement, section 124.2725, subdivision 4, is amended to read:

Subd. 4. [INCREASING LEVY.] *(a) For districts that combine after one year of cooperation, the percentage in subdivision 3, clause (2), shall be:*

(1) 100 percent for the first year of cooperation;

(2) 75 percent for the first year of combination;

(3) 50 percent for the second year of combination; and

(4) 25 percent for the third year of combination.

(b) For districts that combine after two years of cooperation, the percentage in subdivision 3, clause (2), shall be:

(1) 100 percent for the first year of cooperation;

(2) 75 percent for the second year of cooperation;

(3) 50 percent for the first year of combination; and

(4) 25 percent for the second year of combination.

Sec. 24. Minnesota Statutes 1989 Supplement, section 124.2725, subdivision 5, is amended to read:

Subd. 5. [COOPERATION AND COMBINATION AID.] *(a) Districts that combine after one year of cooperation shall receive cooperation and combination aid for the first year of cooperation and three years of combination. Cooperation and combination aid is equal to the difference between the cooperation and combination revenue and the cooperation and combination levy. Aid shall not be paid after three years of combining.*

(b) Districts that combine after two years of cooperation shall receive cooperation and combination aid for the first two years of cooperation and the first two years of combination. Cooperation and combination aid is equal to the difference between the cooperation and combination revenue and the cooperation and combination levy. Aid shall not be paid after two years of combining.

Sec. 25. Minnesota Statutes 1989 Supplement, section 124.2725, subdivision 8, is amended to read:

Subd. 8. [PERMANENT REVENUE.] *(a) For the third year of combination and thereafter, a combined district that is not a member of an education district that receives revenue under section 124.2721 may levy an amount equal to the cooperation and combination revenue, defined in subdivision 2, the lesser of*

(i) \$50 times the actual pupil units in the combined district; or

(ii) \$50,000.

(b) A combined district that is a member of an education district receiving revenue under section 124.2721 must not receive revenue under this subdivision.

Sec. 26. Minnesota Statutes 1989 Supplement, section 124.2725, is amended by adding a subdivision to read:

Subd. 16. [EXCLUSION FROM FUND BALANCE.] *Revenue received by a district under this section for each year of cooperation and the first three years of combination shall be excluded from the net unreserved operating fund balance, for the purposes of section 124A.26.*

Sec. 27. Minnesota Statutes 1988, section 124.494, is amended by adding a subdivision to read:

Subd. 2a. [REORGANIZING DISTRICTS.] *A school district that is a member of a joint powers board established under subdivision 2 and that is planning to reorganize under section 122.21, 122.22, or 122.23 must notify the joint powers board one year in advance of the effective date of the reorganization. Notwithstanding section 471.59 or any other law to the contrary, the board of a district that reorganizes under section 122.21, 122.22, or 122.23 may appoint representatives to the joint powers board who will serve on the joint powers board for two years after the effective date of the reorganization if authorized in the agreement establishing the joint powers board to govern the cooperative secondary facility. These representatives shall have the same powers as representatives of any other school district under the joint powers agreement.*

Sec. 28. [124B.01] [ELIGIBILITY.]

Education districts with a collective bargaining provision in the education district agreement under section 10, must certify general education revenue for all member districts in the education district. A member district of an education district that certifies general education revenue may levy only the amount allocated by the department of education for general education.

Sec. 29. [124B.02] [DEFINITIONS.]

Except as otherwise specified in this chapter, general education revenue for eligible education districts must be determined under chapters 124 and

124A, as though an education district is a school district.

Sec. 30. [124B.03] [REFERENDUM LEVIES.]

Subdivision 1. [MEMBER DISTRICT REFERENDUM LEVIES.] (a) As of the date that an education district first certifies general education revenue, the authorization for a referendum levy previously approved by the voters of a member district in that education district under section 124A.03 is canceled.

(b) The education district may certify to the department of education an amount equal to the combined dollar amount of the referendum authorized by each of the member districts for the year before the date that the education district first certifies general education revenue, unless the amount of revenue that the education district may certify is modified under subdivision 2.

(c) If the referendum levy authorizations for each of the member districts is limited to a specified number of years, the referendum levy authorization for the education district may continue for a period of time equal to the longest period authorized for any member district. If the referendum levy authorization of any member district is not limited to a specified number of years, the referendum levy authorization for the education district is not limited to a specified number of years.

Subd. 2. [REFERENDUM LEVY.] (a) The amount of general education revenue certified by an education district board under section 31 may be increased in any amount that is approved by the voters of the education district at a referendum called for the purpose. The referendum may be called by the education district board or must be called by the education district board upon written petition of qualified voters of the education district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased levy as a percentage of net tax capacity, 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 must be used to finance school operations. The ballot shall designate a specific number of years for which the referendum authorization applies. The ballot may contain a text 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, Education District No., be approved?"

(b) If approved, the amount provided by the approved tax capacity rate applied to the net tax capacity for the year before the year the levy is certified is authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the education district at a later referendum.

(c) The education district 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 each member district's current year's assessment roll, a notice of the referendum and the proposed levy increase. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner

has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. 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 education district.

(d) The notice must include the following statement: "In 1989, the legislature reduced property taxes for education by increasing the state share of funding for education. However, state aid for cities and townships was reduced by a corresponding amount. As a result, property taxes for cities and townships may increase. Passage of this referendum will result in an increase in your property taxes."

(e) A referendum on the question of revoking or reducing the increased levy amount authorized under paragraph (a) may be called by the education district board and must be called by the education district board upon the written petition of qualified voters of the education district. A levy approved by the voters of the education district under paragraph (a) must be made at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one election may be held to revoke or reduce a levy for any specific year and for later years.

(f) A petition authorized by paragraph (a) or (e) shall be effective if signed by a number of qualified voters in excess of 15 percent of the average number of voters at the two most recent districtwide school elections in all the member school districts. A referendum invoked by petition must be held on the day specified in paragraph (a).

(g) The approval of 50 percent plus one of those voting on the question is required to pass a referendum.

(h) Within 30 days after the education district holds a referendum according to this subdivision, the education district shall notify the commissioner of education of the results of the referendum.

(i) The department shall allocate the amount certified by the education district board under paragraph (a) or subdivision 1 proportionately among the member districts based on net tax capacity. The member districts shall levy the amount allocated.

(j) Each year, a member district shall transfer referendum revenue to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:

(1) 50 percent times

(2) the amount certified in this subdivision minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Sec. 31. [124B.10] [GENERAL EDUCATION REVENUE.]

Subdivision 1. [GENERAL EDUCATION REVENUE.] The general education revenue for an education district that negotiates a collective bargaining agreement under section 10, equals the sum of the education district's basic revenue, compensatory education revenue, training and experience revenue, secondary sparsity revenue, and elementary sparsity revenue.

Subd. 2. [TRAINING AND EXPERIENCE REVENUE.] The training and experience index for an education district equals the weighted average of the ratios assigned to the full-time equivalent teachers in the education district.

Sec. 32. [124B.20] [GENERAL EDUCATION LEVY AND AID.]

Subdivision 1. [GENERAL EDUCATION LEVY.] To obtain general education revenue, an education district with a collective bargaining provision under section 10, may certify to the department of education an amount not to exceed the general education tax capacity rate times the adjusted net tax capacity of the education district for the preceding year. The department of education must allocate the levy amount proportionately among the member districts based on adjusted net tax capacity. The member districts must levy the amount allocated. The sum of the levies allocated to the member districts is defined as the "general education levy" for an education district. An education district general education levy is subject to the same adjustments as a school district general education levy under chapter 124A.

Subd. 2. [REVENUE TRANSFER.] Each year, a member district of an education district that certifies general education revenue for all member districts must transfer general education revenue to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:

(1) 50 percent times

(2) the amount certified in subdivision 1 minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Subd. 3. [GENERAL EDUCATION AID.] General education aid equals the general education revenue under section 31, subdivision 1, minus the general education levy under subdivision 1 of this section. General education aid for an education district that certifies revenue under this section must be paid to the education district.

Sec. 33. Minnesota Statutes 1988, section 275.125, subdivision 4, is amended to read:

Subd. 4. [MISCELLANEOUS LEVY AUTHORIZATIONS.] (a) A school district may levy the amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); the amounts necessary for repayment of debt service loans and capital loans; the amounts necessary to pay the district's obligations under section 6.62; the amount authorized for liabilities of dissolved districts pursuant to section 122.45; the amounts necessary to pay the district's obligations under section 268.06, subdivision 25; the amounts necessary to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.08; the amounts necessary to pay the district's obligations under section 127.05; the amounts authorized by section 122.531; ~~and~~ the amounts necessary to pay the district's obligations under section 122.533; and for severance pay required by section 6.

(b) An education district that negotiates a collective bargaining agreement for teachers under section 10 may certify to the department of education the amount necessary to pay all of the member districts' obligations and the education district's obligations under section 268.06, subdivision 25.

The department of education must allocate the levy amount proportionately among the member districts based on adjusted net tax capacity. The member districts must levy the amount allocated.

(c) *Each year, a member district of an education district that levies under this subdivision must transfer the amount of revenue certified under paragraph (b) to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:*

(1) 50 percent times

(2) the amount certified in paragraph (b) minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Sec. 34. Laws 1989, chapter 329, article 6, section 53, subdivision 3, is amended to read:

Subd. 3. [COOPERATION AND COMBINATION AID.] For aid for districts that cooperate and combine there is appropriated:

~~\$75,000~~ \$1,192,000 1991.

Sec. 35. [APPROVAL FOR COOPERATION AND COMBINATION OF TWO DISTRICTS.]

Notwithstanding Minnesota Statutes, section 122.241, subdivision 3, by July 1, 1991, the state board of education may approve the combination of school districts in clause (1) or (2) if the state board determines that the combination would be in the best interests of the pupils of the districts and that no other contiguous district is willing to enter into an agreement under Minnesota Statutes, sections 122.241 to 122.248, with the districts:

(1) independent school districts Nos. 21, Audubon, and 24, Lake Park;

(2) independent school districts Nos. 597, Erskine, and 603, McIntosh.

Sec. 36. [ADDITIONAL REVENUE FOR EDUCATION DISTRICT BARGAINING.]

Subdivision 1. [APPLICATION FOR ADDITIONAL EDUCATION DISTRICT REVENUE.] An education district with a collective bargaining provision under section 10, subdivision 1, may apply to the commissioner of education for additional education district revenue under Minnesota Statutes, section 124.2721, subdivision 2. To apply for additional revenue, the education district board must:

(1) submit the plan required under section 10, subdivision 2, for approval to the commissioner of education and the commissioner of mediation services by August 1, 1990; and

(2) agree to negotiate collective bargaining agreements for teachers on behalf of all member districts for at least three consecutive two-year periods beginning July 1, 1991.

Subd. 2. [APPROVAL FOR ADDITIONAL REVENUE.] The commissioner of education and the commissioner of mediation services may jointly select up to two education districts that apply under subdivision 1 to receive additional education district revenue. The commissioners must make their joint selection based on the history of labor-management relations within the member districts of the education district and the objective of stable and constructive labor-management relations for the future.

By August 31, 1990, the commissioner of education must notify each education district that applies for additional revenue under subdivision 1 that

the education district:

(1) is approved to receive the additional education district revenue;

(2) is not approved to receive the additional education district revenue;
or

(3) may submit additional information as requested by the commissioner of education or the commissioner of mediation services.

By December 1, 1990, the commissioner of education must notify each education district that submits additional information under clause (3) whether the education district is approved to receive additional education district revenue under Minnesota Statutes, section 124.2721, subdivision 2. An education district jointly selected by the commissioners will receive additional education district revenue under Minnesota Statutes, section 124.2721, subdivision 2, for no more than six years.

Subd. 3. [EDUCATION DISTRICT BARGAINING REPORT.] By February 1, 1991, the commissioner of mediation services must report to the legislative commission on employee relations and the education committees of the legislature any changes in law required for an education district to effectively implement education district bargaining under this section.

Sec. 37. [EFFECTIVE DATE.]

Sections 1, 2, 7, 13, 16, 17, and 18 are effective the day after their final enactment.

Sections 9, paragraph (b), 14, and 15 are retroactively effective July 1, 1989.

ARTICLE 7

OTHER EDUCATION PROGRAMS

Section 1. Minnesota Statutes 1989 Supplement, section 121.111, subdivision 1, is amended to read:

121.111 [OFFICE OF EDUCATIONAL LEADERSHIP]

Subdivision 1. ~~[ESTABLISHMENT MAINTAIN OFFICE.]~~ The commissioner shall maintain an office of educational leadership ~~is established~~ within the department of education. The purpose of the office is to assist school districts, education districts, and other education organizations in developing education policies that maximize the learning of all pupils.

Sec. 2. Minnesota Statutes 1989 Supplement, section 121.111, subdivision 2, is amended to read:

Subd. 2. ~~[OFFICE STRUCTURE MANAGEMENT.]~~ ~~The assistant commissioner of instructional effectiveness, in consultation with the assistant commissioner of development and partnership effectiveness, shall administer the office of educational leadership. A director in the unclassified service appointed by the assistant commissioner of instructional effectiveness shall manage the office.~~

Sec. 3. Minnesota Statutes 1989 Supplement, section 123.33, subdivision 7, is amended to read:

Subd. 7. The board shall superintend and manage the schools of the district; adopt rules for their organization, government, and instruction; keep registers; and prescribe textbooks and courses of study. The board

may ~~arrange~~ enter into an agreement with a post-secondary institution for secondary or post-secondary nonsectarian courses ~~for to be taught at a secondary pupils that are offered by a post-secondary institution school or a nonsectarian post-secondary institution.~~

Sec. 4. Minnesota Statutes 1988, section 123.36, subdivision 5, is amended to read:

Subd. 5. The board may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, elections, *post-secondary instruction*, and ~~such~~ other community purposes ~~as that~~, in its judgment, will not interfere with their use for school purposes; ~~but~~. Before permitting ~~such use any of these uses~~, the board may require a cash or corporate surety bond in a reasonable amount conditioned for the proper use of ~~such the~~ schoolhouse, the payment of all rent, and the repair of all damage occasioned by ~~such the use, and~~. It may *determine a reasonable charge and collect for the use of the district from the persons using such the schoolhouse such reasonable compensation as it may fix.*

It may authorize the use of any schoolhouses or buildings ~~in and of owned or leased by~~ the district for the holding of primaries, elections, registrations, and ~~all action in connection therewith in such manner as in its judgment, related activities if the board determines that the use will not interfere with their use for school purposes.~~ It may impose ~~such~~ reasonable regulations and conditions upon ~~such the~~ use as may seem necessary and proper.

Sec. 5. Minnesota Statutes 1988, section 123.9361, is amended to read:

123.9361 [ADMINISTRATIVE COSTS.]

Each year, a school district or intermediary service area may claim and receive from the department of education an additional sum for the ~~actual cost of~~ administration of sections 123.933 and 123.935, ~~which shall not exceed an amount~~ equal to five percent of the district's or area's allocation for that year pursuant to those sections.

Sec. 6. Minnesota Statutes 1988, section 123.947, is amended to read:

123.947 [RESTRICTIONS TO PREVENT IMPROPER USE OF INDIVIDUALIZED INSTRUCTIONAL MATERIALS.]

(a) The department of education shall assure that *textbooks and* individualized instructional materials loaned to nonpublic school pupils are secular, neutral, nonideological and that they are incapable of diversion for religious use.

(b) *Textbooks and* individualized instructional materials shall not be used in religious courses, devotional exercises, religious training or any other religious activity.

(c) *Textbooks and* individualized instructional materials shall be loaned only to individual pupils upon the request of a parent or guardian or the pupil on a form designated for this use by the department of education. The request forms shall provide for verification by the parent or guardian or pupil that the requested *textbooks and* individualized instructional materials are for the use of the individual pupil in connection with a program of instruction in the pupil's elementary or secondary school.

(d) The ~~department of education or the~~ servicing school district or the

intermediary service area shall take adequate measures to ensure an accurate and periodic inventory of all *textbooks* and individualized instructional materials loaned to elementary and secondary school pupils attending nonpublic schools. The state board of education shall promulgate rules under the provisions of chapter 14 to terminate the eligibility of any nonpublic school pupil if the department ~~or the servicing school district or intermediary service area~~ of education determines, after notice and opportunity for hearing, that the *textbooks* or individualized instructional materials have been used in a manner contrary to the provisions of section 123.932, subdivision 1e, 123.933 or this section or any rules promulgated by the state board of education.

(e) Nothing contained in section 123.932, subdivision 1e, 123.933 or this section shall be construed to authorize the making of any payments to a nonpublic school or its faculty, staff or administrators for religious worship or instruction or for any other purpose.

Sec. 7. [125.188] [ALTERNATIVE PREPARATION LICENSING.]

Subdivision 1. [REQUIREMENTS.] (a) A preparation program that is an alternative to the post-secondary teacher preparation program as a means to acquire an entrance license is established. The program may be offered in any instructional field.

(b) To participate in the alternative preparation program, the candidate must:

(1) have a bachelor's degree;

(2) pass an examination of skills in reading, writing, and mathematics as required by section 125.05;

(3) have been offered a job to teach in a school district, group of districts, or an education district approved by the board of teaching to offer an alternative preparation licensure program;

(4)(i) have a college major in the subject area to be taught; or

(ii) have five years of experience in a field related to the subject to be taught; and

(5) document successful experiences working with children.

(c) An alternative preparation license is of one year duration and is issued by the board of teaching to participants on admission to the alternative preparation program.

Subd. 2. [CHARACTERISTICS.] The alternative preparation program has the following characteristics:

(1) staff development conducted by a resident mentorship team made up of administrators, teachers, and post-secondary faculty members;

(2) an instruction phase involving intensive preparation of a candidate for licensure before the candidate assumes responsibility for a classroom;

(3) formal instruction and peer coaching during the school year;

(4) assessment, supervision, and evaluation of a candidate to determine the candidate's specific needs and to ensure satisfactory completion of the program;

(5) a research based and results oriented approach focused on skills

teachers need to be effective;

(6) assurance of integration of education theory and classroom practices; and

(7) the shared design and delivery of staff development between school district personnel and post-secondary faculty.

Subd. 3. [PROGRAM APPROVAL.] *(a) The board of teaching shall approve alternative preparation programs based on criteria adopted by the board, after receiving recommendations from an advisory task force appointed by the board.*

(b) An alternative preparation program at a school district, group of schools, or an education district must be affiliated with a post-secondary institution that has a teacher preparation program.

Subd. 4. [APPROVAL FOR STANDARD ENTRANCE LICENSE.] *The resident mentorship team must prepare for the board of teaching an evaluation report on the performance of the alternative preparation licensee during the school year and a positive or negative recommendation on whether the alternative preparation licensee shall receive a standard entrance license.*

Subd. 5. [STANDARD ENTRANCE LICENSE.] *The board of teaching shall issue a standard entrance license to an alternative preparation licensee who has successfully completed the school year in the alternative preparation program and who has received a positive recommendation from the licensee's mentorship team.*

Subd. 6. [QUALIFIED TEACHER.] *A person with a valid alternative preparation license is a qualified teacher within the meaning of section 125.04.*

Sec. 8. Minnesota Statutes 1988, section 125.231, subdivision 6, is amended to read:

Subd. 6. [REPORT TO THE LEGISLATURE.] *By January 1, ~~1988~~ 1991, the commissioner of education shall report to the legislature on how the teacher mentoring task force recommendations for a system of incentives are being implemented at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession and shall recommend ways to expand and enhance the responsibilities of teachers.*

By January 1 of ~~1989~~ and 1990 and 1991, the commissioner of education shall report to the legislature on the design, development, implementation, and evaluation of the mentorship program.

Sec. 9. Minnesota Statutes 1989 Supplement, section 129.128, is amended to read:

129.128 [COMMISSIONER TO REPORT ON LEAGUE TO LEGISLATURE.]

Subdivision 1. [~~ANNUALLY~~ ANNUAL REPORT.] *The commissioner of education must report to the legislature before each regular session on the activities of the league. The report must contain at least:*

(1) an accurate and concise summary of the annual financial and compliance audit prepared by the state auditor that includes information about the compensation of and the expenditures by the executive director of the

league and league staff;

(2) a list of all complaints filed with the league and all lawsuits filed against the league and the disposition of those complaints and lawsuits;

(3) an explanation of the executive director's performance review;

(4) information about the extent to which the league has implemented its affirmative action policy, its comparable worth plan, and its sexual harassment and violence policy and rules; and

(5) an evaluation of any proposed changes in league policy.

Subd. 2. ~~[URGE NEEDED LAWS RECOMMEND LAWS.]~~ The commissioner must recommend to the legislature whether any legislation is made necessary by league activities.

Sec. 10. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 6i, is amended to read:

Subd. 6i. ~~[RULE COMPLIANCE LEVY.]~~ Each year a district that is required to implement a plan according to the requirements of Minnesota Rules, parts 3535.0200 to 3535.2200, may levy an amount not to exceed ~~a gross tax capacity rate of .80 percent times the adjusted gross tax capacity of the district for taxes payable in 1990 or a net tax capacity rate of 4.0~~ 2.0 percent times the adjusted net tax capacity of the district for taxes payable in 1991 and thereafter. Independent school district No. 625, St. Paul, may levy according to this subdivision and subdivision 6e. Notwithstanding section 121.904, the entire amount of this levy shall be recognized as revenue for the fiscal year in which the levy is certified. This levy shall not be considered in computing the aid reduction under section 124.155.

Sec. 11. Minnesota Statutes 1989 Supplement, section 298.28, subdivision 4, is amended to read:

Subd. 4. ~~[SCHOOL DISTRICTS.]~~ (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount

received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) ~~\$150~~ \$175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 0.04231 percent times the district's taxable market value in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of 0.04231 percent times the district's taxable market value in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of ~~\$150~~ \$175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve \$25 times the number of pupil units in the district. It may use the money only for outcome-based learning programs that enhance the academic quality of the district's curriculum. The programs must be approved by the commissioner of education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 12. Laws 1984, chapter 463, article 6, section 15, subdivision 2, is amended to read:

Subd. 2. [USE OF PROCEEDS.] ~~The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.~~ (a) Independent school district No. 712, Mountain Iron-Buhl, shall establish on July 1, 1990, a reserved account in the general fund. The balance in the account shall equal the unreserved undesignated fund balance in the operating funds as of June 30, 1990, plus the total unreserved fund balance in the operating funds as of July 30, 1985, plus all levy proceeds authorized under subdivision 1, as amended. In fiscal year 1991 and each year thereafter, the balance in this account shall be adjusted by the levy authorized in subdivision 1.

(b) *The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.*

Sec. 13. Laws 1989, chapter 329, article 6, section 53, subdivision 6, is amended to read:

Subd. 6. [TELECOMMUNICATIONS GRANT.] For ~~a grant~~ grants of up to \$20,000 each to independent school districts Nos. 356, 353, 444, 441, 524, 564, 592, 440, 678, 676, 682, 690, 390, 593, 595, 630, and 600, 599, 447, 742, 627, 628, and 454 to support a cooperative educational technology ~~program~~ programs:

\$340,000 ~~1990~~ 1991.

Sec. 14. Laws 1989, chapter 329, article 7, section 24, subdivision 6, is amended to read:

Subd. 6. [CAREER TEACHER AID.] For career teacher aid:

~~\$1,000,000~~ \$750,000 1990

This appropriation is available until June 30, 1991.

Notwithstanding Minnesota Statutes 1989 Supplement, section 124.276, subdivision 2, the amount available for fiscal year 1991 may be used for the increased district contribution to the teachers' retirement association and to FICA resulting from the portion of the teaching contract that is in addition to the standard teaching contract of the district.

Up to \$5,000 may be used for the state career teacher task force.

Sec. 15. Laws 1989, chapter 329, article 11, section 15, subdivision 2, is amended to read:

Subd. 2. [TEACHER MENTORSHIP.] (a) ~~For grants~~ To develop mentoring programs in school districts according to Minnesota Statutes, section 125.231:

\$250,000 1990

\$250,000 1991

Any unexpended balance in the first year does not cancel and is available for the second year.

(b) *Of the amounts in paragraph (a), \$110,000 each year is to provide approximately \$10,000 each year for each existing demonstration site to refine its program and disseminate services and materials to schools that are interested in developing a mentoring program. The demonstration sites must provide exemplary mentoring processes and assist the department of*

education in working with new sites that are planning to adopt or adapt specific mentorship programs or components of those programs. The department shall encourage cooperation with career teacher programs.

(c) Of the amounts in paragraph (a), \$90,000 each year is for start-up money of up to \$5,000 each for a minimum of 18 new districts or groups of districts to adopt or adapt an existing mentorship program for five or more probationary teachers. The criteria and process in Minnesota Statutes, section 125.231, subdivisions 3 and 4, must be used. Participants from the adoption grant sites must attend regional and statewide training sessions and visit and collaborate with the exemplary sites.

(d) Of the amounts in paragraph (a), \$50,000 each year is to evaluate the program, to put on regional and statewide events, including conferences, seminars, and for meetings to provide staff development and technical assistance for district teams funded to adopt or adapt components implemented by existing pilot sites. The events must be available to districts interested in developing a mentorship program without applying for an adoption grant. The department may contract with districts having exemplary sites and others to develop guidelines and materials and provide staff development. Fees may be charged for meals, materials, and the like.

Sec. 16. Laws 1989, chapter 329, article 11, section 15, subdivision 12, is amended to read:

Subd. 12. [ACADEMIC EXCELLENCE FOUNDATION.] For the academic excellence foundation according to Minnesota Statutes, section 121.612:

\$160,000 1990

\$160,000 1991

Up to \$50,000 each year is contingent upon the ~~department's receipt~~ match of \$1 in the previous year from private sources consisting of either direct monetary contributions or in-kind contributions of related goods or services, for each \$1 of the appropriation. The commissioner of education must certify receipt of the money or documentation for the private matching funds or in-kind contributions. The unencumbered balance from the amount actually appropriated from the contingent amount in 1990 does not cancel but is available in 1991. The amount carried forward must not be used to establish a larger annual base appropriation for later fiscal years.

Sec. 17. Laws 1989, chapter 329, article 11, section 16, subdivision 2, is amended to read:

Subd. 2. [FACULTY EXCHANGE.] For expenses incurred by ~~elementary and secondary teachers participating~~ participants in the faculty education exchange:

\$25,000 1990

This appropriation is available until June 30, 1991.

Sec. 18. Laws 1989, chapter 329, article 11, section 17, subdivision 2, is amended to read:

Subd. 2. [FACULTY EXCHANGE.] For expenses incurred by ~~elementary and secondary teachers participating~~ participants in the faculty education exchange:

\$25,000 1990

The appropriation is available until June 30, 1991.

Sec. 19. [SHAKOPEE; 1991 AID CALCULATIONS.]

Subdivision 1. [ADJUSTMENTS.] For purposes of determining state aids for taxes payable in 1991, the fiscal disparity prior year adjustments in the city of Shakopee for taxes payable years 1986, 1987, and 1988 shall not be recognized.

Subd. 2. [LOCAL APPROVAL.] Subdivision 1 is effective the day following compliance by the Shakopee city council with Minnesota Statutes, section 645.021, subdivision 2.

Sec. 20. [1989-1990 ABATEMENT AID.]

If a district qualifies for:

(1) general education aid for fiscal year 1990 only because of Laws 1989, chapter 329, article 1, section 6; or

(2) early childhood family education aid for fiscal year 1990 only because of Laws 1989, chapter 329, article 4, section 11; or

(3) community education aid only because of Laws 1989, chapter 329, article 4, section 12, subdivision 3a;

it does not qualify for abatement aid for fiscal year 1990 under Minnesota Statutes, section 124.214, subdivision 2.

Sec. 21. [SCHOOL OF EXCELLENCE.]

The board of directors of the Minnesota academic excellence foundation shall include in its 1991 annual report to the education committees of the legislature recommendations for making available to schools and districts statewide, a Minnesota school of excellence program that contains the following components:

(1) state standards of excellence;

(2) criteria for showing improvement in academic performance over time by schools or districts participating in the program;

(3) a detailed cost analysis of the program;

(4) an external review process to verify the contents of an application submitted by a participating school or district; and

(5) a funding mechanism for permitting participating schools or districts to assist other schools or districts interested in participating in the program.

Sec. 22. [BOARD OF TEACHING APPROPRIATION.]

Subdivision 1. [BOARD OF TEACHING.] The sums indicated in this section are appropriated from the general fund to the board of teaching in the fiscal year indicated.

Subd. 2. [MENTORSHIP SITE GRANTS.] For grants for operating cooperative ventures between school district and post-secondary teacher preparation institutions:

\$150,000 1991

An application for a grant must be made by the cooperative. The funds must be used primarily to pay for coordination, instruction, and evaluation

provided by the resident mentorship team.

Subd. 3. [FELLOWSHIP GRANTS.] For fellowship grants to highly qualified minorities seeking alternative preparation for licensure:

\$50,000 1991

A grant is not to exceed \$5,000 with one-half paid each year for two years. Grants must be awarded on a competitive basis by the board. Grant recipients must agree to remain as teachers in the district for two years if they satisfactorily complete the alternative preparation program and if their contracts as probationary teachers are renewed.

Sec. 23. ["WAY TO GROW" APPROPRIATION.]

\$100,000 is appropriated in fiscal year 1991 from the general fund to the commissioner of state planning to award up to three grants under Minnesota Statutes, section 145.926. The grants must go to eligible applicants located outside the seven-county metropolitan area. Grant recipients must coordinate their programs with existing community-based programs serving children prebirth to age five. Grant recipients may use up to two percent of this appropriation for administrative costs.

This appropriation must not be used to establish a larger annual base appropriation for fiscal year 1992 and after.

Sec. 24. [DEPARTMENT OF EDUCATION APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [GRANTS FOR COOPERATIVE DESEGREGATION.] For grants to develop interdistrict school desegregation programs:

\$200,000 1991.

The commissioner of education shall award grants to school districts to develop pilot interdistrict cooperative programs to reduce segregation, as defined in Minnesota Rules, part 3535.0200, subpart 4, in school buildings.

To obtain a grant, a district that is required to submit a plan under Minnesota Rules, part 3535.0600, with the assistance of at least one adjacent district that is not required to submit a plan, shall submit an application to the commissioner.

The application shall contain a plan for:

(1) activities such as staff development, curriculum development, student leadership, student services, teacher and student exchanges, interdistrict meetings, and orientation for school boards, parents, and the community;

(2) implementation of the activities in clause (1) before possible student transfers occur; and

(3) possible voluntary transfer of students between districts beginning with the 1991-1992 school year.

A grant recipient shall submit a report about its activities and recommendations to the commissioner by December 31, 1990. The commissioner shall submit a report about the program to the education committees of the legislature by February 1, 1991.

Subd. 3. [CHISHOLM SCHOOL DISTRICT GRANT.] For a grant for a

leadership program in independent school district No. 695, Chisholm:

\$30,000 1991.

Sec. 25. [EFFECTIVE DATE.]

Subdivision 1. Section 5 is retroactively effective July 1, 1989.

Subd. 2. Sections 1, 2, 7, 14, 15, 16, 17, 18, and 20 are effective the day following final enactment.

Subd. 3. Section 12 is effective the day after compliance by the school board of independent school district No. 712 with Minnesota Statutes, section 645.021.

ARTICLE 8

MISCELLANEOUS

Section 1. Minnesota Statutes 1989 Supplement, section 6.65, is amended to read:

6.65 [MINIMUM PROCEDURES FOR AUDITORS, PRESCRIBED.]

The state auditor shall prescribe minimum procedures and the audit scope for auditing the books, records, accounts, and affairs of local governments in Minnesota. The minimum scope for audits of all local governments must include financial and legal compliance audits for fiscal years ending after January 15, 1984. *Audits of all school districts shall include a determination of compliance with uniform financial accounting and reporting standards adopted by the state board of education according to section 121.902, subdivision 1.* The state auditor shall establish a task force to promulgate an audit guide for legal compliance audits. The task force must include representatives of the state auditor, the attorney general, towns, cities, counties, school districts, and private sector public accountants.

Sec. 2. Minnesota Statutes 1989 Supplement, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);

(k) judge of the workers' compensation court of appeals;

(l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;

(m) solicitor general or deputy, assistant or special assistant attorney general;

(n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, *legislative analyst*, or attorney in the office of senate *counsel and research*, ~~senate counsel~~, or house research;

(o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;

(p) the commissioner of gaming and director of each division in the department of gaming and the deputy director of the division of state lottery;
or

(q) director of the division of gambling enforcement in the department of public safety;

(r) *member or executive director of the higher education facilities authority; or*

(s) *member of the board of directors or president of the Minnesota world trade center corporation.*

Sec. 3. Minnesota Statutes 1989 Supplement, section 119.04, subdivision 3, is amended to read:

Subd. 3. [SALE OF CORPORATION.] The board of directors may sell all, substantially all, or part of the assets or any of the ownership of the corporation *at a price and according to terms, approved by the commissioner of finance, that assure maximum benefit to the state of Minnesota.* When any part is sold, the board shall transfer the assets or ownership that is sold to the purchaser. Upon the sale of all or substantially all of the assets or ownership of the corporation, the board of directors shall dispose of any remaining assets and dissolve the corporation.

Sec. 4. Minnesota Statutes 1989 Supplement, section 121.612, subdivision 3, is amended to read:

Subd. 3. [BOARD OF DIRECTORS.] The board of directors of the foundation shall consist of the commissioner of education, a member of the state board of education selected by the state board who shall serve as chair and ~~15~~ 20 members to be appointed by the governor. Of the ~~15~~ 20 members appointed by the governor, ~~six~~ eight shall represent ~~various~~ a variety of education groups and ~~nine~~ 12 shall represent ~~various~~ a variety of business groups. The commissioner of education shall serve as secretary for the board of directors and provide administrative support to the foundation. An executive committee of the foundation board composed of the board officers and chairs of board committees, may only advise and make recommendations to the foundation board.

Sec. 5. Minnesota Statutes 1989 Supplement, section 121.612, subdivision 5, is amended to read:

Subd. 5. [POWERS AND DUTIES.] The foundation may:

- (1) establish and collect membership fees;
- (2) publish brochures or booklets relating to the purposes of the foundation and collect reasonable fees for the publications;
- (3) receive money ~~and~~, grants, *and in-kind goods or services* from non-state sources for the purposes of the foundation;
- (4) contract with consultants; and
- (5) expend money for awards and other forms of recognition and appreciation.

Sec. 6. Minnesota Statutes 1988, section 121.908, subdivision 3, is amended to read:

Subd. 3. By December 31 of the calendar year of the submission of the unaudited financial statement, the district shall provide to the commissioner and state auditor an audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited statement. *The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance.*

Sec. 7. Minnesota Statutes 1989 Supplement, section 121.912, subdivision 1, is amended to read:

Subdivision 1. [LIMITATIONS.] Except as provided in this subdivision, sections 121.9121, 123.36, 124.243, 475.61, and 475.65, a school district may not permanently transfer money from (1) an operating fund to a nonoperating fund; (2) a nonoperating fund to another nonoperating fund; or (3) a nonoperating fund to an operating fund. Permanent transfers may be made from any fund to any other fund to correct for prior fiscal years' errors discovered after the books have been closed for that year. Permanent transfers may be made from the general fund to any other operating funds according to section 123.705, subdivision 1, or if the resources of the other fund are not adequate to finance approved expenditures from that other fund. Permanent transfers may also be made from the general fund to eliminate deficits in another fund when that other fund is being discontinued. When a district discontinues operation of a district-owned bus fleet or a substantial portion of a fleet, permanent transfers ~~may~~ *must* be made, *on June 30 of the fiscal year that the operation is discontinued*, from the fund balance account entitled "pupil transportation fund reserved for bus purchases" to the capital expenditure fund; ~~with the approval of the commissioner.~~ The sum of the levies authorized pursuant to sections 124.243, 124.244, and 124.83 shall be reduced by an amount equal to the amount transferred. Any school district may transfer any amount from the undesignated fund balance account in its transportation fund to any other operating fund or to the reserved fund balance account for bus purchases in its transportation fund.

Sec. 8. Minnesota Statutes 1988, section 121.917, subdivision 4, is amended to read:

Subd. 4. (1) If the net negative undesignated fund balance in all the funds of a school district, other than statutory operating debt pursuant to section 121.914, capital expenditure, building construction, debt service, trust and agency, and post-secondary vocational technical education funds, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts, as of June 30 each year, is

more than 2-1/2 percent of the year's expenditure amount, the district shall, prior to September 15, submit a special operating plan to reduce the district's deficit expenditures to the commissioner of education for approval. *The commissioner may also require the district to provide evidence that the district meets and will continue to meet all of the curriculum requirements of the state board.*

Notwithstanding any other law to the contrary, a district submitting a special operating plan to the commissioner under this clause which is disapproved by the commissioner shall not receive any aid pursuant to ~~chapter~~ chapters 124 and 124A until a special operating plan of the district is so approved.

(2) A district shall receive aids pending the approval of its special operating plan under clause (1). A district which complies with its approved operating plan shall receive aids as long as the district continues to comply with the approved operating plan.

Sec. 9. Minnesota Statutes 1988, section 121.931, subdivision 6, is amended to read:

Subd. 6. [DATA STANDARDS.] The state board shall adopt rules containing standards for financial, property, student and personnel/payroll data and any other data included in ESV-IS. For financial data, the uniform financial accounting and reporting standards adopted pursuant to section 121.902, subdivision 1, shall satisfy the requirement of this subdivision. For property data, the uniform property accounting and reporting standards adopted ~~pursuant to section 121.902, subdivision 1a~~ by the state board shall satisfy the requirement of this subdivision. The state board shall consider the recommendations of the advisory task forces on uniform data standards for student reporting and personnel/payroll reporting and the ESV computer council in adopting the standards for student data and personnel/payroll data. The state board shall ensure that the standards for different types of data are consistent with each other, and for this purpose shall consider the recommendations of the advisory task forces on uniform data standards for student reporting and personnel/payroll reporting, the advisory council on uniform financial accounting and reporting standards, and the ESV computer council. The data standards for each type of data shall include:

- (a) A standard set of naming conventions for data elements;
- (b) A standard set of data element definitions; and
- (c) A standard transaction processing methodology which uses the defined data elements, specifies mathematical computations on those data elements and specifies output formats.

~~The state board, with the advice and assistance of the ESV computer council, shall monitor and enforce compliance with the data standards.~~

Sec. 10. Minnesota Statutes 1988, section 121.931, is amended by adding a subdivision to read:

Subd. 6a. [DATA STANDARD COMPLIANCE.] The department shall monitor and enforce compliance with the data standards. For financial accounting data and property accounting data, the department shall develop statistically based tests to determine data quality. The department shall annually test the data submitted by districts or regional centers and determine which districts submit inaccurate data. The department shall require

these districts to review the data in question and, if found in error, to submit corrected data.

Sec. 11. Minnesota Statutes 1988, section 121.935, is amended by adding a subdivision to read:

Subd. 1a. [CENTER FOR DISTRICTS WITH ALTERNATIVE SYSTEMS.] Districts that operate alternative systems approved by the state board according to section 121.936 may create one regional management information center under section 471.59. The center shall have all of the powers authorized under section 471.59. Only districts that operate approved alternative systems may be members of the center. Upon receiving the approval of the state board to operate an alternative system, a district may become a member of the center.

Each member of the center board shall be a current member of a member school board.

The center board may purchase or lease equipment. It may not employ any staff but may enter into a term contract for services. A person providing services according to a contract with the center board is not a state employee.

The center shall perform the duties required by subdivision 2, except clauses (c), (d), and (g). The department shall provide the center all services that are provided to regional centers formed under subdivision 1, including transferring software and providing accounting assistance.

Sec. 12. Minnesota Statutes 1988, section 121.935, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] Every regional management information center shall:

(a) Assist its affiliated districts in complying with the reporting requirements of the annual data acquisition calendar and the rules of the state board of education;

(b) Respond within 15 calendar days to requests from the department for district information provided to the region for state reporting of information, based on the data elements in the data element dictionary;

(c) Operate financial management information systems consistent with the uniform financial accounting and reporting standards ~~for Minnesota school districts~~ adopted by the state board pursuant to sections 121.90 to 121.917;

(d) Make available to districts the opportunity to participate fully in all the subsystems of ESV-IS;

(e) ~~Before July 1, 1981,~~ Develop and maintain a plan ~~for the provision of~~ to provide services during a system failure or a disaster;

(f) Comply with the requirement in section 121.908, subdivision 2, on behalf of districts affiliated with it; and

(g) Operate fixed assets property management information systems consistent with the uniform property accounting and reporting standards ~~for Minnesota technical institutes~~ adopted by the state board ~~pursuant to section 121.902, subdivision 1a.~~

Sec. 13. Minnesota Statutes 1988, section 121.935, subdivision 5, is amended to read:

Subd. 5. [REGIONAL SUBSIDIES.] In any year when a regional management information center's annual plan and budget are approved pursuant to subdivision 3, the center shall receive a regional reporting subsidy grant from the department of education. The subsidy grant shall be in the amount allocated by the state board in the process of approving the annual budgets of the regional management information centers pursuant to subdivision 3. The amounts of the subsidy grants and an explanation of the allocation decisions shall be filed by the state board with the ~~committees on education and finance of the senate and the committees on education and appropriations of the house of representatives legislature.~~

~~For subsidy grants for fiscal year 1981 and for each fiscal year thereafter, When determining the amount of a subsidy grant, the state board is encouraged to recognize that the diversity of regional management information centers precludes a formula-based allocation of subsidy grants; to promote equity and access to regional services in the allocation process; and to shall consider the following factors:~~

- (a) The number of students in districts affiliated with the center;
- (b) The number of districts affiliated with the center;
- (c) Fixed and overhead costs to be incurred in operating the regional center, the finance subsystem, the payroll/personnel subsystem, and the student support subsystem;
- (d) Variable costs to be incurred ~~which that~~ differ in proportion to the number of districts served and the number of subsystems implemented for those districts;
- (e) Services provided to districts ~~which that~~ enable the districts to meet state reporting requirements;
- (f) The cost of meeting the reporting requirements of subdivision 2 for districts using approved alternative management information systems; and
- (g) The number of districts affiliated with a regional management information center in relation to the geographic area occupied by those districts.

Sec. 14. Minnesota Statutes 1988, section 121.936, subdivision 2, is amended to read:

Subd. 2. [ALTERNATIVE MANAGEMENT INFORMATION SYSTEMS.] A district may be exempted from the requirement in subdivision 1, clause (b)(2), if it receives the approval of the state board to use another financial management information system. A district permitted before July 1, 1980, to submit its financial transactions in summary form to a regional management information center pursuant to subdivision 1 may continue to submit transactions in the approved form without obtaining the approval of the state board pursuant to this subdivision. A district may be exempted from the requirement in subdivision 1a, clause (b), if it receives the approval of the state board to use an alternative fixed assets property management information system. Any district desiring to use another management information system shall submit a detailed proposal to the state board; ~~and the ESV computer council and the regional management information center with which it is affiliated.~~ The detailed proposal shall include a statement of all costs to the district, regional management information center or state for software development or operational services needed to provide data to the regional management information center pursuant to the data acquisition calendar.

Sec. 15. Minnesota Statutes 1988, section 121.936, subdivision 3, is amended to read:

Subd. 3. [ALTERNATIVE MANAGEMENT INFORMATION SYSTEMS; EVALUATION.] ~~The regional management information center shall evaluate the district proposal according to the approval criteria in section 121.937, subdivision 1. The regional management information center shall submit its evaluation of the district proposal to the state board and the ESV computer council for their consideration in evaluating the proposal.~~

The ESV computer council shall evaluate the district proposal according to the approval criteria in section 121.937, subdivision 1, clauses (a), (b), and (d). Upon completion of the evaluation, the ESV computer council shall recommend to the state board that it (a) approve the proposal, (b) disapprove the proposal, or (c) approve the proposal if it is modified by the district in ways ~~which~~ *that* are specified by the council.

Sec. 16. Minnesota Statutes 1988, section 122.23, subdivision 9, is amended to read:

Subd. 9. If the approved plat contains land area in more than one independent district maintaining a secondary school, or common district maintaining a secondary school, and if each board entitled to act on the plat approves the plat, each board shall cause notice of its action to be published at least once in its official newspaper. *If all of the school boards entitled to act on the plat call, by resolution, for an election on the question, or* if five percent of the eligible voters of any such district petition the clerk of the district, within 30 days after the publication of the notice, for an election on the question, the consolidation shall not become effective until approved by a majority vote in the district at an election held in the manner provided in subdivisions 11, 12, and 13.

Sec. 17. Minnesota Statutes 1988, section 122.23, subdivision 11, is amended to read:

Subd. 11. Upon an election becoming callable under provisions of subdivision 9 *or* 10, the ~~county auditor~~ *school board* shall give ten days' posted notice of election in the area in which the election is to be held and also if there be a newspaper published in the area, one weeks' published notice shall be given. The notice shall specify the time, place and purpose of the election.

Sec. 18. Minnesota Statutes 1988, section 122.23, subdivision 12, is amended to read:

Subd. 12. The ~~county auditor~~ *school board* shall determine the date of the election, the number of boundaries of voting precincts, and the location of the polling places where voting shall be conducted, and the hours the polls will be open. The ~~county auditor~~ *school board* shall also provide official ballots which shall be used exclusively and shall be in the following form:

For consolidation

Against consolidation

The ~~county auditor~~ *school board* shall appoint three election judges for each polling place who shall act as clerks of election. The ~~county~~ *school board* may pay these election judges not to exceed \$1 per hour. The ballots and results shall be certified to the ~~county auditor~~ *school board* who shall

canvass and tabulate the total vote cast for and against the proposal.

Sec. 19. Minnesota Statutes 1988, section 122.23, subdivision 13, is amended to read:

Subd. 13. If a majority of the votes cast on the question at the election approve the consolidation, and if the necessary approving resolutions of boards entitled to act on the plat have been adopted, the *school board shall, within ten days of the election, notify the county auditor who shall, within ten days of the election notice or of the expiration of the period during which an election can be called, issue an order setting a date for the effective date of the change. The effective date shall be at least three months after the day when the date must be set, and shall be July 1 of an odd-numbered year, unless an even-numbered year is agreed upon according to subdivision 13a.* The auditor shall mail or deliver a copy of such order to each auditor holding a copy of the plat and to the clerk of each district affected by the order and to the commissioner. *The school board shall similarly notify the county auditor if the election fails.* The proceedings are *then* terminated and the county auditor shall so notify the commissioner and the auditors and the clerk of each school district affected.

Sec. 20. Minnesota Statutes 1988, section 123.33, subdivision 1, is amended to read:

Subdivision 1. The care, management, and control of independent districts shall be vested in a board of directors, to be known as the school board. The term of office of a member shall be three years and until a successor qualifies. The membership of the school board shall consist of six elected directors together with such ex officio member as may be provided by law. But the board may submit to the electors at any school election the question whether the board shall consist of seven members and if a majority of those voting on the proposition favor a seven member board, a seventh member shall be elected at the next election of directors for a three-year term and thereafter the board shall consist of seven members.

Those districts with a seven member board may submit to the electors at any school election at least 150 days before the next election of three members of the board the question whether the board shall consist of six members. If a majority of those voting on the proposition favor a six member board instead of a seven member board, two members instead of three members shall be elected at the next election of the board of directors and thereafter the board shall consist of six members.

Sec. 21. Minnesota Statutes 1988, section 123.34, subdivision 9, is amended to read:

Subd. 9. [SUPERINTENDENT.] All districts maintaining a classified secondary school shall employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent shall be vested in the school board in all cases. *An individual employed by a school board as a superintendent shall have an initial employment contract for a period of time no longer than four years from the date of employment. The initial employment contract must terminate on June 30 of an odd-numbered year. Any subsequent employment contract between a school board and the same individual to serve as a superintendent may not extend beyond June 30 of the next odd-numbered year. A school board may or may not renew, at its discretion, an initial employment contract or a subsequent employment contract. A school board*

may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 125.12, subdivision 6 or 8. A superintendent shall not rely upon an employment contract with a school board to assert any other continuing contract rights in the position of superintendent under section 125.12. Notwithstanding the provisions of sections 122.532, 122.541, 125.12, subdivision 6a or 6b, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on seniority or order of employment in any district. If two or more school districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the services based on seniority or order of employment in a contracting district. An individual who holds a position as superintendent in one of the contracting districts, but is not selected to perform the services, may be placed on unrequested leave of absence or may be reassigned to another available position in the district for which the individual is licensed. The superintendent of a district shall perform the following:

~~(a)~~ (1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;

~~(b)~~ (2) recommend to the board employment and dismissal of teachers;

~~(c)~~ (3) superintend school grading practices and examinations for promotions;

~~(d)~~ (4) make reports required by the commissioner of education; and

~~(e)~~ (5) perform other duties prescribed by the board.

Sec. 22. Minnesota Statutes 1988, section 123.34, subdivision 10, is amended to read:

Subd. 10. Each ~~public school building or unit of classification, as designated~~ defined by section 120.05, subdivision 4 2, clauses (1), (2) and (3), in an independent school district shall be under the supervision of a principal who is assigned to that responsibility by the board of education in that school district upon the recommendation of the superintendent of schools of that school district.

Each principal assigned the responsibility for the supervision of a school building ~~or units of classification~~ shall hold valid certification in the assigned position of supervision and administration as established by the rules of the state board of education.

The principal shall provide administrative, supervisory and instructional leadership services, under the supervision of the superintendent of schools of the school district and in accordance with the policies, rules and regulations of the board of education, for the planning, management, operation and evaluation of the education program of the building or buildings to which the principal is assigned.

Sec. 23. Minnesota Statutes 1988, section 123.36, subdivision 10, is amended to read:

Subd. 10. (a) The board may lease to any person, business, or organization a schoolhouse that is not needed for school purposes ~~to any person or~~

~~organization~~, or part of a schoolhouse that is not needed for school purposes if the board determines that leasing part of a schoolhouse does not interfere with the educational programs taking place in the rest of the building. The board may charge and collect reasonable consideration for the lease and may determine the terms and conditions of the lease.

(b) In districts with outstanding bonds, the net proceeds of the lease shall be first deposited in the debt retirement fund of the district in an amount sufficient to meet when due that percentage of the principal and interest payments for outstanding bonds that is ascribable to the payment of expenses necessary and incidental to the construction or purchase of the particular building or property that is leased. Any remaining net proceeds in these districts may be deposited in either the debt redemption fund or capital expenditure fund. All net proceeds of the lease in districts without outstanding bonds shall be deposited in the capital expenditure fund of the district.

(c) The board may make capital improvements, *including fixtures*, to a schoolhouse or a portion thereof, not exceeding in cost the replacement value of the schoolhouse, to facilitate its rental, and the lease of an improved schoolhouse, *or part of it*, shall provide for rentals which will recover the cost of the improvements over the initial term of the lease. Notwithstanding clause (b), the portion of the rentals representing the cost of the improvements shall be deposited in the capital expenditure fund of the district and the balance of the rentals shall be used as provided in clause (b).

Sec. 24. Minnesota Statutes 1988, section 123.37, subdivision 1, is amended to read:

Subdivision 1. No contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, shall be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice shall state the time and place of receiving bids and contain a brief description of the subject matter.

Additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract shall be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. *Notwithstanding section 574.26 or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a school board may require, at its discretion, a performance bond of a contractor in the amount the board considers necessary.* A record shall be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid shall be rejected unless the alteration or erasure is corrected as herein provided. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so

long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may readvertise. Standard requirement price contracts established for supplies or services to be purchased by the district shall be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate such increase or decrease. The term of such contracts shall not exceed two years with an option on the part of the district to renew for an additional two years. Provided that in the case of purchase of perishable food items except milk for school lunches and vocational training programs a contract of any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Every contract made without compliance with the provisions of this section shall be void. Provided, that in case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

Sec. 25. Minnesota Statutes 1988, section 123.38, subdivision 2b, is amended to read:

Subd. 2b. The board may take charge of and control all extra curricular activities of the teachers and children of the public schools in the district. Extra curricular activities shall mean all direct and personal services for public school pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. Extra curricular activities have all of the following characteristics:

- (a) They are not offered for school credit nor required for graduation;
- (b) They are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;
- (c) The content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

If the board does not take charge of and control extra curricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions or other student fundraising events; moreover, the general fund or the technical institutes fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds and other revenues and expenditures for extra curricular activities shall be recorded pursuant to the "Manual of Instructions for Uniform Student Activities Accounting for Minnesota School Districts." If the board takes charge of and controls extra curricular activities, any or all costs of these activities may be provided from school revenues and. All revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district. If the board takes charge of and controls extra curricular activities, no such activity shall be participated in

by the teachers or pupils in the district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Sec. 26. Minnesota Statutes 1988, section 124.195, is amended by adding a subdivision to read:

Subd. 12. [DELAY OF PAYMENTS.] A district must submit financial data according to section 121.936, subdivision 1, that is consistent with the audited financial statement required by section 121.908, subdivision 3. If the corrected data has not been submitted by June 30 following the date it is required to be submitted, the commissioner shall delay payments made according to subdivision 3 until the district submits the corrected data. If the commissioner determines that the submission of the corrected data is delayed because of circumstances beyond the district's control, the commissioner may extend the June 30 deadline.

Sec. 27. Minnesota Statutes 1989 Supplement, section 124.6472, subdivision 2, is amended to read:

Subd. 2. [EXEMPTION.] Subdivision 1 does not apply to a school in which fewer than 25 pupils are expected to take part in the program. It also does not apply to a school district that does not participate in the national school lunch program.

Sec. 28. Minnesota Statutes 1989 Supplement, section 124A.22, subdivision 2a, is amended to read:

Subd. 2a. [ELIGIBILITY FOR INCREASE CONTRACT DEADLINE AND PENALTY.] (a) The following definitions apply to this subdivision:

"Public employer" means:

(1) a school district; and

(2) a public employer, as defined by section 179A.03, subdivision 15, other than a school district that (i) negotiates a contract under chapter 179A with teachers, and (ii) is established by, receives state money, or levies under chapters 120 to 129B or 136D, or section 275.125.

"Teacher" means a person, other than a superintendent or assistant superintendent, principal, assistant principal, or a supervisor or confidential employee who occupies a position for which the person must be licensed by the board of teaching, state board of education, or state board of vocational technical education.

(b) Notwithstanding subdivision 2 or any other law to the contrary, if a school board public employer and the bargaining unit exclusive representative of the teachers in a school district have not ratified shall both sign a contract by collective bargaining agreement on or before January 15, 1990, for the two-year period ending June 30, 1991, the district is no longer eligible for \$25 of the formula allowance for fiscal year 1990 of an even-numbered calendar year. The total amount of money that would have been paid to districts that are not eligible according to this subdivision If a collective bargaining agreement is not signed by that date, state aid paid to the public employer for that fiscal year shall be reduced. However, state aid shall not be reduced if:

(1) a public employer and the exclusive representative of the teachers have submitted all unresolved contract items to interest arbitration according to section 179A.16 before December 31 of an odd-numbered year and filed

required final positions on all unresolved items with the commissioner of mediation services before January 15 of an even-numbered year; and

(2) the arbitration panel has issued its decision within 60 days after the date the final positions were filed.

(c) The reduction shall equal \$25 times the number of actual pupil units:

(1) for a school district, that are in the district during that fiscal year; or

(2) for a public employer other than a school district, that are in programs provided by the employer during the preceding fiscal year.

The department of education shall determine the number of full-time equivalent actual pupil units in the programs. The department of education shall reduce general education aid; if general education aid is insufficient or not paid, the department shall reduce other state aids.

(d) Reductions from aid to school districts and public employers other than school districts shall be ~~allocated~~ returned to eligible districts according to the number of actual pupil units in all of the eligible districts the general fund.

Sec. 29. Minnesota Statutes 1988, section 125.12, subdivision 1, is amended to read:

Subdivision 1. [TEACHER DEFINED.] A ~~superintendent~~, principal, supervisor, and classroom teacher and any other professional employee required to hold a license from the state department shall be deemed to be a "teacher" within the meaning of this section. A ~~superintendent~~ is a "teacher" only for purposes of subdivisions 2 and 14.

Sec. 30. Minnesota Statutes 1988, section 125.185, is amended by adding a subdivision to read:

Subd. 10. [VARIANCES.] Notwithstanding subdivision 9 and section 14.05, subdivision 4, the board of teaching may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or management.

Sec. 31. Minnesota Statutes 1988, section 125.60, subdivision 2, is amended to read:

Subd. 2. The board of any district may grant an extended leave of absence without salary to any full- or part-time elementary, secondary, or technical institute teacher who has been employed by the district for at least five years and has at least ten years of allowable service, as defined in section 354.05, subdivision 13, or the bylaws of the appropriate retirement association or ten years of full-time teaching service in Minnesota public elementary, secondary, and technical institutes. The maximum duration of an extended leave of absence pursuant to this section shall be determined by mutual agreement of the board and the teacher at the time the leave is granted and shall be at least three but no more than five years. An extended leave of absence pursuant to this section shall be taken by mutual consent of the board and the teacher ~~and may be granted only once~~. If the school board denies a teacher's request, it shall provide reasonable justification for the denial.

Sec. 32. [126.112] [MINNESOTA EDUCATION IN AGRICULTURE COUNCIL.]

Subdivision 1. [ESTABLISHMENT.] The Minnesota education in agriculture council is established to promote education about agriculture.

Subd. 2. [GOVERNANCE.] The council must be appointed by the governor and has 12 members. One member must be appointed from each congressional district and the remaining members must be appointed at large. Council terms and removal of members are as provided in section 15.0575. Council members may receive reimbursement for expenses only if sources other than a direct legislative appropriation are available to pay the costs of members' reimbursement. The council is governed by an executive board of directors. The council may organize and appoint committees as it considers necessary.

Sec. 33. Minnesota Statutes 1988, section 126.12, subdivision 2, is amended to read:

~~Subd. 2. Except for technical institutes, every Saturday shall be a school holiday, except that school may be held on a Saturday if necessary to meet the requirement in section 124.19 of making a good faith attempt to make up time lost on account of circumstances which were beyond the control of the school board.~~ The school board shall determine the number of school days of each school year on or before April 1 of the calendar year in which such school year commences. ~~The board shall offer all elementary, middle, and secondary school subjects required by the board or the curriculum rules of the state board of education on days other than Saturdays, Sundays, and holidays. On any day of the week the board may provide:~~

- ~~(1) classes or courses at technical colleges;~~
- ~~(2) classes or courses at area learning centers;~~
- ~~(3) classes or courses if necessary to meet the requirement in section 124.19 of making a good faith attempt to make up time lost because of circumstances beyond the control of the school board;~~
- ~~(4) remedial courses;~~
- ~~(5) courses previously taken, but not successfully completed by the pupil for whom the course is being provided;~~
- ~~(6) staff development programs; and~~
- ~~(7) other educational opportunities approved by the commissioner of education.~~

Sec. 34. [129B.79] [PARENTAL INVOLVEMENT PROGRAMS.]

Subdivision 1. [PROGRAM GOALS.] The department of education, in consultation with the state curriculum advisory committee, must develop guidelines and model plans for parental involvement programs that will:

- (1) engage the interests and talents of parents or guardians in recognizing and meeting the emotional, intellectual, and physical needs of their school-age children;*
- (2) promote healthy self-concepts among parents or guardians and other family members;*
- (3) offer parents or guardians a chance to share and learn about educational skills, techniques, and ideas; and*
- (4) provide creative learning experiences for parents or guardians and their school-age children.*

Subd. 2. [PLAN CONTENTS.] Model plans for a parental involvement program must include at least the following:

- (1) program goals;*
- (2) means for achieving program goals;*
- (3) methods for informing parents or guardians, in a timely way, about the program;*
- (4) strategies for ensuring the full participation of parents or guardians, including those parents or guardians who lack literacy skills or whose native language is not English;*
- (5) procedures for coordinating the program with kindergarten through grade 12 curriculum, with parental involvement programs currently available in the community, and with other education facilities located in the community;*
- (6) strategies for training teachers and other school staff to work effectively with parents and guardians;*
- (7) procedures for parents or guardians and educators to evaluate and report progress toward program goals; and*
- (8) a mechanism for convening a local community advisory committee composed primarily of parents or guardians to advise a district on implementing a parental involvement program.*

Subd. 3. [PLAN ACTIVITIES.] Activities contained in the model plans must include:

- (1) educational opportunities for families that enhance children's learning development;*
- (2) educational programs for parents or guardians on families' educational responsibilities and resources;*
- (3) the hiring, training, and use of parental involvement liaison workers to coordinate family involvement activities and to foster communication among families, educators, and students;*
- (4) curriculum materials and assistance in implementing home and community-based learning activities that reinforce and extend classroom instruction and student motivation;*
- (5) technical assistance, including training to design and carry out family involvement programs;*
- (6) parent resource centers;*
- (7) parent training programs and reasonable and necessary expenditures associated with parents' attendance at training sessions;*
- (8) reports to parents on children's progress;*
- (9) use of parents as classroom volunteers, tutors, and aides; or*
- (10) soliciting parents' suggestions in planning, developing and implementing school programs.*

Sec. 35. [237.065] [RATES FOR SPECIAL SERVICE TO SCHOOLS.]

Each telephone company, including a company that has developed an incentive plan under section 237.625, that provides local telephone service in a service area that includes a public school that has classes within the

range from kindergarten to 12th grade shall provide, upon request, additional service to the school that is sufficient to ensure access to basic telephone service from each classroom and other areas within the school, as determined by the school board. Each company shall set a flat rate for this additional service that is less than the company's flat rate for an access line for a business and the same as or greater than the company's flat rate for an access line for a residence in the same local telephone service exchange. When a company's flat rates for businesses and residences are the same, the company shall use the residential rate for service to schools under this section. The rate required under this section is available only for a school that installs additional service that includes access to basic telephone service from each classroom and other areas within the school, as determined by the school board.

Sec. 36. Laws 1989, chapter 202, section 6, subdivision 7, is amended to read:

Subd. 7. [PROCEDURES AND RECOMMENDATIONS.] The board shall review and evaluate all proposals and adopt recommendations. The board may recommend rejection of all proposals. The board shall submit its recommendations and copies of proposals to the commissioner of finance. The commissioner of finance ~~shall~~ *may* contract with an independent evaluator to provide an independent market valuation of the corporation. The commissioner of finance shall review the recommendations of the board and ~~the any~~ independent evaluation. The commissioner of finance shall submit the recommendations of the board of directors, ~~the any~~ independent evaluation, and the recommendations of the commissioner of finance to the legislative auditor. The legislative auditor shall review the recommendations of the board of directors and the commissioner of finance and ~~the any~~ independent evaluation and make its recommendations.

Sec. 37. Laws 1989, chapter 202, section 6, subdivision 8, is amended to read:

Subd. 8. [REPORT TO THE LEGISLATURE.] By January 15, 1990, the recommendations of the board of directors, the commissioner of finance, and the legislative auditor, and ~~the any~~ independent evaluation shall be submitted to the education committees of the legislature.

Sec. 38. [TELEPHONE COMPANIES TO SUBMIT RATES.]

Notwithstanding Minnesota Statutes, section 237.07, each telephone company, as defined in Minnesota Statutes, section 237.01, subdivision 2, that is subject to section 33 shall make the service required by section 33 available no later than January 1, 1991, and shall develop proposed rates for the services and submit them to the public utilities commission within 30 days of receipt by the company of a request for service.

Sec. 39. [BADGER SCHOOL DISTRICT BORROWING.]

Subdivision 1. [BORROWING AGAINST TAXES PAYABLE.] Independent school district No. 676, Badger, may borrow money for the purpose of anticipating general taxes previously levied by the district for school purposes, including taxes on which penalties for nonpayment or delinquency have accrued. Minnesota Statutes, sections 124.71 to 124.76, apply to the borrowing except as provided in this subdivision.

Subd. 2. [NO LOCAL APPROVAL.] According to Minnesota Statutes, section 645.023, subdivision 1, clause (a), subdivision 1 is effective the day

following final enactment without local approval.

Sec. 40. [EFFECTIVE DATE FOR CERTAIN TEACHER EXAMS.]

Notwithstanding any law to the contrary, successful completion of an examination of skills in reading, writing, and mathematics, as required by Minnesota Statutes, section 125.05, subdivision 1, is applicable for all persons applying for initial secondary vocational teaching licenses effective April 8, 1991.

Sec. 41. [AKELEY FUND TRANSFER.]

Notwithstanding Minnesota Statutes, section 121.912, independent school district No. 301, Akeley, may permanently transfer any surplus amount from the capital expenditure fund to the general fund. The transfer is contingent upon independent school district No. 301, Akeley, consolidating under Minnesota Statutes, section 122.23, with independent school district No. 119, Walker. The transfer must take place before the end of the first full fiscal year that the consolidation is in effect. The transfer must be made to the general fund of the consolidated district.

Sec. 42. [HIBBING FUND TRANSFER.]

Notwithstanding Minnesota Statutes, section 121.912, subdivision 1, independent school district No. 701, Hibbing, may permanently transfer the surplus amount in the fund balance account entitled "pupil transportation fund reserved for bus purchases" to the transportation fund.

Sec. 43. [NASHWAUK-KEEWATIN LEVY ADJUSTMENT.]

Notwithstanding any other law to the contrary, the commissioner of education shall make a levy adjustment to the levies certified by independent school district No. 319, Nashwauk-Keewatin.

The commissioner shall reduce the district's general fund levy limit by \$163,373 and increase its down payment levy limit under section 124.82 by the same amount for levies certified in the fall of 1989, 1990, 1991, 1992, and 1993.

Sec. 44. [SCHOOL OF EXCELLENCE.]

The board of directors of the Minnesota academic excellence foundation shall include in its 1991 annual report to the education committees of the legislature recommendations for making available to schools and districts statewide, a Minnesota school of excellence program that contains the following components:

- (1) state standards of excellence;*
- (2) criteria for showing improvement in academic performance over time by schools or districts participating in the program;*
- (3) a detailed cost analysis of the program;*
- (4) an external review process to verify the contents of an application submitted by a participating school or district; and*
- (5) a funding mechanism for permitting participating schools or districts to assist other schools or districts interested in participating in the program.*

Sec. 45. [NEGOTIATED INCENTIVE PLAN; PARTICIPATION IN RETIREMENT FUND.]

A teacher employed by independent school district No. 709, Duluth, who

voluntarily participates in an incentive plan negotiated by the school board and the exclusive representative of the teachers permitting 80 percent payment of salary over a five-year period, during which the teacher works four years and is on leave the fifth year, may receive service credit in the Duluth teachers retirement fund association for the entire five-year period of the incentive plan if the teacher and the employing board make employer and employee contributions for the period based on the annual salary the teacher would have received if teaching in the district during the period without the salary reduction to 80 percent.

Sec. 46. [REPEALER.]

Minnesota Rules, part 3560.0040, subparts 1 and 3, are repealed the day following final enactment.

Sec. 47. [EFFECTIVE DATES.]

Section 6 is effective for audited financial statements for fiscal year 1991 and thereafter.

Sections 4, 5, 11, 24, 28, 31, and 46 are effective the day following final enactment.

Sections 21 and 29 apply only to those employment contracts entered into or modified after July 1, 1990.

Section 3 is retroactively effective May 20, 1989.

ARTICLE 9

STATE AGENCIES

Section 1. Minnesota Statutes 1989 Supplement, section 129C.10, is amended by adding a subdivision to read:

Subd. 7. [PURCHASING INSTRUCTIONAL ITEMS.] Technical educational equipment may be procured for programs of the Minnesota center for arts education by the board either by brand designation or in accordance with standards and specifications the board may adopt, notwithstanding chapter 16B.

Sec. 2. Laws 1989, chapter 329, article 12, section 11, is amended to read:

Sec. 11. [MINNESOTA CENTER FOR ARTS EDUCATION.]

Total Appropriations	\$ 5,800,000	\$ 6,200,000
Approved Complement -	1990	1991
General Fund -	39.0	49.0 53.0
Total -	39.0	49.0 53.0

The state complement for the Minnesota center for arts education is increased by 18.0 for the first year and ~~28.0~~ 32.0 the second year.

Any expended balance from the appropriation in this section in 1990 does not cancel but is available in 1991.

Sec. 3. [TASK FORCE ON MATHEMATICS, SCIENCE, TECHNOLOGY, AND INTERNATIONAL EDUCATION.]

Subdivision 1. [MEMBERSHIP] The governor's task force on mathematics, science, technology, and international education shall be comprised of members appointed by the governor, two members appointed by

the speaker of the house of representatives, and two members appointed by the subcommittee on committees of the committee on rules and administration of the senate. Either or both members appointed by the speaker and the subcommittee may be members of the legislature or public members.

Subd. 2. [TASK FORCE DUTIES.] *The governor's task force shall:*

(1) assess the current state of mathematics, science, and technology education in Minnesota;

(2) review local, state, federal, and international efforts to improve mathematics, science, and technology education;

(3) study the effectiveness of education programs, including specialized programs in other states, in meeting the scientific, mathematical, and technological education needs of academic, private sector, and research and development organizations;

(4) recommend short- and long-range methods to improve mathematics, science, technology, and international education in Minnesota;

(5) study the feasibility of a resource center and school for mathematics, science, technology, and international education in Minnesota; and

(6) study and make recommendations for integrating international education and world languages with the study of mathematics, science, and technology.

Subd. 3. [MISCELLANEOUS.] *The task force shall conduct at least four meetings in greater Minnesota.*

The task force may appoint staff as necessary who shall be in the unclassified service. The commissioner of education shall provide office space for the task force staff at no charge to the task force.

Minnesota Statutes, section 15.059, subdivisions 4 and 6, apply to the task force. The task force shall terminate on June 30, 1991.

Subd. 4. [REPORTS.] *The task force shall submit a report of its activities to the legislative commission on public education by December 31, 1990. It shall submit a report and recommendations to the education committees of the legislature by January 15, 1991.*

Sec. 4. [CARRYOVER OF LEARNER OUTCOME APPROPRIATION.]

Any unexpended fund balance remaining from the amount designated for fiscal year 1990 for identification and integration of learner outcomes, including the amount designated for fiscal year 1990 for the identification and development of vocational career learner outcomes, does not cancel and is available for fiscal year 1991. The amounts carried forward may not be used to establish a larger annual base appropriation for future fiscal years.

Sec. 5. [DEPARTMENT OF EDUCATION REDUCTION.]

The appropriations to the department of education in Laws 1989, article 12, section 9, subdivisions 2 and 3, for fiscal year 1991 are reduced by \$354,000. The commissioner must allocate this reduction within the agency.

The state complement for the fiscal year 1991 base must be adjusted to reflect the reduction in appropriations.

The state complement of the vocational education section is increased

by 3.5 and the federal complement by 1.0 to replace services for vocational student organizations that had been provided under contract.

Sec. 6. [ARTS CENTER REDUCTION.]

The appropriation to the Minnesota center for arts education in Laws 1989, article 12, section 11, for fiscal year 1991 is reduced by \$125,000.

Sec. 7. [FARIBAULT ACADEMIES REDUCTION.]

The appropriation to the Faribault Academies in Laws 1989, article 12, section 10, for fiscal year 1991 is reduced by \$75,000.

Sec. 8. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sum indicated in this section is appropriated from the general fund to the department of education for the fiscal year designated.

Subd. 2. [TASK FORCE ON MATHEMATICS, SCIENCE, TECHNOLOGY, AND INTERNATIONAL EDUCATION.] For staff and related expenses of the governor's task force on mathematics, science, technology, and international education:

\$100,000 1990.

The appropriation is available until June 30, 1991.

Sec. 9. [EFFECTIVE DATE.]

Sections 3, 4 and 8 are effective the day following final enactment.

ARTICLE 10

TECHNICAL TAX RATE CHANGES

Section 1. Minnesota Statutes 1989 Supplement, section 124.10, subdivision 2, is amended to read:

Subd. 2. The county auditor shall at the time of making the ~~March~~ May and November tax settlements of each year apportion to the several districts the amount received from liquor licenses, fines, estrays, and other sources belonging to the general school fund. The apportionment shall be made in proportion to each district's net tax capacity within the county in the prior year. No district shall receive any part of the money received from liquor licenses unless all sums paid for such licenses in such district are apportioned to the county school fund.

Sec. 2. Minnesota Statutes 1989 Supplement, section 124.26, subdivision 8, is amended to read:

Subd. 8. [ADULT BASIC EDUCATION LEVY.] To obtain adult basic education aid, a district may levy an amount not to exceed the amount raised by a ~~gross tax capacity rate of .16 percent times the adjusted gross tax capacity of the district for the preceding year for taxes payable in 1990~~ or a net tax capacity rate of ~~.20~~ .21 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in 1991 and thereafter.

Sec. 3. Minnesota Statutes 1989 Supplement, section 124.2713, subdivision 6, is amended to read:

Subd. 6. [COMMUNITY EDUCATION LEVY.] To obtain community education revenue, a district may levy the amount raised by a ~~gross tax~~

capacity rate of 0.8 percent times the adjusted gross tax capacity of the district for taxes payable in 1990 or a net tax capacity rate of ~~1.0~~ 1.07 percent times the adjusted net tax capacity of the district for taxes payable in 1991 and thereafter. If the amount of the community education levy would exceed the community education revenue, the community education levy shall equal the community education revenue.

Sec. 4. Minnesota Statutes 1989 Supplement, section 124.575, subdivision 3, is amended to read:

Subd. 3. [LEVY.] The secondary vocational cooperative levy is equal to the following:

(1) the secondary vocational cooperative revenue according to subdivision 2, times

(2) the lesser of

(a) one, or

(b) the ratio of the ~~adjusted gross tax capacity for taxes payable in 1990~~ and adjusted net tax capacity for taxes payable in 1991 and thereafter of the secondary vocational cooperative divided by the number of actual pupil units in the secondary vocational cooperative to an amount equal to \$20 divided by ~~.6 percent for taxes payable in 1990 and .74~~ .78 percent for taxes payable in 1991 and thereafter.

The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.

Sec. 5. Minnesota Statutes Second 1989 Supplement, section 124.83, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing (a) the adjusted gross tax capacity for fiscal year 1991, and (b) the adjusted net tax capacity for 1992 and later fiscal years, of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~\$7,128.10~~ \$7,103.60 for fiscal year 1991 and \$5,304 for 1992 and later fiscal years.

Sec. 6. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 5c, is amended to read:

Subd. 5c. [NONREGULAR TRANSPORTATION LEVY.] A school district may also make a levy for unreimbursed nonregular transportation costs pursuant to this subdivision. The amount of the levy shall be the result of the following computation:

(a) multiply

(1) the amount of the district's nonregular transportation revenue under section 124.225, subdivision 7c, that is more than the product of \$30 times the district's actual pupil units, by

(2) 60 percent;

(b) subtract the result in clause (a) from the district's total nonregular transportation revenue;

(c) multiply the result in clause (b) by the lesser of one or the ratio of (i) the quotient derived by dividing the adjusted ~~gross net~~ tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to (ii) ~~\$9,722~~ \$7,258.

Sec. 7. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 6h, is amended to read:

Subd. 6h. [MINNEAPOLIS HEALTH INSURANCE SUBSIDY LEVY.] Each year special school district No. 1, Minneapolis, may make an additional levy not to exceed the amount raised by a ~~gross tax capacity rate of .08 percent times the adjusted gross tax capacity for taxes payable in 1990~~ or a net tax capacity rate of ~~.11~~ .10 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter of the property in the district for the preceding year. The proceeds may be used only to subsidize health insurance costs for eligible teachers as provided in this section.

"Eligible teacher" means a retired teacher who was a basic member of the Minneapolis teachers retirement fund association, who retired before May 1, 1974, and who is not eligible to receive the hospital insurance benefits of the federal Medicare program of the Social Security Act without payment of a monthly premium. The district shall notify eligible teachers that a subsidy is available. To obtain a subsidy, an eligible teacher must submit to the school district a copy of receipts for health insurance premiums paid. The school district shall disburse the health insurance premium subsidy to each eligible teacher according to a schedule determined by the district, but at least annually. An eligible teacher may receive a subsidy up to an amount equal to the lesser of 90 percent of the cost of the eligible teacher's health insurance or up to 90 percent of the cost of the number two qualified plan of health coverage for individual policies made available by the Minnesota comprehensive health association under chapter 62E.

If funds remaining from the previous year's health insurance subsidy levy, minus the previous year's required subsidy amount, are sufficient to pay the estimated current year subsidy, the levy must be discontinued until the remaining funds are estimated by the school board to be insufficient to pay the subsidy.

Sec. 8. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 8b, is amended to read:

Subd. 8b. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] A district may levy for its early childhood family education program. The amount levied shall not exceed the lesser of:

(a) a ~~gross tax capacity rate of .4 percent times the adjusted gross tax capacity for taxes payable in 1990~~ or a net tax capacity rate of ~~.49~~ .54 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter of the district for the year preceding the year the levy is certified, or

(b) the maximum revenue as defined in section 124.2711, subdivision 1, for the school year for which the levy is attributable.

Sec. 9. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 9a, is amended to read:

Subd. 9a. [STATUTORY OPERATING DEBT LEVY.] (1) In each year in which so required by this subdivision, a district shall make an additional levy to eliminate its statutory operating debt, determined as of June 30, 1977, and certified and adjusted by the commissioner. This levy shall not be made in more than 20 successive years and each year before it is made, it must be approved by the commissioner and the approval shall specify its amount. This levy shall be an amount which is equal to the amount raised by a levy of a ~~gross tax capacity rate of 1.20 percent times the adjusted gross tax capacity of the district for the preceding year for taxes payable in 1990~~ or a net tax capacity rate of ~~1.50~~ 1.66 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in 1991 and thereafter; provided that in the last year in which the district is required to make this levy, it shall levy an amount not to exceed the amount raised by a levy of a ~~gross tax capacity rate of 1.20 percent times the adjusted gross tax capacity of the district for the preceding year for taxes payable in 1990~~ or a net tax capacity rate of ~~1.50~~ 1.66 percent times the adjusted net tax capacity of the district for the preceding year for taxes payable in 1991 and thereafter. When the sum of the cumulative levies made pursuant to this subdivision and transfers made according to section 121.912, subdivision 4, equals an amount equal to the statutory operating debt of the district, the levy shall be discontinued.

(2) The district shall establish a special account in the general fund which shall be designated "appropriated fund balance reserve account for purposes of reducing statutory operating debt" on its books and records. This account shall reflect the levy authorized pursuant to this subdivision. The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district which is required to levy pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivision 2, in that same year.

(4) Each district shall make permanent fund balance transfers so that the total statutory operating debt of the district is reflected in the general fund as of June 30, 1977.

Sec. 10. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 9b, is amended to read:

Subd. 9b. [OPERATING DEBT LEVY.] (1) Each year, a district may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the district, determined as of June 30, 1983, and certified and adjusted by the commissioner. This levy may in each year be an amount not to exceed the amount raised by a levy of a ~~gross tax capacity rate of 1.20 percent times the adjusted gross tax capacity for taxes payable in 1990~~ or a net tax capacity rate of ~~1.50~~ 1.85 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter of the district for the preceding year as determined by the commissioner. However, the total amount of this levy for all years it is made shall not exceed the lesser of (a) the amount of the deficit in the net unappropriated operating funds of the district as of June 30, 1983, or (b) the amount of the aid reduction, according to Laws 1981, Third Special Session chapter 2, article 2, section 2, but excluding clauses (l), (m), (n), (o), and (p), and Laws 1982, Third Special Session chapter 1, article 3, section 6, to the district in fiscal year 1983. When the cumulative levies made pursuant to this subdivision equal

the total amount permitted by this subdivision, the levy shall be discontinued.

(2) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivisions 2 and 2a, in that same year.

Sec. 11. Minnesota Statutes 1989 Supplement, section 275.125, subdivision 9c, is amended to read:

Subd. 9c. [1985 OPERATING DEBT LEVY.] (1) Each year, a district may levy to eliminate a deficit in the net unappropriated balance in the general fund of the district, determined as of June 30, 1985, and certified and adjusted by the commissioner. Each year this levy may be an amount not to exceed the amount raised by a levy of a ~~gross tax capacity rate of 1.20 percent times the adjusted gross tax capacity for taxes payable in 1990 or a net tax capacity rate of 1.50~~ 1.85 percent times the adjusted net tax capacity for taxes payable in 1991 and thereafter of the district for the preceding year. However, the total amount of this levy for all years it is made shall not exceed the amount of the deficit in the net unappropriated balance in the general fund of the district as of June 30, 1985. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) A district, if eligible, may levy under this subdivision or subdivision 9b but not both.

(3) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(4) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.23, subdivision 2, in that same year.

Sec. 12. Minnesota Statutes Second 1989 Supplement, section 275.125, subdivision 18, is amended to read:

Subd. 18. [NOTICE OF CERTIFIED LEVIES LEVY INFORMATION.] By September 15 of each year each district shall notify the commissioner of education of the proposed levies in compliance with the levy limitations of this section and chapters 124 ~~and~~, 124A, ~~and~~ 124B. By January 15 of each year each district shall notify the commissioner of education of the final levies certified. The commissioner of education shall prescribe the form of these notifications *and may request any additional information necessary to compute certified levy amounts.*

ARTICLE 11

MAXIMUM EFFORT

Section 1. [121.151] [JOINT POWERS AGREEMENTS FOR EDUCATIONAL FACILITIES.]

Any group of districts may form a joint powers district under section 471.59 representing all participating districts to build or acquire a facility to be used for instructional purposes. The joint powers board must submit the project for review and comment under section 121.15. The joint powers

board must hold a hearing on the proposal. The joint powers district must submit the question of authorizing the borrowing of funds for the project to the voters of the joint powers district at a special election. The question submitted shall state the total amount of funding needed from all sources. The joint powers board may issue the bonds according to chapter 475 and certify the levy required by section 475.61 only if a majority of those voting on the question vote in the affirmative and only after the school boards of each member district have adopted a resolution pledging the full faith and credit of that district. The resolution shall irrevocably commit that district to pay a proportionate share, based on pupil units, of any debt levy shortages that, together with other funds available, would allow the joint powers board to pay the principal and interest on the obligations. The district's payment of its proportionate share of the shortfall shall be made from the district's capital expenditure fund. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education.

Sec. 2. Minnesota Statutes 1989 Supplement, section 124.38, subdivision 7, is amended to read:

Subd. 7. [MAXIMUM EFFORT DEBT SERVICE LEVY.] "Maximum effort debt service levy" means the lesser of:

(1) A levy in whichever of the following amounts is applicable:

(a) *In any school district receiving a debt service loan for a debt service levy payable in 1991 and thereafter, or granted a capital loan after January 1, 1990, a levy in a total dollar amount computed at a rate of 20 percent of adjusted net tax capacity for taxes payable in 1991 and thereafter;*

(b) *In any school district granted a debt service loan after July 31, 1981, or granted a capital loan which is approved after July 31, 1981, a levy in a total dollar amount computed as a gross tax capacity rate of 13.08 percent on the adjusted gross tax capacity for taxes payable in 1990 or a net tax capacity rate of ~~16.27~~ 18.42 percent on the adjusted net tax capacity for taxes payable in 1991 and thereafter;*

~~(b)~~ (c) *In any school district granted a debt service loan before August 1, 1981, or granted a capital loan which was approved before August 1, 1981, a levy in a total dollar amount computed as a gross tax capacity rate of 12.26 percent on the adjusted gross tax capacity for taxes payable in 1990 or a net tax capacity rate of ~~15.26~~ 17.17 percent on the adjusted net tax capacity for taxes payable in 1991 and thereafter, until and unless the district receives an additional loan; or*

(2) A levy in whichever of the following amounts is applicable:

(a) *In any school district which received a debt service or capital loan from the state before January 1, 1965, a levy in a total dollar amount computed as 4.10 mills on the market value in each year, unless the district applies or has applied for an additional loan subsequent to January 1, 1965, or issues or has issued bonds on the public market, other than bonds refunding state loans, subsequent to January 1, 1967;*

(b) *In any school district granted a debt service or capital loan between January 1, 1965, and July 1, 1969, a levy in a total dollar amount computed as 5-1/2 mills on the market value in each year, until and unless the district receives an additional loan;*

(c) *In any school district granted a debt service or capital loan between*

July 1, 1969, and July 1, 1975, a levy in a total dollar amount computed as 6.3 mills on market value in each year until and unless the district has received an additional loan;

(d) In any school district for which a capital loan was approved prior to August 1, 1981, a levy in a total dollar amount equal to the sum of the amount of the required debt service levy and an amount which when levied annually will in the opinion of the commissioner be sufficient to retire the remaining interest and principal on any outstanding loans from the state within 30 years of the original date when the capital loan was granted; provided, that the school board in any district affected by the provisions of clause (2)(d) may elect instead to determine the amount of its levy according to the provisions of clause (1); provided further that if a district's capital loan is not paid within 30 years because it elects to determine the amount of its levy according to the provisions of clause (2)(d), the liability of the district for the amount of the difference between the amount it levied under clause (2)(d) and the amount it would have levied under clause (1), and for interest on the amount of that difference, shall not be satisfied and discharged pursuant to *Minnesota Statutes 1988, or an earlier edition of Minnesota Statutes if applicable*, section 124.43, subdivision 4.

Sec. 3. Minnesota Statutes 1988, section 124.39, subdivision 3, is amended to read:

Subd. 3. There shall be a capital loan account, out of which loans under section ~~124.43~~ 5 shall be made. There shall be transferred to it from the debt service loan account on October 1 of each year all moneys therein in excess of those required for debt service loans then agreed to be made. There shall be transferred from it to the debt service loan account on July 1 of each year all moneys therein in excess of those required for capital loans theretofore agreed to be made.

Sec. 4. Minnesota Statutes 1988, section 124.39, subdivision 4, is amended to read:

Subd. 4. There shall be a loan repayment account, into which shall be paid all principal and interest paid by school districts on debt service loans and capital loans made under section 124.42 or ~~124.43~~ 5. The state's cost of administering the maximum effort school aid law shall be paid out of this account, to an amount not exceeding \$10,000 in any year. As soon as possible in each year after the committee has determined the ratio existing between the correct market value of all taxable property in each school district in the state and the "market value in money" of such property as recorded in accordance with section 270.13, the commissioner of revenue shall cause a list of all such ratios to be prepared. The clerical costs of preparation of such list shall be paid as a cost of administration of the maximum effort school aid law. The documents division of the department of administration may publish and sell copies of such list. There shall be transferred out of the loan repayment account to the state bond fund the sums required to pay the principal of and interest on all school loan bonds as provided in section 124.46.

Sec. 5. [124.431] [CAPITAL LOANS.]

Subdivision 1. [CAPITAL LOAN REQUESTS AND USES.] Capital loans are available only to qualifying districts. Capital loans must not be used for the construction of swimming pools, ice arenas, athletic facilities,

auditoriums, day care centers, bus garages, or heating system improvements. Proceeds of the loans may be used only for sites for education facilities and for acquiring, bettering, furnishing, or equipping education facilities. Contracts must be entered into within 18 months after the date on which each loan is granted.

Subd. 2. [DISTRICT REQUEST FOR REVIEW AND COMMENT.] A school district or a joint powers district that intends to apply for a capital loan must submit a proposal to the commissioner for review and comment according to section 121.15 on or before July 1. The commissioner must prepare a review and comment on the proposed facility, regardless of the amount of the capital expenditure required to construct the facility. In addition to the information provided under section 121.15, subdivision 7, the commissioner shall consider the following criteria in determining whether to make a positive review and comment.

(a) To grant a positive review and comment the commissioner must determine that all of the following conditions are met:

(1) the facilities are needed for pupils for whom no adequate facilities exist or will exist;

(2) the district will serve, on average, at least 80 pupils per grade or is eligible for sparsity revenue;

(3) no form of cooperation with another district would provide the necessary facilities;

(4) the facilities are comparable in size and quality to facilities recently constructed in other districts that have similar enrollments;

(5) the facilities are comparable in size and quality to facilities recently constructed in other districts that are financed without a capital loan;

(6) the district is projected to maintain or increase its average daily membership over the next five years or is eligible for sparsity revenue;

(7) the current facility poses a threat to the life, health, and safety of pupils, and cannot reasonably be brought into compliance with fire, health, or life safety codes;

(8) the district has made a good faith effort, as evidenced by its maintenance expenditures, to adequately maintain the existing facility during the previous ten years and to comply with fire, health, and life safety codes and state and federal requirements for handicapped accessibility; and

(9) evaluations by school boards of adjacent districts have been received.

(b) The commissioner may grant a negative review and comment if:

(1) the state demographer has examined the population of the communities to be served by the facility and determined that the communities have not grown during the previous five years;

(2) the state demographer determines that the economic and population bases of the communities to be served by the facility are not likely to grow or to remain at a level sufficient, during the next ten years, to ensure use of the entire facility;

(3) the need for facilities could be met within the district or adjacent districts at a comparable cost by leasing, repairing, remodeling, or sharing existing facilities or by using temporary facilities;

(4) the district plans do not include cooperation and collaboration with health and human services agencies and other political subdivisions; or

(5) if the application is for new construction, an existing facility that would meet the district's needs could be purchased at a comparable cost from any other source within the area.

Subd. 3. [MULTIPLE DISTRICT PROPOSALS; REVIEW AND COMMENT.] In addition to the requirements of subdivision 2, the commissioner may use additional requirements to determine a positive review and comment on projects that are designed to serve more than one district. These requirements may include:

(1) reducing or increasing the number of districts that plan to use the facility;

(2) location of the facility; and

(3) formation of a joint powers agreement among the participating districts.

Subd. 4. [ADJACENT DISTRICT COMMENTS.] The district shall present the proposed project to the school board of each adjacent district at a public meeting of that district. The board of an adjacent district shall make a written evaluation of how the project will affect the future education and building needs of the adjacent district. The board shall submit the evaluation to the applying district within 30 days of the meeting.

Subd. 5. [DISTRICT APPLICATION FOR CAPITAL LOAN.] The school board of a district desiring a capital loan shall adopt a resolution stating the amount proposed to be borrowed, the purpose for which the debt is to be incurred, and an estimate of the dates when the facilities for which the loan is requested will be contracted for and completed. Applications for loans must be accompanied by a copy of the adopted board resolution and copies of the adjacent district evaluations. The evaluation shall be retained by the commissioner as part of a permanent record of the district submitting the evaluation.

Applications must be in the form and accompanied by the additional data required by the commissioner. Applications must be received by the commissioner by November 1. A district must resubmit an application each year. Capital loan applications that do not receive voter approval or are not approved in law cancel July 1 of the year following application. When an application is received, the commissioner shall obtain from the commissioner of revenue the information in the revenue department's official records that is required to be used in computing the debt limit of the district under section 475.53, subdivision 4.

Subd. 6. [STATE BOARD REVIEW; DISTRICT PROPOSALS.] By January 1 of each year, the state board must review all applications for capital loans that have received a positive review and comment. When reviewing applications, the state board shall consider whether the criteria in subdivision 2 have been met. The state board may not approve an application if all of the required deadlines have not been met. The state board may either approve or reject an application for a capital loan.

Subd. 7. [RECOMMENDATIONS OF THE COMMISSIONER.] The commissioner shall examine and consider applications for capital loans that have been approved by the state board of education, and promptly notify any district rejected by the state board of the state board's decision.

The commissioner shall report each capital loan that has been approved by the state board and that has received voter approval to the education committees of the legislature by February 1 of each year. The commissioner must not report a capital loan that has not received voter approval. The commissioner shall also report on the money remaining in the capital loan account and, if necessary, request that another bond issue be authorized.

Subd. 8. [LOAN AMOUNT LIMITS.] (a) A loan must not be recommended for approval for a district exceeding an amount computed as follows:

(1) the amount requested by the district under subdivision 5;

(2) plus the aggregate principal amount of general obligation bonds of the district outstanding on June 30 of the year following the year the application was received, not exceeding the limitation on net debt of the district in section 475.53, subdivision 4, or 305 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(3) less the maximum net debt permissible for the district on December 1 of the year the application is received, under the limitation in section 475.53, subdivision 4, or 305 percent of its adjusted net tax capacity as most recently determined, whichever is less;

(4) less any amount by which the amount voted exceeds the total cost of the facilities for which the loan is granted.

(b) The loan may be approved in an amount computed as provided in paragraph (a), clauses (1) to (3), subject to later reduction according to paragraph (a), clause (4).

Subd. 9. [LEGISLATIVE ACTION.] Each capital loan must be approved in a law.

If the aggregate amount of the capital loans exceeds the amount that is or can be made available, the commissioner shall allot the available amount among any number of qualified applicant districts, according to the commissioner's judgment and discretion, based upon the districts' respective needs.

Subd. 10. [DISTRICT REFERENDUM.] After receipt of the review and comment on the project and before February 1, the question authorizing the borrowing of money for the facilities must be submitted by the school board to the voters of the district at a regular or special election. The question submitted must state the total amount to be borrowed from all sources. Approval of a majority of those voting on the question is sufficient to authorize the issuance of the obligations on public sale in accordance with chapter 475. The face of the ballot must include the following statement: "APPROVAL OF THIS QUESTION DOES NOT GUARANTEE THAT THE SCHOOL DISTRICT WILL RECEIVE A CAPITAL LOAN FROM THE STATE. THE LOAN MUST BE APPROVED BY THE STATE LEGISLATURE AND IS DEPENDENT ON AVAILABLE FUNDING." The district shall mail to the commissioner of education a certificate by the clerk showing the vote at the election.

Subd. 11. [CONTRACT.] Each capital loan must be evidenced by a contract between the school district and the state acting through the commissioner. The contract must obligate the state to reimburse the district, from the maximum effort school loan fund, for eligible capital expenses for construction of the facility for which the loan is granted, an amount computed as provided in subdivision 8. The commissioner must receive

from the school district a certified resolution of the school board estimating the costs of construction and reciting that contracts for construction of the facilities for which the loan is granted have been awarded and that bonds of the district have been issued and sold in the amount necessary to pay all estimated costs of construction in excess of the amount of the loan. The contract must obligate the district to repay the loan out of the excesses of its maximum effort debt service levy over its required debt service levy, including interest at a rate equal to the weighted average annual rate payable on Minnesota state school loan bonds issued for the project and disbursed to the districts on a reimbursement basis, but in no event less than 3-1/2 percent per year on the principal amount from time to time unpaid. The district shall each year, as long as it is indebted to the state, levy for debt service (a) the amount of its maximum effort debt service levy or (b) the amount of its required debt service levy, whichever is greater, except as the required debt service levy may be reduced by a loan under section 124.42. On November 20 of each year each district having an outstanding capital loan shall compute the excess amount in the debt redemption fund. The commissioner shall prescribe the form and calculation to be used in computing the excess amount. A completed copy of this form shall be sent to the commissioner before December 1 of each year. The commissioner may recompute the excess amount and shall promptly notify the district of the recomputed amount. On December 15 of each year, the district shall remit to the commissioner an amount equal to the excess amount in the debt redemption fund. When 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 each year, that part of the debt service tax collections, including penalties and interest that exceeded the required debt service levy. The commissioner shall supervise the collection of outstanding accounts due the fund and may, by notice to the proper county auditor, require the maximum levy to be made as required in this subdivision. Interest on capital loans must be paid on December 15 of the year after the year the loan is granted and annually in later years. On or before 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. The 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.

Subd. 12. [LOAN FORGIVENESS.] If any capital loan is not paid within 50 years after it is granted from maximum effort debt service levies in excess of required debt service levies, the liability of the school district on the loan is satisfied and discharged and interest on the loan ceases.

Subd. 13. [PARTICIPATION BY COUNTY AUDITOR; RECORD OF CONTRACT; PAYMENT OF LOAN.] The school district shall file a copy of the capital loan contract with the county auditor of each county in which any part of the district is situated. The county auditor shall enter the capital loan, evidenced by the contract, in the auditor's bond register. The commissioner shall keep a record of each capital loan and contract showing the name and address of the district, the date of the contract, and the amount of the loan initially approved. On receipt of the resolution required in subdivision 11, the commissioner shall issue warrants, which may be dispersed in accordance with the schedule in the contract, on the capital loan account for the amount that may be disbursed under subdivision 1. Interest on each disbursement of the capital loan amount accrues from the

date on which the state treasurer issues the warrant.

Subd. 14. [BOND SALE LIMITATIONS.] A district having an outstanding state loan must not issue and sell any bonds on the public market, except to refund state loans, unless it agrees to make the maximum effort debt service levy in each later year at the higher rate provided in section 124.38, subdivision 7, and unless it schedules the maturities of the bonds according to section 475.54, subdivision 2. The district shall report each sale to the commissioner of education.

After a district's capital loan has been outstanding for 20 years, the district must not issue bonds on the public market except to refund the loan.

Sec. 6. Minnesota Statutes 1988, section 475.51, subdivision 4, is amended to read:

Subd. 4. "Net debt" means the amount remaining after deducting from its gross debt the amount of current revenues which are applicable within the current fiscal year to the payment of any debt and the aggregate of the principal of the following:

(1) Obligations issued for improvements which are payable wholly or partly from the proceeds of special assessments levied upon property specially benefited thereby, including those which are general obligations of the municipality issuing them, if the municipality is entitled to reimbursement in whole or in part from the proceeds of the special assessments.

(2) Warrants or orders having no definite or fixed maturity.

(3) Obligations payable wholly from the income from revenue producing conveniences.

(4) Obligations issued to create or maintain a permanent improvement revolving fund.

(5) Obligations issued for the acquisition, and betterment of public water-works systems, and public lighting, heating or power systems, and of any combination thereof or for any other public convenience from which a revenue is or may be derived.

(6) Debt service loans and capital loans made to a school district under the provisions of sections 124.42 and ~~124.43~~ 5.

(7) Amount of all money and the face value of all securities held as a debt service fund for the extinguishment of obligations other than those deductible under this subdivision.

(8) Obligations to repay loans made under section 216C.37.

(9) Obligations to repay loans made from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations.

(10) All other obligations which under the provisions of law authorizing their issuance are not to be included in computing the net debt of the municipality.

Sec. 7. Minnesota Statutes 1989 Supplement, section 475.62, is amended to read:

475.62 [REGISTER.]

Each county auditor shall keep a register in which shall be entered, as

to each issue of such obligations by any municipality located, in whole or in part, in the county, a record of the aggregate amount authorized, the aggregate amount issued, the purpose for which issued, the number, denomination, date, and maturity of each, the rate of interest, the time of payment, the place of payment of principal and interest, and the amount of tax levied for the payment thereof. The auditor shall also enter in said register the date and amount of each debt service loan and capital loan made by the state to any school district situated wholly or partly within the county, in accordance with section 124.42, subdivision 2, or section ~~124.43~~ 5, subdivision ~~5~~ 13, and shall enter on or before November 1 in each year thereafter the amount of the maximum effort debt service levy and the additional amount of the levy for interest on state loans to be extended on the tax rolls in that year, as certified by the commissioner of education in accordance with section 124.42, subdivision 4, and section ~~124.43~~ 5, subdivision ~~4~~ 11. In each such year the auditor shall extend on the tax rolls against all taxable property within each such district either (a) the aggregate amount of all tax levies required by section 475.61 to be so extended in such year, less the principal amount of any new debt service loan granted in the current year, or (b) the maximum effort debt service levy of the district as certified by the commissioner of education, if greater than the levy required by the preceding clause (a); adding in either case (c) the amount of the levy for interest on state loans as certified by the commissioner of education, including interest on any new debt service loan granted in the current year. If the school district is situated in more than one county, the aggregate levy shall be apportioned among the counties as provided in section 475.61, subdivision 2, by the county auditor of the county in which is situated the largest portion by net tax capacity of the taxable property within the school district.

Sec. 8. [1990 LOAN APPLICATIONS.]

Notwithstanding section 5, subdivision 5, or any other law to the contrary, a capital loan application and the state board approval of a capital loan for independent school districts No. 115, Cass Lake; No. 192, Farmington; No. 213, Osakis; No. 345, New London-Spicer; No. 390, Lake of the Woods; No. 484, Pierz; No. 533, Dover-Eyota; No. 682, Roseau; No. 748, Sartell; and No. 885, St. Michael-Albertville, does not cancel until July 1, 1995. Applications for capital loans approved by the state board before February 15, 1990, for the school districts listed do not need to meet the criteria in section 5, subdivision 2. Except for emergency requests, the school districts listed in this section shall be the top priority for funding capital loans until July 1, 1995.

Sec. 9. [HOLDINGFORD CAPITAL LOAN.]

Subdivision 1. [TIME EXTENSION.] Notwithstanding Minnesota Statutes, section 124.43, subdivision 1, independent school district No. 738, Holdingford, may enter into construction contracts for facilities for which a capital loan was granted within 24 months after the date the capital loan was granted.

Subd. 2. [LOCAL APPROVAL.] Subdivision 1 is effective for independent school district No. 738 the day following compliance with Minnesota Statutes, section 645.021, subdivision 3, by the school board of the district.

Sec. 10. [ALTERNATIVE LOAN LIMITATION.]

Notwithstanding section 5, subdivision 8, a maximum effort loan amount

computed under section 5, subdivision 8, for districts listed in section 8 shall not be less than 85 percent of the loan amount that would be granted if the qualifying percentage rate used was 245 percent of adjusted net tax capacity.

Sec. 11. [REPEALER.]

Minnesota Statutes 1988, section 124.43, subdivisions 2, 3, 3a, 3b, 4, 5, and 6; and Minnesota Statutes 1989 Supplement, section 124.43, subdivision 1, are repealed. The validity of bonds issued to fund loans issued under Minnesota Statutes 1988, section 124.43 or earlier law is not impaired. Districts obligated under contracts entered into under Minnesota Statutes 1988, section 124.43 or earlier law remain obligated until the obligations end under the terms of the contract. Section 10 is repealed July 1, 1995.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 11 are effective the day after final enactment.

ARTICLE 12

RURAL HEALTH CARE

Section 1. [SUMMER HEALTH CARE INTERNS.]

Subdivision 1. [SUMMER INTERNSHIPS.] The commissioner of education shall award grants to eligible districts or groups of districts to establish a summer health care intern program in the summer of 1991 for pupils who intend to complete high school graduation requirements and who are between their junior year and senior year of high school. The purpose of the program is to expose interested high school pupils to various careers within the health care profession.

Subd. 2. [CRITERIA.] The commissioner, with the advice of the Minnesota medical association and the Minnesota hospital association, shall establish criteria for awarding grants to districts or groups of districts that have juniors enrolled in high school who are interested in pursuing a career in the health care profession. The criteria must include, among other things:

(1) the proximity of a district or districts to a hospital or clinic willing to participate in the program;

(2) the kinds of formal exposure to the health care profession a hospital or clinic can provide to a pupil;

(3) the need for health care professionals in a particular area; and

(4) the willingness of a hospital or clinic to pay one-half the costs of employing a pupil.

The Minnesota medical association and the Minnesota hospital association jointly must provide the commissioner by January 31, 1991, with a list of hospitals and clinics willing to participate in the program and what provisions those hospitals or clinics will make to ensure a pupil's adequate exposure to the health care profession, and indicate whether a hospital or clinic is willing to pay one-half the costs of employing a pupil.

Subd. 3. [GRANTS.] The commissioner shall award grants to districts or groups of districts meeting the requirements of subdivision 2. The grants must be used to pay one-half of the costs of employing a pupil in a hospital or clinic during the course of the program. No more than five pupils may

be selected from any one high school to participate in the program and no more than one-half of the number of pupils selected may be from the seven-county metropolitan area.

Subd. 4. [EVALUATION.] The commissioner, in cooperation with the Minnesota medical association and the Minnesota hospital association, shall evaluate the summer health care intern program and recommend to the education committees of the legislature by February 15, 1992, whether or not the program should be continued and, if so, under what circumstances.

Sec. 2. [APPROPRIATION.]

\$100,000 is appropriated from the general fund to the department of education in fiscal year 1991 to provide grants for the summer health care intern program under section 1."

Delete the title and insert:

"A bill for an act relating to education; establishing, modifying, and clarifying elementary, secondary and related education programs and services, such as, general education, transportation, special programs, drug prevention and other community programs, facilities, programs of cooperation, other aids and levies, rural health care, and the department of education and other education related state entities; providing for technical tax rate changes; authorizing tax levies; appropriating money; amending Minnesota Statutes 1988, sections 120.062, subdivision 9, and by adding a subdivision; 120.73, subdivision 1; 121.148; 121.15, subdivisions 1 and 7; 121.88, subdivision 6; 121.882, subdivision 9; 121.908, subdivision 3; 121.917, subdivision 4; 121.931, subdivision 6, and by adding a subdivision; 121.935, subdivisions 2, 5, and by adding a subdivision; 121.936, subdivisions 2 and 3; 122.23, subdivisions 9, 11, 12, and 13; 122.535, by adding a subdivision; 122.94, subdivision 5; 123.33, subdivision 1; 123.34, subdivisions 9 and 10; 123.3514, subdivisions 6 and 6b; 123.36, subdivisions 5 and 10; 123.37, subdivision 1; 123.38, subdivision 2b; 123.39, subdivisions 1, 6, and by adding a subdivision; 123.58, subdivision 2; 123.9361; 123.947; 124.17, subdivision 1b; 124.195, subdivision 10, and by adding subdivisions; 124.261; 124.39, subdivisions 3 and 4; 124.494, by adding a subdivision; 124A.036, subdivision 5; 125.12, subdivision 1; 125.185, by adding a subdivision; 125.231, subdivision 6; 125.60, subdivision 2; 126.12, subdivision 2; 126.70, subdivision 2a; 141.25, subdivisions 7 and 9; 275.125, subdivision 4, and by adding subdivisions; 475.51, subdivision 4; Minnesota Statutes 1989 Supplement, sections 6.65; 10A.01, subdivision 18; 119.04, subdivision 3; 121.111, subdivisions 1 and 2; 121.15, subdivision 2; 121.612, subdivisions 3 and 5; 121.912, subdivisions 1 and 1b; 122.241, subdivision 2; 122.243, subdivision 2; 122.91, subdivisions 1 and 5; 122.94, subdivision 6; 122.945, subdivision 2; 123.33, subdivision 7; 123.58, subdivision 9; 124.10, subdivision 2; 124.155, subdivision 2; 124.19, subdivision 7; 124.223; 124.225, subdivisions 1, 3a, and 8k; 124.243, subdivision 2; 124.26, subdivision 8; 124.2713, subdivision 6; 124.2721; 124.2725, subdivisions 3, 4, 5, 8, and by adding a subdivision; 124.38, subdivision 7; 124.573, subdivision 2d; 124.575, subdivision 3; 124.6472, subdivision 2; 124.83, subdivision 6; 124.86, subdivisions 1 and 2; 124.90, by adding a subdivision; 124A.22, subdivision 2a; 126.22, subdivisions 2, 3, and 8; 126.23; 128B.03, subdivision 4; 129.128; 129C.10, by adding a subdivision; 141.35; 275.125, subdivisions 5c, 5e, 6h, 6i, 8b, 9a, 9b, 9c, and 11d; 298.28, subdivision 4; 326.03, subdivision 2; 465.71; 475.62; Minnesota Statutes Second 1989

Supplement, sections 121.904, subdivision 4a; 124.2442, subdivision 1; 124.83, subdivision 4; 124A.03, subdivision 2; 124A.23, subdivision 1; 124A.26, subdivision 1; and 275.125, subdivision 18; Laws 1984, chapter 463, article 6, section 15, subdivision 2; Laws 1989, chapter 202, section 6, subdivisions 7 and 8; Laws 1989, chapter 329, article 4, section 19, subdivisions 2 and 5; article 6, section 53, subdivisions 3 and 6; article 7, section 24, subdivision 6; article 11, sections 15, subdivisions 2 and 12; 16, subdivision 2; and 17, subdivision 2; article 12, section 11; proposing coding for new law in Minnesota Statutes, chapters 121, 122, 124, 125, 126, 129B, and 237; proposing coding for new law as Minnesota Statutes, chapter 124B; repealing Minnesota Statutes 1988, sections 124.43, subdivisions 2, 3, 3a, 3b, 4, 5, and 6; Minnesota Statutes 1989 Supplement, section 124.43, subdivision 1."

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

House Conferees: (Signed) Ken Nelson, Bob McEachern, Dennis Ozment, Jerry J. Bauerly, Becky Kelso

Senate Conferees: (Signed) Randolph W. Peterson, James C. Pehler, Ember D. Reichgott, Ronald R. Dicklich

CALL OF THE SENATE

Mr. Peterson, R.W. imposed a call of the Senate for the balance of the proceedings on H.F. No. 2200. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2200 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. 2200 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 38 and nays 20, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kroening	Metzen	Reichgott
Beckman	Flynn	Langseth	Moe, D.M.	Schmitz
Berg	Frederickson, D.J.	Lantry	Moe, R.D.	Solon
Berglin	Frederickson, D.R.	Larson	Morse	Spear
Bertram	Freeman	Lessard	Pehler	Stumpf
Cohen	Hughes	Luther	Peterson, R.W.	Vickerman
Davis	Johnson, D.E.	Marty	Piper	
DeCramer	Johnson, D.J.	Merriam	Pogemiller	

Those who voted in the negative were:

Anderson	Brataas	Frederick	Novak	Ramstad
Benson	Dahl	Laidig	Olson	Renneke
Bernhagen	Decker	McGowan	Pariseau	Storm
Brandl	Frank	McQuaid	Piepho	Waldorf

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. Johnson, D.J. moved that the following members be excused for a Conference Committee on H.F. No. 2478 at 8:00 p.m.:

Messrs. Belanger, Novak, Pogemiller, Stumpf and Johnson, D.J. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2617 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2617

A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; reducing appropriations for the biennium ending June 30, 1991, with certain conditions; providing for the transfer of money in the state treasury; amending Minnesota Statutes 1989 Supplement, section 297B.09, subdivision 1.

April 22, 1990

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. 2617, 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. 2617 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. [TRANSPORTATION AND OTHER AGENCIES; APPROPRIATIONS.]

The sums shown in the columns marked “APPROPRIATIONS” are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures “1990” and “1991” mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1990, or June 30, 1991, respectively. Sums shown in parentheses are reduced from the general fund appropriations to the specified agencies in Laws 1989, chapter 269, or another named law.

SUMMARY BY FUND

	1990	1991	TOTAL
General	\$ 769,000	\$ 1,106,000	\$ 1,875,000
Transit Assistance	516,000	(1,600,000)	(1,084,000)
Tr. Hwy.		(3,642,000)	(3,642,000)
Hwy. User		134,000	134,000
M.S.A.S.		(800,000)	(800,000)
C.S.A.H.		(2,700,000)	(2,700,000)

Special Revenue	50,000	50,000
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APPROPRIATIONS	
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1990	1991
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\$	\$
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Sec. 2. TRANSPORTATION

(a) General fund	1,500,000
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This appropriation is for transfer to the transit assistance fund.

(b) Trunk highway fund

(1) General reduction	(3,300,000)
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The commissioner of transportation shall refund to the city of Dakota \$4,500 that the city paid to have parcel 12A reconveyed to it for public purposes. The refund must not be paid until the city of Dakota has entered into a covenant with the state to use the land only for public purposes and that fee title to the land will revert to the state whenever the land ceases to be used for a public purpose.

(2) Truck safety program	200,000
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Six positions in the approved complement of the department are transferred from the federal fund to the trunk highway fund.

(c) County state aid highway fund	(2,700,000)
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(d) Municipal state aid street fund	(800,000)
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(e) Transit assistance fund	(950,000)
-----------------------------	------------

\$650,000 of this reduction is in the appropriation for light rail transit.

\$300,000 of this reduction is in the appropriation for Greater Minnesota Transit assistance.

Sec. 3. TRANSPORTATION
REGULATION BOARD

58,000

This appropriation is from the trunk highway fund.

Sec. 4. TRANSPORTATION STUDY BOARD

134,000

This appropriation is from the highway user tax distribution fund and is added to the appropriation in Laws 1988, chapter 603, section 7, item (a).

Sec. 5. REGIONAL TRANSIT BOARD

(a) General fund	(1,497,000)
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This reduction reflects the transfer of responsibility for funding certain metro mobility services

from the regional transit board to the commissioner of human services.

(b) Transit assistance fund 516,000 (650,000)

\$516,000 the first year is to replace money canceled to the fund at the close of fiscal year 1989 because of a delay in the effective date of a general restructuring of regular route fares.

Sec. 6. PUBLIC SAFETY

(a) General fund (750,000)

(b) Trunk highway fund (600,000)

(c) Lawful gambling enforcement 833,000

The approved complement of the department of public safety is increased by seven positions for lawful gambling enforcement.

(d) Drug initiatives 701,000

The approved complement of the department of public safety is increased by seven positions for drug initiatives.

\$160,000 of this appropriation is for community-based crime and drug prevention programs.

\$40,000 of this appropriation is for implementation of the precursor chemical regulations.

\$175,000 of this appropriation is for drug prevention support services for high-risk target groups and communities.

\$326,000 of this appropriation is for narcotic investigation activities.

(e) The approved complement of the department is increased by five positions for school building inspection. These positions shall only be filled if funding is provided by the commissioner of education.

Sec. 7. BOARD OF PEACE OFFICER
STANDARDS AND TRAINING (75,000)

Sec. 8. DEPARTMENT OF COMMERCE
Administrative Services (85,000)

The report required by Laws 1989, chapter 269, section 11, subdivision 7, on the cost effectiveness of care provided by members of the healing arts need not be submitted until January 1, 1991.

Sec. 9. AGRICULTURE 747,000 (497,000)

\$597,000 the first year is to reimburse counties and townships for up to 50 percent of the costs

incurred for grasshopper control activities undertaken during calendar year 1989. Eligible costs must be documented and submitted on forms provided by the commissioner of agriculture. Reimbursements must be made only for activities conducted in designated grasshopper control zones.

Notwithstanding Minnesota Statutes, section 37.03, subdivision 1, paragraph (d), and only until June 30, 1991, two elected delegates and the president of the Red River Valley Winter Shows may represent the organization on the state agricultural society pursuant to the other provisions of Minnesota Statutes, chapter 37.

Sec. 10. WORLD TRADE CENTER

- | | |
|------------------------------|-----------|
| (a) General reduction | (50,000) |
| (b) International convention | 35,000 |

This appropriation is to be matched with \$25,000 in goods and services from other sources to conduct the World Export Processing Zone Association international convention to be held in Minnesota in May 1991.

Sec. 11. BOARD OF WATER AND SOIL RESOURCES

	(200,000)
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Sec. 12. BOARD OF ANIMAL HEALTH

	(40,000)
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The approved complement of the board of animal health is increased by one position.

Sec. 13. BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, AND LANDSCAPE ARCHITECTURE

	22,000
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Sec. 14. PUBLIC SERVICE

	(50,000)
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Sec. 15. GAMING

Lawful gambling	1,300,000
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The approved complement of the department of gaming is increased by 24 positions.

The director of the state lottery shall reimburse the general fund \$150,000 in fiscal year 1991 for lottery-related costs incurred by the department of public safety.

Sec. 16. MINNESOTA HISTORICAL SOCIETY

- | | |
|---------------------------|------------|
| (a) General reduction | (125,000) |
| (b) Humanities commission | 25,000 |

This appropriation is to plan a Humanities center.

Sec. 17. BOARD OF THE ARTS

- | | |
|-----------------------|------------|
| (a) General reduction | (125,000) |
|-----------------------|------------|

(b) Matching grant 116,000

This appropriation is to match a grant from the National Endowment for the Arts.

Sec. 18. INDIAN AFFAIRS COUNCIL

(a) Reburial of Indian Remains 90,000

(b) Indian Business Loan Program 50,000

This appropriation is from the special revenue fund.

The approved complement of the council is increased by one position for this activity.

Sec. 19. [MANAGING REDUCTIONS.]

Subdivision 1. [APPROPRIATION AVAILABILITY.] If the appropriation from the general fund to an agency listed in this act in either year of the biennium ending June 30, 1991, is insufficient, upon the advance approval of the commissioner of finance the appropriation for the other year is available for it.

Subd. 2. [BASE REDUCTIONS.] The appropriations reduced from an agency by this act, before any adjustments under subdivision 1, must not be added back to the agency's appropriation base for the 1992-1993 biennium.

Sec. 20. [RULES FOR AQUACULTURE RESEARCH PERMITS.]

Not later than October 1, 1991, the commissioner of agriculture, in consultation with the commissioners of health, natural resources, and the pollution control agency, and the advisory committee established under Minnesota Statutes, section 17.49, subdivision 1, shall adopt rules to expedite permits from all permitting authorities for aquaculture research projects and for private or public-private economic ventures in aquaculture.

Sec. 21. [EXPIRATION DATE.]

Notwithstanding Laws 1989, chapter 269, section 20, the citizens council on Voyageurs National Park is extended until June 30, 1993.

Sec. 22. [152.0971] [TERMS.]

Subdivision 1. [TERMS.] For purposes of sections 152.0971 to 152.0974, the following terms have the meanings given.

Subd. 2. [FURNISH.] "Furnish" means to sell, transfer, deliver, send, or supply a precursor substance by any other means.

Subd. 3. [SUPPLIER.] A "supplier" is a manufacturer, wholesaler, retailer, or any other person in this state who furnishes a precursor substance to another person in this state.

Sec. 23. [152.0972] [PRECURSORS OF CONTROLLED SUBSTANCES.]

Subdivision 1. [PRECURSOR SUBSTANCES.] The following precursors of controlled substances are "precursor substances":

- (1) phenyl-2-propanone;*
- (2) methylamine;*
- (3) ethylamine;*

- (4) *d*-lysergic acid;
- (5) ergotamine tartrate;
- (6) diethyl malonate;
- (7) malonic acid;
- (8) ethyl malonate;
- (9) barbituric acid;
- (10) piperidine;
- (11) *n*-acetylanthranilic acid;
- (12) pyrrolidine;
- (13) phenylacetic acid;
- (14) anthranilic acid;
- (15) morpholine;
- (16) ephedrine;
- (17) pseudoephedrine;
- (18) norpseudoephedrine;
- (19) phenylpropanolamine;
- (20) propionic anhydride;
- (21) isosafrole;
- (22) safrole;
- (23) piperonal;
- (24) thionylchloride;
- (25) benzyl cyanide;
- (26) ergonovine maleate;
- (27) *n*-methylephedrine;
- (28) *n*-ethylpseudoephedrine;
- (29) *n*-methypseudoephedrine;
- (30) chloroephedrine;
- (31) chloropseudoephedrine; and
- (32) any substance added to this list by rule adopted by the state board of pharmacy.

Subd. 2. [ADOPTION OF RULES.] The state board of pharmacy may adopt rules under chapter 14 that add a substance to the list in subdivision 1, if the substance is a precursor to a controlled substance, or delete a substance from the list. A rule adding or deleting a substance is effective only until December 31 of the year following the calendar year during which the rule was adopted.

Sec. 24. [152.0973] [REPORT OF TRANSACTION.]

Subdivision 1. [PRE-DELIVERY NOTICE.] A supplier who furnishes a precursor substance to a person in this state shall, not less than 21 days

before delivery of the substance, submit to the bureau of criminal apprehension a report of the transaction that includes the identification information specified in subdivision 3.

Subd. 2. [REGULAR REPORTS.] The bureau may authorize a supplier to submit the reports on a monthly basis with respect to repeated, regular transactions between the supplier and the purchaser involving the same substance if the superintendent of the bureau of criminal apprehension determines that:

(1) a pattern of regular supply of the precursor substance exists between the supplier and the purchaser of the substance; or

(2) the purchaser has established a record of utilizing the precursor substance for lawful purposes.

Subd. 3. [PROPER IDENTIFICATION.] A report submitted by a supplier under this section must include:

(1) a driver's license or state identification card that contains a photograph of the purchaser and includes the residential or mailing address of the purchaser, other than a post office box number;

(2) the motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(3) a letter of authorization from the business for which the precursor substance is being furnished, including the business license number and address of the business, a full description of how the precursor substance is to be used, and the signature of the purchaser;

(4) the signature of the supplier as a witness to the signature and identification of the purchaser;

(5) the type and quantity of the precursor substance; and

(6) the method of delivery used.

Subd. 4. [RETENTION OF RECORDS.] A supplier shall retain a copy of the report filed under this section for five years.

Sec. 25. [152.0974] [EXCEPTIONS.]

Sections 152.0971 to 152.0974 do not apply to:

(1) a pharmacist or other authorized person who sells or furnishes a precursor substance on the prescription of a physician, dentist, podiatrist, or veterinarian;

(2) a physician, dentist, podiatrist, or veterinarian who administers or furnishes a precursor substance to patients;

(3) a manufacturer or wholesaler licensed by the state board of pharmacy who sells, transfers, or otherwise furnishes a precursor substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian; or

(4) the furnishing or receipt of a drug that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and is lawfully furnished over the counter without a prescription under the federal Food, Drug, and Cosmetic Act, United States Code, title 21, chapter 9, or regulations adopted under that act.

Sec. 26. Minnesota Statutes 1989 Supplement, section 168.011, subdivision 7, is amended to read:

Subd. 7. [PASSENGER AUTOMOBILE.] "Passenger automobile" means any motor vehicle designed and used for the carrying of not more than 15 persons including the driver. "Passenger automobile" does not include motorcycles ~~and~~, motor scooters, *and buses described in subdivision 9, paragraph (a), clause (2).* For purposes of taxation only, "passenger automobile" includes pickup trucks and vans.

Sec. 27. Minnesota Statutes 1989 Supplement, section 168.011, subdivision 9, is amended to read:

Subd. 9. [BUS; INTERCITY BUS.] (a) "Bus" means (1) every motor vehicle designed for carrying more than 15 passengers including the driver and used for transporting persons, *and (2) every motor vehicle that is (i) designed for carrying more than ten passengers including the driver, (ii) used for transporting persons, and (iii) owned by a nonprofit organization and not operated for hire or for commercial purposes.*

(b) "Intercity bus" means any bus operating as a common passenger carrier over regular routes and between fixed termini, but excluding all buses operating wholly within the limits of one city, or wholly within two or more contiguous cities, or between contiguous cities and a terminus outside the corporate limits of such cities, and not more than 20 miles distant measured along the fixed route from such corporate limits.

Sec. 28. Minnesota Statutes 1989 Supplement, section 168.33, subdivision 7, is amended to read:

Subd. 7. [FEES.] In addition to all other statutory fees and taxes, a filing fee of \$3.50 is imposed on every application; except that a filing fee may not be charged for a document returned for a refund or for a correction of an error made by the department or a deputy registrar. The filing fee shall be shown as a separate item on all registration renewal notices sent out by the department of public safety. No filing fee or other fee may be charged for the permanent surrender of a certificate of title and license plates for a motor vehicle. *Filing fees collected under this subdivision by the registrar must be paid into the state treasury and credited to the highway user tax distribution fund, except fees for registrations of new motor vehicles. Filing fees collected for registrations of new motor vehicles must be paid into the state treasury with 50 percent of the money credited to the general fund and 50 percent credited to the highway user tax distribution fund.*

Sec. 29. Minnesota Statutes 1988, section 170.23, is amended to read:

170.23 [ABSTRACTS; FEE; ADMISSIBLE IN EVIDENCE.]

The commissioner shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. A fee of \$5 shall be paid for each such abstract. The commissioner shall permit a person to inquire into the operating record of any person by means of the inquiring person's own computer facilities for a fee to be determined by the commissioner of at least \$2 for each inquiry. The commissioner shall furnish an abstract that is not certified for a fee to be determined by the commissioner in an amount less than the fee for a certified abstract but more than the fee for an inquiry by computer. *Fees collected under this*

section must be paid into the state treasury with 90 percent of the money credited to the trunk highway fund and ten percent credited to the general fund.

Sec. 30. Minnesota Statutes 1989 Supplement, section 297B.09, subdivision 1, is amended to read:

Subdivision 1. [GENERAL FUND SHARE.] (a) Money collected and received under this chapter must be deposited in the state treasury and credited to the general fund. The amounts collected and received shall be credited as provided in this subdivision, and transferred from the general fund on July 15 and January 15 of each fiscal year. The commissioner of finance must make each transfer based upon the actual receipts of the preceding six calendar months and include the interest earned during that six-month period. The commissioner of finance may establish a quarterly or other schedule providing for more frequent payments to the transit assistance fund if the commissioner determines it is necessary or desirable to provide for the cash flow needs of the recipients of money from the transit assistance fund.

(b) ~~Thirty~~ *Twenty-five* percent of the money collected and received under this chapter after June 30, ~~1988~~ 1990, and before July 1, 1991, must be transferred to the highway user tax distribution fund and the transit assistance fund for apportionment as follows: 75 percent must be transferred to the highway user tax distribution fund for apportionment in the same manner and for the same purposes as other money in that fund, and the remaining 25 percent of the money must be transferred to the transit assistance fund to be appropriated to the commissioner of transportation for transit assistance within the state and to the regional transit board.

(c) Five percent of the money collected and received under this chapter after June 30, 1989, and before July 1, 1991, must be transferred as follows: 75 percent must be transferred to the trunk highway fund and 25 percent must be transferred to the transit assistance fund.

(d) ~~Thirty-five~~ *Thirty* percent of the money collected and received under this chapter after June 30, 1991, must be transferred as follows: 75 percent must be transferred to the trunk highway fund and 25 percent must be transferred to the transit assistance fund.

(e) The distributions under this subdivision to the highway user tax distribution fund until June 30, 1991, and to the trunk highway fund thereafter, must be reduced by the amount necessary to fund the appropriation under section 41A.09, subdivision 1. For the fiscal years ending June 30, 1988, and June 30, 1989, the commissioner of finance, before making the transfers required on July 15 and January 15 of each year, shall estimate the amount required to fund the appropriation under section 41A.09, subdivision 1, for the six-month period for which the transfer is being made. The commissioner shall then reduce the amount transferred to the highway user tax distribution fund by the amount of that estimate. The commissioner shall reduce the estimate for any six-month period by the amount by which the estimate for the previous six-month period exceeded the amount needed to fund the appropriation under section 41A.09, subdivision 1, for that previous six-month period. If at any time during a six-month period in those fiscal years the amount of reduction in the transfer to the highway user tax distribution fund is insufficient to fund the appropriation under section 41A.09, subdivision 1 for that period, the commissioner shall transfer to the general fund from the highway user tax distribution fund an

additional amount sufficient to fund the appropriation for that period, but the additional amount so transferred to the general fund in a six-month period may not exceed the amount transferred to the highway user tax distribution fund for that six-month period.

Sec. 31. [299A.331] [DARE ADVISORY COUNCIL.]

Subdivision 1. [MEMBERSHIP.] The advisory council on drug abuse resistance education consists of:

- (1) the attorney general who shall serve as chair;*
- (2) the commissioner of public safety;*
- (3) the commissioner of education;*
- (4) three representatives of law enforcement appointed by the commissioner of public safety;*
- (5) three representatives of education appointed by the commissioner of education;*
- (6) a representative of the DARE officers association appointed by the peace officer standards and training board from among recommendations of the association; and*
- (7) seven citizens appointed by the attorney general.*

Subd. 2. [DUTIES.] The council shall:

- (1) advise the bureau of criminal apprehension in establishing a drug abuse resistance education training program for peace officers;*
- (2) promote the drug abuse resistance education program throughout the state;*
- (3) monitor the drug abuse resistance education officer training program in conjunction with the bureau of criminal apprehension;*
- (4) provide coordination and assistance to local communities who wish to implement drug abuse resistance education programs in their local school systems;*
- (5) encourage parental and community involvement in drug abuse resistance education programs;*
- (6) develop a private and public partnership to provide for continuation and funding for the drug abuse resistance education program; and*
- (7) receive money from public and private sources for use in the drug abuse resistance education program.*

Sec. 32. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; reducing appropriations for the biennium ending June 30, 1991, with certain conditions; providing for the transfer of money in the state treasury; regulating certain activities and practices; amending Minnesota Statutes 1988, section 170.23; Minnesota Statutes 1989 Supplement, sections 168.011, subdivisions 7 and 9; 168.33,

subdivision 7; and 297B.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 152 and 299A."

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

Senate Conferees: (Signed) Keith Langseth, Charles A. Berg, Clarence M. Purfeerst, James P. Metzen

House Conferees: (Signed) James I. Rice, John J. Sarna, Bernard L. "Bernie" Lieder, Henry J. Kalis, Arthur W. Seaberg

Mr. Langseth moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2617 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. 2617 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 6, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Knaak	Merriam	Piper
Anderson	DeCramer	Kroening	Metzen	Pogemiller
Beckman	Dicklich	Laidig	Moe, D.M.	Ramstad
Belanger	Flynn	Langseth	Moe, R.D.	Reichgott
Berg	Frank	Lantry	Morse	Samuelson
Berglin	Frederickson, D.J.	Larson	Novak	Schmitz
Bertram	Frederickson, D.R.	Lessard	Olson	Solon
Brandl	Freeman	Luther	Pariseau	Spear
Cohen	Hughes	Marty	Pehler	Stumpf
Dahl	Johnson, D.E.	McGowan	Peterson, R.W.	Vickerman
Davis	Johnson, D.J.	McQuaid	Piepho	Waldorf

Those who voted in the negative were:

Benson	Frederick	Knutson	Renneke	Storm
Bernhagen				

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1847 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1847

A bill for an act relating to human rights; amending the definition of age; clarifying medical information obtainable from prospective employees; clarifying protection for pregnant employees; prohibiting threats against home owners and renters; prohibiting discriminatory business practices; clarifying the meaning of business necessity and continuing violations; renumbering definitions; amending Minnesota Statutes 1988, sections 363.01, subdivision 28; 363.03, subdivisions 2, 8a, and by adding subdivisions; 363.06, subdivision 1, and by adding a subdivision; 363.071, by adding subdivisions; 363.116; Minnesota Statutes 1989 Supplement, sections 363.02, subdivision 1; and 363.03, subdivision 1.

April 20, 1990

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. 1847, 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. 1847 be further amended as follows:

Pages 13 and 14, delete sections 9, 10, and 11

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

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

Senate Conferees: (Signed) Ember D. Reichgott, Richard J. Cohen, Gary W. Laidig

House Conferees: (Signed) Howard Orenstein, Dave Bishop

Ms. Reichgott moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1847 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. 1847 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 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1854 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1854

A bill for an act relating to government data practices; establishing procedures for computerized comparisons of data; requiring matching agreements; providing for contesting of data; requiring reviews and reports; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 13B.

April 21, 1990

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. 1854, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1854 be further amended as follows:

Page 2, line 24, delete the first comma and insert "*or*" and delete ", *or political subdivision*"

Page 3, delete line 3

Renumber the remaining clauses

Page 3, delete section 4

Page 4, line 1, delete "[13B.05]" and insert "[13B.04]" and delete "REVIEW;"

Page 4, delete lines 2 to 6

Page 4, line 7, delete everything before "A"

Page 4, line 11, delete everything after "*in*"

Page 4, line 12, delete everything before "*a*"

Page 4, after line 13, insert:

"Sec. 5. Minnesota Statutes 1988, section 90.301, subdivision 6, is amended to read:

Subd. 6. [TICKET FOR THEFT VIOLATIONS.] The commissioner may design and issue a ticket in the form, and having the effect, of a summons and complaint, for use in cases of theft of state timber or other state property, where the value of the property is within the limits established by section 609.52, subdivision 3, clause ~~(7)~~ (5). The ticket shall provide for the name and address of the person charged with the violation, the offense charged, the time and place the person is to appear before a court, and any other necessary information.

Sec. 6. Minnesota Statutes 1988, section 256.98, subdivision 1, is amended to read:

Subdivision 1. [WRONGFULLY OBTAINING ASSISTANCE.] A person who obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, assistance to which the person is not entitled or assistance greater than that to which the person is entitled, or who knowingly aids or abets

in buying or in any way disposing of the property of a recipient or applicant of assistance without the consent of the local agency with intent to defeat the purposes of sections 256.12, 256.72 to 256.871, and chapter 256B, or all of these sections is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), ~~(3), (6), and (7)~~ (3)(a) and (c), (4), and (5).

Sec. 7. Minnesota Statutes 1988, section 256B.35, subdivision 5, is amended to read:

Subd. 5. The nursing home may transfer the personal allowance to someone other than the recipient only when the recipient or the recipient's guardian or conservator designates that person in writing to receive or expend funds on behalf of the recipient and that person certifies in writing that the allowance is spent for the well-being of the recipient. Persons, other than the recipient, in possession of the personal allowance, may use the allowance only for the well-being of the recipient. Any person, other than the recipient, who, with intent to defraud, uses the personal needs allowance for purposes other than the well-being of the recipient shall be guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), ~~(3), and (7)~~ (3)(a) and (c), (4), and (5). To prosecute under this subdivision, the attorney general or the appropriate county attorney, acting independently or at the direction of the attorney general, may institute a criminal action. A nursing home that transfers personal needs allowance funds to a person other than the recipient in good faith and in compliance with this section shall not be held liable under this subdivision.

Sec. 8. Minnesota Statutes 1988, section 268.18, subdivision 3, is amended to read:

Subd. 3. [FALSE REPRESENTATIONS; CONCEALMENT OF FACTS; PENALTY.] (a) Whoever obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of a material fact, or by impersonation or other fraudulent device, benefits to which the person is not entitled or benefits greater than that to which the person is entitled under this chapter, or under the employment security law of any state or of the federal government or of a foreign government, either personally or for any other person, shall be guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3, clauses (2), ~~(3), (6), and (7)~~ (3)(a) and (c), (4), and (5). The amount of the benefits incorrectly paid shall be the difference between the amount of benefits actually received and the amount which the person would have been entitled under state and federal law had the department been informed of all material facts.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this chapter or under the employment security law of any state or of the federal government, or who willfully fails or refuses to make any such contributions or other payment at the time required shall be guilty of a gross misdemeanor unless the benefit underpayment, contribution, or other payment involved exceeds \$250, in which event the person is guilty of a felony.

(c) Any person who willfully fails to produce or permit the inspection

or copying of books, papers, records, or memoranda as required or when requested under section 268.12, subdivision 8, or to furnish any required reports other than contribution reports shall be guilty of a gross misdemeanor."

Page 4, delete section 6 and insert:

"Sec. 9. [REPEALER.]

Section 2 is repealed effective July 31, 1992."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after "to" insert "statutes and other" and delete "practices"

Page 1, line 5, delete "reviews and"

Page 1, line 6, delete "imposing penalties" and insert "correcting certain statutory references; amending Minnesota Statutes 1988, sections 90.301, subdivision 6; 256.98, subdivision 1; 256B.35, subdivision 5; 268.18, subdivision 3"

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

Senate Conferees: (Signed) Randolph W. Peterson, Gene Merriam, Fritz Knaak

House Conferees: (Signed) Thomas W. Pugh, Randy C. Kelly, Kathleen Blatz

Mr. Peterson, R.W. moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1854 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. 1854 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	Davis	Knaak	Metzen	Reichgott
Anderson	Decker	Kroening	Moe, D.M.	Renneke
Beckman	DeCramer	Laidig	Moe, R.D.	Samuelson
Belanger	Dicklich	Langseth	Morse	Schmitz
Benson	Flynn	Lantry	Novak	Spear
Berglin	Frank	Larson	Olson	Storm
Bernhagen	Frederick	Lessard	Pariseau	Stumpf
Bertram	Frederickson, D.J.	Luther	Pehler	Vickerman
Brandl	Frederickson, D.R.	Marty	Peterson, R.W.	
Brataas	Freeman	McGowan	Piepho	
Cohen	Hughes	McQuaid	Piper	
Dahl	Johnson, D.E.	Merriam	Ramstad	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2621 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2621

A bill for an act relating to the organization and operation of state government; appropriating money for human services and health and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 5; 144A.073, by adding a subdivision; 245A.07, subdivision 3; 245A.08, subdivision 3; 245A.16, subdivision 4; 254B.04, subdivision 1; 254B.08; 256.736, subdivision 3a; 256.936, by adding a subdivision; 256B.04, subdivisions 15 and 16; 256B.055, subdivisions 3, 5, 6, and 12; 256B.056, subdivisions 2 and 7, and by adding a subdivision; 256B.0625, subdivisions 4, 5, 9, and by adding subdivisions; 256B.091, subdivisions 4 and 6; 256B.092, subdivisions 1a and 1b, and by adding subdivisions; 256B.15; 256B.19, by adding a subdivision; 256B.431, subdivision 3e, and by adding subdivisions; 256B.48, subdivision 2, and by adding a subdivision; 256B.49, by adding a subdivision; 256B.50, subdivisions 1 and 1b; 256B.501, subdivision 3e, and by adding a subdivision; 256B.69, subdivision 3; 256D.03, subdivision 7; 256E.06, subdivisions 2 and 7; 256H.01, by adding subdivisions; 518.171, subdivisions 1, 3, 4, and 7; 518.54, by adding subdivisions; 518.551, subdivisions 1 and 5; 518.611, subdivisions 1, 2, 8, and 8a, and by adding a subdivision; 518C.02, by adding subdivisions; 518C.03; 518C.05; 518C.09; 518C.12; and 518C.27, subdivision 1; Minnesota Statutes 1988, section 252.27, as amended by Laws 1989, chapter 282, article 2, section 92; Minnesota Statutes 1989 Supplement, sections 144.50, subdivision 6; 245.470, subdivision 1; 245.488, subdivision 1; 245A.02, subdivision 6a; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, and 3b; 245A.12; 245A.13; 245A.16, subdivision 1; 252.46, subdivisions 1, 2, 3, 4, and 12; 254B.03, subdivision 4; 256.736, subdivision 16; 256.74, subdivision 1; 256.936, subdivision 1; 256.969, subdivisions 2c and 6a; 256.9695, subdivisions 1 and 3; 256B.055, subdivision 7; 256B.056, subdivisions 3 and 4; 256B.057, subdivisions 1 and 2, and by adding subdivisions; 256B.0575; 256B.059, subdivisions 4 and 5; 256B.0595, subdivisions 1, 2, and 4; 256B.0625, subdivision 13; 256B.091, subdivision 8; 256B.14; 256B.431, subdivision 2b; 256B.495, subdivision 1; 256B.69, subdivision 16; 256D.03, subdivisions 3, 4, and 6; 256D.425, subdivision 3; 256H.03, subdivisions 2, 2a, and 2b; 256H.05, subdivisions 1b, 1c, 2, and 5; 256H.08; 256H.15, subdivisions 1 and 2; 256I.05, subdivisions 1 and 7; 257.57, subdivision 1; 518.551, subdivision 10; 518.611, subdivision 4; and 518.613, subdivision 2; Laws 1988, chapter 689, article 2, section 256; Laws 1989, chapter 282, article 3, section 98, subdivisions 4 and 5; proposing coding for new law in Minnesota Statutes, chapters 60A; 144; 245A; 252; 254A; 256; and 256B; repealing Minnesota Statutes 1988, sections 256.736, subdivision 8; 256B.0625, subdivision 2; 256B.431, subdivisions 3, 3b, 3c, and 3d; and 256B.50, subdivision 2; Minnesota Statutes 1989 Supplement, sections 256.736, subdivision 15; 256B.055, subdivision 8; and 256B.431, subdivisions 3a and 3f.

April 23, 1990

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. 2621, 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. 2621 be further amended as follows:

Delete everything after the enacting clause and insert:

“ARTICLE 1

APPROPRIATIONS

Section 1. [HUMAN SERVICES; HEALTH; APPROPRIATIONS.]

The sums shown in the columns marked “APPROPRIATIONS” are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures “1990” and “1991,” where used in this article, 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	\$ 37,870,000	\$ 60,925,000	\$ 98,795,000
Special Revenue	\$ 50,000	\$ 91,000	\$ 141,000
TOTAL	\$ 37,920,000	\$ 61,016,000	\$ 98,936,000

APPROPRIATIONS

Available for the Year
Ending June 30,
1990 1991

Sec. 2. HUMAN SERVICES

Subdivision 1. Appropriation by Fund

General Fund	38,727,000	58,060,000
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This appropriation is added to the appropriation in Laws 1989, chapter 282, article 1, section 2.

Subd. 2. Human Services Administration	(115,000)	350,000
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Of this appropriation, \$200,000 is for distressed county grants. The commissioner shall award grants to counties that received aid under Minnesota Statutes, section 245.775, for state fiscal year 1989. The amount of the grant for each county is 20 percent of the amount received in state fiscal year 1989.

Subd. 3. Legal and Intergovernmental Programs	-0-	(138,000)
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Subd. 4. Social Services	3,236,000	13,953,000
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Notwithstanding Minnesota Statutes, section

254B.02, money appropriated for the consolidated chemical dependency treatment fund for fiscal year 1990 may be allocated as needed to the reserve accounts created by Minnesota Statutes, sections 254B.02, subdivision 3, and 254B.09, subdivisions 5 and 7.

Of this appropriation, \$20,000 is for a pilot project in Stearns county involving court-ordered chemical dependency assessments and treatment for offenders. Under the pilot program, when a court sentences a defendant convicted of a felony and it appears from the presentence investigation that alcohol or controlled substance abuse was a contributing factor to the commission of the crime, the court may order that the defendant be assessed for chemical dependency. In addition, any defendant convicted of a violation of Minnesota Statutes, section 609.21 or a felony violation of Minnesota Statutes, section 169.09 shall be assessed for chemical dependency as part of the presentence investigation. The assessment shall be conducted by a local agency, as defined in Minnesota Statutes, section 254B.01, subdivision 5, or by a court-designated assessor qualified under rules adopted under Minnesota Statutes, section 254B.03, subdivision 3, or credentialed by the Institute for Chemical Dependency Professionals. If the local agency or the court-appointed assessor finds that the defendant is chemically dependent or abusive, the court may order that the defendant be treated for chemical dependency or abuse. In any case, the local agency shall determine the appropriate level of care and authorize payment under Minnesota Statutes, chapter 254B up to the amount of this appropriation without a local match; provided that if the assessment is conducted by a court-appointed assessor, its findings shall be provided to the local agency and the commissioner of human services before payment under chapter 254B is authorized. The pilot program expires June 30, 1991.

The amount appropriated in fiscal year 1991 to pay for child care subsidy expenses above the amount allowed by the federal government shall not be included as a base adjustment in the fiscal year 1992-1993 biennial budget request. The commissioner shall report to the legislature regarding this provision including its effect on county record keeping practices and federal financial reimbursement. The commissioner may request additional money to continue this activity.

Money appropriated in Laws 1989, chapter 282, article 1, section 2, subdivision 4, for the Joining Forces pilot projects does not cancel, but is available for fiscal year 1991. The amount appropriated for this activity shall not be included as a base adjustment in the fiscal year 1992-1993 biennial budget request.

Subd. 5. Mental Health

-0-

(813,000)

Notwithstanding Laws 1989, chapter 282, article 1, section 2, subdivision 5, \$102,000 is transferred in fiscal year 1991 from state mental health grants to state mental health administration, and 2.25 positions are authorized to implement federal requirements relating to nursing homes and people with mental illness.

The \$10,000 appropriated for camping activities for persons with mental illness by Laws 1989, chapter 282, article 1, section 2, subdivision 5, shall be used for adults with mental illness from across the state, for a camping program which utilizes the BWCA and is cooperatively sponsored by client advocacy, mental health treatment, and outdoor recreation agencies.

\$500,000 may be transferred from the appropriation in Laws 1989, chapter 282, article 1, section 2, subdivision 5, in fiscal year 1990 for state mental health grants to fiscal year 1991 for state mental health special projects. These funds are to be used for alternative placements for people being discharged from the Metro Regional Treatment Center.

Notwithstanding the rider relating to the family-based community support pilot project in Laws 1989, chapter 282, article 1, section 2, subdivision 5, the base funding level for the project for the 1992-1993 biennial budget must be a straight line annualization of the fiscal year 1991 appropriation.

Subd. 6. Family Support Programs

(5,102,000) (3,485,000)

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

\$(2,352,000) \$(1,143,000)

(b) Family Support Programs Administration

\$(2,750,000) \$(2,342,000)

During the biennium ending June 30, 1991, the commissioner may request, and

providers receiving General Assistance or Minnesota Supplemental Aid negotiated rate payments must provide, information about their operating costs and property costs used in determining their negotiated rates. This information must be provided in a format specified by the commissioner.

The commissioner may transfer money from other departmental administrative accounts to the child support enforcement and MAXIS information systems account to pay for fiscal year 1991 system costs, if necessary.

Money appropriated in Laws 1989, chapter 282, article 1, section 2, subdivision 6, for assisting in the development of a statewide negotiated rate setting system does not cancel to the general fund but is available in fiscal year 1991.

The commissioner of human services shall postpone the implementation of the establishment of program operating cost payment rates as provided in Minnesota Statutes, section 256B.501, subdivision 3g, until October 1, 1992. Beginning January 1, 1990, each facility's interdisciplinary team shall assess each new admission to the facility. The quality assurance and review teams in the department of health shall continue to assess all residents annually. The quality assurance and review teams and the interdisciplinary team shall assess residents using a uniform assessment instrument developed by the commissioner of human services and the ICF/MR reimbursement and quality assurance and review procedures manual. The commissioner of human services shall annually collect client statistical data based on assessments performed by the quality assurance and review teams and by the interdisciplinary team on the cost reports submitted by the facility and may use this data in the calculation of operating cost payment rates after October 1, 1992.

Federal financial participation received during the biennium ending June 30, 1991, for self-employment investment demonstration project expenditures is appropriated to the commissioner to

operate the self-employment investment demonstration project.

Money appropriated in Laws 1989, chapter 282, article 1, section 2, subdivision 6 for administration and maintenance of the child support enforcement information system does not cancel but is available for fiscal year 1991 to finalize development of the system.

\$50,000 for fiscal year 1991 is for a study of migration of welfare recipients and for a study of items that should be included in calculating the AFDC standard of need.

Subd. 7. Health Care Programs

40,708,000

48,293,000

(a) Medical Assistance, General Assistance Medical Care, Preadmission Screening and Alternative Care Grants, and Children's Health Plan

\$ 40,708,000

\$ 47,120,000

Money appropriated for preadmission screening and alternative care grants for fiscal year 1991 may be used for these purposes in fiscal year 1990.

Payments for obstetrical and pediatric services rendered on or after July 1, 1990, to medical assistance recipients are increased by 15 percent. This increase must be applied to the provider categories under section 6402(b) of the Omnibus Budget Reconciliation Act of 1989, and applicable federal guidelines. For obstetrical services, this increase is in addition to the 10 percent increase effective October 1, 1988.

Of this appropriation, up to \$14,000 may be used to reimburse the state share of medical assistance allowable payments to pharmacies providing services to one or more nursing homes during the period of May to December 1987, for claims rejected under Minnesota Rules, part 9505.0450. The reimbursement is available only if the pharmacy demonstrates to the satisfaction of the commissioner that its computer system failed to recognize a claim for electronic billing because a computer file indicator designated the claim as a manual bill.

Effective for services rendered on or after

July 1, 1990, medical assistance payments to ambulance services are increased by 7.5 percent from the lower of: (1) the submitted charges; or (2) the 50th percentile of the prevailing charge for 1982.

Medical assistance and general assistance medical care payments for individual and group psychotherapy rendered on or after July 1, 1990, are reduced by six percent. Effective for services rendered on or after October 1, 1990, the payment rate for masters-prepared social workers and registered nurses providing mental health services is 65 percent of the rate paid to other mental health professionals.

Notwithstanding Laws 1989, chapter 282, article 1, section 2, subdivision 7, clause (a), the 50th percentile of the prevailing charge for 1982 must be estimated by the commissioner in the following situations:

- (1) there were less than ten billings in the calendar year specified in legislation governing maximum payment rates;
- (2) the service was not available in the calendar year specified in legislation governing maximum payment rates;
- (3) the payment amount is the result of a provider appeal;
- (4) the procedure code description has changed since the calendar year specified in legislation governing maximum payment rates, and, therefore, the prevailing charge information reflects the same code but a different procedure description; or
- (5) the 50th percentile reflects a payment which is grossly inequitable when compared with payment rates for procedures or services which are substantially similar.

When one of the above situations occur, the commissioner will use the following methodology to reconstruct a rate comparable to the 50th percentile of the prevailing rate:

- (1) refer to information which exists for the first nine billings in the calendar year specified in legislation governing maximum payment rates; or

(2) refer to surrounding or comparable procedure codes; or

(3) refer to the 50th percentile of years subsequent to the calendar year specified in legislation governing maximum payment rates and backdown the amount by applying an appropriate Consumer Price Index formula; or

(4) refer to relative value indexes; or

(5) refer to reimbursement information from other third parties, such as Medicare.

If the federal government approves a client-specific invoice payment system, the nonfederal share of the costs of case management services provided to persons with mental retardation or related conditions receiving home- and community-based services funded through the waiver granted under section 1915(c)(7)(B) of the Social Security Act shall be provided from state-appropriated medical assistance grant funds for the biennium ending, June 30, 1991. The division of cost is subject to the provisions of Minnesota Statutes, section 256B.19, and the services are included as covered programs and services under Minnesota Statutes, section 256.025, subdivision 2.

If the federal government does not approve a client-specific invoice payment system for this waiver, state funds currently appropriated to the medical assistance grant fund shall be transferred to a separate nonmedical assistance account. The commissioner shall use this account to establish a pilot program to reimburse counties for case management to persons served under this waiver. To be eligible for payment, counties must submit requests for reimbursement in the form prescribed by the commissioner.

The rate for case management services funded for any person served by this waiver shall not exceed the lesser of the current average rate for case management services provided to all persons served under the home- and community-based waiver for persons with developmental disabilities in the same county or

\$65 per hour. The amount of case management per person funded in this manner must not exceed 30 hours for a recipient in fiscal year 1991 unless otherwise authorized by the commissioner. Total state money expended under this provision must not exceed \$67,000 for the biennium ending June 30, 1991.

Any transfer of money to implement this provision must be made by direction of the governor after consulting with the legislative advisory commission.

The maximum pharmacy dispensing fee under medical assistance and general assistance medical care is \$4.10.

If approved by the federal government, medical assistance payments to American Indian health services facilities for outpatient medical services billed after June 30, 1990, must be in accordance with the rate published by the United States Assistant Secretary for Health under the authority of United States Code, title 42, sections 248(a) and 249(b). General assistance medical care payments to American Indian health services facilities for the provision of outpatient medical care services billed after June 30, 1990, must be in accordance with the general assistance medical care rates paid for the same services when provided in a facility other than an American Indian health service facility.

In order to facilitate outreach for prenatal and infant medical care covered under Minnesota Statutes, chapters 265B and 256D, such care is considered part of Minnesota's plan for children's health care and may be referred to as the Children's Health Plan Medical Assistance portion. Eligibility for these services shall be included in descriptions, outreach materials, and other communications about the Children's Health Plan.

(b) Health Care Programs

Administration \$ -0- \$ 1,173,000

For fiscal years 1990 and 1991, federal receipts received for review of medical assistance prepaid health plan activities and for the study of utilization of outpatient mental health services by children enrolled in medical assistance are

appropriated to the commissioner for these purposes.

For fiscal years 1990 and 1991, federal money received as a result of state expenditures for the development of an early childhood screening tool to screen for mental health problems in children through the early, periodic, screening, diagnosis, and treatment component of the medical assistance program is appropriated to the commissioner for development and training. The state appropriation for this activity shall not be included as a base adjustment in the fiscal year 1992-1993 biennial budget request.

Notwithstanding Laws 1989, chapter 282, article 3, section 62, for the biennium ending June 30, 1991, the commissioner may transfer money from contracts to salaries to hire qualified persons to provide case management to brain-injured persons.

For the biennium ending June 30, 1991, the commissioner may transfer money from contracts to salaries to hire two registered nurses to identify and restrict medical assistance and general assistance medical care recipients who have used services frequently or in an amount that is not medically necessary.

Before collecting the changed parental contribution under article 2, section 56, counties must provide 30 days advance, written notice of the amount of an increased or new parental contribution.

The commissioner of human services, in consultation with the commissioners of revenue and commerce, shall study issues related to prescription drug costs. Issues to be examined must include, but are not limited to, the following: levels of copayments and deductibles for prescription drug coverage, the cost of prescription drugs, the need for prescription drug coverage among the general population, and the feasibility of private and public initiatives to ensure affordable prescription drug coverage. The study must examine the feasibility of a state assistance program for persons with high out-of-pocket expenses for prescription

maintenance and life-sustaining medications who are ineligible for medical assistance or general assistance medical care, do not have private or employer-sponsored health insurance coverage for prescription drug expenses, and have family incomes equal to or less than 185 percent of federal poverty guidelines. The study must provide recommendations for setting the level of out-of-pocket expenses for prescription maintenance and life-sustaining medications at which the state would provide assistance; examine the practicality and costs of different methods of providing assistance, including the provision of tax credits and the establishment of a state program to provide direct payment for out-of-pocket expenses for prescription maintenance and life-sustaining medications; and provide estimates of the eligible population and costs of the program for different out-of-pocket expense eligibility levels and methods of providing assistance. The commissioner of human services shall report findings and recommendations to the legislature by February 15, 1991.

Of the appropriation for 1991, \$70,000 is for a regional demonstration project under Minnesota Statutes, section 256B.73, to provide health coverage to low-income uninsured persons. Money appropriated in Laws 1988, chapter 689, article 1, section 2, subdivision 5, for the project does not cancel but is available for 1991. These appropriations are available when the 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 commissioner of human services shall study the impact the use of nursing and other personnel employed by temporary help employment agencies is having on nursing homes reimbursed by the medical assistance program. The study shall gather information on rates charged by employment agencies compared with

wages paid to nursing home employees and shall determine the impact the use of employment agency personnel is having on nursing homes reimbursed by medical assistance, including staff retention problems, staff morale problems, continuity of care concerns, and financial impact. The commissioner shall report the results of the study to the legislature by December 15, 1990, along with recommendations for reducing the need for nursing homes to use employees provided by employment agencies and recommendations regarding the need for further regulation of temporary help employment agencies that supply personnel for nursing homes.

Subd. 8. State Residential
Facilities

-0-

(100,000)

Notwithstanding Minnesota Statutes sections 94.09 to 94.16, the commissioner of administration may transfer the title of the state-owned electrical substation located at the Brainerd regional human service center to the Brainerd public utilities commission. The transfer may include the substation, allied equipment, and real estate needed for access to the substation.

Notwithstanding Minnesota Statutes, section 245.50, subdivision 3, clause (5), and section 246.23, the commissioner may enter into interstate contractual agreements to provide chemical dependency services through regional treatment center programs if the contracts provide for full payment for the services from private funds, nongovernmental third-party payments, or a non-Minnesota state governmental entity.

Sec. 3. VETERANS NURSING
HOMES BOARD

-0-

(275,000)

For the biennium ending June 30, 1991, the board may set "costs of care" at the Silver Bay facility based on costs from average skilled nursing care provided to residents of the Minneapolis Veterans Home.

Sec. 4. COMMISSIONER OF JOBS
AND TRAINING

Subdivision 1. Appropriation by Fund

General Fund	(600,000)	(317,000)
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This appropriation is added to the appropriation in Laws 1989, chapter 282, article 1, section 5.

Subd. 2. Employment and Training

General Fund

\$(600,000)	\$(317,000)
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Effective the day following final enactment, \$200,000 of funds made available to the state under United States Code, title 42, section 1103, is appropriated from the unemployment compensation fund to the commissioner of jobs and training and is available for obligation until two years after the date of enactment of this section for use in the procurement of electronic data processing equipment by the department of jobs and training for administration of the unemployment compensation program and the system of public employment offices. The amount that may be obligated during a fiscal year is limited as required by United States Code, title 42, section 1104(d)(2)(D).

MEED service providers may retain 75 percent of outstanding payback funds they collect to be used for the cost of collection and for program closeout activities without regard to existing cost category requirements. The commissioner of jobs and training may retain the following money, up to a total of \$70,000, to be used to close out the MEED program: 25 percent of the outstanding payback funds collected by MEED service providers, 100 percent of payback funds collected by the collection agency under contract with the department, and any remaining unspent payback funds in the special revenue account.

Effective the day following final enactment, the commissioner shall estimate the amount of unobligated funds anticipated by each service provider in the Minnesota employment and economic development program on June 30, 1990, and shall reduce the amount available to each local service unit service provider by the estimated amount. If the total estimated amount is less than \$600,000, the

commissioner shall reduce each local service unit service provider proportionately to bring the total of unobligated funds to \$600,000. This reduction shall not apply to money obligated through existing contracts with employers that are in effect on the day of enactment nor shall the reduction impact negatively on the integrity of the MEED program.

Notwithstanding Laws 1989, chapter 282, article 1, section 5, subdivision 5, any balance remaining in the first year of the appropriation for the Minnesota employment and economic development program does not carry forward to the second year.

Any balance remaining in the first year of the appropriation in Laws 1989, chapter 282, article 1, section 5, subdivision 5, for the inventory, referral, and intake system does not cancel but is available for the second year.

The commissioner of finance may 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 extended employment program 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.

Sec. 5. CORRECTIONS

Subdivision 1. Total Appropriation

-0-

3,537,000

This appropriation is added to the appropriation in Laws 1989, chapter 282, article 1, section 6.

Subd. 2. Correctional Institutions

\$ -0-

\$2,105,000

Of this appropriation, \$1,755,000 for the biennium ending June 30, 1991, is for services to adult women offenders committed to the commissioner.

For the biennium ending June 30, 1991,

and effective May 1, 1990, the commissioner of corrections may, with the approval of the commissioner of finance and upon notification of the chairs of the health and human services divisions of the house appropriations committee and the senate finance committee, transfer funds to or from salaries.

Any unencumbered balances remaining from fiscal year 1990 shall not cancel, but are available for the second year of the biennium.

Subd. 3. Community Services

\$ -0- \$1,482,000

Whenever offenders are assigned for the purposes of work under agreement with any state department or agency, local unit of government, or any other government subdivision, the state department, agency, local unit of government, or other government subdivision must certify to the appropriate bargaining agent that the work performed by inmates will not result in the displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

Of the appropriation for the community corrections act for fiscal year 1991, \$250,000 must be spent as follows: \$125,000 for west central Minnesota and \$125,000 for central Minnesota to establish secure juvenile detention centers. This amount must not be included in the department's base funding level for purposes of preparing the budget for fiscal years 1992 and 1993.

Subd. 4. Management Services

\$ -0- \$(50,000)

Sec. 6. SENTENCING GUIDELINES COMMISSION

3,000

5,000

The commission may use the \$38,000 appropriated for fiscal year 1991 for a study on the mandatory minimum sentencing law to also complete the study on correctional resources.

Sec. 7. HEALTH

Subdivision 1. Appropriation by Fund

General Fund	(260,000)	(85,000)
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This appropriation is added to the appropriation in Laws 1989, chapter 282, article, section 9.

Subd. 2. Preventive and Protective Health Services

\$(210,000)	\$(357,000)
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Of this amount, \$56,000 is to validate the respiratory health findings of the Childhood Respiratory Health Feasibility Study. The commissioner shall present the results of this follow-up study and recommendations to the legislature by December 1, 1992.

The commissioner shall conduct detailed planning and research concerning a state occupational health surveillance system and report the results to the legislature by June 30, 1991.

For the fiscal year ending June 30, 1991, the commissioner is authorized to accept up to \$231,904 in federal funding for indoor radon abatement if granted by the United States Environmental Protection Agency (EPA).

For the fiscal year ending June 30, 1990, the commissioner may accomplish the \$210,000 reduction in AIDS case management by reductions in other AIDS grants or other disease prevention and control activities.

Subd. 3. Health Delivery Systems

\$(50,000)	\$132,000
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The commissioner shall recover the cost of establishing the regulatory systems required in Minnesota Statutes, sections 153A.13 to 153A.18, by assessing hearing instrument sellers an annual surcharge of \$36 for a period of five years. The receipts from the annual surcharge must be deposited in the general fund as nondedicated receipts.

Of the appropriation for the fiscal year ending June 30, 1991, \$250,000 is for financial assistance grants to rural hospitals in isolated areas of the state. To qualify for a grant, a hospital must (1)

be eligible to be classified as a sole-community hospital according to the criteria in the Code of Federal Regulations, title 42, section 412.92; (2) have experienced net income losses in the two most recent consecutive hospital fiscal years ending prior to January 1, 1989, for which audited financial information is available; and (3) consist of 20 or fewer licensed beds. Before applying for a grant, the hospital must have developed a strategic plan. The commissioner shall award grants in equal amounts. This appropriation shall not be included as a base adjustment in the fiscal year 1992-1993 biennial budget request.

By January 15, 1991, the department of health shall submit to the legislature, a bill providing for the licensure of residential care homes. The bill shall be based on information contained in the joint report of the departments of health and human services to the legislature prepared in accordance with Laws 1989, chapter 282, article 2, section 213. The proposal for the licensure of residential care homes shall also estimate the fiscal impact associated with implementation of a licensure program on the state, counties, and on providers of these services. The department of human services and the interagency board for quality assurance shall cooperate with the department of health in developing the legislative proposal and fiscal data. \$70,000 is appropriated from the general fund to the department of health for the purposes of completing this activity.

Notwithstanding the provisions of Minnesota Statutes, section 245A.03, subdivision 2, 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 shall be exempt from licensure under Minnesota Statutes, sections 245A.01 to 245A.16, until the residential care home license is available. At that time, these establishments shall be licensed under the provisions of Minnesota Statutes, sections 245A.01 to 245A.16, or as a

residential care home.

Notwithstanding the provisions of Minnesota Statutes, section 256I.05, subdivision 7, payments to recipients residing in a board and lodging establishment that must meet the special services licensing rules established by the commissioner of health under the provisions of Minnesota Statutes, section 157.031, for which the county has a negotiated rate, shall be increased to cover the necessary additional costs incurred by the establishment to meet the rule requirements. The necessary additional costs shall be determined by the county in which the establishment is located and approved by the commissioner of human services. In order for a recipient to receive the increased payment, a board and lodging establishment must submit information to support the necessary additional costs on forms provided by the commissioner of human services.

The special service licensing rules for board and lodging establishments required under the provisions of Minnesota Statutes, section 157.031, shall be adopted by July 1, 1991.

Notwithstanding the provisions of Minnesota Statutes, section 144A.48, subdivision 2, clause (9), the commissioner of health may issue a hospice license to a free standing residential facility that was registered and was providing hospice services as of March 1, 1990, if such facility is licensed as a board and lodging facility, provides services to no more than six residents, meets Group R, Division 3 occupancy requirements and meets the fire protection provisions of chapter 21 of the 1985 Life Safety Code, NFPA 101, for facilities housing persons with impractical evacuation capabilities. Continued licensure as a hospice shall be contingent on the facility's compliance with the department of health rules for hospices and for board and lodging facilities providing health supervision services upon adoption of those rules. The commissioner of health, in consultation with the interagency board for

quality assurance, shall report to the legislature by February 15, 1991, with recommendations regarding the licensure of freestanding residential hospice facilities and any limitations on licensure necessary to maintain the moratorium or nursing home licensure.

Subd. 4. Health Support Services

\$ -0- \$140,000

The commissioner may carry forward into fiscal year 1991 up to \$260,000 of unobligated balances of fiscal year 1990 appropriations to be used solely to pay increased rental costs in fiscal year 1991. If the balances are less than \$260,000, the commissioner may use unobligated salary appropriations for fiscal year 1991, up to an amount that when added to the unobligated balances carried forward does not exceed \$260,000, to pay for increased rental costs.

Sec. 8. HEALTH RELATED BOARDS

Subdivision 1. Total Appropriation

Special Revenue Fund	50,000	91,000
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Subd. 2. Social Work

\$ -0- \$82,000

Subd. 3. Psychology

\$46,000 \$ -0-

Subd. 4. Optometry

\$4,000 \$4,000

Subd. 5. Pharmacy

\$ -0- \$5,000

ARTICLE 2

HEALTH, LICENSING, AND SOCIAL SERVICES

Section 1. Minnesota Statutes 1988, section 4.071, is amended to read:
4.071 [OIL OVERCHARGE MONEY.]

Subdivision 1. [APPROPRIATION REQUIRED.] "Oil overcharge money" means money received by the state as a result of litigation or settlements of alleged violations of federal petroleum pricing regulations. Oil overcharge money may not be spent until the legislative commission on Minnesota resources has reviewed the proposed projects and the money it is specifically appropriated by law.

Subd. 2. [MINNESOTA RESOURCES PROJECTS.] The legislature intends to appropriate one-half of the oil overcharge money for projects that have

been reviewed and recommended by the legislative commission on Minnesota resources. A work plan must be prepared for each proposed project for review by the commission. The commission must recommend specific projects to the legislature.

Subd. 3. [ENERGY CONSERVATION PROJECTS.] The oil overcharge money that is not otherwise appropriated by law or dedicated by court order is appropriated to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans. This appropriation is available until spent.

Sec. 2. Minnesota Statutes 1989 Supplement, section 116.76, subdivision 9, is amended to read:

Subd. 9. [GENERATOR.] "Generator" means a person whose activities produce infectious waste. "Generator" does not include a person who produces sharps as a result of administering medication to oneself. "Generator" does not include an ambulance service licensed under section 144.802, an eligible board of health, community health board, or public health nursing agency as defined in section 116.78, subdivision 10, or a program providing school health service under section 123.35, subdivision 17.

Sec. 3. Minnesota Statutes 1989 Supplement, section 116.78, is amended by adding a subdivision to read:

Subd. 9. [DISPOSAL OF INFECTIOUS WASTE BY AMBULANCE SERVICES.] Any infectious waste, as defined in section 116.76, subdivision 12, produced by an ambulance service in the transport or care of a patient must be properly packaged and disposed of at the destination hospital or at the nearest hospital if the patient is not transported. A hospital must accept the infectious waste if it is properly packaged according to the standards the hospital uses for packaging its own infectious wastes. The hospital may charge the ambulance service a reasonable fee for disposal of the infectious waste. Nothing in this subdivision shall require a hospital to accept infectious waste if the waste is of a type not generated by the hospital or if the hospital cannot safely store the waste. A hospital that accepts infectious waste under this subdivision is not subject to those provisions of section 116.79, subdivision 4, paragraph (a), that apply to the storage or decontamination of infectious or pathological waste generated at a site other than the hospital.

Sec. 4. Minnesota Statutes 1989 Supplement, section 116.78, is amended by adding a subdivision to read:

Subd. 10. [DISPOSAL OF INFECTIOUS WASTE BY PUBLIC HEALTH AGENCIES AND PROGRAMS PROVIDING SCHOOL HEALTH SERVICES.] Any infectious waste, as defined in section 116.76, subdivision 12, produced by an eligible board of health, community health board, or public health nursing agency or a program providing school health services under section 123.35, subdivision 17, must be properly packaged and may be disposed of at a hospital. For purposes of this subdivision, an "eligible board of health, community health board, or public health nursing agency" is defined as a board of health, community health board, or public health nursing agency located in a county with a population of less than 40,000. A hospital must accept the infectious waste if it is properly packaged according to the standards the hospital uses for packaging its own infectious wastes. The hospital may charge an eligible board of health, community health board, or public health nursing agency or a program providing

school health services a reasonable fee for disposal of the infectious waste. Nothing in this subdivision shall require a hospital to accept infectious waste if the waste is of a type not generated by the hospital or if the hospital cannot safely store the waste. A hospital that accepts infectious waste under this subdivision is not subject to those provisions of section 116.79, subdivision 4, paragraph (a), that apply to the storage or decontamination of infectious or pathological waste generated at a site other than the hospital.

Sec. 5. [144.062] [VACCINE COST REDUCTION PROGRAM.]

The commissioner of administration, after consulting with the commissioner of health, shall negotiate discounts or rebates on vaccine or may purchase vaccine at reduced prices. Vaccines may be offered for sale to medical care providers at the department's cost plus a fee for administrative costs. As a condition of receiving the vaccine at reduced cost, a medical care provider must agree to pass on the savings to patients. The commissioner of health may transfer money appropriated for other department of health programs to the commissioner of administration for the initial cost of purchasing vaccine, provided the money is repaid by the end of each state fiscal year and the commissioner of finance approves the transfer. Proceeds from the sale of vaccines to medical care providers, including fees collected for administrative costs, are appropriated to the commissioner of administration. If the commissioner of administration, in consultation with the commissioner of health, determines that a vaccine cost reduction program is not economically feasible or cost effective, the commissioner may elect not to implement the program, but shall provide a report to the legislature that explains the reasons for the decision.

Sec. 6. [144.1465] [FINDING AND PURPOSE.]

The legislature finds that rural hospitals are an integral part of the health care delivery system and are fundamental to the development of a sound rural economy. The legislature further finds that access to rural health care must be assured to all Minnesota residents. The rural health care system is undergoing a restructuring that threatens to jeopardize access in rural areas to quality health services. To assure continued rural health care access the legislature proposes to establish a grant program to assist rural hospitals and their communities with the development of strategic plans and transition projects, provide subsidies for geographically isolated hospitals facing closure, and examine the problem of recruitment and retention of rural physicians, nurses, and other allied health care professionals.

Sec. 7. [144.147] [RURAL HOSPITAL PLANNING AND TRANSITION GRANT PROGRAM.]

Subdivision 1. [DEFINITION.] "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than 5,000, according to United States Census Bureau statistics, outside the seven-county metropolitan area;

(2) has 100 or fewer beds;

(3) has experienced net income losses in at least two of the three most

recent consecutive hospital fiscal years for which audited financial information is available;

(4) is not for profit; and

(5) has not been awarded a grant under the federal rural health transition grant program.

Subd. 2. [GRANTS AUTHORIZED.] The commissioner shall establish a program of grants to assist eligible rural hospitals. The commissioner shall award grants to hospitals and communities for the purposes set forth in paragraphs (a) and (b).

(a) Grants may be used by hospitals and their communities to develop strategic plans for preserving access to health services. At a minimum, a strategic plan must consist of:

(1) a needs assessment to determine what health services are needed and desired by the community. The assessment must include interviews with or surveys of area health professionals, local community leaders, and public hearings;

(2) an assessment of the feasibility of providing needed health services that identifies priorities and timeliness for potential changes; and

(3) an implementation plan.

The strategic plan must be developed by a committee that includes representatives from the hospital, local public health agencies, other health providers, and consumers from the community.

(b) The grants may also be used by eligible rural hospitals that have developed strategic plans to implement transition projects to modify the type and extent of services provided, in order to reflect the needs of that plan. Grants may be used by hospitals under this paragraph to develop hospital-based physician practices that integrate hospital and existing medical practice facilities that agree to transfer their practices, equipment, staffing, and administration to the hospital. Not more than one-third of any grant shall be used to offset losses incurred by physicians agreeing to transfer their practices to hospitals.

Subd. 3. [CONSIDERATION OF GRANTS.] In determining which hospitals will receive grants under this section, the commissioner shall take into account:

(1) improving community access to hospital or health services;

(2) changes in service populations;

(3) demand for ambulatory and emergency services;

(4) the extent that the health needs of the community are not currently being met by other providers in the service area;

(5) the need to recruit and retain health professionals; and

(6) the involvement and extent of support of the community and local health care providers.

Subd. 4. [ALLOCATION OF GRANTS.] (a) Eligible hospitals must apply to the commissioner no later than September 1, 1990, for grants awarded in the 1991 state fiscal year; and no later than September 1, 1990, for grants awarded in the 1992 state fiscal year.

(b) The commissioner may award at least two grants for each fiscal year. The commissioner must make a final decision on the funding of each application within 60 days of the deadline for receiving applications.

(c) Each relevant community health board has 30 days in which to review and comment to the commissioner on grant applications from hospitals in their community health service area.

(d) In determining which hospitals will receive grants under this section, the commissioner shall consider the following factors:

(1) Description of the problem, description of the project and the likelihood of successful outcome of the project. The applicant must explain clearly the nature of the health services problems in their service area, how the grant funds will be used, what will be accomplished, and the results expected. The applicant should describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organizations.

(2) The extent of community support for the hospital and this proposed project. The applicant should demonstrate support for the hospital and for the proposed project from other local health service providers and from local community and government leaders. Evidence of such support may include past commitments of financial support from local individuals, organization or government entities; and commitment of financial support, in-kind services or cash, for this project.

(3) The comments, if any, resulting from a review of the application by the community health board in whose community health service area the hospital is located.

(e) In evaluating applications, the commissioner shall score each application on a 100 point scale, assigning the maximum of 70 points for an applicant's understanding of the problem, description of the project, and likelihood of successful outcome of the project; and a maximum of 30 points for the extent of community support for the hospital and this project. The commissioner may also take into account other relevant factors.

(f) A grant to a hospital, including hospitals that submit applications as consortia, may not exceed \$50,000 a year, and may not exceed a term of two years. Prior to the receipt of any grant, the hospital must certify to the commissioner that at least one-half of the amount, which may include in-kind services, is available for the same purposes from nonstate sources. A hospital receiving a grant under this section may use the grant for any expenses incurred in the development of strategic plans or the implementation of transition projects with respect to which the grant is made. Project grants may not be used to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

Subd. 5. [EVALUATION.] The commissioner shall evaluate the overall effectiveness of the grant program. The commissioner may collect, from the hospital, and communities receiving grants, the information necessary to evaluate the grant program. Information related to the financial condition of individual hospitals shall be classified as nonpublic data.

Sec. 8. 1990 S.F. No. 1698, section 1, if enacted, is amended to read:

Section 1. [144.551] [HOSPITAL CONSTRUCTION MORATORIUM.]

Subdivision 1. [RESTRICTED CONSTRUCTION OR MODIFICATION.] (a) Until July 1, 1993, 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.

(b) 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 before the date of enactment of this section 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 before 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;

(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;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less 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, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; ~~or~~; from one regional treatment center site to another; or *from one building or site to a new or existing building or site on the same campus; or*

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds.

Subd. 2. [EMERGENCY WAIVER.] The commissioner shall grant an emergency waiver from the provisions of this section if the need for the project is a result of fire, tornado, flood, storm damage, or other similar disaster, if adequate health care facilities are not available for the people who previously used the applicant facility, and if the request for an emergency waiver is limited in nature and scope only to those repairs necessitated by the natural disaster.

Subd. 3. [ENFORCEMENT.] The district court in Ramsey county has jurisdiction to enjoin an alleged violation of subdivision 1. At the request of the commissioner of health, the attorney general may bring an action to enjoin an alleged violation. The commissioner of health shall not issue a license for any portion of a hospital in violation of subdivision 1. No hospital in violation of subdivision 1 may apply for or receive public funds under chapters 245 to 256B, or from any other source.

Subd. 4. [DEFINITIONS.] Except as indicated in this subdivision, the terms used in this section have the meanings given them under Minnesota Statutes 1982, sections 145.832 to 145.845, and the rules adopted under those sections.

The term "hospital" has the meaning given it in section 144.50.

Sec. 9. Minnesota Statutes 1988, section 144.581, subdivision 1, is amended to read:

Subdivision 1. [NONPROFIT CORPORATION POWERS.] A municipality, political subdivision, state agency, or other governmental entity that owns or operates a hospital authorized, organized, or operated under chapters 158, 250, 376, and 397, or under sections 246A.01 to 246A.27, 412.221, 447.05 to 447.13, 447.31, or 471.59, or under any special law authorizing or establishing a hospital or hospital district shall, relative to the delivery of health care services, have, in addition to any authority vested by law, the authority and legal capacity of a nonprofit corporation under chapter 317, including authority to

- (a) enter shared service and other cooperative ventures,
- (b) join or sponsor membership in organizations intended to benefit the hospital or hospitals in general,
- (c) enter partnerships,
- (d) incorporate other corporations,
- (e) have members of its governing authority or its officers or administrators serve as directors, officers, or employees of the ventures, associations, or corporations,
- (f) own shares of stock in business corporations, ~~and~~
- (g) offer, directly or indirectly, products and services of the hospital, organization, association, partnership, or corporation to the general public-,
- (h) provide funds for payment of educational expenses of up to \$20,000 per individual, if the hospital or hospital district has at least \$1,000,000 in reserve and depreciation funds at the time of payment, and these reserve and depreciation funds were obtained solely from the operating revenues of the hospital or hospital district, and*
- (i) provide funds of up to \$50,000 per year per individual for a maximum of two years to supplement the incomes of family practice physicians, up to a maximum of \$100,000 in annual income, if the hospital or hospital district has at least \$250,000 in reserve and depreciation funds at the time of payment, and these reserve and depreciation funds were obtained solely from the operating revenues of the hospital or hospital district.*

Sec. 10. Minnesota Statutes 1989 Supplement, section 144.802, subdivision 3, is amended to read:

Subd. 3. [APPLICATIONS; NOTICE OF APPLICATION; RECOMMENDATIONS.] (a) Each prospective licensee and each present licensee wishing to offer a new type or types of ambulance service, to establish a new base of operation, or to expand a primary service area, shall make written application for a license to the commissioner on a form provided by the commissioner.

(b) For applications for the provision of ambulance services in a service area located within a county, the commissioner shall promptly send notice of the completed application to the county board and to each community health ~~service~~ board, *governing body of a regional emergency medical services system designated under section 144.8093*, ambulance service, and municipality in the area in which ambulance service would be provided by the applicant. The commissioner shall publish the notice, at the applicant's expense, in the State Register and in a newspaper in the municipality in which the base of operation will be located, or if no newspaper is published in the municipality or if the service would be provided in more than one municipality, in a newspaper published at the county seat of the county in which the service would be provided.

(c) For applications for the provision of ambulance services in a service area larger than a county, the commissioner shall promptly send notice of the completed application to the municipality in which the service's base of operation will be located and to each community health board, county board, *governing body of a regional emergency medical services system designated under section 144.8093*, and ambulance service located within the counties in which any part of the service area described by the applicant

is located, and any contiguous counties. The commissioner shall publish this notice, at the applicant's expense, in the State Register.

(d) The commissioner shall request that the chief administrative law judge appoint an administrative law judge to hold a public hearing in the municipality in which the service's base of operation will be located. The public hearing shall be conducted as contested case hearing under chapter 14.

(e) Each municipality, county, community health ~~service board~~, *governing body of a regional emergency medical services system*, ambulance service, and other person wishing to make recommendations concerning the disposition of the application shall make written recommendations to the administrative law judge within 30 days of the publication of notice of the application in the State Register.

(f) The administrative law judge shall:

(1) hold a public hearing in the municipality in which the service's base of operations is or will be located;

(2) provide notice of the public hearing in the newspaper or newspapers in which notice was published under paragraph (b) for two successive weeks at least ten days before the date of the hearing;

(3) allow any interested person the opportunity to be heard, to be represented by counsel, and to present oral and written evidence at the public hearing;

(4) provide a transcript of the hearing at the expense of any individual requesting it.

(g) The administrative law judge shall review and comment upon the application and shall make written recommendations as to its disposition to the commissioner within 90 days of receiving notice of the application. In making the recommendations, the administrative law judge shall consider and make written comments as to whether the proposed service, change in base of operations, or expansion in primary service area is needed, based on consideration of the following factors:

(1) the relationship of the proposed service, change in base of operations or expansion in primary service area to the current community health plan as approved by the commissioner under section ~~145.918~~ 145A.12, *subdivision 4*;

(2) the recommendations or comments of the governing bodies of the counties and municipalities in which the service would be provided;

(3) the deleterious effects on the public health from duplication, if any, of ambulance services that would result from granting the license;

(4) the estimated effect of the proposed service, change in base of operation or expansion in primary service area on the public health;

(5) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service, change in base of operations, or expansion in primary service area.

The administrative law judge shall recommend that the commissioner either grant or deny a license or recommend that a modified license be granted. The reasons for the recommendation shall be set forth in detail. The administrative law judge shall make the recommendations and reasons

available to any individual requesting them.

Sec. 11. Minnesota Statutes 1989 Supplement, section 144.804, subdivision 1, is amended to read:

Subdivision 1. [DRIVERS AND ATTENDANTS.] No publicly or privately owned basic ambulance service shall be operated in the state unless its drivers and attendants possess a current emergency ~~medical care course~~ certificate authorized by rules adopted by the commissioner of health according to chapter 14. Until August 1, 1994, a licensee may substitute a person currently certified by the American Red Cross in advanced first aid and emergency care or a person who has successfully completed the United States Department of Transportation first responder curriculum, and who has also been trained to use ~~all of the equipment carried in the ambulance basic life support equipment as required by rules adopted by the commissioner under section 144.804, subdivision 2,~~ for one of the persons on a basic ambulance, provided that person will function as the driver while transporting a patient. The commissioner may grant a variance to allow a licensed ambulance service to use attendants certified by the American Red Cross in advanced first aid and emergency care in order to ensure 24-hour emergency ambulance coverage. ~~The variance must expire no later than August 1, 1990.~~ The commissioner shall study the roles and responsibilities of first responder units and report the findings by January 1, 1991. This study shall address at a minimum: (1) education and training; (2) appropriate equipment and its use; (3) medical direction and supervision; and (4) supervisory and regulatory requirements.

Sec. 12. Minnesota Statutes 1989 Supplement, section 144.804, subdivision 7, is amended to read:

Subd. 7. [DRIVERS OF AMBULANCE SERVICE VEHICLES ~~AMBU-LANCES.~~] An ambulance service vehicle shall be staffed by a driver possessing a current Minnesota driver's license or equivalent and whose driving privileges are not under suspension or revocation by any state. If red lights and siren are used, the driver must also have completed training approved by the commissioner in emergency driving techniques. An ambulance transporting patients must be staffed by at least two persons who are trained according to ~~this section subdivision 1, or section 144.809,~~ one of whom may be the driver. ~~A third person serving as driver shall be trained according to this subdivision.~~

Sec. 13. Minnesota Statutes 1989 Supplement, section 144.809, is amended to read:

144.809 [RENEWAL OF ~~BASIC EMERGENCY MEDICAL TECHNICIAN'S CARE COURSE~~ CERTIFICATE; FEE.]

Subdivision 1. [STANDARDS FOR RECERTIFICATION.] *The commissioner shall adopt rules establishing minimum standards for expiration and recertification of basic emergency care course certificates. These standards shall require:*

(1) four years after initial certification, and every four years thereafter, formal classroom training and successful completion of a written test and practical examination, both of which must be approved by the commissioner; and

(2) two years after initial certification, and every four years thereafter, in-service continuing education, including knowledge and skill proficiency

testing, all of which must be conducted under the supervision of a medical director or medical advisor and approved by the commissioner.

Course requirements under clause (1) shall not exceed 24 hours. Course requirements under clause (2) shall not exceed 36 hours, of which at least 12 hours may consist of course material developed by the medical director or medical advisor.

Individuals may choose to complete, two years after initial certification, and every two years thereafter, formal classroom training and successful completion of a written test and practical examination, both of which are approved by the commissioner, in lieu of completing requirements in clauses (1) and (2).

Subd. 2. [UPGRADING TO BASIC EMERGENCY CARE COURSE CERTIFICATE.] *By August 1, 1994, the commissioner shall adopt rules authorizing the equivalence of the following as credit toward successful completion of the commissioner's basic emergency care course:*

(1) successful completion of the United States Department of Transportation first responder curriculum;

(2) a minimum of two years of documented continuous service as an ambulance driver, as authorized in section 144.804, subdivision 7;

(3) documented clinical experience obtained through work or volunteer activity as a first responder; and

(4) documented continuing education in emergency care.

Subd. 3. [LIMITATION ON FEES.] *No fee set by the commissioner for biennial renewal of an a basic emergency medical technician's care course certificate by a volunteer member of an ambulance service, fire department, or police department shall exceed \$2.*

Sec. 14. Minnesota Statutes 1989 Supplement, section 144.8091, is amended to read:

144.8091 [REIMBURSEMENT TO NONPROFIT AMBULANCE SERVICES.]

Subdivision 1. [REPAYMENT FOR VOLUNTEER TRAINING.] *Any political subdivision, or nonprofit hospital or nonprofit corporation operating a licensed ambulance service shall be reimbursed by the commissioner for the necessary expense of the initial training of a volunteer ambulance attendant upon successful completion by the attendant of a basic emergency medical care course, or a continuing education course for basic emergency medical care, or both, which has been approved by the commissioner, pursuant to section 144.804. Reimbursement may include tuition, transportation, food, lodging, hourly payment for the time spent in the training course, and other necessary expenditures, except that in no instance shall a volunteer ambulance attendant be reimbursed more than \$210 \$350 for successful completion of a basic course, and \$70 \$140 for successful completion of a continuing education course.*

Subd. 2. [VOLUNTEER ATTENDANT DEFINED.] *For purposes of this section, "volunteer ambulance attendant" means a person who provides emergency medical services for a Minnesota licensed ambulance service without the expectation of remuneration and who does not depend in any way upon the provision of these services for the person's livelihood. An individual may be considered a volunteer ambulance attendant even though*

that individual receives an hourly stipend for each hour of actual service provided, except for hours on standby alert, even though this hourly stipend is regarded as taxable income for purposes of state or federal law, provided that this hourly stipend does not exceed \$500 \$3,000 within one year of the final certification examination. Reimbursement will be paid under provisions of this section when documentation is provided the department of health that the individual has served for one year from the date of the final certification exam as an active member of a Minnesota licensed ambulance service.

Sec. 15. [144.8095] [FUNDING FOR THE EMERGENCY MEDICAL SERVICES REGIONS.]

The commissioner of health shall distribute funds appropriated from the general fund equally among the emergency medical service regions. Each regional board may use this money to reimburse eligible emergency medical services personnel for continuing education costs related to emergency care that are personally incurred and are not reimbursed from other sources. Eligible emergency medical services personnel include, but are not limited to, dispatchers, emergency room physicians, emergency room nurses, first responders, emergency medical technicians, and paramedics.

Sec. 16. [144.8097] [EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.]

Subdivision 1. [ADVISORY COUNCIL ESTABLISHED.] There is established an emergency medical services advisory council to advise, to consult with, and to make recommendations to the commissioner of health regarding the formulation of policy and plans for the organization, delivery, and evaluation of emergency medical services within the state. The commissioner shall establish procedures for the advisory council's proper functioning. The procedures must include, but not be limited to, methods for selecting alternate or temporary members and methods of communicating recommendations and advice to the commissioner for consideration.

Subd. 2. [MEMBERSHIP; TERMS; COMPENSATION.] (a) The council shall consist of 17 members. The members shall be appointed by the commissioner of health and shall consist of the following:

- (1) a representative of the governing bodies of the eight regional emergency medical systems designated under section 144.8093;*
- (2) an emergency medical services physician;*
- (3) an emergency department nurse;*
- (4) an emergency medical technician (ambulance, intermediate, or paramedic);*
- (5) a representative of an emergency medical care training institution;*
- (6) a representative of a licensed ambulance service;*
- (7) a hospital administrator;*
- (8) a first responder;*
- (9) a member of a community health services agency; and*
- (10) a representative of the public at large.*

(b) As nearly as possible, one-third of the initial members' terms must expire each year during the first three years of the council. Successors of

the initial members shall be appointed for three-year terms. A person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member whom the newly appointed member succeeds.

(c) Members of the council shall be compensated for expenses.

(d) The removal of all members and the expiration of the council shall be as provided in section 15.059.

Sec. 17. Minnesota Statutes 1988, section 148B.23, is amended by adding a subdivision to read:

Subd. 1a. [EXTENSION OF TRANSITION PERIOD ALLOWED.] The board may issue a graduate social worker license without examination, after the transition period that ends June 30, 1989, to an applicant:

(1) who met the criteria in subdivision 1, clause (2), before the transition period ended; and

(2) who was unable to submit an application for licensure before the transition period ended because the person was in another country performing social work training to complete the requirements for a master's degree in social work.

Sec. 18. Minnesota Statutes 1988, section 151.06, subdivision 1, is amended to read:

Subdivision 1. (a) [POWERS AND DUTIES.] The board of pharmacy shall have the power and it shall be its duty:

(1) to regulate the practice of pharmacy;

(2) to regulate the manufacture, wholesale, and retail sale of drugs within this state;

(3) to regulate the identity, labeling, purity, and quality of all drugs and medicines dispensed in this state, using the United States Pharmacopeia and the National Formulary, or any revisions thereof, or standards adopted under the federal act as the standard;

(4) to enter and inspect by its authorized representative any and all places where drugs, medicines, medical gases, or veterinary drugs or devices are sold, vended, given away, compounded, dispensed, manufactured, wholesaled, or held; it may secure samples or specimens of any drugs, medicines, medical gases, or veterinary drugs or devices after paying or offering to pay for such sample; it shall be entitled to inspect and make copies of any and all records of shipment, purchase, manufacture, quality control, and sale of these items provided, however, that such inspection shall not extend to financial data, sales data, or pricing data;

(5) to examine and license as pharmacists all applicants whom it shall deem qualified to be such;

(6) to license wholesale drug distributors;

(7) to deny, suspend, revoke, or refuse to renew any registration or license required under this chapter, to any applicant or registrant or licensee upon any of the following grounds:

(i) fraud or deception in connection with the securing of such license or registration;

(ii) in the case of a pharmacist, conviction in any court of a felony;

(iii) in the case of a pharmacist, conviction in any court of an offense involving moral turpitude;

(iv) habitual indulgence in the use of narcotics, stimulants, or depressant drugs; or habitual indulgence in intoxicating liquors in a manner which could cause conduct endangering public health;

(v) unprofessional conduct or conduct endangering public health;

(vi) gross immorality;

(vii) employing, assisting, or enabling in any manner an unlicensed person to practice pharmacy;

(viii) conviction of theft of drugs, or the unauthorized use, possession, or sale thereof;

(ix) violation of any of the provisions of this chapter or any of the rules of the state board of pharmacy;

(x) in the case of a pharmacy license, operation of such pharmacy without a pharmacist present and on duty;

(xi) in the case of a pharmacist, physical or mental disability which could cause incompetency in the practice of pharmacy; or

(xii) in the case of a pharmacist, the suspension or revocation of a license to practice pharmacy in another state;

~~(7)~~ (8) to employ necessary assistants and make rules for the conduct of its business; and

~~(8)~~ (9) to perform such other duties and exercise such other powers as the provisions of the act may require.

(b) [TEMPORARY SUSPENSION.] In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a pharmacist has violated a statute or rule that the board is empowered to enforce and continued practice by the pharmacist would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the pharmacist, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the administrative procedure act. The pharmacist shall be provided with at least 20 days notice of any hearing held under this subdivision.

(c) [RULES.] For the purposes aforesaid it shall be the duty of the board to make and publish uniform rules not inconsistent herewith for carrying out and enforcing the provisions of this chapter.

Sec. 19. Minnesota Statutes 1988, section 151.25, is amended to read:

151.25 [REGISTRATION OF MANUFACTURERS OR WHOLESALERS; FEE; PROHIBITIONS.]

The board shall require and provide for the annual registration of every person engaged in manufacturing ~~or selling at wholesale~~ drugs, medicines, chemicals, or poisons for medicinal purposes, now or hereafter doing business with accounts in this state. Upon a payment of a fee as set by the board, the board shall issue a registration certificate in such form as it may prescribe to such manufacturer ~~or wholesaler~~. Such registration certificate shall be displayed in a conspicuous place in such manufacturer's or wholesaler's place of business for which it is issued and expire on the date set

by the board. It shall be unlawful for any person to manufacture ~~or sell at wholesale~~ drugs, medicines, chemicals, or poisons for medicinal purposes unless such a certificate has been issued to the person by the board. It shall be unlawful for any person engaged in the manufacture ~~or selling at wholesale~~ of drugs, medicines, chemicals, or poisons for medicinal purposes, or the person's agent, to sell legend drugs to other than a pharmacy, except as provided in this chapter.

Sec. 20. [151.42] [CITATION.]

Sections 151.42 to 151.51 may be cited as the "wholesale drug distribution licensing act of 1990."

Sec. 21. [151.43] [SCOPE.]

Sections 151.42 to 151.51 apply to any person, partnership, corporation, or business firm engaging in the wholesale distribution of prescription drugs within the state.

Sec. 22. [151.44] [DEFINITIONS.]

As used in sections 151.42 to 151.51, the following terms have the meanings given in paragraphs (a) to (f):

(a) "Wholesale drug distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(1) a sale between a division, subsidiary, parent, affiliated, or related company under the common ownership and control of a corporate entity;

(2) the purchase or other acquisition, by a hospital or other health care entity that is a member of a group purchasing organization, of a drug for its own use from the organization or from other hospitals or health care entities that are members of such organizations;

(3) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1988, to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control;

(5) the sale, purchase, or trade of a drug or offer to sell, purchase, or trade a drug for emergency medical reasons;

(6) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) the transfer of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(8) the distribution of prescription drug samples by manufacturers representatives; or

(9) the sale, purchase, or trade of blood and blood components.

(b) "Wholesale drug distributor" means anyone engaged in wholesale drug distribution, including but not limited to, manufacturers; repackers;

own-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and pharmacies that conduct wholesale drug distribution. A wholesale drug distributor does not include a common carrier or individual hired primarily to transport prescription drugs.

(c) "Manufacturer" means anyone who is engaged in the manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.

(d) "Prescription drug" means a drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to United States Code, title 21, sections 811 and 812.

(e) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(f) "Blood components" means that part of blood separated by physical or mechanical means.

Sec. 23. [151.45] [WHOLESALE DRUG DISTRIBUTOR ADVISORY TASK FORCE.]

The board shall appoint a wholesale drug distributor advisory task force composed of five members, to be selected and to perform duties and responsibilities as follows:

(a) *One member shall be a pharmacist who is neither a member of the board nor a board employee.*

(b) *Two members shall be representatives of wholesale drug distributors as defined in section 151.44, paragraph (b).*

(c) *One member shall be a representative of drug manufacturers.*

(d) *One member shall be a public member as defined by section 214.02.*

(e) *The advisory task force shall review and make recommendations to the board on the merit of all rules dealing with wholesale drug distributors and drug manufacturers that are proposed by the board; and no rule affecting wholesale drug distributors proposed by the board shall be adopted without first being submitted to the task force for review and comment.*

(f) *In making advisory task force appointments, the board shall consider recommendations received from each of the wholesale drug distributor, pharmacist, and drug manufacturer classes cited in paragraphs (a) to (c), and shall adopt rules that provide for solicitation of the recommendations.*

Sec. 24. [151.46] [PROHIBITED DRUG PURCHASES OR RECEIPT.]

It is unlawful for any person to knowingly purchase or receive a prescription drug from a source other than a person or entity licensed under the laws of the state, except where otherwise provided. Licensed wholesale drug distributors other than pharmacies shall not dispense or distribute prescription drugs directly to patients. A person violating the provisions of this section is guilty of a misdemeanor.

Sec. 25. [151.47] [WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENTS.]

Subdivision 1. [REQUIREMENTS.] All wholesale drug distributors are

subject to the requirements in paragraphs (a) to (e).

(a) No person or distribution outlet shall act as a wholesale drug distributor without first obtaining a license from the board and paying the required fee.

(b) No license shall be issued or renewed for a wholesale drug distributor to operate unless the applicant agrees to operate in a manner prescribed by federal and state law and according to the rules adopted by the board.

(c) The board may require a separate license for each facility directly or indirectly owned or operated by the same business entity within the state, or for a parent entity with divisions, subsidiaries, or affiliate companies within the state, when operations are conducted at more than one location and joint ownership and control exists among all the entities.

(d) As a condition for receiving and retaining a wholesale drug distributor license issued under sections 151.42 to 151.51, an applicant shall satisfy the board that it has and will continuously maintain:

(1) adequate storage conditions and facilities;

(2) minimum liability and other insurance as may be required under any applicable federal or state law;

(3) a viable security system that includes an after hours central alarm, or comparable entry detection capability; restricted access to the premises; comprehensive employment applicant screening; and safeguards against all forms of employee theft;

(4) a system of records describing all wholesale drug distributor activities set forth in section 151.44 for at least the most recent two-year period and which shall be reasonably accessible as defined by board regulations in any inspection authorized by the board;

(5) principals and persons, including officers, directors, primary shareholders, and key management executives who must at all times demonstrate and maintain their capability of conducting business in conformity with sound financial practices as well as state and federal law;

(6) complete, updated information, to be provided to the board as a condition for obtaining and retaining a license, about each wholesale drug distributor to be licensed, including all pertinent corporate licensee information, if applicable, or other ownership, principal, key personnel, and facilities information found to be necessary by the board;

(7) written policies and procedures that assure reasonable wholesale drug distributor preparation for, protection against, and handling of any facility security or operation problems, including, but not limited to, those caused by natural disaster or government emergency, inventory inaccuracies or product shipping and receiving, outdated product or other unauthorized product control, appropriate disposition of returned goods, and product recalls;

(8) sufficient inspection procedures for all incoming and outgoing product shipments; and

(9) operations in compliance with all federal requirements applicable to wholesale drug distribution.

(e) An agent or employee of any licensed wholesale drug distributor need not seek licensure under this section.

Subd. 2. [REQUIREMENTS MUST CONFORM WITH FEDERAL LAW.] All requirements set forth in this section shall conform to wholesale drug distributor licensing guidelines formally adopted by the United States Food and Drug Administration; and in case of conflict between a wholesale drug distributor licensing requirement imposed by the board and a Food and Drug Administration wholesale drug distributor guideline, the latter shall control.

Sec. 26. [151.48] [OUT-OF-STATE WHOLESALE DRUG DISTRIBUTOR LICENSING REQUIREMENTS.]

(a) It is unlawful for an out-of-state wholesale drug distributor to conduct business in the state without first obtaining a license from the board and paying the required fee.

(b) Application for an out-of-state wholesale drug distributor license under this section shall be made on a form furnished by the board.

(c) The issuance of a license under sections 151.42 to 151.51 shall not change or affect tax liability imposed by the department of revenue on any out-of-state wholesale drug distributor.

(d) No person acting as principal or agent for any out-of-state wholesale drug distributor may sell or distribute drugs in the state unless the distributor has obtained a license.

(e) The board may adopt regulations that permit out-of-state wholesale drug distributors to obtain a license on the basis of reciprocity to the extent that an out-of-state wholesale drug distributor:

(1) possesses a valid license granted by another state under legal standards comparable to those that must be met by a wholesale drug distributor of this state as prerequisites for obtaining a license under the laws of this state; and

(2) can show that the other state would extend reciprocal treatment under its own laws to a wholesale drug distributor of this state.

Sec. 27. [151.49] [LICENSE RENEWAL APPLICATION PROCEDURES.]

Application blanks for renewal of a license required by sections 151.42 to 151.51 shall be mailed to each licensee on or before the first day of the month prior to the month in which the license expires and, if application for renewal of the license with the required fee is not made before the expiration date, the existing license or renewal shall lapse and become null and void upon the date of expiration.

Sec. 28. [151.50] [RULES.]

The board shall adopt rules to carry out the purposes and enforce the provisions of sections 151.42 to 151.51. All rules adopted under this section shall conform to wholesale drug distributor licensing guidelines formally adopted by the United States Food and Drug Administration; and in case of conflict between a rule adopted by the board and a Food and Drug Administration wholesale drug distributor guideline, the latter shall control.

Sec. 29. [151.51] [BOARD ACCESS TO WHOLESALE DRUG DISTRIBUTOR RECORDS.]

Wholesale drug distributors may keep records at a central location apart from the principal office of the wholesale drug distributor or the location

at which the drugs were stored and from which they were shipped, provided that the records shall be made available for inspection within two working days of a request by the board. The records may be kept in any form permissible under federal law applicable to prescription drugs record keeping.

Sec. 30. Minnesota Statutes 1988, section 171.07, subdivision 1a, is amended to read:

Subd. 1a. [PHOTOGRAPHIC NEGATIVES; FILING; DATA CLASSIFICATION.] The department shall file, or contract to file, all photographic negatives obtained in the process of issuing driver licenses or Minnesota identification cards. The negatives shall be private data pursuant to section 13.02, subdivision 12. Notwithstanding section 13.04, subdivision 3, the department shall not be required to provide copies of photographic negatives to data subjects. The use of the files is restricted:

(1) to the issuance and control of driver licenses and;

(2) for law enforcement purposes in the investigation and prosecution of felonies and violations of section 169.09; 169.121; 169.123; 169.129; 171.22; 171.24; 171.30; 609.41; 609.487, subdivision 3; 609.631, subdivision 4, clause (3); or 609.821, subdivision 3, clauses (1), item (iv), and (3); and

(3) for child support enforcement purposes under section 256.978.

Sec. 31. Minnesota Statutes 1988, section 241.26, subdivision 2, is amended to read:

Subd. 2. [USE OF LOCAL DETENTION FACILITIES.] The commissioner of corrections shall designate state correctional institutions for participation in the program authorized in subdivision 1 and shall adapt facilities of such institutions to provide housing and supervision of inmates participating in such program. The commissioner of corrections may also enter into contractual agreements with appropriate city and county authorities for the confinement of and provision of other correctional services to such inmates whose employment, educational or vocational training programs so require, and such city and county authorities are hereby authorized to make and enter such contracts and agreements. When the commissioner determines that the circumstances of a participant in the program authorized by subdivision 1 do not require the security of a public detention facility, the commissioner may contract with public and private agencies for the custody and separate care of such participant or house the participant in a community correction center or under house arrest and monitored by electronic surveillance in an approved residence.

Sec. 32. Minnesota Statutes 1988, section 244.05, is amended by adding a subdivision to read:

Subd. 6. [INTENSIVE COMMUNITY SUPERVISION.] *The commissioner may order that an inmate be placed on intensive community supervision, as described in sections 244.14 and 244.15, for all or part of the inmate's supervised release term. If the inmate violates the conditions of the intensive community supervision, the commissioner shall impose sanctions as provided in subdivision 3 and section 244.14.*

Sec. 33. [244.12] [INTENSIVE COMMUNITY SUPERVISION.]

Subdivision 1. [GENERALLY.] *The commissioner may order that an inmate be placed on intensive community supervision, as described in*

sections 244.14 and 244.15, for all or part of the inmate's supervised release term. Additionally, the commissioner may order that an offender who meets the eligibility requirements of subdivisions 2 and 3 be placed on intensive community supervision, as described in sections 244.14 and 244.15, for all or part of the offender's prison sentence if the offender agrees to participate in the program and if the sentencing court approves in writing of the offender's participation in the program.

Subd. 2. [ELIGIBILITY.] The commissioner must limit the intensive community supervision program to the following persons:

- (1) inmates who are serving a supervised release term;*
- (2) offenders who are committed to the commissioner's custody following revocation of a stayed sentence; and*
- (3) offenders who are committed to the commissioner's custody for a prison sentence of 27 months or less, who did not receive a dispositional departure under the sentence guidelines, and who have already served a period of incarceration as a result of the offense for which they are committed.*

Subd. 3. [OFFENDERS NOT ELIGIBLE.] The following are not eligible to be placed on intensive community supervision, under subdivision 2, clause (3):

- (1) offenders who were committed to the commissioner's custody under a statutory mandatory minimum sentence;*
- (2) offenders who were committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct in the first or second degree, or criminal vehicular operation resulting in death; and*
- (3) offenders whose presence in the community would present a danger to public safety.*

Sec. 34. [244.13] [INTENSIVE COMMUNITY SUPERVISION; ESTABLISHMENT OF PROGRAMS.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of corrections shall establish programs for those designated by the commissioner to serve all or part of a prison sentence or a supervised release term on intensive community supervision. The adoption of policies and procedures to implement sections 244.05, subdivision 6, and 244.12 to 244.15 are not subject to the rulemaking procedures of chapter 14. The commissioner shall locate the programs so that at least one-half of the money appropriated for the programs in each year is used for programs in community corrections act counties.

Subd. 2. [TRAINING.] The commissioner shall develop specialized training programs for probation officers assigned to the intensive community supervision program. The probation officer caseload shall not exceed the ratio of 30 offenders to two probation officers.

Subd. 3. [EVALUATION.] The commissioner shall develop a system for gathering and analyzing information concerning the value and effectiveness of the intensive community supervision programs and shall compile a report to the chairs of the senate and house judiciary committees by January 1 of each odd-numbered year.

Sec. 35. [244.14] [INTENSIVE COMMUNITY SUPERVISION; BASIC

ELEMENTS.]

Subdivision 1. [REQUIREMENTS.] This section governs the intensive community supervision programs established under section 244.13. The commissioner shall operate the programs in conformance with this section. The commissioner shall administer the programs to further the following goals:

- (1) to punish the offender;*
- (2) to protect the safety of the public;*
- (3) to facilitate employment of the offender during the intensive community supervision and afterward; and*
- (4) to require the payment of restitution ordered by the court to compensate the victims of the offender's crime.*

Subd. 2. [GOOD TIME NOT AVAILABLE.] An offender serving a prison sentence on intensive community supervision does not earn good time, notwithstanding section 244.04.

Subd. 3. [SANCTIONS.] The commissioner shall impose severe and meaningful sanctions for violating the conditions of an intensive community supervision program. The commissioner shall provide for revocation of intensive community supervision of an offender who:

- (1) fails to follow the rules of the program;*
- (2) commits any misdemeanor, gross misdemeanor, or felony offense; or*
- (3) presents a risk to the public, based on the offender's behavior, attitude, or abuse of alcohol or controlled substances. The revocation of intensive community supervision is governed by the procedures in the commissioner's rules adopted under section 244.05, subdivision 2.*

An offender whose intensive community supervision is revoked shall be imprisoned for a time period equal to the offender's original term of imprisonment, but in no case for longer than the time remaining in the offender's sentence. "Original term of imprisonment" means a time period equal to two-thirds of the prison sentence originally executed by the sentencing court.

Subd. 4. [ALL PHASES.] Throughout all phases of an intensive community supervision program, the offender shall submit at any time to an unannounced search of the offender's person, vehicle, or premises by a probation officer. If the offender received a restitution order as part of the sentence, the offender shall make weekly payments as scheduled by the probation officer, until the full amount is paid.

Sec. 36. [244.15] [INTENSIVE COMMUNITY SUPERVISION; PHASES I TO IV.]

Subdivision 1. [DURATION.] Phase I of an intensive community supervision program is six months, or one-half the presumptive imprisonment sentence under the sentencing guidelines, whichever is less. Phase II lasts for at least four months. Phase III lasts for at least two months. Phase IV continues indefinitely.

Subd. 2. [RANDOM DRUG TESTING.] (a) During phase I, the offender will be subjected to weekly urinalysis and breath tests to detect the presence of controlled substances or alcohol. The tests will be random and

unannounced.

(b) During phase II, the tests will be done twice monthly.

(c) During phases III and IV, the tests will be done at random at the frequency determined by the probation officer.

Subd. 3. [HOUSE ARREST.] (a) During phase I, the offender will be under house arrest in a residence approved by the offender's probation officer and may not move to another residence without permission. "House arrest" means that the offender's movements will be severely restricted and continually monitored by the assigned probation officer.

(b) During phase II, modified house arrest is imposed.

(c) During phases III and IV, the offender is subjected to a daily curfew instead of house arrest.

Subd. 4. [FACE-TO-FACE CONTACTS.] (a) During phase I, the assigned probation officer shall have at least four face-to-face contacts with the offender each week.

(b) During phase II, two face-to-face contacts a week are required.

(c) During phase III, one face-to-face contact a week is required.

(d) During phase IV, two face-to-face contacts a month are required.

Subd. 5. [WORK REQUIRED.] During phases I, II, III, and IV, the offender must spend at least 40 hours a week performing approved work, undertaking constructive activity designed to obtain employment, or attending a treatment or education program as directed by the commissioner. An offender may not spend more than six months in a residential treatment program that does not require the offender to spend at least 40 hours a week performing approved work or undertaking constructive activity designed to obtain employment.

Subd. 6. [ELECTRONIC SURVEILLANCE.] During any phase, the offender may be placed on electronic surveillance if the probation officer so directs.

Subd. 7. [OTHER REQUIREMENTS.] The commissioner may include any other conditions in the various phases of the intensive community supervision program that the commissioner finds necessary and appropriate.

Sec. 37. [245.036] [LEASES FOR STATE-OPERATED, COMMUNITY-BASED PROGRAMS.]

Notwithstanding section 16B.24, subdivision 6, paragraph (a), or any other law to the contrary, the commissioner of administration may lease land or other premises to provide state-operated, community-based programs authorized by sections 252.50, 253.018, and 253.28 for a term of 20 years or less, with a ten year option to renew, subject to cancellation upon 30 days' notice by the state for any reason, except rental of other land or premises for the same use. The commissioner of administration may lease land or premises to provide state-operated, community-based programs authorized by sections 252.50, 253.018, and 253.28 for no more than 30 years.

Sec. 38. Minnesota Statutes 1989 Supplement, 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 adults with mental illness residing in the county. *Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; or by contract with a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (4).* Clients may be required to pay a fee 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 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. 39. Minnesota Statutes 1989 Supplement, section 245.488, subdivision 1, is amended to read:

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. *Services may be provided directly by the county through county-operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; by contract with privately operated mental health centers or mental health clinics approved by the commissioner under section 245.69, subdivision 2; or by contract with a licensed mental health professional as defined in section 245.4871, subdivision 27, clauses (1) to (4).* 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.

Sec. 40. Minnesota Statutes 1989 Supplement, section 245A.02, subdivision 6a, is amended 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, in which children participate on a one-time only or occasional basis up to a maximum of 45 hours per child, per month. A drop-in child care program must be licensed under Minnesota Rules governing child care centers. A drop-in child care program must meet one of the following requirements to qualify for the rule exemptions specified in section 245A.14, subdivision 6:~~

(1) the drop-in child care program operates in a child care center which houses no child care program except the drop-in child care program;

(2) the drop-in child care program operates in the same child care center but not during the same hours as a regularly scheduled ongoing child care program with a stable enrollment; or

(3) the drop-in child care program operates in a child care center at the same time as a regularly scheduled ongoing child care program with a stable enrollment but the program's activities, except for bathroom use and outdoor play, are conducted separately from each other.

Sec. 41. Minnesota Statutes 1989 Supplement, 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, 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 whose primary purpose is to provide social or recreational activities for adults or school-age children, 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;

(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~~ *mental health outpatient services for persons adults with mental illness or children with emotional disturbance; or*

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.

Sec. 42. Minnesota Statutes 1989 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in clauses (1) to (4) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults *in licensed programs* substantiated under section 626.557 and the maltreatment of minors *in licensed programs* 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).

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 include information from the county agency's record of substantiated abuse ~~of adults~~, or neglect of adults *in licensed programs*, and the maltreatment of minors *in licensed programs*, and information from the bureau of criminal apprehension.

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).

(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 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.

(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. 43. Minnesota Statutes 1989 Supplement, section 245A.04, subdivision 3a, is amended 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~~ *indicates the individual is disqualified* 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~~ *disqualifies* 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. 44. Minnesota Statutes 1989 Supplement, section 245A.04, subdivision 3b, is amended 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. 45. Minnesota Statutes 1988, section 245A.07, subdivision 3, is amended to read:

Subd. 3. [SUSPENSION, REVOCATION, PROBATION.] The commissioner may suspend, revoke, or make probationary a license if a license holder fails to comply fully with applicable laws or rules. A license holder who has had a license suspended, revoked, or made probationary must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or made probationary ~~and~~.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14. The license holder may appeal an order suspending, or revoking, or making a license probationary by notifying the commissioner in writing by certified mail within ten calendar days after receiving notice that the license has been suspended, or revoked, or made probationary.

(b) If the license was made probationary, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail within ten calendar days after receiving notice that the license has been made probationary. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final, and is not subject to appeal under chapter 14.

Sec. 46. Minnesota Statutes 1988, section 245A.08, subdivision 3, is amended to read:

Subd. 3. [BURDEN OF PROOF] (a) At a hearing regarding suspension, immediate suspension, or revocation, ~~or making probationary~~ of a license for family day care or foster care, the commissioner may demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. If the commissioner demonstrates that reasonable cause existed, the burden of proof in hearings involving suspension, immediate suspension, or revocation, ~~or making probationary~~ of a family day care or foster care license shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with those laws or rules that the commissioner alleges the license holder violated, at the time that the commissioner alleges the violations of law or rules occurred.

(b) At a hearing on denial of an application, the applicant bears the burden of proof to demonstrate by a preponderance of the evidence that the appellant has complied fully with sections 245A.01 to 245A.15 and other applicable law or rule and that the application should be approved and a license granted.

(c) At all other hearings under this section, the commissioner bears the burden of proof to demonstrate, by a preponderance of the evidence, that the violations of law or rule alleged by the commissioner occurred.

Sec. 47. Minnesota Statutes 1988, section 245A.11, subdivision 4, is amended to read:

Subd. 4. [LOCATION OF RESIDENTIAL PROGRAMS.] In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless *one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; or (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit.* In cities of the first class, this subdivision applies even if a residential program is considered a permitted single-family residential use of property under subdivision 2. Foster care homes are exempt from this subdivision.

Sec. 48. Minnesota Statutes 1989 Supplement, section 245A.12, is amended to read:

245A.12 [VOLUNTARY RECEIVERSHIP FOR RESIDENTIAL PROGRAMS.]

Subdivision 1. [DEFINITIONS.] For purposes of this section and section 245A.13, the following terms have the meanings given them.

(a) *"Controlling individual" has the meaning in section 245A.02, subdivision 5a. When used in this section and section 245A.13, it means only those individuals controlling the residential program prior to the commencement of the receivership period.*

(b) *"Physical plant" means the building or buildings in which a residential program is located; all equipment affixed to the building and not easily subject to transfer as specified in the building and fixed equipment tables of the depreciation guidelines; and auxiliary buildings in the nature of sheds, garages, and storage buildings located on the same site if used for purposes related to resident care.*

(c) *"Related party" means a person who is a close relative of a provider or a provider group; an affiliate of a provider or a provider group; a close relative of an affiliate of a provider or provider group; or an affiliate of a close relative of an affiliate of a provider or provider group. For the purposes of this paragraph, the following terms have the meanings given them.*

(1) *"Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.*

(2) "Person" means an individual, a corporation, a partnership, an association, a trust, an unincorporated organization, or a government or political subdivision.

(3) "Close relative of an affiliate of a provider or provider group" means an individual whose relationship by blood, marriage, or adoption to an individual who is an affiliate to a provider or a provider group is no more remote than first cousin.

(4) "Control" includes the terms "controlling," "controlled by," and "under common control with" and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(5) "Provider or provider group" means the license holder or controlling individual prior to the effective date of the receivership.

Subd. 2. [RECEIVERSHIP AGREEMENT.] A majority of controlling 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 individuals and ~~provide for the appointment of a~~ *become the receiver to and* operate the residential program under conditions acceptable to both the commissioner and the majority of controlling ~~persons~~ *individuals*. 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.~~

Subd. 3. [MANAGEMENT AGREEMENT.] When the commissioner agrees to become the receiver of a residential program, the commissioner may enter into a management agreement with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the residential program subject at all times to the review and approval of the commissioner. A reasonable fee may be paid to the managing agent for the performance of these services.

Subd. 4. [RATE ADJUSTMENT.] The provisions of section 245A.13, subdivisions 7 and 8, shall also apply to voluntary receiverships.

Subd. 5. [CONTROLLING INDIVIDUALS; RESTRICTIONS ON LICENSURE.] No controlling individual of a residential program placed into receivership under this section shall apply for or receive a license to operate a residential program for five years from the commencement of the receivership period. This subdivision does not apply to residential programs that are owned or operated by controlling individuals, that were in existence prior to the date of the receivership agreement, and that have not been placed into receivership.

Subd. 6. [LIABILITY.] The controlling individuals of a residential program placed into receivership remain liable for any claims made against the residential program that arose from incidents or events that occurred prior to the commencement of the receivership period. Neither the commissioner nor the managing agent of the commissioner assumes this liability.

Subd. 7. [LIABILITY FOR FINANCIAL OBLIGATIONS.] Neither the commissioner nor the managing agent of the commissioner shall be liable for payment of any financial obligations of the residential program or of its controlling individuals incurred prior to the commencement of the receivership period unless such liability is expressly assumed in the receivership agreement. Those financial obligations remain the liability of the residential program and its controlling individuals. Financial obligations of the residential program incurred after the commencement of the receivership period are the responsibility of the commissioner or the managing agent of the commissioner to the extent such obligations are expressly assumed by each in the receivership or management agreements. The controlling individuals of the residential program remain liable for any financial obligations incurred after the commencement of the receivership period to the extent these obligations are not reimbursed in the rate paid to the residential program and are reasonable and necessary to the operation of the residential program. These financial obligations, or any other financial obligations incurred by the residential program prior to the commencement of the receivership period which are necessary to the continued operation of the residential program, may be deducted from any rental payments owed to the controlling individuals of the residential program as part of the receivership agreement.

Subd. 8. [PHYSICAL PLANT OF THE RESIDENTIAL PROGRAM.] Occupation of the physical plant after commencement of the receivership period shall be controlled by paragraphs (a) and (b).

(a) If the physical plant of a residential program placed in receivership is owned by a controlling individual or related party, the physical plant may be used by the commissioner or the managing agent for purposes of the receivership as long as the receivership period continues. A fair monthly rental for the physical plant shall be paid by the commissioner or managing agent to the owner of the physical plant. This fair monthly rental shall be determined by considering all relevant factors necessary to meet required arms-length obligations of controlling individuals such as the mortgage payments owed on the physical plant, the real estate taxes, special assessments, and the conditions of the physical plant. This rental shall not include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a residential program placed in receivership is not a related party, the controlling individual shall continue as the lessee of the property. However, during the receivership period, rental payments shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual. Neither the commissioner nor the managing agent assumes the obligations of the lease unless expressly stated in the receivership agreement. Should the lease expire during the receivership, the commissioner or the managing agent may negotiate a new lease for the term of the receivership period.

Subd. 9. [RECEIVERSHIP ACCOUNTING.] The commissioner may use the medical assistance account and funds for receivership cash flow and accounting purposes.

Subd. 10. [RECEIVERSHIP COSTS.] The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the residential program for costs,

cash flow, and accounting purposes related to the receivership.

Sec. 49. Minnesota Statutes 1989 Supplement, section 245A.13, is amended to read:

245A.13 [INVOLUNTARY RECEIVERSHIP FOR RESIDENTIAL 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 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, 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 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 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 a *the commissioner as* 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 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 individuals for each month that the receivership remains in effect. No payment made to a controlling 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. The commissioner as receiver may contract with another entity or group to act as the managing agent during the receivership period. The managing agent will be responsible for the day-to-day operations of the residential program subject at all times to the review and approval of the commissioner.~~

Subd. 3. [POWERS AND DUTIES OF THE RECEIVER.] Within 36 months after the receivership order, a *the 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 *or the managing agent* 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 *and the managing agent* shall operate the residential program in a manner designed to preserve the health, safety, rights, adequate care, and supervision of the persons served by the residential program. The receiver *or the managing agent* may make contracts and incur lawful expenses. The receiver *or the managing agent* shall collect incoming payments from all sources and apply them to the cost incurred in the performance of the ~~receiver's~~ functions of the receivership 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 *or the managing agent*. ~~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 individual by virtue of the receivership.~~

Subd. 3a. [LIABILITY.] The provisions contained in section 245A.12, subdivision 6, shall also apply to receiverships ordered according to this section.

Subd. 3b. [LIABILITY FOR FINANCIAL OBLIGATIONS.] The provisions contained in section 245A.12, subdivision 7, also apply to receiverships ordered according to this section.

Subd. 3c. [PHYSICAL PLANT OF THE RESIDENTIAL PROGRAM.] Occupation of the physical plant under an involuntary receivership shall be governed by paragraphs (a) and (b).

(a) The physical plant owned by a controlling individual of the residential program or related party must be made available for the use of the residential program throughout the receivership period. The court shall determine a fair monthly rental for the physical plant, taking into account all relevant factors 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 individuals or related parties for each month that the receivership remains in effect. No payment made to a controlling individual or related party by the receiver or the managing agent or any state agency during a period of the receivership shall include any allowance for profit or be based on any formula that includes an allowance for profit.

(b) If the owner of the physical plant of a residential program is not a related party, the court shall order the controlling individual to continue as the lessee of the property during the receivership period. Rental payments during the receivership period shall be made to the owner of the physical plant by the commissioner or the managing agent on behalf of the controlling individual.

Subd. 4. [RECEIVER'S FEE; LIABILITY; ASSISTANCE FROM THE

COMMISSIONER.] A receiver appointed under an involuntary receivership or the managing agent 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 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;
or

(4) the residential program closes.

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 *with the payment rate currently being paid*, 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.

Subd. 9. [RECEIVERSHIP ACCOUNTING.] The commissioner may use the medical assistance account and funds for receivership cash flow and accounting purposes.

Subd. 10. [RECEIVERSHIP COSTS.] The commissioner may use the accounts and funds that would have been available for the room and board, services, and program costs of persons in the residential program for costs, cash flow, and accounting purposes related to the receivership.

Sec. 50. Minnesota Statutes 1988, section 245A.14, subdivision 1, is amended to read:

Subdivision 1. [PERMITTED SINGLE-FAMILY RESIDENTIAL USE.] A licensed nonresidential program with a licensed capacity of 12 or fewer persons *and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children* shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations.

Sec. 51. Minnesota Statutes 1988, section 245A.14, subdivision 2, is amended to read:

Subd. 2. [PERMITTED MULTIFAMILY USE.] ~~Unless~~ *Except as otherwise provided in subdivision 1 or in a town, municipal, or county regulation,* a licensed nonresidential program with a licensed capacity of 13 to 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A town, municipal, or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of the program. Conditions imposed on the nonresidential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones unless the additional conditions are necessary to protect the health and safety of the persons being served by the nonresidential program. Nothing in sections 245A.01 to 245A.16 shall be construed to exclude or prohibit nonresidential programs from single-family zones if otherwise permitted by local zoning regulations.

Sec. 52. Minnesota Statutes 1989 Supplement, 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~~ *issue* correction orders and *recommend* 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. 53. Minnesota Statutes 1988, section 245A.16, subdivision 4, is amended to read:

Subd. 4. [ENFORCEMENT OF THE COMMISSIONER'S ORDERS.] The county or private agency shall enforce the commissioner's orders under sections 245A.07 and 245A.08, subdivision 5, according to the instructions of the commissioner. *The county attorney shall assist the county agency in the enforcement and defense of the commissioner's orders under sections 245A.07 and 245A.08 according to the instructions of the commissioner, unless a conflict of interest exists between the county attorney and the commissioner.*

Sec. 54. [245A.17] [SEAT BELT USE REQUIRED.]

(a) *When a nonresidential license holder provides or arranges for transportation for children served by the license holder, children four years old and older must be restrained by a properly adjusted and fastened seat belt and children under age four must be properly fastened in a child passenger restraint system meeting federal motor vehicle safety standards. A child passenger restraint system is not required for a child who, in the judgment of a licensed physician, cannot be safely transported in a child passenger restraint system because of a medical condition, body size, or physical disability, if the license holder possesses a written statement from the physician that satisfies the requirements in section 169.685, subdivision 5, paragraph (b).*

(b) *Paragraph (a) does not apply to transportation of children in a school bus inspected under section 169.451 that has a gross vehicle weight rating of more than 10,000 pounds, is designed for carrying more than ten persons, and was manufactured after 1977.*

Sec. 55. [STUDY OF SEAT BELT REQUIREMENTS.]

The commissioner of human services with the assistance of the commissioners of education and public safety shall study and make recommendations to the 1991 legislature for standards for the transportation of children by nonresidential programs licensed by the commissioner of human services.

Sec. 56. Minnesota Statutes 1988, section 252.27, as amended by Laws 1989, chapter 282, article 2, section 92, is amended to read:

252.27 [COST OF BOARDING CARE OUTSIDE OF HOME OR INSTITUTION PARENTAL CONTRIBUTION FOR THE COST OF CHILDREN'S SERVICES.]

Subdivision 1. [COUNTY RESPONSIBILITY.] 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~~ services shall be paid by the county of financial responsibility determined

pursuant to chapter 256G. If the child's parents or guardians do not reside in this state, the cost shall be paid by 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.

Subd. 2. [PARENTAL RESPONSIBILITY.] Responsibility of the parents for the cost of ~~care~~ services shall be based upon ability to pay. The state agency shall adopt rules to determine responsibility of the parents for the cost of ~~care~~ services when:

(a) Insurance or other health care benefits pay some but not all of the cost of ~~care~~ services; and

(b) No insurance or other health care benefits are available.

Subd. 2a. [CONTRIBUTION AMOUNT.] (a) *The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute monthly to the cost of services, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to section 259.40 or through title IV-E of the Social Security Act.*

(b) *The parental contribution equals the following percentage of that portion of the income of the natural or adoptive parents that exceeds 200 percent of the federal poverty guidelines for the applicable household size:*

Adjusted Gross Income	Percentage contribution exceeding 200 percent of poverty
Under \$40,000	0
\$40,000 to \$49,999	10
\$50,000 to \$59,999	12
\$60,000 to \$74,999	14
\$75,000 or more	15

If the child lives with the parent, the parental contribution is reduced by \$200. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents under age 21, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a), except that a court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the contribution of the parent making the payment.

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, insurance means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child in out-of-home care receiving services shall not be required to pay more than the amount for one the child in out-of-home care. In no event shall the parents be required to pay more than five percent of their income as defined in section 290A.03, subdivision 3 with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

Subd. 2b. [CHILD'S RESPONSIBILITY.] Responsibility of the child for the cost of care shall be up to the maximum amount of the total income

and resources attributed to the child except for the clothing and personal needs allowance as provided in section 256B.35, subdivision 1. Reimbursement by the parents and child shall be made to the county making any payments for ~~care and treatment services~~. The county board may require payment of the full cost of caring for children whose parents or guardians do not reside in this state.

To the extent that a child described in subdivision 1 is eligible for benefits under chapter 62A, 62C, 62D, 62E, or 64B, the county is not liable for the cost of ~~care services~~. ~~A parent or legal guardian who discontinues payment of health insurance premiums, subscriber fees or enrollment fees for a child who is otherwise eligible for those benefits is ineligible for payment of the cost of care of that child under this section.~~

~~The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care. Any appeals from the commissioner's determination shall be made pursuant to section 256.045, subdivisions 2 and 3.~~

Subd. 2c. [APPEALS.] A parent may appeal the determination of an obligation to make a contribution under this section, according to section 256.045.

Subd. 3. [CIVIL ACTIONS.] If the parent fails to make appropriate reimbursement as required in subdivision 2, ~~the county attorney may initiate a civil action to collect any unpaid reimbursement~~ 2a and 2b, the attorney general, at the request of the commissioner, may institute or direct the appropriate county attorney to institute civil action to recover the required reimbursement.

Subd. 4. [ORDER OF PAYMENT.] If the parental contribution is for reimbursement for the cost of services to both the local agency and the medical assistance program, the local agency shall be reimbursed for its expenses first and the remainder must be deposited in the medical assistance account.

Sec. 57. [254A.17] [PREVENTION AND TREATMENT INITIATIVES.]

Subdivision 1. [MATERNAL AND CHILD SERVICE PROGRAMS.] The commissioner shall fund maternal and child health and social service programs designed to improve the health and functioning of children born to mothers using alcohol and controlled substances. Comprehensive programs shall include immediate and ongoing intervention, treatment, and coordination of medical, educational, and social services through a child's preschool years. Programs shall also include research and evaluation to identify methods most effective in improving outcomes among this high-risk population.

Subd. 2. [CHILD PROTECTION PROGRAMS.] The commissioner shall fund innovative child protection programs for children and families at risk due to substance abuse. Funding of a program under this subdivision must result in (1) earlier intervention; (2) the provision of in-home supervision; and (3) case management of all services required. Programs must also include research and evaluation to identify methods most effective in child protection services for this high-risk population.

Subd. 3. [STATEWIDE DETOXIFICATION TRANSPORTATION PROGRAM.] The commissioner shall provide grants to counties, Indian reservations, other nonprofit agencies, or local detoxification programs for

provision of transportation of intoxicated individuals to detoxification programs.

Sec. 58. Minnesota Statutes 1989 Supplement, 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, *or services provided under section 256B.69 or 256D.03, subdivision 4, paragraph (b),* the county shall, out of local money, pay the state for 15 percent of the cost of chemical dependency services, *including those services provided to persons eligible for medical assistance under chapter 256B and general assistance medical care under chapter 256D.* 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. 59. Minnesota Statutes 1988, section 254B.04, as amended by Laws 1989, chapter 282, article 2, section 106, is amended to read:

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

Subdivision 1. [ELIGIBILITY.] *(a) Persons eligible for benefits under sections 256D.01 to 256D.21, or for federal benefits under Code of Federal Regulations, title 25, part 20, and persons eligible for federal health care medical assistance benefits under sections 256B.055, and 256B.056, and 256B.06 or who meet the income standards of section 256B.056, subdivision 4, and persons eligible for general assistance medical care under section 256D.03, subdivision 3 are entitled to chemical dependency fund services.*

(b) A person not entitled to services under paragraph (a), but with family income that is less than 60 percent of the state median income for a family of like size and composition, shall be eligible to receive chemical dependency fund services within the limit of funds available after persons entitled to services under paragraph (a) have been served. A county may spend money from its own sources to serve persons under this paragraph.

(c) Persons whose income is between 60 percent and 115 percent of the state median income shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds available, after persons entitled to services under paragraph (a) and persons eligible for services under paragraph (b) have been served. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph.

Subd. 3. [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 under this section. 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. 60. Minnesota Statutes 1988, section 254B.08, is amended to read:
254B.08 [FEDERAL WAIVERS.]

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the cost of chemical dependency services that would have been provided without the waived services.

Notwithstanding sections 254B.04 and 256B.02, subdivision 8, clause (18), and rules adopted under section 254B.03, subdivision 5, persons eligible under sections 256B.055, 256B.056, and 256B.06 for medical assistance benefits shall not be eligible for services reimbursed through the consolidated chemical dependency fund, except for transitional rehabilitation, extended care programs, and culturally specific programs as defined by Minnesota Rules, part 9530.6605, subpart 13, until the federal Social Security Act, section 2108 (1915B), program waivers are secured. Until the necessary federal program waivers are secured, persons eligible for medical assistance benefits under sections 256B.055, 256B.056, and 256B.06 shall be eligible for chemical dependency treatment services under sections 256B.02, subdivision 8, and 256B.0625.

Sec. 61. Minnesota Statutes 1989 Supplement, 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 \$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) thirty dollars plus one-third of each individual's earned income 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; (b) refused without good cause to accept an offer of suitable employment; (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 earned income in this clause 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 subclauses (a) to (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, 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. 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. *A review of a payment decision under this clause must be requested within 30 days after receiving the notice of collection of assigned support, or within 90 days after receiving the notice if good cause can be shown for not making the request within the 30-day limit;*

(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.

Sec. 62. [256.9791] [MEDICAL SUPPORT BONUS INCENTIVES.]

Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for persons who are receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person for whom coverage is identified and enforced by the child support enforcement program when the obligor is under a court order to provide dependent health insurance coverage.

Subd. 2. [DEFINITIONS.] For the purpose of this section, the following definitions apply.

(a) "Case" means a family unit that is receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) "Commissioner" means the commissioner of the department of human services.

(c) "County agency" means the county child support enforcement agency.

(d) "Coverage" means initial dependent health insurance benefits for a case or individual member of a case.

(e) "Enforce" or "enforcement" means obtaining proof of current or future dependent health insurance coverage through an overt act by the county agency.

(f) "Enforceable order" means a child support court order containing the statutory language in section 518.171 or other language ordering an obligor to provide dependent health insurance coverage.

(g) "Identify" or "identification" means obtaining proof of dependent health insurance coverage through an overt act by the county agency.

Subd. 3. [ELIGIBILITY; REPORTING REQUIREMENTS.] (a) In order for a county to be eligible to claim a bonus incentive payment, the county agency must report to the commissioner, no later than August 1 of each fiscal year, the number of cases as of June 30 of the preceding fiscal year in which (1) the court has established an obligation for coverage by the obligor and (2) coverage was in effect as of June 30. The ratio resulting when the number of cases reported under (2) is divided by the number of cases reported under (1) shall be used to determine the amount of the bonus incentive according to subdivision 4.

(b) A county that fails to submit the required information by August 1 of each fiscal year is not eligible for any bonus payments under this section for that fiscal year.

Subd. 4. [RATE OF BONUS INCENTIVE.] The rate of the bonus incentive shall be determined according to paragraphs (a) to (c).

(a) When a county agency has identified or enforced coverage in up to and including 50 percent of its cases, the county shall receive \$15 for each additional person for whom coverage is identified or enforced.

(b) When a county agency has identified or enforced coverage in more than 50 percent but less than 80 percent of its cases, the county shall receive \$20 for each person for whom coverage is identified or enforced.

(c) When a county agency has identified or enforced coverage in 80 percent or more of its cases, the county shall receive \$25 for each person for whom coverage is identified or enforced.

(d) Bonus payments according to paragraphs (a) to (c) are limited to one bonus for each covered person each time the county agency identifies or enforces previously unidentified health insurance coverage and apply only to coverage identified or enforced after the effective date of this section.

Subd. 5. [CLAIMS FOR BONUS INCENTIVE.] (a) Beginning July 1, 1990, county agencies shall file a claim for a medical support bonus payment by reporting to the commissioner the following information for each case where dependent health insurance is identified or enforced as a result of an overt act of the county agency:

(1) child support enforcement system case number or county specific case number;

(2) names and dates of birth for each person covered; and

(3) the effective date of coverage.

(b) The report must be made upon enrollment in coverage but no later than September 30 for coverage identified or established during the preceding fiscal year.

(c) The county agency making the initial contact resulting in the establishment of coverage is the county agency entitled to claim the bonus incentive even if the case is transferred to another county agency prior to the time coverage is established.

(d) Disputed claims must be submitted to the commissioner and the commissioner's decision is final.

Subd. 6. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid up to the limit of the appropriation in the order in which claims are received.

(b) Total bonus incentives must be computed by multiplying the number of persons included in claims submitted in accordance with this section by the applicable bonus payment as determined in subdivision 4.

(c) The county agency must repay any bonus erroneously issued.

(d) A county agency must maintain a record of bonus incentives claimed and received for each quarter.

Sec. 63. Minnesota Statutes 1988, section 256E.06, subdivision 2, is amended to read:

Subd. 2. [FORMULA LIMITATION.] The amounts computed pursuant to subdivision 1 shall be subject to the following limitations:

(a) No county shall be allocated more than 130 percent of the amount received prior to any penalty imposed under subdivision 7 in the immediately preceding year. If the amount allocated to any county pursuant to subdivision 1 is greater than this amount, the excess shall be reallocated to all counties in direct proportion to their initial allocations.

(b) Each county shall be guaranteed a percentage increase over the previous year's allocation equal to 0.2 percent for each percentage increase in the statewide allocation, up to a maximum guaranteed increase of one percent when the statewide allocation increases by five percent or more. If the amount allocated to any county pursuant to subdivision 1 is less than this amount, the shortage shall be recovered from all counties in direct proportion to their initial allocations.

(c) If the amount to be allocated statewide in any year is less than the amount allocated in the previous year, then the provisions of clause (b) shall not apply, and each county's allocation shall be equal to its previous year's allocation reduced by the same percentage that the statewide allocation was reduced.

(d) For the purpose of calculating the 1991 community social services act allocation, the 1990 allocation must be increased by the following amounts: \$46,487 for Crow Wing county, \$21,995 for Fillmore county, \$5,368 for Hubbard county, \$24,225 for Lac Qui Parle county, and \$4,444 for Red Lake county.

Sec. 64. Minnesota Statutes 1988, section 256E.06, subdivision 7, is amended to read:

Subd. 7. [FAILURE TO LEVY.] A county which levies less than the

levy required in subdivision 5, shall receive a reduction in the aid calculated pursuant to subdivisions 1 and 2. The commissioner shall calculate the reduced aid as follows:

(a) Divide the amount levied by the amount required to be levied in subdivision 5; and

(b) Multiply the ratio derived in clause (a) times the aid calculated under ~~subdivision~~ subdivisions 1 and 2.

The amount of the reduction in aid shall be returned to the general fund. The reduction in aid imposed under this subdivision shall be effective for one year, and aid in the following year shall be calculated under subdivisions 1 and 2 as though the reduction had not occurred. This provision applies to penalties imposed for the year 1989 and all subsequent years.

Sec. 65. Minnesota Statutes 1989 Supplement, 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). 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 *or one year after the presumed father knows or reasonably should have known of the birth of the child, whichever is earlier*. 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. 66. Minnesota Statutes 1988, section 462.357, subdivision 7, is amended to read:

Subd. 7. [PERMITTED SINGLE FAMILY USE.] A state licensed residential facility serving six or fewer persons ~~or~~, a licensed day care facility serving 12 or fewer persons, *and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children* shall be considered a permitted single family residential use of property for the purposes of zoning.

Sec. 67. Minnesota Statutes 1988, section 462.357, subdivision 8, is amended to read:

Subd. 8. [PERMITTED MULTIFAMILY USE.] ~~Unless~~ *Except as* otherwise provided in *subdivision 7 or in any town, municipal or county zoning regulation as authorized by this subdivision*, a state licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or

special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

Sec. 68. Minnesota Statutes 1988, section 518.54, is amended by adding a subdivision to read:

Subd. 2a. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Sec. 69. Minnesota Statutes 1988, section 518.54, is amended by adding a subdivision to read:

Subd. 2b. [FINANCIAL INSTITUTION.] "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or building and loan association, and includes a branch or detached facility of a financial institution.

Sec. 70. Minnesota Statutes 1988, section 518.551, subdivision 1, is amended to read:

Subdivision 1. [PAYMENT TO PUBLIC AGENCY.] The court shall direct that all payments ordered for maintenance and support be made to the public agency responsible for child support enforcement so long as the obligee is receiving or has applied for public assistance, or has applied for child support and maintenance collection services. Public authorities responsible for child support enforcement may act on behalf of other public authorities responsible for child support enforcement. This includes the authority to represent the legal interests of or execute documents on behalf of the other public authority in connection with the establishment, enforcement, and collection of child support, maintenance, or medical support, and collection on judgments. Amounts received by the public agency responsible for child support enforcement greater than the amount granted to the obligee shall be remitted to the obligee.

Sec. 71. Minnesota Statutes 1988, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support agreement of the parties if each party is represented by independent counsel, unless the agreement is not in the interest of justice. In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom.

The court shall ~~multiply~~ *derive a specific dollar amount by multiplying* the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$401 - 500	14%	17%	20%	22%	24%	26%	28%
\$501 - 550	15%	18%	21%	24%	26%	28%	30%
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of \$4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of \$4,000.

Net Income defined as:

Total monthly
income less

- *(i) Federal Income Tax
- *(ii) State Income Tax
- (iii) Social Security Deductions
- (iv) Reasonable Pension Deductions

*Standard
Deductions apply-
use of tax tables
recommended

- (v) Union Dues
- (vi) Cost of Dependent Insurance Coverage
- (vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
- (viii) A Child Support or Maintenance Order that is Currently Being Paid.

"Net income" does not include the income of the obligor's spouse, *but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses.*

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

- (1) all earnings, income, and resources of the parents, including real and

personal property;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

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

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

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

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

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.

Sec. 72. Minnesota Statutes 1989 Supplement, section 518.551, subdivision 10, is amended to read:

Subd. 10. [ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.] An administrative process is established to obtain, modify, and enforce child and medical support orders and maintenance.

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 counties designated by the commissioner of human services in which 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 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 district judge.

For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the 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.

Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, and the county court administrator shall jointly establish procedures and the county shall provide hearing facilities for implementing this process in a county.

Nonattorney employees of 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.

The hearings shall be conducted under the 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 are enforceable by the contempt powers of the county and district courts.

The decision and order of the administrative law judge ~~shall be a final agency decision for purposes of sections 14.63 to 14.69~~ is appealable to the court of appeals in the same manner as a decision of the district court.

Sec. 73. Minnesota Statutes 1988, section 518.611, subdivision 1, is

amended to read:

Subdivision 1. [ORDER.] Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, is determined and ordered by a court of this state, the amount of child support or maintenance as determined by court order must be withheld from the income, regardless of source, of the person obligated to pay the support or maintenance. Every order for maintenance or support must include the obligor's social security number *and date of birth* and the name and address of the obligor's employer or other payor of funds.

Sec. 74. Minnesota Statutes 1988, section 518.611, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS OF INCOME WITHHOLDING.] (a) Withholding shall result whenever the obligor fails to make the maintenance or support payments, and the following conditions are met:

(1) the obligor is at least 30 days in arrears;

(2) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order on the payor of funds;

(3) within the 15-day period, the obligor fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard; ~~and~~

(4) the obligee or the public authority serves a copy of the notice of income withholding, a copy of the court's order, and the provisions of this section on the payor of funds; and

(5) the obligee serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services.

(b) To pay the arrearage specified in the notice of income withholding, the employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(c) The obligor may, at any time, waive the written notice required by this subdivision.

(d) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

(e) Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision. An order without this notice remains subject to this subdivision.

(f) *Absent a court order to the contrary, if an arrearage exists at the time an order for ongoing support or maintenance would otherwise terminate, income withholding shall continue in effect in an amount equal to the former support or maintenance obligation plus an additional amount equal to 20 percent of the monthly child support obligation, until all arrears have been paid in full.*

Sec. 75. Minnesota Statutes 1988, section 518.611, is amended by adding a subdivision to read:

Subd. 2a. [PREAUTHORIZED TRANSFERS FROM OBLIGOR ACCOUNTS.] In any case where income withholding is ineffective due to the obligor's method of obtaining income, the court shall order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court shall order the obligor to execute an agreement with the appropriate public authority authorizing preauthorized transfers from the obligor's child support deposit account payable to an account of the public authority responsible for child support enforcement. The court shall order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority authorizing preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court may order a financial institution to disclose to the court the account number and any other account identification information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this section, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of any preauthorized transfer is subject to contempt of court procedures under chapter 588.

Sec. 76. Minnesota Statutes 1989 Supplement, 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, or financial institution 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. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule. An employer or other payor of funds, or financial institution 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. The financial institution shall execute preauthorized transfers from the deposit accounts of the obligor in the amount specified in the order and amounts required under subdivision 2 as directed by the public authority responsible for child support enforcement. 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. *A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement.*

Sec. 77. Minnesota Statutes 1988, section 518.611, subdivision 8, is amended to read:

Subd. 8. [EMPLOYER AND OBLIGOR NOTICE.] When an individual is hired for employment, the employer shall request that the individual disclose whether or not the individual has court-ordered child support obligations that are required by law to be withheld from income and the terms of the court order, if any. The individual shall disclose this information at the time of hiring. When an individual discloses that the individual owes child support that is required to be withheld, the employer shall begin withholding according to the terms of the order and under this section. When a withholding order is in effect and the obligor's employment is terminated or the periodic payment terminates, the obligor and the obligor's employer or the payor of funds shall notify the public agency responsible for child support enforcement of the termination within ten days of the termination date. The notice shall include the obligor's home address and the name and address of the obligor's new employer or payor of funds, if known. Information disclosed under this section shall not be divulged except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

Sec. 78. Minnesota Statutes 1988, section 518.611, subdivision 8a, is amended to read:

Subd. 8a. [LUMP SUM PAYMENTS.] (a) Upon the transmittal of the last reimbursement payment to the employee, where a lump sum payment including, but not limited to, severance pay, accumulated sick pay or vacation pay is paid upon termination of employment, and where the employee is in arrears in making court ordered child support payments, the employer shall withhold an amount which is the lesser of (1) the amount in arrears or (2) that portion of the arrearages which is the product of the obligor's monthly court ordered support amount multiplied by the number of months of net income that the lump sum payment represents.

(b) An employer, trustee, or other payor of funds who has been served with a notice of income withholding under subdivision 2 or section 518.613 must:

(1) notify the public authority of any lump sum payment of \$500 or more that is to be paid to the obligor;

(2) hold the lump sum payment for 30 days after the date on which the lump sum payment would otherwise have been paid to the obligor, notwithstanding sections 181.08, 181.101, 181.11, 181.13, and 181.145; and

(3) upon order of the court, pay any specified amount of the lump sum payment to the public authority for support.

Sec. 79. Minnesota Statutes 1989 Supplement, 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 date of birth

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 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 7. 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. 80. Minnesota Statutes 1988, section 518C.02, is amended by adding a subdivision to read:

Subd. 1a. [CENTRAL REGISTRY.] "Central registry" means a single unit within the department of human services that receives and disseminates incoming interstate actions filed under title IV-D of the Social Security Act, as amended, including any proceedings under this section.

Sec. 81. Minnesota Statutes 1988, section 518C.02, is amended by adding a subdivision to read:

Subd. 9a. [PUBLIC AUTHORITY.] "Public authority" means the public authority responsible for child support enforcement.

Sec. 82. Minnesota Statutes 1988, section 518C.03, is amended to read:

518C.03 [HOW DUTIES OF SUPPORT ENFORCED.]

Subdivision 1. [DUTIES OF SUPPORT.] All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under sections 518C.01 to 518C.36, including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife, or parent and child is not available to the obligor.

Subd. 2. [ARREARAGES.] Arrearages that have become a support judgment, which is final by operation of law of this state or of any other jurisdiction, shall be given full faith and credit for enforcement purposes. No arrearages or judgment for support may be retroactively modified, except as provided in section 518.64. A Minnesota court may order that judgment be entered for a child support arrearage owed under an order of another state or order that payments be made toward an arrearage or existing judgment if the matter is before the court whether by petition or by registration.

Sec. 83. Minnesota Statutes 1988, section 518C.05, is amended to read:

518C.05 [JURISDICTION.]

~~Except in Hennepin and Ramsey counties, jurisdiction of a proceeding under sections 518C.01 to 518C.36 is vested in the county court. In Hennepin and Ramsey counties as provided for in section 518.551, subdivision 10, jurisdiction of a proceeding under sections 518C.01 to 518C.36 is vested in the district court.~~

Sec. 84. Minnesota Statutes 1988, section 518C.09, is amended to read:

518C.09 [DUTY OF INITIATING COURT.]

If the initiating court finds that the petition sets forth facts from which

it may be determined that the obligor owes a duty of support, and that a court of the responding state may obtain jurisdiction of the obligor or the obligor's property, it shall so certify and cause three copies of the petition and its certificate and one copy of sections 518C.01 to 518C.36 to be sent to the responding court. *If the complaint is filed by the public authority, the initiating court shall send the documents to the central registry in the responding state.* Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court are unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

Sec. 85. Minnesota Statutes 1988, section 518C.12, is amended to read:

518C.12 [DUTY OF THE COURT AND THE PROSECUTING ATTORNEY OF THIS STATE AS RESPONDING STATE.]

Subdivision 1. [CENTRAL REGISTRY.] *The central registry shall receive filings under title IV-D of the federal Social Security Act, as amended, from the initiating state and shall transmit the filings to the local public authority. The local public authority shall promptly submit the documents to the court administrator.*

Subd. 1a. [DOCKETING CASE.] After the responding court receives copies of the petition, the certificate and the substantially similar reciprocal act from the initiating court, the court administrator of the court shall docket the case and notify the prosecuting attorney of the action.

Subd. 2. [PROSECUTION OF CASE.] The prosecuting attorney shall prosecute the case diligently, taking all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or the obligor's property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

Subd. 3. [INVESTIGATION BY PROSECUTING ATTORNEY.] The prosecuting attorney, on personal initiative, shall use all means available to locate the obligor or the obligor's property, and if, because of inaccuracies in the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of action taken and request the court to continue the case pending receipt of more accurate information or an amended petition from the initiating court.

Subd. 4. [OBLIGOR LOCATED IN ANOTHER COUNTY OR STATE.] If the obligor or the obligor's property is not found in the county, and the prosecuting attorney discovers that the obligor or the obligor's property may be found in another county of this state, or another state, the attorney shall so inform the court. Thereupon, the court administrator shall forward the documents received from the court in the initiating state to a court in the other county, or to a court in the other state, or to the information agency or other proper official of the other state, with a request that the documents be forwarded to the proper court. All powers and duties provided by sections 518C.01 to 518C.36 apply to the recipient of the documents so forwarded. If the court administrator of this state forwards documents to another court, the court administrator shall forthwith notify the initiating court.

Subd. 5. [NO INFORMATION.] If the prosecuting attorney has no information as to the location of the obligor or the obligor's property the attorney shall so inform the initiating court.

Sec. 86. Minnesota Statutes 1988, section 518C.27, subdivision 1, is amended to read:

Subdivision 1. [DUTIES OF RESPONDING COURT.] A responding court has the following duties that shall be carried out through the public authority responsible for support enforcement:

(1) *according to the requirements of the initiating court, to collect and transmit to the initiating court, designated collection unit, county of the obligee's residence, or the obligee under section 518.551, subdivision 1, a payment made by the obligor pursuant to an order of the court or otherwise; and*

(2) *to furnish to the initiating court, upon request, a certified statement of each payment made by the obligor.*

Sec. 87. Laws 1989, chapter 338, section 11, is amended to read:

Sec. 11. [OIL OVERCHARGE MONEY; APPROPRIATION.]

~~Subdivision 1. [LIMITATION.] The money appropriated 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~~ oil overcharge money, as defined in Minnesota Statutes, section 4.071, 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. 2a. [ENERGY CONSERVATION PROJECTS.] \$6,000,000 of oil overcharge money, as defined in Minnesota Statutes, section 4.071, is appropriated to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans. \$50,000 of this appropriation must be transferred to the commissioner of administration to administer the oil overcharge funds for the fiscal year ending June 30, 1991. Of the total appropriation, \$4,500,000 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. If the amount received by June 30, 1991, is not sufficient to fully fund all appropriations of oil overcharge money to that date, this appropriation is reduced to the amount that can be fully funded with those receipts.

Subd. 3. ~~[OTHER PROJECTS.] One half of the remainder of the money specified in subdivision 1 must be appropriated to the commissioner of jobs and training for energy conservation projects that directly serve low-income Minnesotans. Money appropriated under subdivision 2 and under this subdivision is not governed by Minnesota Statutes, section 4.071, and is available until spent.~~

Sec. 88. [PRENATAL CARE AND PREVENTIVE CARE FOR

CHILDREN.]

The commissioner of health, in consultation with the commissioner of human services, the commissioner of state planning, and the commissioner of education, shall prepare a state plan to improve utilization rates of medically appropriate prenatal care and preventive care for children. The plan must address at least the following issues: (1) methods of addressing barriers such as the need for child care and transportation; (2) techniques for improving public awareness of the need for prenatal care and preventive care, both statewide and within high-risk target populations; and (3) strategies for overcoming cultural factors that may discourage minority populations from obtaining medically appropriate prenatal care and preventive care. To the extent possible, the commissioner shall identify methods of improving access and utilization rates that would not require a significant increase in legislative appropriations, such as reallocation of existing money, coordination and increased efficiency of existing programs, techniques for generating private contributions or federal money, and increased use of volunteers and donated services and facilities. The commissioner shall also include in the plan an analysis of the extent to which improved utilization rates, both statewide and within target populations, could result in cost savings in the medical assistance program, the general assistance medical care program, and the children's health plan. The commissioner shall present the plan to the governor and the legislature by December 15, 1990. It is the intent of the legislature to enact legislation to implement the plan during the 1991 session.

Sec. 89. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW; APPLICATION.]

Minnesota Statutes, section 548.091, subdivision 1a, applies retroactively to any child support arrearage that accrued before August 1, 1988, except that no arrearage may be docketed under Minnesota Statutes, section 548.091, subdivision 2a, if the arrearage is more than ten years past due at the time of docketing.

Sec. 90. [STUDIES AND PLANS RELATING TO CHEMICAL DEPENDENCY TREATMENT.]

Subdivision 1. [TREATMENT PROGRAM ACCOUNTABILITY.] The commissioner of human services shall develop standards to provide increased accountability for chemical dependency treatment programs. The commissioner shall work in conjunction with treatment providers and clinicians. The commissioner shall report the results of this work to the legislature by January 1, 1992.

Subd. 2. [AFTERCARE SERVICES STUDY.] The commissioner of human services shall study funding and licensing options for providing aftercare services to high-risk or special need populations including, but not limited to, women, minorities, and adult and juvenile offenders. The commissioner shall present the results of this study and recommendations to the legislature by January 1, 1991.

Subd. 3. [INDIAN YOUTH TREATMENT PLANNING.] The commissioner of human services shall develop a plan for the establishment of one or more treatment programs specializing in chemically dependent Indian youth. The commissioner shall involve diverse members of the Indian community in conducting this assessment and shall present recommendations to the legislature by January 1, 1991.

Subd. 4. [AFRICAN AMERICAN YOUTH TREATMENT PLANNING.] *The commissioner of human services shall develop a plan for a program in the Summit-University area of St. Paul to address the culturally-based drug prevention, treatment, and aftercare needs of high-risk youth. The commissioner shall involve existing neighborhood and governmental agencies in developing the plan and shall present recommendations to the legislature by January 1, 1991.*

Sec. 91. [CHEMICAL DEPENDENCY RULES.]

Subdivision 1. [RULE AMENDMENT.] *The commissioner shall, by emergency rulemaking, amend Minnesota Rules, parts 9530.6600 to 9530.7030, in order to contain costs and increase collections for the consolidated chemical dependency treatment fund. The amendment must establish criteria that will:*

(1) increase the use of outpatient treatment for individuals who can abstain from mood-altering chemicals long enough to benefit from outpatient treatment;

(2) increase the use of outpatient treatment in combination with primary residential treatment;

(3) increase the use of long-term treatment programs for individuals who are not likely to benefit from primary residential treatment; and

(4) limit the repeated use of residential placements for individuals who have been shown not to benefit from residential placements, including long-term residential treatment.

Subd. 2. [VENDOR COLLECTIONS; RULE AMENDMENT.] *The commissioner may amend Minnesota Rules, parts 9530.7000 to 9530.7025, to require a vendor of chemical dependency transitional and extended care rehabilitation services to collect the cost of care received under a program from an eligible person who has been determined to be partially responsible for treatment costs, and to remit the collections to the commissioner. The commissioner shall pay to a vendor, for the collections, an amount equal to five percent of the collections remitted to the commissioner by the vendor. The amendment may be adopted under the emergency rulemaking provisions of sections 14.29 to 14.36.*

Sec. 92. [TASK FORCE ON COMPENSATION FOR DIRECT CARE EMPLOYEES.]

The commissioner of human services, in consultation with the commissioner of employee relations, shall establish a task force on the compensation and training of direct care employees. The purpose of the task force is to address staff turnover, recruitment, and training in order to have a significant number of qualified people working in programs that provide direct care services to individuals. Programs include intermediate care facilities for persons with mental retardation, semi-independent living services, day training and habilitation, waived services, supported employment, rehabilitation facilities, services for persons with mental illness, child care, and chemical dependency. Members of the task force shall be appointed by the commissioner. Task force membership shall consist of at least one representative from the department of human services, the department of employee relations, the department of jobs and training, and the department of health, advocates, direct care staff from unionized and nonunionized facilities, providers, collective bargaining representatives, and

representatives from institutions of post-secondary education, metro and greater Minnesota counties, and the governor's council on developmental disabilities. The task force shall submit a report to the commissioner by November 1, 1990, that includes recommendations on the following:

(1) entry and promotional level wage ranges for various job classifications which reduce wage and benefit inequities between community and state-operated facilities and services;

(2) implementation of wage and benefit increases over a four-year period to ensure that wages and benefits are brought up to a level competitive within the community marketplace;

(3) mechanisms to link wage increases to initial training, continuing education, and competency;

(4) recruitment and retention of qualified staff; and

(5) the impact of making adjustments pursuant to complying with United States Code, title 29, section 157 (Supp. 1988), and Minnesota Statutes, sections 179.16 and 179A.12.

By January 15, 1991, the commissioner shall submit the report and recommended legislation to implement the report to the chairs of the house of representatives and senate health and human services committees.

Sec. 93. [REPORT ON METHODS OF COORDINATING SOCIAL WORK AND MENTAL HEALTH BOARDS.]

(a) The commissioner of health shall convene an interagency task force consisting of health department staff and representatives from the commissioner of human services and the boards of social work, marriage and family therapy, unlicensed mental health service providers, medical examiners, nursing, and psychology to study the current system of monitoring and regulating both licensed and unlicensed individuals who practice mental health counseling, psychotherapy, psychiatry, psychiatric nursing, social work, professional counseling, chemical dependency counseling, and similar activities. The task force shall make recommendations for improving coordination, administrative efficiency, and effectiveness of the activities of the department of health and the boards that monitor and regulate these social work and mental health occupations and professions. The task force shall solicit and consider the comments and recommendations of affected individuals, associations, and government agencies. In developing its recommendations, the task force shall consider:

(1) methods of monitoring or regulating unlicensed practitioners and whether this activity should be administered by the health department, an independent administrative agency, a board, or another entity;

(2) a surcharge on license fees of all social work and mental health boards to finance the monitoring or regulation of unlicensed practitioners;

(3) methods of coordinating the various systems for accepting and investigating complaints;

(4) coordinated information systems to identify individuals who have been denied a license or have been subject to disciplinary action by another licensing board or agency; and

(5) other relevant issues identified by the task force.

(b) The commissioner of health shall report to the legislature by December 1, 1990, with the results of the study and the recommendations of the task force.

Sec. 94. [EXEMPTION.]

For the biennium ending June 30, 1991, the board of unlicensed mental health service providers is exempt from Minnesota Statutes, sections 16A.128, subdivision 1, and 214.06, subdivision 1.

Sec. 95. [COMPREHENSIVE REVIEW OF THE STATE EMERGENCY MEDICAL SERVICE SYSTEM.]

The commissioner of health shall conduct a comprehensive assessment of all aspects of the emergency medical service system in Minnesota. This assessment must include an inventory of current service capabilities by emergency medical service regions and an examination of the effectiveness of the present administrative structure for emergency medical services, actual or potential gaps in services or coverage, funding needs, problems in service coordination and administration, and the capabilities and availability of hospital emergency services. The assessment must also include a study of the role of air ambulances and their coordination with and impact on local ambulance services. The commissioner shall present this assessment and provide recommendations to the legislature by January 1, 1992.

Sec. 96. [MEDICAL SCHOOL GRADUATES.]

The commissioner of health shall encourage efforts by the University of Minnesota medical school, the Mayo medical school, and the University of Minnesota-Duluth medical school to develop and implement plans to increase the number of medical school graduates practicing in nonmetropolitan areas. The commissioner shall meet regularly with the administrators of the three medical schools to obtain information on progress toward this goal.

Sec. 97. [STUDY OF MEDICAL ASSISTANCE REIMBURSEMENT FOR RURAL PHYSICIANS.]

The commissioner of human services shall examine methods to increase medical assistance reimbursement to medical doctors and doctors of osteopathy. The commissioner may consider selective reimbursement increases for the following primary care services as defined by the commissioner by the appropriate current procedure terminology (CPT): preventive care, office visits, maternity and delivery services, and pediatric immunization, and may consider other changes in medical assistance reimbursement designed to target reimbursement increases to medical doctors and doctors of osteopathy providing primary care services. The commissioner shall present recommendations to the legislature by January 15, 1991.

Sec. 98. [RURAL HEALTH PROFESSIONALS STUDY.]

The commissioner of health shall conduct an examination of the critical shortage of health care professionals experienced by rural areas. The study may consider, at a minimum, the following:

- (1) distribution of health care professionals;*
- (2) geographic distribution of educational programs;*
- (3) recruitment and retention programs;*

- (4) regulatory barriers;
- (5) impediments caused by additional professional requirements;
- (6) appropriate education and training programs directed to rural health care; and
- (7) competition from other health care providers, especially those located in urban settings providing similar services.

In conducting the study, the commissioner shall consult with rural health care providers, hospitals, and higher education institutions. The commissioner shall require state health care professional licensing boards to submit data upon request to the department by July 1 for each preceding calendar year. The commissioner must report the findings and present recommendations to relieve current and projected health care professional shortages in different areas of the state, to the legislature by February 1, 1991.

Sec. 99. [TRANSFER OF FUNDS.]

All money raised under section 100, through the license renewal surcharges for registered nurses and licensed practical nurses shall be transferred each year from the board of nursing to the higher education coordinating board for the purposes of the nursing grant programs for licensed practical nurses and registered nurses, provided in Senate File 2618, article 5, sections 3 and 4, and shall be available until expended.

Sec. 100. [FUNDING FOR NURSING GRANTS.]

Subdivision 1. [REGISTERED NURSE FUNDING.] (a) The nursing grant program shall be funded by a \$5.50 fee on each registration renewal of registered nurses as provided under Minnesota Statutes, section 148.231, unless the applicant specifically indicates on the renewal form that the applicant does not wish to participate in the funding of this program. The board of nursing shall transfer all money received under this subdivision, less an amount sufficient to pay the costs of administering the program not to exceed 12 percent of the fee collected under this subdivision, to the higher education coordinating board on a quarterly basis. This money is available until expended by the higher education coordinating board. By January 1, 1991, and each subsequent year, the board of nursing shall provide an estimate to the higher education coordinating board of the amount of money that may be available each year based on the number of anticipated registration renewals in that year.

(b) Notwithstanding paragraph (a), up to the first \$11,000 of fees collected under this subdivision may be used to program the board of nursing's computer system for purposes of administering this section.

Subd. 2. [LICENSED PRACTICAL NURSE FUNDING.] (a) The nursing grant program shall be funded by a \$5.50 fee on each registration renewal of licensed practical nurses as provided under Minnesota Statutes, section 148.231, unless the applicant specifically indicates on the renewal form that the applicant does not wish to participate in the funding of this program. The board of nursing shall transfer all money received under this subdivision, less an amount sufficient to pay the costs of administering the program not to exceed 12 percent of the fee collected under this subdivision, to the higher education coordinating board on a quarterly basis. This money is available until expended by the higher education coordinating board. By January 1, 1991, and each subsequent year, the board of nursing

shall provide an estimate to the higher education coordinating board of the amount of money that may be available each year based on the number of anticipated registration renewals in that year.

(b) Notwithstanding paragraph (a), up to the first \$6,000 of fees collected under this subdivision may be used to program the board of nursing's computer system for purposes of administering this section.

Sec. 101. [SPECIAL REPORT ON THE CONSOLIDATED CHEMICAL DEPENDENCY TREATMENT FUND.]

The commissioner of human services shall report to the legislature by February 1, 1991, on plans for implementing the changes in operation of the chemical dependency consolidated treatment fund required by section 59.

Sec. 102. [DAY-FINES.]

Subdivision 1. [MODEL SYSTEM.] By June 1, 1991, the sentencing guidelines commission shall develop a model day-fine system. Each judicial district must adopt either the model system or its own day-fine system by January 1, 1992.

Subd. 2. [COMPONENTS.] A day-fine system adopted under this section must provide for a two-step sentencing procedure for those receiving a fine as part of a probationary felony sentence. In the first step, the court determines how many punishment points a person will receive, taking into account the severity of the offense and the criminal history of the offender. The second step is to multiply the punishment points by a factor that accounts for the offender's financial circumstances. The goal of the system is to provide a fine that is proportional to the seriousness of the offense and largely equal in impact among offenders with different financial circumstances. The system may provide for community service in lieu of fines for offenders whose means are so limited that the payment of a fine would be unlikely.

Sec. 103. [REPEALER.]

Laws 1989, chapter 338, section 11, subdivisions 1 and 3, are repealed.

Sec. 104. [EFFECTIVE DATES.]

Subdivision 1. [VOLUNTARY AND INVOLUNTARY RECEIVERSHIP.] Sections 48 and 49 are effective the day following final enactment.

Subd. 2. [SEAT BELT REQUIREMENTS.] Sections 54 and 55 are effective the day following final enactment.

Subd. 3. [CHEMICAL DEPENDENCY.] Sections 57, 58, 60, 90, and 91 are effective the day following final enactment. Section 59 is effective July 1, 1991.

Subd. 4. [PATERNITY ACTIONS.] Section 65 is effective the day following final enactment and applies to actions brought after January 1, 1986, except that section 65 does not bar an action by a presumed father who discovered the birth of the child within two years before the effective date of section 65 if the action is brought within one year after the effective date.

Subd. 5. [CHILD SUPPORT.] Sections 61 and 72 are effective the day following final enactment. Section 62 is effective July 1, 1990, and applies to coverage identified or enforced on or after that date.

Subd. 6. [WHOLESALE DRUG DISTRIBUTORS; LICENSING.] Sections 18 to 29 are effective on January 1, 1991.

Subd. 7. [OIL OVERCHARGE MONEY; ENERGY CONSERVATION.] Sections 1, subdivision 1; 87; and 103 are effective the day following final enactment. Section 1, subdivisions 2 and 3, are effective July 1, 1991.

Subd. 8. [LOCATION OF RESIDENTIAL PROGRAMS.] Section 47 is effective the day following final enactment.

ARTICLE 3

HEALTH CARE PROGRAMS

Section 1. Minnesota Statutes 1988, section 13.46, subdivision 5, is amended to read:

Subd. 5. [MEDICAL DATA; CONTRACTS.] Data relating to the medical, psychiatric, or mental health of any individual, including diagnosis, progress charts, treatment received, case histories, and opinions of health care providers, that is collected, maintained, used, or disseminated by any agency to the welfare system is private data on individuals and will be available to the data subject, unless the private health care provider has clearly requested in writing that the data be withheld pursuant to section 144.335. Data on individuals that is collected, maintained, used, or disseminated by a private health care provider under contract to any agency of the welfare system is private data on individuals, and is subject to the provisions of sections 13.02 to 13.07 and this section, except that the provisions of section 13.04, subdivision 3, shall not apply. Access to medical data referred to in this subdivision by the individual who is the subject of the data is subject to the provisions of section 144.335. Access to information that is maintained by the public authority responsible for support enforcement and that is needed to enforce medical support is subject to the provisions of section 518.171.

Sec. 2. [62A.62] [DEMONSTRATION PROJECT.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall establish demonstration projects to allow health insurers regulated under this chapter and nonprofit health service plan corporations regulated under chapter 62C to extend coverage for health and services to individuals or groups currently unable to afford such coverage. For purposes of this section, the commissioner may recommend legislation granting an exemption from minimum benefits required under chapter 62A, and any applicable rules if there is reasonable evidence that the rules prohibit the operation of the demonstration project. The commissioner shall provide for public comment before recommending an exemption from any statute or rule.

Subd. 2. [APPLICATION AND APPROVAL.] An insurer or health service plan corporation electing to participate in a demonstration project shall apply to the commissioner for approval on a form developed by the commissioner. The application shall include at least the following:

(1) a statement identifying the population that the project is designed to serve;

(2) a description of the proposed project including a statement projecting a schedule of costs and benefits for the enrollee;

(3) reference to the sections of Minnesota Statutes and department of commerce rules for which waiver is requested;

(4) evidence that application of the requirements of applicable Minnesota Statutes and department of commerce rules would, unless waived, prohibit the operation of the demonstration project;

(5) an estimate of the number of years needed to adequately demonstrate the project's effects; and

(6) other information the commissioner may reasonably require.

Subd. 3. [COMMISSIONER'S REVIEW OF APPLICATION FOR DEMONSTRATION PROJECT.] *The commissioner shall approve, deny, or refer back to the insurer or health service plan corporation for modification, the application for a demonstration project within 60 days of receipt from the insurer or health service plan corporation. If the commissioner approves a project that requires legislation exempting the project from minimum benefit requirements, the commissioner shall make the approval contingent on enactment of the required legislation.*

Subd. 4. [LENGTH OF PROJECT.] *The commissioner may approve an application for a demonstration project for a maximum of six years, with an option to renew.*

Subd. 5. [REPORT REQUIRED.] *Each insurer or health service plan corporation for which a demonstration project is approved shall annually file a report with the commissioner summarizing the project's experience at the same time it files its annual report. The report shall be on a form developed by the commissioner and shall be separate from the annual report.*

Subd. 6. [APPROVAL MAY BE RESCINDED.] *The commissioner may rescind approval of a demonstration project if the commissioner finds that the project's operation is contrary to the information contained in the approved application.*

Subd. 7. [APPLICABILITY.] *This section does not apply to the demonstration project established under section 256B.73.*

Sec. 3. Minnesota Statutes 1989 Supplement, 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 be classified as follows for purposes of the state building code:

(1) Class B supervised living facilities for six or less persons must meet Group R, Division 3, occupancy requirements; and

(2) Class B supervised living facilities for seven to 16 persons must meet Group R, Division 1, occupancy requirements.

(c) Class B facilities classified under paragraph (b), clauses (1) and (2), must 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 except that Class B facilities licensed prior to the effective date of this section need only continue to meet institutional fire safety provisions.~~ Class B supervised living facilities shall provide the necessary physical plant accommodations to meet the needs and functional disabilities of the residents. *For Class B supervised living facilities licensed after the effective date of this section and housing nonambulatory or non-mobile persons, the corridor access to bedrooms, common spaces, and other resident use spaces must be at least five feet in clear width, except that a waiver may be requested in accordance with Minnesota Rules, part 4665.0600.*

Sec. 4. Minnesota Statutes 1988, section 144A.073, is amended by adding a subdivision to read:

Subd. 3a. [EXTENSION OF APPROVAL OF A PROJECT REQUIRING AN EXCEPTION TO THE NURSING HOME MORATORIUM.] Notwithstanding subdivision 3, a construction project that was approved by the commissioner under the moratorium exception approval process in this section prior to February 1, 1990, may be commenced more than 12 months after the date of the commissioner's approval but no later than July 1, 1992.

Sec. 5. Minnesota Statutes 1989 Supplement, 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. *The education programs must include a campaign to promote breast feeding;*

(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~~ *a system that will to reduce the cost of nutritional supplements so that by October 1, 1988, additional mothers and children will be served and maintain ongoing negotiations with nonparticipating manufacturers and suppliers to maximize cost savings;*

(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;

(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. 6. Minnesota Statutes 1988, section 214.07, subdivision 1, is amended to read:

Subdivision 1. [BOARD REPORTS.] The health-related licensing boards and the non-health-related licensing boards shall prepare reports *according to this subdivision and subdivision 1a* by October 1 of each even-numbered year. Copies of the reports shall be delivered to the legislature in accordance with section 3.195, and to the governor. Copies of the reports of the health-related licensing boards shall also be delivered to the commissioner of health. The reports shall contain the following information relating to the two-year period ending the previous June 30:

- (a) a general statement of board activities;
- (b) the number of meetings and approximate total number of hours spent by all board members in meetings and on other board activities;
- (c) the receipts and disbursements of board funds;
- (d) the names of board members and their addresses, occupations, and dates of appointment and reappointment to the board;
- (e) the names and job classifications of board employees;
- (f) a brief summary of board rules proposed or adopted during the reporting period with appropriate citations to the State Register and published rules;
- (g) the number of persons having each type of license and registration issued by the board as of June 30 in the year of the report;
- (h) the locations and dates of the administration of examinations by the board;
- (i) the number of persons examined by the board with the persons subdivided into groups showing age categories, sex, and states of residency;
- (j) the number of persons licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;

(k) the number of persons not licensed or registered by the board after taking the examinations referred to in clause (h) with the persons subdivided by age categories, sex, and states of residency;

(l) the number of persons not taking the examinations referred to in clause (h) who were licensed or registered by the board or who were denied licensing or registration with the reasons for the licensing or registration or denial thereof and with the persons subdivided by age categories, sex, and states of residency;

(m) the number of persons previously licensed or registered by the board whose licenses or registrations were revoked, suspended, or otherwise altered in status with brief statements of the reasons for the revocation, suspension or alteration;

(n) the number of written and oral complaints and other communications received by the executive secretary of the board, a board member, or any other person performing services for the board (1) which allege or imply a violation of a statute or rule which the board is empowered to enforce and (2) which are forwarded to other agencies as required by section 214.10;

(o) a summary, by specific category, of the substance of the complaints and communications referred to in clause (n) and, for each specific category, the responses or dispositions thereof pursuant to section 214.10 or 214.11;

(p) any other objective information which the board members believe will be useful in reviewing board activities.

Sec. 7. Minnesota Statutes 1988, section 214.07, is amended by adding a subdivision to read:

Subd. 1a. [REPORT REQUIREMENT FOR BOARD OF MEDICAL EXAMINERS AND BOARD OF NURSING.] The board of medical examiners and the board of nursing shall include in the report required under subdivision 1, clause (o), specific information regarding complaints and communications involving obstetrics, gynecology, prenatal care, and delivery, and the boards' responses or dispositions.

Sec. 8. Minnesota Statutes 1989 Supplement, section 252.46, subdivision 1, is amended to read:

~~Subdivision 1. [RATES FOR CALENDAR YEARS 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 1989 and 1990~~ are governed by subdivisions 2 to ~~40 11~~.

"Payment rate" as used in subdivisions 2 to ~~40 11~~ 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. 9. Minnesota Statutes 1989 Supplement, section 252.46, subdivision 2, is amended to read:

~~Subd. 2. [1989 AND 1990 RATE MINIMUM.]~~ Unless a variance is

granted under subdivision 6, the minimum payment rates set by a county board for each vendor ~~for calendar years 1989 and 1990~~ must be equal to the payment rates approved by the commissioner for that vendor in effect January 1, 1988, ~~and January 1, 1989, respectively of the previous calendar year.~~

Sec. 10. Minnesota Statutes 1989 Supplement, section 252.46, subdivision 3, is amended to read:

Subd. 3. ~~[1989 AND 1990 RATE MAXIMUM.]~~ Unless a variance is granted under subdivision 6, the maximum payment rates for each vendor ~~for calendar years 1989 and 1990~~ a calendar year must be equal to the payment rates approved by the commissioner for that vendor in effect December 1, 1988, ~~and December 1, 1989, respectively, of the previous calendar year~~ 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. 11. Minnesota Statutes 1989 Supplement, section 252.46, subdivision 4, is amended to read:

Subd. 4. ~~[NEW VENDORS.]~~ Payment rates established by a county ~~for calendar years 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. *When at least 50 percent of the persons to be served by the new vendor are persons discharged from a regional treatment center on or after January 1, 1990, the recommended payment rates for the new vendor shall not exceed twice the current state-wide average payment rates.*

For purposes of this subdivision, persons discharged from the regional treatment center do not include persons who received temporary care under section 252A.111, subdivision 3.

Sec. 12. Minnesota Statutes 1989 Supplement, section 252.46, subdivision 12, is amended to read:

Subd. 12. ~~[RATES ESTABLISHED AFTER 1990.]~~ Unless a variance is granted under subdivision 6, payment rates established by a county for calendar year 1990 and which are in effect December 31, 1990, remain in effect until June 30, 1991. Payment rates established by a county board to be paid to a vendor on or after ~~January~~ July 1, 1991, must be determined under permanent rules adopted by the commissioner. *Until permanent rules are adopted, the payment rates must be determined according to subdivisions 1 to 11 except for the period from July 1, 1991, through December 31, 1991, when the increase determined under subdivision 3 must not exceed the projected percentage change in the urban consumer price index, all items, published by the United States Department of Labor, for the current calendar year over the previous calendar year.* 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. 13. [252.478] [METRO TRANSPORTATION SUPPORT GRANTS.]

Subdivision 1. [ESTABLISHMENT OF PROGRAM.] The commissioner of human services shall establish and operate a metro transportation support grants program to provide reimbursement for client transportation by metro mobility to day training and habilitation services for which client transportation is a required and funded component, and to maximize use of federal funds for this reimbursement. A metro transportation support grants account shall be established in the department of human services chart of accounts.

Subd. 2. [RATES.] Costs of transportation to and from a day training and habilitation service agency must be a part of the payment rate established for each day training and habilitation services agency.

The commissioner may approve payment rates for day training and habilitation services that exceed the limits in Minnesota Statutes, section 252.46, subdivision 6, for vendors whose transportation costs increase as a result of action taken by the regional transit board under Laws of Minnesota 1988, chapter 684, article 2, section 3, or Laws of Minnesota 1989, chapter 269, section 35, or Minnesota Statutes, section 473.386, subdivision 4.

Subd. 3. [COUNTY SHARE.] The county share of the metro transportation support grants program costs will be distributed by the department to all metropolitan counties from the metro transportation support grants account. For state fiscal year 1991, the funds transferred from the regional transit board to this account shall be distributed to: Ramsey county, 48 percent; Hennepin county, 46 percent; Dakota county, five percent; and Anoka county, one percent. For subsequent fiscal years, funds shall be distributed annually based on each county's percentage of total expenses

incurred for trips provided on metro mobility to and from day training and habilitation services during the preceding 12-month period. Counties should deposit these funds into the program accounts that will incur the transportation expenses.

Sec. 14. Minnesota Statutes 1989 Supplement, 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 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 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, *inpatient mental health services, outpatient mental health services in excess of \$1,000 per enrolled child per 12-month eligibility period, and chemical dependency services. Outpatient mental health services covered under the children's health plan are limited to diagnostic assessments, psychological testing, explanation of findings, and individual, family, and group psychotherapy.*

(d) "Eligible providers" means those health care providers who provide children's health services to medical assistance 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. 15. [256.9365] [PURCHASE OF CONTINUATION COVERAGE FOR AIDS PATIENTS.]

Subdivision 1. [PROGRAM ESTABLISHED.] The commissioner of human services shall establish a program to pay private health plan premiums for persons who have contracted human immunodeficiency virus (HIV) to enable them to continue coverage under a group or individual health plan. If a person is determined to be eligible under subdivision 2, the commissioner shall pay the eligible person's group plan continuation coverage

premium for 18 months after termination of employment, or pay the eligible person's individual plan premium for 24 months after initial application.

Subd. 2. [ELIGIBILITY REQUIREMENTS.] To be eligible for the program, an applicant must satisfy the following requirements:

(1) the applicant must provide a physician's statement verifying that the applicant is infected with HIV and is, or within three months is likely to become, too ill to work in the applicant's current employment because of HIV-related disease;

(2) the applicant's monthly gross family income must not exceed 300 percent of the federal poverty guidelines, after deducting medical expenses and insurance premiums;

(3) the applicant must not own assets with a combined value of more than \$25,000;

(4) if applying for payment of group plan premiums, the applicant must be covered by an employer's or former employer's group insurance plan and be eligible to purchase continuation coverage; and

(5) if applying for payment of individual plan premiums, the applicant must be covered by an individual health plan whose coverage and premium costs satisfy additional requirements established by the commissioner in rule.

Subd. 3. [RULES.] The commissioner shall establish rules as necessary to implement the program. Special requirements for the payment of individual plan premiums under subdivision 2, clause (5), must be designed to ensure that the state cost of paying an individual plan premium over a two-year period does not exceed the estimated state cost that would otherwise be incurred in the medical assistance program.

Sec. 16. Minnesota Statutes 1989 Supplement, section 256.969, subdivision 2c, is amended to read:

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 July 1, 1989. 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 the rate year beginning 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 nonhospital 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.

Sec. 17. Minnesota Statutes 1989 Supplement, section 256.969, subdivision 6a, is amended to read:

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 *the rate year beginning* 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 cross-overs, 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 cross-overs, 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.

(i) Admissions occurring on or after July 1, 1990, that are classified to a diagnostic category of mental health or chemical dependency shall have rates established according to the methods of paragraph (a), clause (8), except the per day rate shall be multiplied by a factor of 2, provided that the total of the per day rates shall not exceed the per admission rate. This methodology shall also apply when a hold or commitment is ordered by the court for the days that inpatient hospital services are medically necessary. Stays which are medically necessary for inpatient hospital services and covered by medical assistance shall not be billable to any other governmental entity. Medical necessity shall be determined under criteria established to meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b).

Sec. 18. Minnesota Statutes 1989 Supplement, section 256.9695, subdivision 1, is amended to read:

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~~ 120 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.~~

Sec. 19. Minnesota Statutes 1989 Supplement, section 256.9695, subdivision 3, is amended to read:

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 July 1, 1989, to ~~December 31, 1990, as follows the implementation date of the upgrade to the Medicaid management information system.~~

During the transition period:

(a) Changes resulting from section 256.969, subdivision 6a, paragraph (a), clauses (1), (2), (4), (5), (6), and (8), shall not be implemented, *except as provided in section 256.969, subdivision 6a, paragraph (a), clause (7), and paragraph (i).*

(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. The beginning of the 1991 rate year shall be delayed and the rates notification requirement shall not be applicable.~~

(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 *on or after July June 1, 1990, shall not include be*

adjusted by the one percent technology factor included in the hospital cost index and the hospital cost index shall not exceed five percent. This hospital cost index limitation shall not apply to hospitals that meet the requirements of section 256.969, subdivision 6a, paragraphs (g) and (h).

(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 transition period*. The laws in effect on the day before July 1, 1989, apply to the retroactive settlement ~~from July 1, 1989, to December 31, 1990.~~

Sec. 20. [256B.035] [MANAGED CARE.]

The commissioner of human services may contract with public or private entities for health care services for medical assistance and general assistance medical care recipients identified by the commissioner as inappropriately using health care services. The commissioner may enter into risk-based and nonrisk-based contracts. Contracts may be for the full range of health services, or a portion thereof, for medical assistance and general assistance medical care populations to determine the effectiveness of various provider reimbursement and care delivery mechanisms. The commissioner may seek necessary federal waivers and implement projects when approval of the waivers is obtained from the Health Care Financing Administration of the United States Department of Health and Human Services.

Sec. 21. Minnesota Statutes 1988, section 256B.04, subdivision 15, is amended to read:

Subd. 15. [UTILIZATION REVIEW.] (1) Establish on a statewide basis a new program to safeguard against unnecessary or inappropriate use of medical assistance services, against excess payments, against unnecessary or inappropriate hospital admissions or lengths of stay, and against underutilization of services in prepaid health plans, long-term care facilities or any health care delivery system subject to fixed rate reimbursement. In implementing the program, the state agency shall utilize both prepayment and postpayment review systems to determine if utilization is reasonable and necessary. The determination of whether services are reasonable and necessary shall be made by the commissioner in consultation with a professional services advisory group *or health care consultant* appointed by the commissioner.

(2) Contracts entered into for purposes of meeting the requirements of this subdivision shall not be subject to the set-aside provisions of chapter 16B.

(3) A recipient aggrieved by the commissioner's termination of services or denial of future services may appeal pursuant to section 256.045. A vendor aggrieved by the commissioner's determination that services provided were not reasonable or necessary may appeal pursuant to the contested case procedures of chapter 14. To appeal, the vendor shall notify the commissioner in writing within 30 days of receiving the commissioner's notice. The appeal request shall specify each disputed item, the reason for the dispute, an estimate of the dollar amount involved for each disputed item, the computation that the vendor believes is correct, the authority in statute or rule upon which the vendor relies for each disputed item, the name and address of the person or firm with whom contacts may be made regarding

the appeal, and other information required by the commissioner.

(4) The commissioner may select providers to provide case management services to recipients who use health care services inappropriately or to recipients who are eligible for other managed care projects. The providers shall be selected based upon criteria that may include a comparison with a peer group of providers related to the quality, quantity, or cost of health care services delivered or a review of sanctions previously imposed by health care services programs or the provider's professional licensing board.

Sec. 22. Minnesota Statutes 1988, section 256B.04, subdivision 16, is amended to read:

Subd. 16. [~~PERSONAL CARE ASSISTANTS SERVICES.~~] (a) The commissioner shall adopt permanent rules to implement, administer, and operate ~~the personal care assistant services program.~~ The rules must incorporate the standards and requirements adopted by the commissioner of health under section 144A.45 which are applicable to the *provision of personal care assistant program.* Limits on the extent of personal care ~~assistant~~ services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and ~~visits~~ *supervision* by the registered nurse supervising the personal care assistant;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) For personal care assistants under contract with an agency under paragraph (a), the provision of training and supervision by the agency does not create an employment relationship. *The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county.*

Sec. 23. Minnesota Statutes 1988, section 256B.055, subdivision 3, is amended to read:

Subd. 3. [AFDC FAMILIES.] Medical assistance may be paid for a person who is eligible for or receiving, *or who would be eligible for, except for excess income or assets,* public assistance under the aid to families with dependent children program.

Sec. 24. Minnesota Statutes 1988, section 256B.055, subdivision 5, is amended to read:

Subd. 5. [PREGNANT WOMEN; DEPENDENT UNBORN CHILD.] Medical assistance may be paid for a pregnant woman, ~~as certified in writing by a physician or nurse midwife who has written verification of a positive pregnancy test from a physician or licensed registered nurse,~~ who meets the other eligibility criteria of this section and who would be categorically

eligible for assistance under the aid to families with dependent children program if the child had been born and was living with the woman. For purposes of this subdivision, a woman is considered pregnant for 60 days postpartum.

Sec. 25. Minnesota Statutes 1988, section 256B.055, subdivision 6, is amended to read:

Subd. 6. [PREGNANT WOMEN; NEEDY UNBORN CHILD.] Medical assistance may be paid for a pregnant woman; ~~as certified in writing by a physician or nurse midwife who has written verification of a positive pregnancy test from a physician or licensed registered nurse~~, who meets the other eligibility criteria of this section and whose unborn child would be eligible as a needy child under subdivision ~~4h~~ 10 if born and living with the woman. For purposes of this subdivision, a woman is considered pregnant for 60 days postpartum.

Sec. 26. Minnesota Statutes 1989 Supplement, 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 or, who would meet those requirements except for excess income or assets, and who meets the other eligibility requirements of this section. The methodology for calculating income must be 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. 27. Minnesota Statutes 1988, section 256B.055, subdivision 12, is amended to read:

Subd. 12. [DISABLED CHILDREN.] (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and who requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance for home care services is not more than the amount that medical assistance would pay for appropriate institutional care.

(b) For purposes of this subdivision, "hospital" means an acute care institution as defined in section 144.696, subdivision 3, licensed pursuant to sections 144.50 to 144.58, which is appropriate if a person is technology dependent or has a chronic health condition which requires frequent intervention by a health care professional to avoid death.

(c) For purposes of this subdivision, "skilled nursing facility" and "intermediate care facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a

licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse.

(d) For purposes of this subdivision, "intermediate care facility for the mentally retarded" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota department of health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs.

(e) For purposes of this subdivision, a person "requires a level of care provided in a hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for persons with mental retardation or related conditions" if the person requires 24-hour supervision because the person exhibits suicidal or homicidal ideation or behavior, psychosomatic disorders or somatopsychic disorders that may become life threatening, severe socially unacceptable behavior associated with psychiatric disorder, psychosis or severe developmental problems requiring continuous skilled observation, or disabling symptoms that do not respond to office-centered outpatient treatment.

Sec. 28. Minnesota Statutes 1988, section 256B.056, is amended by adding a subdivision to read:

Subd. 1a. [INCOME AND ASSETS GENERALLY.] Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance shall be as follows: (a) for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used; and (b) for families and children, which includes all other eligibility categories, the methodologies for the aid to families with dependent children program under section 256.73 shall be used. For these purposes, a "methodology" does not include an asset or income standard, budgeting or accounting method, or method of determining effective dates.

Sec. 29. Minnesota Statutes 1988, section 256B.056, subdivision 2, is amended to read:

Subd. 2. [HOMESTEAD.] To be eligible for medical assistance, a person must not own, individually or together with the person's spouse, real property other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant or recipient as a primary place of residence, together with the contiguous land upon which it is situated. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by the spouse, minor child, or disabled child of any age. one of the following individuals:

(a) the spouse;

(b) a child under age 21;

(c) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;

(d) a sibling who has equity interest in the home and who resided in the home for at least one year immediately before the date of the person's admission to the facility; or

(e) a child of any age, or, subject to federal approval, a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

The homestead is also excluded for the first six calendar months of the person's stay in the long-term care facility. The *person's equity in the homestead* must be reduced to an amount within limits or excluded on another basis if the person remains in the long-term care facility for a period longer than six months. Real estate not used as a home may not be retained unless the property is not salable, the equity is \$6,000 or less and the income produced by the property is at least six percent of the equity, or the excess real property is exempted for a period of nine months if there is a good faith effort to sell the property and a legally binding agreement is signed to repay the amount of assistance issued during that nine months.

Sec. 30. Minnesota Statutes 1989 Supplement, 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 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 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. 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 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 to the same extent as in the related cash assistance programs.

(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 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 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. 31. Minnesota Statutes 1989 Supplement, 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 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. 32. Minnesota Statutes 1988, section 256B.056, subdivision 7, is amended to read:

Subd. 7. [PERIOD OF ~~INELIGIBILITY~~ ELIGIBILITY.] 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.

Sec. 33. Minnesota Statutes 1989 Supplement, section 256B.057, subdivision 1, is amended to read:

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 who has written verification of a positive pregnancy test from a physician or licensed registered nurse,~~ 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.

Sec. 34. Minnesota Statutes 1989 Supplement, section 256B.057, subdivision 2, is amended to read:

Subd. 2. [CHILDREN.] A child one through ~~seven~~ five years of age in a family whose countable income is less than ~~100~~ 133 percent of the federal poverty guidelines for the same family size, is eligible for medical assistance. *A child six through seven years of age, who was born after September 30, 1983, 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.

Sec. 35. Minnesota Statutes 1989 Supplement, section 256B.057, is amended by adding a subdivision to read:

Subd. 4. [QUALIFIED WORKING DISABLED ADULTS.] A person who is entitled to Medicare Part A benefits under section 1818A of the Social Security Act; whose income does not exceed 200 percent of the federal poverty guidelines for the applicable family size; whose nonexempt assets do not exceed twice the maximum amount allowable under the supplemental security income program, according to family size; and who is not otherwise eligible for medical assistance, is eligible for medical assistance reimbursement of the Medicare Part A premium. 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. 36. Minnesota Statutes 1989 Supplement, section 256B.057, is amended by adding a subdivision to read:

Subd. 5. [DISABLED ADULT CHILDREN.] A person who is at least 18 years old, who was eligible for supplemental security income benefits on the basis of blindness or disability, who became disabled or blind before he or she reached the age of 22, and who lost eligibility as a result of becoming entitled to a child's insurance benefits on or after July 1, 1987, under section 202(d) of the Social Security Act, or because of an increase in those benefits effective on or after July 1, 1987, is eligible for medical assistance as long as he or she would be entitled to supplemental security income in the absence of child's insurance benefits or increases in those benefits.

Sec. 37. Minnesota Statutes 1989 Supplement, section 256B.0575, is amended to read:

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 allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for a family size that includes only the minor children. This deduction applies only if the children do not live with the community*

spouse, and only if the children resided with the institutionalized person immediately prior to admission;

(6) 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)~~ (7) 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) (6), "*other 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.~~ means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "*Dependent*" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(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. 38. Minnesota Statutes 1989 Supplement, section 256B.059, subdivision 4, is amended to read:

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. *A substitution under this paragraph may be made only if the assets of the couple have been arranged so that the maximum amount of income-producing assets, at the maximum rate of*

return, are available to the community spouse under the community spouse asset allowance. The maximum rate of return is the average rate of return available from the financial institution holding the asset, or a rate determined by the commissioner to be reasonable according to community standards, if the asset is not held by a financial institution.

(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.

Sec. 39. Minnesota Statutes 1989 Supplement, section 256B.059, subdivision 5, is amended to read:

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) *An institutionalized spouse may be found eligible for medical assistance even though assets in excess of the allowable amount are found to be available under paragraph (a) if the assets are owned jointly or individually by the community spouse, and the institutionalized spouse cannot use those assets to pay for the cost of care without the consent of the community spouse, and if: (i) the institutionalized spouse assigns to the commissioner the right to support from the community spouse under section 256B.14, subdivision 2; (ii) the institutionalized spouse lacks the ability to execute an assignment due to a physical or mental impairment; or (iii) the denial of eligibility would cause an imminent threat to the institutionalized spouse's health and well-being.*

(c) 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, *unless the institutionalized spouse has been found eligible under clause (b).*

(~~e~~) (d) 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. 40. Minnesota Statutes 1989 Supplement, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED TRANSFERS.] ~~If an institutionalized a~~ person or the person's spouse 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 before or any time after~~ the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months ~~of before or any time after~~ 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.

Sec. 41. Minnesota Statutes 1989 Supplement, section 256B.0595, subdivision 2, is amended to read:

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. *If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G.* 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.

Sec. 42. Minnesota Statutes 1989 Supplement, section 256B.0595, subdivision 4, is amended to read:

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 who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions apply applies:~~

(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 this chapter.

Sec. 43. Minnesota Statutes 1988, section 256B.0625, subdivision 4, is amended to read:

Subd. 4. [OUTPATIENT AND CLINIC SERVICES.] Medical assistance covers outpatient hospital ~~or nonprofit community health clinic services~~ or physician-directed clinic services. The physician-directed clinic staff shall include at least two physicians, ~~one of whom is on the premises whenever the clinic is open,~~ and all services shall be provided under the direct supervision of ~~the a physician who is on the premises.~~ Hospital outpatient departments are subject to the same limitations and reimbursements as other enrolled vendors for all services, except initial triage, emergency services, and services not provided or immediately available in clinics, physicians' offices, or by other enrolled providers. A second medical opinion is required before reimbursement for elective surgeries requiring a second opinion. The commissioner shall publish in the State Register a list of elective surgeries that require a second medical opinion before reimbursement and the criteria and standards for deciding whether an elective surgery should require a second surgical opinion. The list and the criteria and standards are not subject to the requirements of sections 14.01 to 14.69. The commissioner's decision whether a second medical opinion is required, made in accordance with rules governing that decision, is not subject to administrative appeal. "Emergency services" means those medical services required for the immediate diagnosis and treatment of medical conditions that, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death or are necessary to alleviate severe pain. Neither the hospital, its employees, nor any physician or dentist, shall be liable in any action arising out of a determination not to render emergency services or care if reasonable care is exercised in determining the condition of the person, or in determining the appropriateness of the facilities, or the qualifications and availability of personnel to render these services consistent with this section.

Sec. 44. Minnesota Statutes 1988, section 256B.0625, subdivision 5, is amended to read:

Subd. 5. [COMMUNITY MENTAL HEALTH CENTER SERVICES.] Medical assistance covers community mental health center services, as defined in rules adopted by the commissioner pursuant to section 256B.04, subdivision 2, and provided by a community mental health center as defined in section 245.62, subdivision 2.

Sec. 45. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 8a. [OCCUPATIONAL THERAPY.] Medical assistance covers occupational therapy and related services.

Sec. 46. Minnesota Statutes 1988, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. [DENTAL SERVICES.] Medical assistance covers dental services; ~~excluding cast metal restorations~~. *Dental services include, with prior authorization, fixed cast metal restorations that are cost-effective for persons who cannot use removable dentures because of their medical condition.*

Sec. 47. Minnesota Statutes 1989 Supplement, 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, 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 *legend drug* 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. *Over-the-counter medications must be dispensed in the manufacturer's unopened package.* 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. 48. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 28. [CERTIFIED PEDIATRIC OR FAMILY NURSE PRACTITIONER SERVICES.] Medical assistance covers services performed by a certified pediatric nurse practitioner or a certified family nurse practitioner in independent practice, if the services are otherwise covered under this chapter as a physician service, and if the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171.

Sec. 49. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 29. [PUBLIC HEALTH NURSING CLINIC SERVICES.] Medical assistance covers the services of a certified public health nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered

nurse, as defined in section 148.171.

Sec. 50. Minnesota Statutes 1988, section 256B.0625, is amended by adding a subdivision to read:

Subd. 30. [OTHER CLINIC SERVICES.] Medical assistance covers rural health clinic, federally qualified health center, and nonprofit community health clinic services. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

Sec. 51. [256B.0627] [COVERED SERVICE; HOME CARE SERVICES.]

Subdivision 1. [DEFINITION.] "Home care services" means a medically necessary health service that is ordered by a physician and documented in a plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days. Home care services include personal care and nursing supervision of personal care services which is reviewed and revised as medically necessary by the physician at least once every 365 days. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility.

Subd. 2. [SERVICES COVERED.] Home care services covered under this section include:

- (1) nursing services;*
- (2) private duty nursing services;*
- (3) home health aide services;*
- (4) personal care services; and*
- (5) nursing supervision of personal care services.*

Subd. 3. [PRIVATE DUTY NURSING SERVICES; WHO MAY PROVIDE.] Private duty nursing services may be provided by a registered nurse or licensed practical nurse who is not the recipient's spouse, legal guardian, or parent of a minor child.

Subd. 4. [PERSONAL CARE SERVICES.] (a) Personal care services may be provided by a qualified individual who is not the recipient's spouse, legal guardian, or parent of a minor child.

(b) The personal care services that are eligible for payment are the following:

- (1) bowel and bladder care;*
- (2) skin care to maintain the health of the skin;*
- (3) range of motion exercises;*
- (4) respiratory assistance;*
- (5) transfers;*
- (6) bathing, grooming, and hairwashing necessary for personal hygiene;*
- (7) turning and positioning;*

(8) assistance with furnishing medication that is normally self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with food, nutrition, and diet activities;

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) services provided for the recipient's personal health and safety;

(15) helping the recipient to complete daily living skills such as personal and oral hygiene and medication schedules; and

(16) incidental household services that are an integral part of a personal care service described in clauses (1) to (15).

(c) The personal care services that are not eligible for payment are the following:

(1) personal care services that are not in the plan of care developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or family of the recipient;

(2) services that are not supervised by the registered nurse;

(3) services provided by the recipient's spouse, legal guardian, or parent of a minor child;

(4) sterile procedures; and

(5) injections of fluids into veins, muscles, or skin.

Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance payments for home care services shall be limited according to paragraphs (a) to (e).

(a) [EXEMPTION FROM PAYMENT LIMITATIONS.] The level, or the number of hours or visits of a specific service, of home health care services to a recipient that began before and is continued without increase on or after December 1987, shall be exempt from the payment limitations of this section, as long as the services are medically necessary.

(b) [LEVEL I HOME CARE.] For all new cases after December 1987, medically necessary home care services up to \$800 may be provided in a calendar month.

If the services in the recipient's home care plan will exceed the \$800 threshold for 30 days or less, the medically necessary services may be provided.

(c) [LEVEL II HOME CARE.] If the services in the recipient's home care plan exceed \$800 for more than 30 days, a public health nurse from the local preadmission screening team shall determine the recipient's maximum level of home care according to this paragraph.

(1) The public health nurse from the local preadmission screening team shall base the determination of the recipient's maximum level of care on the need and eligibility of the recipient for one of the following placements:

(i) residential facility for persons with mental retardation or related conditions operated under section 256B.501;

(ii) inpatient hospital care for a ventilator-dependent recipient. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to or has been dependent for at least 30 consecutive days; or

(iii) all other recipients not appropriate for one of the above placements.

(2) If the recipient is eligible under clause (1)(i), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment rate for residential facilities for children or adults with mental retardation or related conditions as appropriate for the recipient's age and level of self-preservation as determined according to Minnesota Rules, parts 9553.0010 to 9553.0080.

(3) If the recipient is eligible under clause (1)(ii), the monthly medical assistance reimbursement for home care services shall not exceed the monthly cost of care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital.

(4) If the recipient is not eligible under either clause (1)(i) or (1)(ii), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment for the case mix classification most appropriate to the recipient. The case mix classification is established under section 256B.431.

(5) The determination of the recipient's maximum level of home care by the public health nurse is called a home care cost assessment. The home care cost assessment must be requested by the home care provider before the end of the first 30 days of provided service and must be conducted by the public health nurse within ten working days following request.

(6) A home care provider shall request a new home care cost assessment when the needs of the individual have changed enough to require that a revised care plan be implemented that will increase costs beyond what was approved by the previous home care cost assessment and the change is anticipated to last for more than 30 days. The home care provider must request the home care cost assessment before the end of the first 30 days of provided service. Whenever a home care cost assessment is completed, the public health nurse that completes the home care cost assessment, in consultation with the home care provider, shall determine the time period for which a home care cost assessment shall remain valid. If the recipient continues to require home care services beyond the limited duration of the home care cost assessment, the home care provider must request a reassessment through the home care cost assessment process described above. Under no circumstances shall a home care cost assessment be valid for more than 12 months.

(7) Reimbursement for the home care cost assessment shall be made through the Medicaid administrative authority. The state shall pay the nonfederal share.

(d) [LEVEL III HOME CARE.] If the home care provider determines that the recipient's needs exceed the amount approved for the appropriate level of care as determined in paragraph (c), the home care provider may refer the case to the department for a level III determination. Based on the client needs, physician orders, diagnosis, condition, and plan of care, the department may give prior approval for care that exceeds level II

described in paragraph (c). The amount approved shall not exceed the maximum cost for the appropriate level of care as determined in paragraph (c), clause (1), which will be the maximum ICF/MR rate for intermediate care facilities for persons with mental retardation or related conditions, or the maximum nursing home case mix payment, or the highest hospital cost for the state.

The department has 30 days from receipt of the request to complete the level III determination, during which time it may approve the higher level while reviewing the case.

Case reviews or approval of home care services in levels II and III may result in assignment of a case manager.

(e) [PRIOR APPROVAL REQUIRED IN FOSTER CARE SETTING.] *Any home care service provided in an adult or child foster care setting must receive prior approval by the department.*

Subd. 6. [RECOVERY OF EXCESSIVE PAYMENTS.] *The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section.*

Sec. 52. [256B.0629] [ADVISORY COMMITTEE ON ORGAN AND TISSUE TRANSPLANTS.]

Subdivision 1. [CREATION AND MEMBERSHIP.] *By July 1, 1990, the commissioner shall appoint and convene a 12 member advisory committee to provide advice and recommendations to the commissioner concerning the eligibility of organ and tissue transplant procedures for reimbursement by medical assistance and general assistance medical care. The committee must include representatives of the transplant provider community, hospitals, patient recipient groups or organizations, the department of human services, the department of finance, and the department of health, at least one representative of a health plan regulated under chapter 62A, 62C, or 62D, and persons with expertise in ethics, law, and economics. The terms and removal of members shall be governed by section 15.059. Members shall not receive per diems but shall be compensated for expenses. The advisory committee does not expire as provided in section 15.059, subdivision 6.*

Subd. 2. [FUNCTION AND OBJECTIVES.] *The advisory committee shall meet at least twice a year. The committee's activities include, but are not limited to:*

(1) collection of information on the efficacy and experience of various forms of transplantation not approved by medicare;

(2) collection of information from Minnesota transplant providers on available services, success rates, and the current status of transplant activity in the state;

(3) development of guidelines for determining when and under what conditions, organ and tissue transplants not approved by medicare should be eligible for reimbursement by medical assistance and general assistance medical care;

(4) providing recommendations, at least annually, to the commissioner on: (i) organ and tissue transplant procedures, beyond those approved by medicare, that should also be eligible for reimbursement under medical assistance and general assistance medical care; and (ii) which transplant

centers should be eligible for reimbursement from medical assistance and general assistance medical care.

Subd. 3. [ANNUAL REPORT.] The advisory committee shall present an annual report to the commissioner and the chairs of the health and human services appropriations divisions of the house appropriations committee and the senate finance committee by January 1 of each year on the findings and recommendations of the committee.

Subd. 4. [RESPONSIBILITIES OF THE COMMISSIONER.] The commissioner shall periodically:

(1) Recommend to the legislature criteria governing the eligibility of organ and tissue transplant procedures for reimbursement from medical assistance and general assistance medical care. Procedures approved by medicare are automatically eligible for medical assistance and general assistance medical care reimbursement. Additional procedures are eligible for reimbursement only upon approval by the legislature. Only procedures recommended by the task force and the commissioner may be considered by the legislature.

(2) Recommend to the legislature criteria for certifying transplant centers within and outside of Minnesota where Minnesotans receiving medical assistance and general assistance medical care may obtain transplants. Additional centers may be certified only upon approval of the legislature. Only centers recommended by the task force and the commissioner may be considered by the legislature.

Sec. 53. [256B.0643] [VENDOR REQUEST FOR CONTESTED CASE PROCEEDING.]

Unless otherwise provided by law, a vendor of medical care, as defined in section 256B.02, subdivision 7, must use this procedure to request a contested case, as defined in section 14.02, subdivision 3. A request for a contested case must be filed with the commissioner in writing within 60 days after the date the notification of an action or determination was mailed. The appeal request must specify:

- (1) each disputed action or item;*
- (2) the reason for the dispute;*
- (3) an estimate of the dollar amount involved, if any, for each disputed item;*
- (4) the computation or other disposition that the appealing party believes is correct;*
- (5) the authority in statute or rule upon which the appealing party relies for each disputed item;*
- (6) the name and address of the person or firm with whom contacts may be made regarding the appeal; and*
- (7) other information required by the commissioner. Nothing in this section shall be construed to create a right to an administrative appeal or contested case proceeding.*

Sec. 54. Minnesota Statutes 1988, section 256B.091, subdivision 4, is amended to read:

Subd. 4. [SCREENING OF PERSONS.] Prior to nursing home or boarding care home admission, screening teams shall assess the needs of all applicants, except (1) patients transferred from other certified nursing homes or boarding care homes; (2) patients who, having entered acute care facilities from nursing homes or boarding care homes, are returning to a nursing home or boarding care home; (3) ~~persons entering a facility described in section 256B.431, subdivision 4, paragraph (e) individuals who are screened by another state within three months before admission to a Minnesota nursing home;~~ (4) individuals ~~not eligible for medical assistance~~ whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team upon admission and provides an update to the screening team on the 30th day after admission; (5) individuals who have a contractual right to have their nursing home care paid for indefinitely by the veteran's administration; or (6) persons entering a facility conducted by and for the adherents of a recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing. The total screening cost for each county for applicants and residents of nursing homes who request a screening must be paid monthly by nursing homes and boarding care homes participating in the medical assistance program in the county. The monthly amount to be paid by each nursing home and boarding care home *for fiscal year 1991* must be determined by dividing the county's estimate of the total annual cost of screenings allowed ~~by the commissioner~~ in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing home and boarding care home based on the number of licensed beds in the nursing home or boarding care home. *The rate allowed for a screening where two team members are present shall be the actual costs up to \$195. The rate allowed for a screening where only one team member is present shall be the actual costs up to \$117. The commissioner shall establish by rulemaking an annual adjustment of the state maximum screening rate.* The monthly cost estimate for each nursing home or boarding care home must be submitted to the nursing home or boarding care home and the state by the county no later than February 15 of each year for inclusion in the nursing home's or boarding care home's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing home or boarding care home as an operating cost of that nursing home in accordance with section 256B.431, subdivision 2b, clause (g). ~~For all individuals regardless of payment source, if delay of screening timelines are not met because a county is late in screening an individual who meets the delay of screening criteria, the county is solely responsible for paying the cost of the preadmission screening. If in more than ten percent of the total number of screenings performed by a county in a fiscal year for all individuals regardless of payment source, the screening timelines were not met because a county was late in screening the individual, the county is solely responsible for paying the cost of those delayed screenings that exceed ten percent.~~ Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility. Any other interested person may be screened under this subdivision if the person pays a fee for the screening based upon a sliding fee scale determined by the commissioner.

Sec. 55. Minnesota Statutes 1988, section 256B.091, subdivision 6, is amended to read:

Subd. 6. [REIMBURSEMENT.] The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams. *Medical assistance reimbursement shall not be provided for any recipient placed in a nursing home in opposition to the screening team's recommendation after January 1, 1981; provided, however, the commissioner shall not deny reimbursement for (1) an individual admitted to a nursing home or boarding care home who is assessed to need long-term supportive services if long-term supportive services other than nursing home care are not available in that community; (2) any eligible individual placed in the nursing home or boarding care home pending an appeal of the preadmission screening team's decision; (3) any eligible individual placed in the nursing home or boarding care home by a physician in an emergency situation and where the screening team has not made a decision within five working days of its initial contact; or (4) any medical assistance recipient when, after full discussion of all appropriate alternatives including those that are expected to be less costly than care in a nursing home or boarding care home, the individual or the individual's legal representative insists on nursing home or boarding care home placement. Medical assistance reimbursement for nursing homes shall not be provided for any recipient who the team has determined does not meet the level of care criteria for nursing home placement.* The screening team shall provide documentation that the most cost effective alternatives available were offered to this individual or the individual's legal representative.

Sec. 56. Minnesota Statutes Second 1989 Supplement, section 256B.091, subdivision 8, is amended to read:

Subd. 8. [ALTERNATIVE CARE GRANTS.] (a) The commissioner shall provide ~~grants funds~~ 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.

(b) 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.~~

(c) *For fiscal year 1991 only, the appropriation shall be distributed as specified in paragraphs (1) and (2).*

(1) *Sufficient state funds shall be set aside for payment for unreimbursed services provided prior to April 1, 1990, as billed by each county by June 1, 1990.*

(2) *The remainder of the state funds available for alternative care grants must be allocated to each county in the same proportion as each county's share of the actual payments made plus claims submitted for services rendered in the base year. The base year for each county shall be either fiscal year 1989 or calendar year 1989, whichever period contains a larger total dollar amount of payments plus claims submitted for each county. To be counted in the allocation process, claims must be submitted by June 1, 1990. This allocation will include the state share for medical assistance recipients as well as the state share for those who would be eligible within*

180 days after nursing home admission. No reallocation between counties will be made. The county agency shall not be reimbursed for services which exceed the county allocation. To receive reimbursement for persons who are eligible within 180 days, the county must submit invoices within 90 days following the month of service. The number of medical assistance waiver recipients which each county may serve is allocated according to the number of open medical assistance waiver cases on July 1, 1990. Additional recipients may be served with the approval of the commissioner. These additional recipients must be served within the county's allocation.

(d) The alternative care grant appropriation for fiscal years 1992 and beyond shall cover only individuals who would be eligible for medical assistance within 180 days after admission to a nursing home. The commissioner shall allocate state funds available for alternative care grants to each county agency. The allocation must be made as follows: the state funds available for alternative care grants, up to the amount of the previous year's allocation increased by the percentage for rates in Minnesota Rules, part 9505.2490, must be allocated to each county in the same proportion as the previous year's allocation. If the appropriation is less than the previous year's allocation plus inflation, it shall be prorated according to the county's share of the formula. Any funds appropriated in excess of the previous year's allocation plus inflation shall be allocated to county agencies by methodologies that target funds for programs designed to reduce premature nursing home placements and promote cost-effective alternatives to increasing nursing home beds and nursing home utilization. The additional allocation to counties will become part of the allocation base. The commissioner shall appoint a work group including county and senior representatives to assist in developing criteria for allocating funds which may include identifying special target populations, geographic areas, or projects. No reallocation between counties shall be made. The county agency shall not be reimbursed for services which exceed the county allocation. To receive reimbursement, the county must submit invoices within 90 days following the date of service. The number of medical assistance waiver recipients which a county may serve must be allocated according to the number of open medical assistance waiver cases on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(e) The commissioner is directed to conduct a review of the preadmission screening program and alternative care grant program including screening requirements, screening reimbursement, program effectiveness, eligibility criteria for alternative care, accessibility to services, copayment and sliding fee issues, county utilization, rates for services, the payment system, funding and forecasting issues, administrative requirements, incentives for innovation, improved consistency with the community assistance for disabled individuals program and medical assistance home care services, and the allocation formula. In conducting this review, special attention should be given to ways to increase sliding fee collections and reduce or minimize administrative and program requirements and associated county costs. The commissioner shall appoint a work group including county and senior citizen representatives to assist in the program review. The commissioner must present a report on the findings of the review and recommendations for change to the legislature by February 15, 1991.

(f) 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.

(g) 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.

(h) Grants may be used for payment of costs of providing care-related supplies, equipment, and *the following services such as, but not limited to: adult foster care for elderly persons, adult day care whether or not offered through a nursing home, nutritional counseling, or medical social services, which, home health aide, homemaker, personal care, case management, and respite care.* These services ~~are~~ must be 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.

(i) 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.

(j) 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.

(k) 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.

(l) 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.

(m) The commissioner shall apply for a waiver for federal financial participation to expand the availability of services under this subdivision. *Waivered services provided to medical assistance recipients must comply with the same criteria as defined in this section and in the approved waiver. Reimbursement for the medical assistance recipients shall be made from the regular medical assistance account.* 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. 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. The state share of the nonfederal portion of costs shall be 90 percent and the county share shall be ten percent. 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.

(n) Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on, for individuals who are receiving medical assistance.

(o) Beginning July 1, 1991, the state will reimburse counties, up to the limit of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on, for individuals who would be eligible for medical assistance within 180 days of admission to a nursing home.

(p) 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. 57. Minnesota Statutes 1988, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. [CASE MANAGEMENT SERVICES.] Case management services ~~include~~ *are limited to* diagnosis, ~~an~~ assessment of the individual's service needs, *development of* an individual service plan, ~~an individual habilitation plan, and specification of methods for providing, evaluating services, and the evaluation and monitoring of the services identified in the plan.~~

Sec. 58. Minnesota Statutes 1988, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. [INDIVIDUAL SERVICE AND HABILITATION PLANS PLAN.] The individual service ~~and habilitation plans~~ *plan* must

- (1) include the results of the diagnosis and assessment,
- (2) identify goals and objectives for the client, ~~and~~
- (3) identify specific services to be provided to the client,
- (4) *identify the need for an habilitation component of the plan, and*

~~The individual habilitation plan shall~~ (5) *identify and coordinate methodologies to carry out the goals and objectives of the individual service plan.*

Sec. 59. Minnesota Statutes 1988, section 256B.092, is amended by adding a subdivision to read:

Subd. 1c. [FISCAL LIMITATIONS.] Subdivision 1 shall not be construed as requiring expenditure of money not available to county agencies for services to persons with, or who might have, mental retardation or related conditions, except for:

- (1) services specifically required by federal law or state statute such as case management and day training and habilitation services; and*
- (2) services identified in the person's individual service plan as services that the county will provide until the person's individual service plan is amended.*

Sec. 60. Minnesota Statutes 1988, section 256B.092, is amended by adding a subdivision to read:

Subd. 1d. [COUNTY REQUIREMENTS.] Before a county denies, reduces, or terminates a service to an individual due to fiscal limitations, the county agency must show that money is not available for services to persons with mental retardation or related conditions, and that good faith efforts have been made to identify needs and obtain available funds. The county agency must show this by documenting that the following actions have been taken:

- (1) the county case manager has identified the person's service needs and the actions that will be taken to develop or obtain those services in the person's individual service plan and action that will be taken to prevent abuse or neglect as defined in sections 626.556, subdivision 2, paragraphs (a), (c), and (d), and 626.557, subdivision 2, paragraphs (d) and (e);*
- (2) prior to the admission of a person to a regional treatment center program for persons with developmental disabilities, the county agency made efforts to secure community-based alternatives. If these alternatives were rejected in favor of a regional treatment center placement, the county*

agency must also document the reasons why they were rejected; and

(3) the county agency has made a request for state funds or new capacity for services to meet the individual's unmet needs, since those needs have been identified in the person's individual service plan.

Sec. 61. Minnesota Statutes 1988, section 256B.092, is amended by adding a subdivision to read:

Subd. 1e. [COUNTY WAITING LIST.] The county agency shall maintain a waiting list of persons with developmental disabilities specifying the services needed but not provided.

Sec. 62. Minnesota Statutes 1989 Supplement, 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 parent of a minor recipient of medical assistance *or the spouse of a medical assistance recipient.*

Subd. 2. [ACTIONS TO OBTAIN PAYMENT.] The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete *payment or* repayment of medical assistance furnished to recipients for whom they are responsible. These rules shall not require *payment or* 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 *payment or* 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.

Subd. 3. [COMMUNITY SPOUSE CONTRIBUTION.] The community spouse of an institutionalized person who receives medical assistance under

section 256B.059, subdivision 5, paragraph (b), has an obligation to pay for the cost of care equal to the dollar value of assets considered available under section 256B.059, subdivision 5.

Subd. 4. [APPEALS.] A responsible relative may appeal the determination of an obligation to make a contribution under this section, according to section 256.045.

Sec. 63. Minnesota Statutes 1988, section 256B.15, is amended to read:
256B.15 [CLAIMS AGAINST ESTATES.]

Subdivision 1. [ESTATES SUBJECT TO CLAIMS.] If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, and only when there is no surviving child who is under 21 or is blind or totally disabled, the total amount paid for medical assistance rendered for the person and spouse, after age 65, without interest, shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate.

A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 65 years of age; or

(b) the person resided in a medical institution for six months or longer and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort.

Subd. 2. [LIMITATIONS ON CLAIMS.] The claim shall include only the total amount of medical assistance rendered after age 65 or during a period of institutionalization described in subdivision 1, clause (b), and shall not include interest. A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage.

Subd. 3. [MINOR, BLIND, OR DISABLED CHILDREN.] If a decedent who was single, or who was the surviving spouse of a married couple, is survived by a child who is under age 21 or blind or permanently and totally disabled according to the supplemental security income program criteria,

no claim shall be filed against the estate.

Subd. 4. [OTHER SURVIVORS.] If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate in an amount not to exceed the value of the nonhomestead property included in the estate:

(a) a sibling who resided in the decedent medical assistance recipient's home at least one year before the decedent's institutionalization and continuously since the date of institutionalization; or

(b) a son or daughter or, subject to federal approval, a grandchild, who resided in the decedent medical assistance recipient's home for at least two years immediately before the parent's institutionalization and continuously since the date of institutionalization, and who establishes by a preponderance of the evidence that he or she provided care to the parent or grandparent who received medical assistance, the care was provided before institutionalization, and the care permitted the parent to reside at home rather than in an institution.

Sec. 64. Minnesota Statutes 1988, section 256B.19, is amended by adding a subdivision to read:

Subd. 2b. [PILOT PROJECT REIMBURSEMENT.] In counties where a pilot or demonstration project is operated under the medical assistance program, the state may pay 100 percent of the administrative costs for the pilot or demonstration project after June 30, 1990. Reimbursement for these costs is subject to section 256.025.

Sec. 65. Minnesota Statutes 1989 Supplement, 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 1989, facilities located in geographic group I as described in Minnesota Rules, part 9549.0052 (Emergency), on January 1, 1987 1989, 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 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. 66. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 2l. [INFLATION ADJUSTMENTS AFTER JULY 1, 1990.] For rate years beginning on or after July 1, 1990, the forecasted composite price index for a nursing home's allowable operating cost per diems shall be determined using Data Resources, Inc., forecast for change in the Nursing Home Market Basket. The commissioner of human services shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

Sec. 67. Minnesota Statutes 1988, section 256B.431, subdivision 3e, is

amended to read:

Subd. 3e. [HOSPITAL-ATTACHED CONVALESCENT AND NURSING CARE FACILITIES.] If a *nonprofit* or community-operated hospital and attached convalescent and nursing care facility suspend operation of the hospital, the surviving nursing care facility must be allowed to continue its status as a hospital-attached convalescent and nursing care facility for reimbursement purposes in three subsequent rate years.

Sec. 68. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 3h. [SPECIAL PROPERTY RATE.] *Notwithstanding contrary provisions of chapter 256B or rules adopted under it, for rate years beginning July 1, 1990, a nursing home under lease from 1968 until 1983 with a lessee or related party having an option to purchase the nursing home, which option was subsequently exercised, shall be allowed debt and interest costs incurred by the lessee or related party on indebtedness created when the option to purchase was exercised before the end of the 1983 calendar year. The nursing home must demonstrate 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.*

Sec. 69. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 3i. [PROPERTY COSTS FOR THE RATE YEAR BEGINNING JULY 1, 1990.] *Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item H, the commissioner shall determine property-related payment rates for nursing homes for the rate year beginning July 1, 1990, as follows:*

(a) *The property-related payment rate for a nursing home that qualifies under subdivision 3g is the greater of the rate determined under that subdivision or the rate determined under paragraph (c), (d), or (e), whichever is applicable.*

(b) *Nursing homes shall be grouped according to the type of property-related payment rate the commissioner determined for the rate year beginning July 1, 1989. A nursing home whose property-related payment rate was determined under Minnesota Rules, part 9549.0060, subpart 13, item A (full rental reimbursement), shall be considered group A. A nursing home whose property-related payment rate was determined under Minnesota Rules, part 9549.0060, subpart 13, item B (phase-down to full rental reimbursement), shall be considered group B. A nursing home whose property-related payment rate was determined under Minnesota Rules, part 9549.0060, subpart 13, item C or D (phase-up to full rental reimbursement), shall be considered group C.*

(c) *For the rate year beginning July 1, 1990, a group A nursing home shall receive its property-related payment rate determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.*

(d) *For the rate year beginning July 1, 1990, a Group B nursing home shall receive the greater of 87 percent of the property-related payment rate in effect on July 1, 1989; or the rental per diem rate determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section in effect on July 1, 1990; or the sum of 100 percent of the nursing home's allowable principal and interest expense, plus its equipment allowance multiplied by the resident days for the reporting year ending September 30, 1989, divided*

by the nursing home's capacity days as determined under Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c); except that the nursing home's property-related payment rate must not exceed its property-related payment rate in effect on July 1, 1989.

(e) For the rate year beginning July 1, 1990, a group C nursing home shall receive its property-related payment rate determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section, except the rate must not exceed the lesser of its property-related payment rate determined for the rate year beginning July 1, 1989, multiplied by 116 percent or its rental per diem rate determined effective July 1, 1990.

(f) The property-related payment rate for a nursing home that qualifies for a rate adjustment under Minnesota Rules, part 9549.0060, subpart 13, item G (special reappraisals), shall have the property-related payment rate determined in paragraphs (a) to (e) adjusted according to the provisions in that rule.

(g) Except as provided in subdivision 4, paragraph (f), and subdivision 11, a nursing home that has a change in ownership or a reorganization of provider entity is subject to the provisions of Minnesota Rules, part 9549.0060, subpart 13, item F.

Sec. 70. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 3j. [PROPERTY RATE ADJUSTMENT FOR REQUIRED IMPROVEMENTS.] The commissioner shall add an adjustment to the property-related payment rate of a certified, freestanding boarding care home reflecting the costs incurred by that nursing home to install a communications system in every room and hallway handrails, as required under the 1987 federal Omnibus Budget Reconciliation Act, Public Law Number 100-203. The property-related payment rate increase is only available if, and to the extent that, the nursing home's existing property-related payment rate, minus the nursing home's allowable principal and interest costs and equipment allowance, is not sufficient to cover the costs of the required improvements. Each nursing home eligible for the adjustment shall submit to the commissioner a detailed estimate of the cost increases the facility will incur to meet the new physical plant requirements. Ten percent of the amount of the costs that are determined by the commissioner to be reasonable for the nursing home to meet the new requirements, divided by resident days, must be added to the nursing home's property-related payment rate. The adjustment shall be added to the property-related payment rate determined under subdivision 3i. The resulting recalculated property-related payment rate is effective October 1, 1990, or 60 days after a nursing home submits its detailed cost estimate, whichever occurs later.

The adjustment is only available to a certified, freestanding boarding care home that cannot meet the requirements of Public Law Number 100-203 for communications systems and handrails as demonstrated to the satisfaction of the commissioner of health. When the commissioner of human services establishes that it is not cost-effective to upgrade an eligible certified, freestanding boarding care home to the new standards, the commissioner of human services may exclude the certified freestanding boarding care home if it is either an institution for mental disease or a certified, freestanding boarding care 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.

Sec. 71. Minnesota Statutes 1989 Supplement, section 256B.431, subdivision 7, is amended 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.

(d) Notwithstanding the provisions of paragraph (a), clause (3), if an eligible nursing home has less than 61 licensed beds, the director of nurses' compensated hours must be excluded from the computation of compensated hours for professional nurses and registered nurses in paragraph (a), clauses (1) and (2). The commissioner shall recompute the one-time nursing staff adjustment to the payment rate using the data from the cost report for the

reporting year ending September 30, 1989, and the adjustment computed under this paragraph shall replace the adjustment previously computed under this subdivision effective October 1, 1990, and shall be effective for the period October 1, 1990, to June 30, 1992.

Sec. 72. Minnesota Statutes 1988, section 256B.431, is amended by adding a subdivision to read:

Subd. 11. [SPECIAL PROPERTY RATE SETTING PROCEDURES FOR CERTAIN NURSING HOMES.] Notwithstanding Minnesota Rules, part 9549.0060, subpart 13, item H, to the contrary, for the rate year beginning July 1, 1990, a nursing home leased prior to January 1, 1986, and currently subject to adverse licensure action under section 144A.04, subdivision 4, paragraph (a), or section 144A.11, subdivision 2, and whose ownership changes prior to July 1, 1990, shall be allowed a property-related payment equal to the lesser of its current lease obligation divided by its capacity days as determined in Minnesota Rules, part 9549.0060, subpart 11, as modified by subdivision 3f, paragraph (c), or the frozen property-related payment rate in effect for the rate year beginning July 1, 1989. For rate years beginning on or after July 1, 1991, the property-related payment rate shall be its rental rate computed using the previous owner's allowable principal and interest expense as allowed by the department prior to that prior owner's sale and lease-back transaction of December 1985.

Sec. 73. [256B.432] [LONG-TERM CARE FACILITIES; CENTRAL, AFFILIATED, OR CORPORATE OFFICE COSTS.]

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

(a) "Management agreement" means an agreement in which one or more of the following criteria exist:

(1) the central, affiliated, or corporate office has or is authorized to assume day-to-day operational control of the long-term care facility for any six-month period within a 24-month period. "Day-to-day operational control" means that the central, affiliated, or corporate office has the authority to require, mandate, direct, or compel the employees of the long-term care facility to perform or refrain from performing certain acts, or to supplant or take the place of the top management of the long-term care facility. "Day-to-day operational control" includes the authority to hire or terminate employees or to provide an employee of the central, affiliated, or corporate office to serve as administrator of the long-term care facility;

(2) the central, affiliated, or corporate office performs or is authorized to perform two or more of the following: the execution of contracts; authorization of purchase orders; signature authority for checks, notes, or other financial instruments; requiring the long-term care facility to use the group or volume purchasing services of the central, affiliated, or corporate office; or the authority to make annual capital expenditures for the long-term care facility exceeding \$50,000, or \$500 per licensed bed, whichever is less, without first securing the approval of the long-term care facility board of directors;

(3) the central, affiliated, or corporate office becomes or is required to become the licensee under applicable state law;

(4) the agreement provides that the compensation for services provided

under the agreement is directly related to any profits made by the long-term care facility; or

(5) the long-term care facility entering into the agreement is governed by a governing body that meets fewer than four times a year, that does not publish notice of its meetings, or that does not keep formal records of its proceedings.

(b) "Consulting agreement" means any agreement the purpose of which is for a central, affiliated, or corporate office to advise, counsel, recommend, or suggest to the owner or operator of the nonrelated long-term care facility measures and methods for improving the operations of the long-term care facility.

(c) "Long-term care facility" means a nursing home whose medical assistance rates are determined according to section 256B.431 or an intermediate care facility for persons with mental retardation and related conditions whose medical assistance rates are determined according to section 256B.501.

Subd. 2. [EFFECTIVE DATE.] *For rate years beginning on or after July 1, 1990, the central, affiliated, or corporate office cost allocations in subdivisions 3 to 6 must be used when determining medical assistance rates under sections 256B.431 and 256B.501.*

Subd. 3. [ALLOCATION; DIRECT IDENTIFICATION OF COSTS OF LONG-TERM CARE FACILITIES; MANAGEMENT AGREEMENT.] *All costs that can be directly identified with a specific long-term care facility that is a related organization to the central, affiliated, or corporate office, or that is controlled by the central, affiliated, or corporate office under a management agreement, must be allocated to that long-term care facility.*

Subd. 4. [ALLOCATION; DIRECT IDENTIFICATION OF COSTS TO OTHER ACTIVITIES.] *All costs that can be directly identified with any other activity or function not described in subdivision 3 must be allocated to that activity or function.*

Subd. 5. [ALLOCATION OF REMAINING COSTS; ALLOCATION RATIO.] *(a) After the costs that can be directly identified according to subdivisions 3 and 4 have been allocated, the remaining central, affiliated, or corporate office costs must be allocated between the long-term care facility operations and the other activities or facilities unrelated to the long-term care facility operations based on the ratio of expenses.*

(b) For purposes of allocating these remaining central, affiliated, or corporate office costs, the numerator for the allocation ratio shall be determined as follows:

(1) for long-term care facilities that are related organizations or are controlled by a central, affiliated, or corporate office under a management agreement, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by each related organization or controlled long-term care facility;

(2) for a central, affiliated, or corporate office providing goods or services to related organizations that are not long-term care facilities, the numerator of the allocation ratio shall be equal to the sum of the total costs incurred by the non-long-term care related organizations;

(3) for a central, affiliated, or corporate office providing goods or

services to unrelated long-term care facilities under a consulting agreement, the numerator of the allocation ratio shall be equal to the greater of directly identified central, affiliated, or corporate costs or the contracted amount; or

(4) for business activities that involve the providing of goods or services to unrelated parties which are not long-term care facilities, the numerator of the allocation ratio shall be equal to the greater of directly identified costs or revenues generated by the activity or function.

(c) The denominator for the allocation ratio is the sum of the numerators in paragraph (b), clauses (1) to (4).

Subd. 6. [COST ALLOCATION BETWEEN LONG-TERM CARE FACILITIES.] *(a) Those long-term care operations that have long-term care facilities both in Minnesota and outside of Minnesota must allocate the long-term care operation's central, affiliated, or corporate office costs identified in subdivision 5 to Minnesota based on the ratio of total resident days in Minnesota long-term care facilities to the total resident days in all facilities.*

(b) The Minnesota long-term care operation's central, affiliated, or corporate office costs identified in paragraph (a) must be allocated to each Minnesota long-term care facility on the basis of resident days.

Sec. 74. Minnesota Statutes 1988, section 256B.48, is amended by adding a subdivision to read:

Subd. 1c. [CASE MIX RATE FOR PROVIDER WITH ADDENDUM TO PROVIDER AGREEMENT.] *A nursing home with an addendum to its provider agreement effective beginning July 1, 1983, or September 24, 1985, shall have its payment rates established by the commissioner under this subdivision. To save medical assistance resources, for rate years beginning after July 1, 1991, the provider's payment rates shall be the payment rates established by the commissioner July 1, 1990, multiplied by a 12-month inflation factor based on the forecasted inflation between the mid-points of rate years using the inflation index applied by the commissioner to other nursing homes.*

The provider and the department of health shall complete case mix assessments under Minnesota Rules, chapter 4656, and parts 9549.0058 and 9549.0059, on only those residents receiving medical assistance. The commissioner of health may audit and verify the limited provider assessments at any time.

Sec. 75. Minnesota Statutes 1988, section 256B.48, subdivision 2, is amended to read:

Subd. 2. [REPORTING REQUIREMENTS.] *No later than December 31 of each year, a skilled nursing facility or intermediate care facility, including boarding care facilities, which receives medical assistance payments or other reimbursements from the state agency shall:*

(a) Provide the state agency with a copy of its audited financial statements. The audited financial statements must include a balance sheet, income statement, statement of the rate or rates charged to private paying residents, statement of retained earnings, ~~statements of changes in financial position (cash and working capital methods)~~ statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the certified public accountant's or licensed public accountant's opinion.

The examination by the certified public accountant or licensed public accountant shall be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American Institute of Certified Public Accountants;

(b) Provide the state agency with a statement of ownership for the facility;

(c) Provide the state agency with separate, audited financial statements as specified in clause (a) for every other facility owned in whole or part by an individual or entity which has an ownership interest in the facility;

(d) Upon request, provide the state agency with separate, audited financial statements as specified in clause (a) for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;

(e) Provide the state agency with copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility;

(f) Upon request, provide the state agency with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs; and

(g) Permit access by the state agency to the certified public accountant's and licensed public accountant's audit workpapers which support the audited financial statements required in clauses (a), (c), and (d).

Documents or information provided to the state agency pursuant to this subdivision shall be public. If the requirements of clauses (a) to (g) are not met, the reimbursement rate may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction shall continue until the requirements are met.

Sec. 76. Minnesota Statutes 1988, section 256B.49, is amended by adding a subdivision to read:

Subd. 3. [CONTINUED SERVICES FOR PERSONS OVER AGE 65.] Persons who are found eligible for services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they meet all other eligibility factors.

Sec. 77. Minnesota Statutes 1989 Supplement, section 256B.495, subdivision 1, is amended to read:

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 *or managing agent*. In this case, the commissioner and the receiver *or managing agent* 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.

Sec. 78. Minnesota Statutes 1988, section 256B.50, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] A provider may appeal from a determination of a payment rate established pursuant to this chapter and reimbursement rules of the commissioner if the appeal, if successful, would result in a change to the provider's payment rate *or to the calculation of maximum charges to therapy vendors as provided by section 256B.433, subdivision 3*. Appeals must be filed in accordance with procedures in this section. This section does not apply to a request from a resident or nursing home for reconsideration of the classification of a resident under section 144.0722.

Sec. 79. Minnesota Statutes 1988, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. [FILING AN APPEAL.] To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be received by the commissioner within 60 days of the date the determination of the payment rate was mailed. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount ~~and the dollar amount per bed~~ in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding the appeal; and other information required by the commissioner.

Sec. 80. Minnesota Statutes 1988, section 256B.501, subdivision 3c, is amended to read:

Subd. 3c. [COMPOSITE FORECASTED INDEX.] For rate years beginning on or after October 1, 1988, the commissioner shall establish a statewide composite forecasted index to take into account economic trends and conditions between the midpoint of the facility's reporting year and the midpoint of the rate year following the reporting year. The statewide composite index must incorporate the forecast by Data Resources, Inc. of increases in the average hourly earnings of nursing and personal care workers indexed in Standard Industrial Code 805 in "Employment and Earnings," published by the Bureau of Labor Statistics, United States Department of Labor. This portion of the index must be weighted annually by the proportion of total allowable salaries and wages to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities.

For adjustments to the other operating costs in the program, maintenance, and administrative operating cost categories, the statewide index must incorporate the Data Resources, Inc. forecast for increases in the national CPI-U. This portion of the index must be weighted annually by the proportion of total allowable other operating costs to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities. The commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the reporting year.

For rate years beginning on or after October 1, 1990, the commissioner shall index a facility's allowable operating costs in the program, maintenance, and administrative operating cost categories by using Data Resources, Inc., forecast for change in the Consumer Price Index-All Items (U.S. city average) (CPI-U). The commissioner shall use the indices as forecasted by Data Resources, Inc., in the first quarter of the calendar year in which the rate year begins.

Sec. 81. Minnesota Statutes 1988, section 256B.501, subdivision 3e, is amended to read:

Subd. 3e. [INCREASE IN LIMITS.] For rate years beginning on or after October 1, 1990, the commissioner shall increase the administrative cost per licensed bed limit in subdivision 3d, paragraph (c), and the maintenance operating cost limit in Minnesota Rules, part 9553.0050, subpart 1, item A, subitem (2), by multiplying the administrative operating cost per bed limit and the maintenance operating cost limit by the composite forecasted index in subdivision 3c except that the index shall be based on the 12 months between the midpoints of the two preceding reporting years.

Sec. 82. Minnesota Statutes 1988, section 256B.501, is amended by adding a subdivision to read:

Subd. 11. [INVESTMENT PER BED LIMITS, INTEREST EXPENSE LIMITATIONS, AND ARMS-LENGTH LEASES.] (a) The provisions of Minnesota Rules, part 9553.0075, except as modified under this subdivision, shall apply to newly constructed or established facilities that are certified for medical assistance on or after May 1, 1990.

(b) For purposes of establishing payment rates under this subdivision and Minnesota Rules, parts 9553.0010 to 9553.0080, the term "newly constructed or newly established" means a facility (1) for which a need

determination has been approved by the commissioner under sections 252.28 and 252.291; (2) whose program is newly licensed under Minnesota Rules, parts 9525.0215 to 9525.0355, and certified under Code of Federal Regulations, title 42, section 442.400, et seq.; and (3) that is part of a proposal that meets the requirements of section 252.291, subdivision 2, paragraph (2). The term does not include a facility for which a need determination was granted solely for other reasons such as the relocation of a facility; a change in the facility's name, program, number of beds, type of beds, or ownership; or the sale of a facility, unless the relocation of a facility to one or more service sites is the result of a closure of a facility under section 252.292, in which case clause (3) shall not apply. The term does include a facility that converts more than 50 percent of its licensed beds from class A to class B residential or class B institutional to serve persons discharged from state regional treatment centers on or after May 1, 1990, in which case clause (3) does not apply.

(c) Newly constructed or newly established facilities that are certified for medical assistance on or after May 1, 1990, shall be allowed the capital asset investment per bed limits as provided in clauses (1) to (4).

(1) The 1990 calendar year investment per bed limit for a facility's land must not exceed \$5,700 per bed for newly constructed or newly established facilities in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, Carver, Chisago, Isanti, Wright, Benton, Sherburne, Stearns, St. Louis, Clay, and Olmsted counties, and must not exceed \$3,000 per bed for newly constructed or newly established facilities in other counties.

(2) The 1990 calendar year investment per bed limit for a facility's depreciable capital assets must not exceed \$44,800 for class B residential beds, and \$45,200 for class B institutional beds.

(3) The investment per bed limit in clause (2) must not be used in determining the three-year average percentage increase adjustment in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (4), for facilities that were newly constructed or newly established before May 1, 1990.

(4) The investment per bed limits in clause (2) shall be adjusted annually beginning January 1, 1991, and each January 1 following, as provided in Minnesota Rules, part 9553.0060, subpart 1, item C, subitem (2).

(d) A newly constructed or newly established facility's interest expense limitation as provided for in Minnesota Rules, part 9553.0060, subpart 3, item F, on capital debt for capital assets acquired during the interim or settle-up period, shall be increased by 2.5 percentage points for each full .25 percentage points that the facility's interest rate on its mortgage is below the maximum interest rate as established in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2). For all following rate periods, the interest expense limitation on capital debt in Minnesota Rules, part 9553.0060, subpart 3, item F, shall apply to the facility's capital assets acquired, leased, or constructed after the interim or settle-up period. If a newly constructed or newly established facility is acquired by the state, the limitations of this paragraph and Minnesota Rules, part 9553.0060, subpart 3, item F, shall not apply.

(e) If a newly constructed or newly established facility is leased with an arms-length lease as provided for in Minnesota Rules, part 9553.0060, subpart 7, the lease agreement shall be subject to the following conditions:

(1) the term of the lease, including option periods, must not be less than

20 years;

(2) *the maximum interest rate used in determining the present value of the lease must not exceed the lesser of the interest rate limitation in Minnesota Rules, part 9553.0060, subpart 2, item A, subitem (2), or 16 percent; and*

(3) *the residual value used in determining the net present value of the lease must be established using the provisions of Minnesota Rules, part 9553.0060.*

(f) *All leases of the physical plant of an intermediate care facility for the mentally retarded shall contain a clause that requires the owner to give the commissioner notice of any requests or orders to vacate the premises 90 days before such vacation of the premises is to take place. In the case of unlawful detainer actions, the owner shall notify the commissioner within three days of notice of an unlawful detainer action being served upon the tenant. The only exception to this notice requirement is in the case of emergencies where immediate vacation of the premises is necessary to assure the safety and welfare of the residents. In such an emergency situation, the owner shall give the commissioner notice of the request to vacate at the time the owner of the property is aware that the vacating of the premises is necessary. This section applies to all leases entered into after the effective date of this section. Rentals set in leases entered into after that date that do not contain this clause are not allowable costs for purposes of medical assistance reimbursement.*

(g) *A newly constructed or newly established facility's preopening costs are subject to the provisions of Minnesota Rules, part 9553.0035, subpart 12, and must be limited to only those costs incurred during one of the following periods, whichever is shorter:*

(1) *between the date the commissioner approves the facility's need determination and 30 days before the date the facility is certified for medical assistance; or*

(2) *the 12-month period immediately preceding the 30 days before the date the facility is certified for medical assistance.*

Sec. 83. Minnesota Statutes 1988, section 256B.69, subdivision 3, is amended to read:

Subd. 3. [GEOGRAPHIC AREA.] The commissioner shall designate the geographic areas in which eligible individuals may be included in the demonstration project. ~~The geographic areas may include one urban, one suburban, and one rural county. In order to encourage the participation of long-term care providers, the project area may be expanded beyond the designated counties for eligible individuals over age 65 medical assistance prepayment programs.~~

Sec. 84. Minnesota Statutes 1989 Supplement, section 256B.69, subdivision 16, is amended to read:

Subd. 16. [PROJECT EXTENSION.] Minnesota Rules, parts 9500.1450; 9500.1451; 9500.1452; 9500.1453; 9500.1454; 9500.1455; 9500.1456; 9500.1457; 9500.1458; 9500.1459; 9500.1460; 9500.1461; 9500.1462; 9500.1463; and 9500.1464 are extended ~~until December 31, 1990.~~

Sec. 85. Minnesota Statutes 1988, section 256B.73, subdivision 7, as amended by Laws 1990, chapter 454, section 1, is amended to read:

Subd. 7. [CONTRACT WITH COALITION.] The commissioner of human services shall contract with the coalition to administer and direct the demonstration project and to select and retain the demonstration provider for the duration of the project. This contract shall be for 24 months with an option to renew for no more than 12 months. This contract may be canceled without cause by the commissioner upon 90 days' written notice to the ~~demonstration provider coalition~~ or by the ~~demonstration provider coalition~~ with 90 days' written notice to the commissioner. The commissioner shall assure the cooperation of the county human services or social services staff in all counties participating in the project.

Sec. 86. Minnesota Statutes 1989 Supplement, 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 receiving~~ assistance under section 256D.05 or 256D.051 and is not eligible for medical assistance under chapter 256B *including eligibility for medical assistance based on a spend-down of excess income according to section 256B.056, subdivision 5*; or

(2)(i) who is a resident of Minnesota; and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt 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, *using a six-month budget period, except that a one-month budget period must be used for recipients residing in a long-term care facility*. 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. *However, if a disregard of \$30 and one-third of the remainder described in section 256.74, subdivision 1, clause (4), has been applied to the wage earner's income, the disregard shall not be applied again until the wage earner's income has not been considered in an eligibility determination for general assistance, general assistance medical care, medical assistance, or aid to families with dependent children for 12 consecutive months*. The earned income and work expense 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 *is not allowed*; 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, *including partial months*, 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. *The period of ineligibility begins in the month the transfer was reported to the local agency, or if the transfer was not reported, the month in which the local agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.*

Sec. 87. Minnesota Statutes 1989 Supplement, 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 9520.0010 to 9520.0230 established under section 245.62;~~

(2) day treatment services for mental illness provided under contract with the county board;

(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. 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. 88. Minnesota Statutes Second 1989 Supplement, section 256D.03, subdivision 6, is amended to read:

Subd. 6. [DIVISION OF COSTS.] The state share of local agency expenditures for general assistance medical care shall be 90 percent and the county share shall be ten percent. Payments made under this subdivision shall be made in accordance with sections 256B.041, subdivision 5 and

256B.19, subdivision 1. *In counties where a pilot or demonstration project is operated for general assistance medical care services, the state may pay 100 percent of the costs of administering the pilot or demonstration project. Reimbursement for these costs is subject to section 256.025.*

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Notwithstanding any provision to the contrary, beginning July 1, 1991, the state shall pay 100 percent of the costs for centralized claims processing by the department of administration relative to claims beginning January 1, 1991, and submitted on behalf of general assistance medical care recipients by vendors in the general assistance medical care program.

Beginning July 1, 1991, the state shall reimburse counties up to the limit of state appropriations for general assistance medical care common carrier transportation and related travel expenses provided for medical purposes after December 31, 1990. Reimbursement shall be provided according to the payment schedule set forth in section 256.025. For purposes of this subdivision, transportation shall have the meaning given it in Code of Federal Regulations, title 42, section 440.170(a), as amended through October 1, 1987, and travel expenses shall have the meaning given in Code of Federal Regulations, title 42, section 440.170(a)(3), as amended through October 1, 1987.

The county shall ensure that only the least costly most appropriate transportation and travel expenses are used. The state may enter into volume purchase contracts, or use a competitive bidding process, whenever feasible, to minimize the costs of transportation services. If the state has entered into a volume purchase contract or used the competitive bidding procedures of chapter 16B to arrange for transportation services, the county may be required to use such arrangements to be eligible for state reimbursement for general assistance medical care common carrier transportation and related travel expenses provided for medical purposes.

In counties where prepaid health plans are under contract to the commissioner to provide services to general assistance medical care recipients, the cost of court ordered treatment that does not include diagnostic evaluation, recommendation, or referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 89. Minnesota Statutes 1988, section 256D.03, subdivision 7, is amended to read:

Subd. 7. [DUTIES OF THE COMMISSIONER.] The commissioner shall promulgate emergency and permanent rules as necessary to establish:

(a) standards of eligibility, utilization of services, and payment levels;

(b) standards for quality assurance, surveillance, and utilization review procedures that conform to those established for the medical assistance program pursuant to chapter 256B, including general criteria and procedures for the identification and prompt investigation of suspected fraud, theft, abuse, presentment of false or duplicate claims, presentment of claims for services not medically necessary, or false statements or representations of material facts by a vendor or recipient of general assistance medical care, and for the imposition of sanctions against such vendor or recipient

of medical care. The rules relating to sanctions shall be consistent with the provisions of section 256B.064, subdivisions 1a and 2; and

(c) administrative and fiscal procedures for payment of the state share of the medical costs incurred by the counties under section 256D.02, subdivision 4a. Rules promulgated pursuant to this clause may include: (1) procedures by which state liability for the costs of medical care incurred pursuant to section 256D.02, subdivision 4a may be deducted from county liability to the state under any other public assistance program authorized by law; (2) procedures for processing claims of counties for reimbursement by the state for expenditures for medical care made by the counties pursuant to section 256D.02, subdivision 4a; and (3) procedures by which the local agencies may contract with the commissioner of human services for state administration of general assistance medical care payments.

Sec. 90. Minnesota Statutes 1989 Supplement, section 256D.425, subdivision 3, is amended to read:

Subd. 3. [TRANSFERS.] The transfer policies and procedures of the Minnesota supplemental aid program are those used by the ~~medical general~~ assistance ~~medical care~~ program under section ~~256B.47~~ 256D.03, subdivision 3, paragraph (e), *except that a resource that is transferred while otherwise excluded under subdivision 2 is not an available resource for purposes of eligibility for Minnesota supplemental aid.*

Sec. 91. Minnesota Statutes 1988, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Unless the obligee has comparable or better group dependent health insurance coverage available at a more reasonable cost, the court shall order the obligor to name the minor child as beneficiary on any health and dental insurance plan that is available to the obligor on a group basis or through an employer or union. *"Health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.*

If the court finds that dependent health or dental insurance is not available to the obligor on a group basis or through an employer or union, or that the group insurer is not accessible to the obligee, the court may require the obligor to obtain dependent health or dental insurance, or to be liable for reasonable and necessary medical or dental expenses of the child.

If the court finds that the dependent health or dental insurance required to be obtained by the obligor does not pay all the reasonable and necessary medical or dental expenses of the child, or that the dependent health or dental insurance available to the obligee does not pay all the reasonable and necessary medical or dental expenses of the child, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan.

Sec. 92. Minnesota Statutes 1988, section 518.171, subdivision 3, is amended to read:

Subd. 3. [IMPLEMENTATION.] A copy of the court order for insurance coverage shall be forwarded to the obligor's employer or union by the obligee or the public authority responsible for support enforcement only when ordered by the court or when the following conditions are met:

(1) the obligor fails to provide written proof to the obligee or the public authority, within 30 days of receiving effective notice of the court order, that the insurance has been obtained or that application for insurability has been made;

(2) the obligee or the public authority serves written notice of its intent to enforce medical support on the obligor by mail at the obligor's last known post office address; and

(3) the obligor fails within 15 days after the mailing of the notice to provide written proof to the obligee or the public authority that the insurance coverage existed as of the date of mailing.

The employer or union shall forward a copy of the order to the health and dental insurance plan offered by the employer.

Sec. 93. Minnesota Statutes 1988, section 518.171, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] The order is binding on the employer or union *and the health and dental insurance plan* when service under subdivision 3 has been made. Upon receipt of the order, or upon application of the obligor pursuant to the order, the employer or union *and its health and dental insurance plan* shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the insurance plan in which the obligor is enrolled or the least costly plan otherwise available to the obligor that is comparable to a number two qualified plan. *Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan for which other eligibility requirements are met. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan.* The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Sec. 94. Minnesota Statutes 1988, section 518.171, subdivision 7, is amended to read:

Subd. 7. [RELEASE OF INFORMATION.] When an order for dependent insurance coverage is in effect, the obligor's employer or union shall release to the obligee or the public authority, upon request, information on the dependent coverage, including the name of the insurer. Notwithstanding any other law, information reported pursuant to section 268.121 shall be released to the public agency responsible for support enforcement that is enforcing an order for medical or dental insurance coverage under this section. *The public agency responsible for support enforcement is authorized to release to the obligor's insurer or employer information necessary to obtain or enforce medical support.*

Sec. 95. Laws 1989, chapter 282, article 3, section 98, subdivision 4, is amended to read:

Subd. 4. Minnesota Statutes 1988, section 256B.17, subdivisions 1, 2, 3, 4, 5, 6, and 8, are repealed *for transfers occurring on or after July 1, 1988. Minnesota Statutes, section 256B.17, subdivisions 1, 2, 3, 4, 5, 6,*

and 8, are revived for transfers occurring before July 1, 1988.

Sec. 96. Laws 1989, chapter 282, article 3, section 98, subdivision 5, is amended to read:

Subd. 5. Minnesota Statutes 1988, section 256B.17, subdivision 7, is repealed effective October 1, 1989, *for those persons who become institutionalized on or after that date but remains in effect for those who were institutionalized before October 1, 1989. Minnesota Statutes 1988, section 256B.17, subdivision 7, is revived for persons institutionalized before October 1, 1989.*

Sec. 97. [RULES RELATING TO MENTAL HEALTH PRACTITIONERS.]

The commissioner of human services shall adopt or amend rules to allow a mental health practitioner with only a bachelor's degree to provide mental health services under clinical supervision when employed by a private, nonprofit agency specializing in mental health services to low income children under age 15. To be eligible, the mental health practitioner must have provided outpatient mental health services, with a primary emphasis on family-oriented mental health services, to children under age 15 under clinical supervision for at least ten years after receiving a bachelor's degree.

Sec. 98. Laws 1988, chapter 689, article 2, section 256, subdivision 3, is amended to read:

Subd. 3. [REPORT.] The commissioner shall monitor and evaluate the pilot projects and report to the legislature by January 31, ~~1991~~ 1993. The report must address at least the following:

(1) the extent to which each pilot project succeeded in moving elderly persons out of nursing homes into less restrictive settings or in delaying placement in a nursing home;

(2) the ability of each project to target low-income, frail elderly;

(3) the cost-effectiveness of each project, including the financial impact on the resident, the state, and the county;

(4) the success of each project in meeting other goals established by the commissioner; and

(5) recommendations on whether the pilot projects should be continued or expanded.

Sec. 99. [INFLATION ADJUSTMENT FOR PAYMENTS FOR CERTAIN HOME AND COMMUNITY-BASED MEDICAL CARE AND NURSING HOME SCREENINGS.]

Until June 30, 1993, the commissioner of human services shall provide an annual inflation adjustment of not more than four percent for payment rates for private duty nursing services, personal care services, home and community-based waived services, and alternative care grant services for persons classified as 180-day eligible.

Sec. 100. [MENTAL RETARDATION SERVICES COST STUDY.]

By January 1, 1991, the commissioner of human services, in consultation with counties, the department of education, and the state planning agency, shall provide a report to the senate and house health and human services policy committees and finance and appropriations divisions that contains

a description of all current state spending on mental retardation services, including special education services and vocational rehabilitation services, and estimates of the future growth in spending that would occur in the absence of new cost containment measures. The report must also identify service system alternatives, including fiscal incentives, mandates, and rule changes, that will encourage cost containment without adversely affecting quality or the provision of appropriate services. The proposals must include specific recommendations for semi-independent living services, respite care, case management, and day training and habilitation services.

Sec. 101. [RECOMMENDATIONS REGARDING PROPERTY COST PAYMENTS.]

(a) By December 15, 1990, the rule 50 property reimbursement advisory task force shall recommend to the commissioner of human services a new system for determining property-related payment rates for nursing homes. The system recommended by the advisory task force must not increase total medical assistance spending for nursing home property costs. The system must be designed to:

(1) reimburse nursing homes for their legitimate and reasonable property-related costs;

(2) permit appropriate sales of facilities within reasonable limitations;

(3) allow for the reasonable accumulation of funds to replace capital assets;

(4) take into consideration Medicare principles and required state plan assurances;

(5) provide equitable treatment of facilities;

(6) establish limitations on investment per bed; and

(7) encourage long-term ownership of nursing facilities through providing a return on an owner's actual investment which is related to the length of ownership at the time of an arm's-length sale.

(b) By January 15, 1991, the commissioner shall provide a report to the legislature that contains the report and recommendations of the property reimbursement advisory task force as well as the commissioner's comments and recommendations regarding nursing home property reimbursement.

Sec. 102. [FEDERAL WAIVER TO REDUCE THE FREQUENCY OF ELIGIBILITY REDETERMINATIONS FOR INFANTS ON MEDICAL ASSISTANCE.]

The commissioner of human services shall seek federal approval to eliminate eligibility redeterminations for pregnant women and infants eligible for medical assistance under Minnesota Statutes, section 256B.055, subdivisions 6 and 10, until one year after the birth of the child. The commissioner shall begin the process of seeking federal approval no later than December 31, 1990.

Sec. 103. [CONSUMER AWARENESS CAMPAIGN.]

The department of commerce shall establish a consumer awareness campaign to inform the public of cost effective strategies for the purchase of affordable health insurance. The department of commerce may accept public and private funds to establish and promote this consumer awareness campaign.

Sec. 104. [REPEALERS.]

Subdivision 1. [MEDICAL ASSISTANCE ELIGIBILITY.] Minnesota Statutes 1989 Supplement, section 256B.055, subdivision 8, is repealed.

Subd. 2. [SWING BEDS.] The amendments to Minnesota Statutes, section 256B.0625, subdivision 2, in Laws 1989, chapter 282, article 3, section 54, are repealed, and the stricken language is reenacted.

Sec. 105. [EFFECTIVE DATES.]

Subdivision 1. [CLAIMS AGAINST ESTATES.] Section 63 is effective for all claims filed for deaths occurring on or after the date of enactment.

Subd. 2. [PROHIBITED TRANSFERS OF PROPERTY.] Section 40 is effective the day after final enactment.

Subd. 3. [METRO MOBILITY.] Section 13 is effective October 1, 1990.

Subd. 4. [NURSING HOME PROPERTY RATES INVOLVING LEASES.] Section 68 is effective the day following final enactment.

Subd. 5. [SWING BEDS.] Section 104, subdivision 2, is effective the day following final enactment.

Subd. 6. [NEW ICF/MR FACILITIES.] Section 82 is effective May 1, 1990.

Subd. 7. [ADVISORY COMMITTEE ON TRANSPLANTS.] Section 52 is effective the day following final enactment.

ARTICLE 4**INCOME MAINTENANCE**

Section 1. Minnesota Statutes 1988, section 256.73, subdivision 2, is amended to read:

Subd. 2. [ALLOWANCE BARRED BY OWNERSHIP OF PROPERTY.] Ownership by an assistance unit of property as follows is a bar to any allowance under sections 256.72 to 256.87:

(1) The value of real property other than the homestead, which when combined with other assets exceeds the limits of paragraph (2), unless the assistance unit is making a good faith effort to sell the nonexcludable real property. The time period for disposal must not exceed nine months and the assistance unit shall execute an agreement to dispose of the property to repay assistance received during the nine months up to the amount of the net sale proceeds. The payment must be made when the property is sold. If the property is not sold within the required time or the assistance unit becomes ineligible for any reason the entire amount received during the nine months is an overpayment and subject to recovery. For the purposes of this section, "homestead" means the home ~~owned and occupied by the child, relative, or other member of the assistance unit as a dwelling place,~~ that is owned by, and is the usual residence of, the child, relative, or other member of the assistance unit together with the surrounding property which is not separated from the home by intervening property owned by others. "Usual residence" includes the home from which the child, relative, or other members of the assistance unit is temporarily absent due to an employability development plan approved by the local human service agency, which includes education, training, or job search within the state but outside of the immediate geographic area. Public rights-of-way, such as

roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property; or

(2) Personal property of an equity value in excess of \$1,000 for the entire assistance unit, exclusive of personal property used as the home, one motor vehicle of an equity value not exceeding \$1,500 or the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business, one burial plot for each member of the assistance unit, one prepaid burial contract with an equity value of no more than \$1,000 for each member of the assistance unit, clothing and necessary household furniture and equipment and other basic maintenance items essential for daily living, in accordance with rules promulgated by and standards established by the commissioner of human services.

Sec. 2. Minnesota Statutes 1989 Supplement, 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) 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 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. 3. Minnesota Statutes 1988, section 256.736, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] As used in this section and section 256.7365, the following words have the meanings given them:

(a) "AFDC" means aid to families with dependent children.

(b) "AFDC-UP" means that group of AFDC clients who are eligible for assistance by reason of unemployment as defined by the commissioner under section 256.12, subdivision 14.

(c) "Caretaker" means a parent or eligible adult, *including a pregnant woman*, who is part of the assistance unit that has applied for or is receiving AFDC.

(d) "Employment and training services" means programs, activities, and services related to job training ~~and~~, job placement, *and job creation*, including job service programs, job training partnership act programs, wage subsidies, remedial and secondary education programs, post-secondary education programs excluding education leading to a post-baccalaureate degree, vocational education programs, ~~work incentive programs~~, work readiness programs, ~~employment~~ job search, *counseling, case management*, community work experience programs, displaced homemaker programs, self-employment programs, grant diversion, employment experience programs, youth employment programs, community investment programs, ~~supported work programs~~, refugee employment and training programs, and counseling and support activities necessary to stabilize the caretaker or the family.

(e) "Employment and training service provider" means ~~an administrative entity~~ *a public, private, or nonprofit agency* certified by the commissioner of jobs and training to deliver employment and training services under section 268.0122, subdivision 3 *and section 268.871, subdivision 1*.

(f) "Minor parent" means a caretaker relative who is the parent of the dependent child or children in the assistance unit and who is under the age of 18.

(g) "Priority groups" or "priority caretakers" means recipients of AFDC or AFDC-UP designated as priorities for employment and training services under subdivision ~~2a~~ 16.

(h) "*Suitable employment*" means employment which:

- (1) *is within the recipient's physical and mental capacity;*
- (2) *meets health and safety standards established by the Occupational Safety and Health Administration and the department of jobs and training;*
- (3) *pays hourly gross earnings which are not less than the federal or state minimum wage for that type of employment, whichever is applicable;*
- (4) *does not result in a net loss of income. Employment results in a net loss of income when the income remaining after subtracting necessary work-related expenses from the family's gross income, which includes cash assistance, is less than the cash assistance the family was receiving at the time the offer of employment was made. For purposes of this definition, "work expenses" means the amount withheld or paid for; state and federal income taxes; social security withholding taxes; mandatory retirement fund deductions; dependent care costs; transportation costs to and from work at the amount allowed by the Internal Revenue Service for personal car mileage; costs of work uniforms, union dues, and medical insurance premiums; costs of tools and equipment used on the job; \$1 per work day for the costs of meals eaten during employment; public liability insurance required by an employer when an automobile is used in employment and the cost is not reimbursed by the employer; and the amount paid by an employee from personal funds for business costs which are not reimbursed*

by the employer;

(5) offers a job vacancy which is not the result of a strike, lockout, or other bona fide labor dispute;

(6) requires a round trip commuting time from the recipient's residence of less than two hours by available transportation, exclusive of the time to transport children to and from child care;

(7) does not require the recipient to leave children under age 12 unattended in order to work, or if child care is required, such care is available; and

(8) does not discriminate at the job site on the basis of age, sex, race, color, creed, marital status, status with regard to public assistance, disability, religion, or place of national origin.

(i) "Support services" means programs, activities, and services intended to stabilize families and individuals or provide assistance for family needs related to employment or participation in employment and training services, including child care, transportation, housing assistance, personal and family counseling, crisis intervention services, peer support groups, chemical dependency counseling and treatment, money management assistance, and parenting skill courses.

Sec. 4. Minnesota Statutes 1989 Supplement, 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;

(2) ill, incapacitated, or age 60 or older;

(3) a 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 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 three who personally provides full-time care for the child. *In AFDC-UP cases, only one parent or other relative may qualify for this exemption;*

(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. *In AFDC-UP cases, only one parent or other relative may qualify for this exemption;*

~~(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;~~

(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; *or*

~~(9) (8) employed at least 30 hours per week; or.~~

~~(10) a parent who is not the principal earner if the parent who is the principal earner is 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. 5. Minnesota Statutes 1988, section 256.736, subdivision 3a, is amended to read:

Subd. 3a. [PARTICIPATION.] ~~Caretakers in priority groups must participate in employment and training services under this section to the extent permissible under federal law. However, no assistance unit may be sanctioned for a caretaker's failure to participate in employment and training services under this section if failure results from inadequate funding for employment and training services. (a) Except as provided under paragraphs (b) and (c), participation in employment and training services under this section is limited to the following recipients:~~

(1) caretakers who are required to participate in a job search under subdivision 14;

(2) custodial parents who are subject to the school attendance or case management participation requirements under subdivision 3b;

(3) caretakers whose participation in employment and training services began prior to May 1, 1990, if the caretaker's AFDC eligibility has not been interrupted for 30 days or more and the caretaker's employability development plan has not been completed;

(4) recipients who are members of a family in which the youngest child is within two years of being ineligible for AFDC due to age;

(5) effective September 1, 1990, custodial parents under the age of 22 who: (i) have not completed a high school education and who, at the time of application for AFDC, were not enrolled in high school or in a high school equivalency program; or (ii) have had little or no work experience in the preceding year;

(6) recipients who have received AFDC for 48 or more months out of the last 60 months;

(7) recipients who are participants in the self-employment investment demonstration project under section 268.95; and

(8) recipients who participate in the new chance research and demonstration project under contract with the department of human services.

(b) If the commissioner determines that participation of persons listed in paragraph (a) in employment and training services is insufficient either to meet federal performance targets or to fully utilize funds appropriated under this section, the commissioner may, after notifying the chairs of the senate and house health and human services committees, the health and

human services division of the senate finance committee, and the health and human services division of the house appropriations committee, permit additional groups of recipients to participate until the next meeting of the legislative advisory commission, after which the additional groups may continue to enroll for participation unless the legislative advisory commission disapproves the continued enrollment. The commissioner shall allow participation of additional groups in the following order only as needed to meet performance targets or fully utilize funding for employment and training services under this section:

(1) recipients who have received at least 42 months of AFDC out of the previous 60 months;

(2) custodial parents under the age of 24 who meet the criteria in paragraph (a), clause (5), subclause (i) or (ii);

(3) recipients who have received at least 36 months of AFDC out of the previous 60 months;

(4) recipients who have received 24 or more months of AFDC out of the previous 48 months; and

(5) recipients who have not completed a high school education or a high school equivalency program.

(c) To the extent of money appropriated specifically for this paragraph, the commissioner may permit AFDC caretakers who are not eligible for participation in employment and training services under the provisions of paragraphs (a) or (b), to participate. Money must be allocated to county agencies based on the county's percentage of participants statewide in services under this section in the prior calendar year. Counties must provide equal or greater services to participants enrolled under this paragraph, as measured in average per client expenditures, as provided to other participants in employment and training services under this section. Caretakers must be selected on a first-come, first-served basis from a waiting list of caretakers who volunteer to participate. The commissioner may, on a quarterly basis, reallocate unused allocations to county agencies that have sufficient volunteers. If funding under this paragraph is discontinued in future fiscal years, caretakers who began participating under this paragraph must be deemed eligible under paragraph (a), clause (3).

Sec. 6. Minnesota Statutes 1989 Supplement, section 256.736, subdivision 3b, is amended to read:

Subd. 3b. [MANDATORY ASSESSMENT AND SCHOOL ATTENDANCE FOR 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) "Custodial parent" means a recipient of AFDC who is the natural or adoptive parent of a child living with the 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 custodial parent must attend school if all of the following apply:

- (1) the custodial parent is less than 20 years of age;
- (2) transportation services needed to enable the custodial parent to attend school are available;
- (3) licensed or legal nonlicensed child care services needed to enable the custodial parent to attend school are available;
- (4) the custodial parent has not already received a high school diploma or its equivalent; and
- (5) the custodial parent 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.

(g) [ENROLLMENT AND ATTENDANCE.] The custodial parent must be enrolled in school and meeting the school's attendance requirements. The custodial parent is considered to be attending when he or she is enrolled but the school is not in regular session, including during holiday and summer breaks.

(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 local agency has verified that the only available school program requires round trip commuting time from the 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.

(2) Good cause exists when the custodial parent has indicated a desire to attend school, but the public school system is not providing for his or her education and alternative programs are not available.

(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

custodial parent is not enrolled or is not meeting the school's attendance requirements, 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 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 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.

(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.

(k) [SOCIAL SERVICES.] When a 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 custodial parent to the social services agency for services, as provided in section 257.33.

(l) [VERIFICATION.] No less often than quarterly, the financial worker must verify that the custodial parent is meeting the requirements of this subdivision. Notwithstanding section 13.32, subdivision 3, when the local agency notifies the school that a custodial parent is subject to this subdivision, the school must furnish verification of school enrollment, 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. 7. Minnesota Statutes 1989 Supplement, 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) 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~~

(3) Provide that the county board shall impose the sanctions in clause (4) when the county board:

(a) determines that a custodial parent under the age of 16 who is required to attend school under subdivision 3b has, without good cause, failed to attend school; *or*

(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~~

~~(e) determines that a caretaker has, without good cause, failed to attend orientation.~~

(4) To the extent permissible by federal law, impose the following sanctions for a recipient's failure to participate in required education, orientation, or the requirements of subdivision 3b or 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;

(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 provisions of an employability development plan if the caretaker is a custodial parent age 18 or 19 and subject to the requirements of subdivision 3b, 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; or

(c) determines that a caretaker has, without good cause, failed to attend orientation;

(6) To the extent required by federal law, ~~the following sanctions must be imposed~~ impose the following sanctions 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, or to attend orientation:

(a) For the first failure, the needs of the noncompliant individual shall not be taken into account in making the grant determination, 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 who has

been sanctioned under this paragraph shall be continued for the parent or parents of the child if the child is the only child receiving aid in the family, the child continues to meet the conditions of section 256.73, and the family is otherwise eligible for aid;

(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 nonsanctioned caretaker in the assistance unit, subject to ~~clause (f);~~ paragraph (g);

~~(f) If, 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; only dependent children remain eligible for AFDC, the standard of assistance shall be computed using the special children standard;~~

~~(f) (g) If the noncompliant individual is a parent or other caretaker of principal wage earner in a family whose basis of eligibility is the unemployment of a parent and the noncompliant individual's spouse nonprincipal wage earner is not participating in an approved employment and training service, the needs of both the spouse principal and nonprincipal wage earner must not be taken into account in making the grant determination; and~~

(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. 8. Minnesota Statutes 1989 Supplement, 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~~ mandatory and eligible volunteer 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 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~~ job search, *services to custodial parents under the age of 20*, 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;

(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~~ 256.739, 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) *prior to participation*, provide an assessment of each AFDC recipient who is required or volunteers to participate in ~~one of the an approved~~ employment and training services ~~specified in clause (13) service, including job search, and to recipients who volunteer for participation in case management under subdivision 14.~~ 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 *long-term* employment goal *which shall lead to self-sufficiency*; and

(16) assure that no work assignment under this section or sections 256.737 ~~and, 256.738, and 256.739~~ 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, and 256.739~~; (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) *except for on-the-job training under section 256.738*, 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 or employment and training service provider~~, 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, *including employment and training services*. 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. *Responsibility for the costs of child care must be determined under chapter 256H.* 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. 9. Minnesota Statutes 1989 Supplement, section 256.736, subdivision 10a, is amended 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-

(1) caretakers who are exempt from registration under subdivision 3; and

(2) caretakers who are not a member of one of the groups listed in subdivision 3a, paragraph (a), and who are either responsible for the care of an incapacitated person or a dependent child under the age of six or enrolled at least half time in any recognized school, training program, or institution of higher learning. The county agency shall require attendance at orientation of caretakers described in subdivision 3a, paragraph (b), of this section if they become eligible for participation in employment and training services.

(b) Except as provided in paragraph (e) below, 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 child care resource and referral program designated by the commissioner providing education and assistance to select child care services and a referral to the child care resource and referral when assistance is requested;

(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;

(10) their eligibility for transition year child care assistance when they lose eligibility for AFDC due to their earnings; and

(11) their eligibility for extended medical assistance when they lose eligibility for AFDC due to their earnings.

(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.

(e) *Orientation for caretakers not eligible for participation in employment and training services under the provisions of subdivision 3a, paragraphs (a) and (b) shall present information only on those employment, training, and support services available to those caretakers, and information on clauses (2), (3), (9), (10), and (11) of paragraph (a) and all of paragraph (c), and may not last more than two hours.*

(f) *Persons required to attend orientation must be informed of the penalties for failure to attend orientation, support services to enable the person to attend, what constitutes good cause for failure to attend, and rights to appeal. Persons required to attend orientation must be offered a choice of at least two dates for their first scheduled orientation. No person may be sanctioned for failure to attend orientation until after a second failure to attend.*

Sec. 10. Minnesota Statutes 1989 Supplement, 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:~~ *The county agency may, to the extent of available resources, enroll priority caretakers described in subdivision 16 in case management services and for those enrolled shall:*

(1) 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 preschool 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) 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 should be to complete literacy training or a general 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 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 but must be a separate document.~~ It must include: (a) specific goals of the caretaker including stated measurements of progress toward each goal, ~~the estimated length of participation in the program, and the number of hours of participation per week;~~ (b) ~~specific~~ educational, training, and employment activities and support services provided by the county agency, including child care; and (c) ~~the participant's obligations and the conditions under which the county will withdraw the services provided;~~

The contract ~~must be signed and dated by the case manager and participant, and~~ may include other terms as desired or needed by either party. In all cases, however, the case manager must ~~assist the participant in reviewing and understanding the contract, and~~ 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), clause (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. 11. Minnesota Statutes 1989 Supplement, section 256.736, subdivision 14, is amended to read:

Subd. 14. [JOB SEARCH.] (a) The commissioner of human services shall establish a job search program under Public Law Number 100-485.

Unless exempt, the principal wage earner in an AFDC-UP assistance unit must be referred to ~~and must begin participation in~~ the job search program within 30 days of being determined eligible for AFDC, and must begin participation within four months of being determined eligible for AFDC-UP unless. The principal wage earner is exempt from job search participation if:

(1) the caretaker is already participating in another approved employment and training service;

(2) the caretaker's employability plan specifies other activities;

(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.

(b) The 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~~ job 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~~ job search program may provide services to non-AFDC-UP caretakers.

Sec. 12. Minnesota Statutes 1989 Supplement, 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:~~ as specified in paragraphs (b) to (i).

(b) For purposes of this section, "priority caretaker" means a recipient who:

(1) is a custodial parent under the age of 24 who: (i) has not completed a high school education and at the time of application for AFDC is not enrolled in high school or in a high school equivalency program; or (ii) had little or no work experience in the preceding year;

(2) is a member of a family in which the youngest child is within two years of being ineligible for AFDC due to age; or

(3) has received 36 months or more of AFDC over the last 60 months.

(c) One hundred percent of the money appropriated for case management services as described in subdivision 11 must be allocated to counties based on the average number of cases in each county described in clause (1). Money appropriated for employment and training services as described in

subdivision 1a, paragraph (d), other than case management services, 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~~ cases 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 December 31 of the previous fiscal year which either have been open for 36 or more consecutive months or have a caretaker who is under age 24 and who has no high school or general equivalency diploma. The average number of cases must be based on counts of these cases as of March 31, June 30, September 30, and December 31 of the previous year.

(2) Twenty percent of the state money must be allocated based on the average monthly number of ~~nonpriority caretakers~~ cases receiving AFDC in the county for the period ending December 31 of the previous fiscal year which are not counted under clause (1). The average number of cases must be based on counts of cases as of March 31, June 30, September 30, and December 31 of the previous 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 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)~~ (d) No more than 15 percent of the money allocated under paragraph ~~(a)~~ (b) and no more than 15 percent of the money allocated under paragraph (c) may be used for administrative activities.

~~(c)~~ ~~Except as provided in paragraph (d),~~ (e) At least 70 55 percent of the money allocated to counties under clause (c) must be used for ~~case management services~~ and employment and training services for caretakers in the priority groups, and up to 30 45 percent of the money may be used for ~~employment search activities~~ and employment and training services for nonpriority caretakers. One hundred percent of the money allocated to counties for case management services must be used to provide those services to caretakers in the priority groups.

~~(d)~~ A county having a high proportion of nonpriority caretakers that interferes with the county's ability to meet the 70 percent spending requirement of paragraph (e) may, with the approval of the commissioner of human services, use up to 40 percent of the money allocated under this section for orientation and employment and training services for nonpriority caretakers.

~~(e)~~ (f) 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)~~ (g) 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, *the department of jobs and training*, or employment and training service provider that submitted the original bill. The reimbursed money must be used to expand employment and training services.

~~(g)~~ (h) 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.

(i) The county agency may continue to provide case management and supportive services to a participant for up to 90 days after the participant loses AFDC eligibility, and may continue providing a specific employment and training service for the duration of that service to a participant if funds for the service are obligated or expended prior to the participant losing AFDC eligibility.

Sec. 13. Minnesota Statutes 1989 Supplement, section 256.736, subdivision 18, is amended 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~~ *have its* 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, *after consulting with the commissioner of jobs and training regarding tribal plan status*, 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 *adult* tribal unit members receiving AFDC residing in the county compared to the total number of *adult* 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. 14. Minnesota Statutes 1988, section 256.7365, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purpose of this section, the following

terms have the meanings given them.

(a) "Substantial barriers to employment" means disabilities, chemical dependency, having children with disabilities, lack of a high school degree, lack of a marketable occupational skill, three or more children, or lack of regular work experience in the previous five years.

(b) "Case management" means case management as defined in *section 256.736, subdivision 11*.

Sec. 15. Minnesota Statutes 1989 Supplement, section 256.737, subdivision 1, is amended to read:

Subdivision 1. [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 shall continue the pilot community work experience demonstration programs that were approved by January 1, 1984. 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, *and must be operated according to the Family Support Act of 1988, Public Law Number 100-485*.

Sec. 16. Minnesota Statutes 1989 Supplement, section 256.737, subdivision 1a, is amended to read:

Subd. 1a. [COMMISSIONER'S DUTIES.] The commissioner shall: (a) assist counties in the design and implementation of these 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 June 30, ~~1990~~ 1993, unless superseded by permanent rules; (c) seek any federal waivers necessary for proper implementation of this section in accordance with federal law; 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, 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.

Sec. 17. Minnesota Statutes 1989 Supplement, section 256.737, subdivision 2, is amended to read:

Subd. 2. [PROGRAM REQUIREMENTS.] (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.

(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.

(c) ~~If the A recipient refuses who has completed a job search under section 256.736, subdivision 14, who is unable to secure suitable employment, and a who is not enrolled in an approved 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 works 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. 18. [256.739] [GRANT DIVERSION.]

(a) County agencies may, according to section 256.736, subdivision 10, develop grant diversion programs that permit voluntary participation by AFDC recipients. A county agency that chooses to provide grant diversion as one of its optional employment and training services may divert to an employer part or all of the AFDC payment for the participant's assistance unit, in compliance with federal regulations and laws. Such payments to an employer are to subsidize employment for AFDC recipients as an alternative to public assistance payments.

(b) County agencies shall limit the length of training to nine months. Placement in a grant diversion 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 a grant diversion subsidized 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) No grant diversion participant may be assigned to fill any established, unfilled position vacancy with an employer.

(e) In addition to diverting the AFDC grant to the employer, employment and training block grant funds may be used to subsidize the grant diversion placement.

Sec. 19. Minnesota Statutes 1988, section 256.81, is amended to read:
256.81 [COUNTY AGENCY, DUTIES.]

(1) The county agency shall keep such records, accounts, and statistics in relation to aid to families with dependent children as the state agency shall prescribe.

(2) Each grant of aid to families with dependent children shall be paid to the recipient by the county agency *unless paid by the state agency. Payment must be by check or electronic means* except in those instances in which the county agency, subject to the rules of the state agency, determines that payments for care shall be made to an individual other than the parent or relative with whom the dependent child is living or to vendors of goods and services for the benefit of the child because such parent or relative is unable to properly manage the funds in the best interests and welfare of the child. *At the request of a recipient, the state or county may make payments directly to vendors of goods and services, but only for goods and services appropriate to maintain the health and safety of the child, as determined by the county.*

(3) The county shall be paid from state and federal funds available therefor the amount provided for in section 256.82.

(4) Federal funds available for administrative purposes shall be distributed between the state and the counties in the same proportion that expenditures were made except as provided for in section 256.017.

Sec. 20. Minnesota Statutes 1989 Supplement, section 256D.01, subdivision 1a, is amended to read:

Subd. 1a. [STANDARDS.] (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.

(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 must also be increased by the same percentage.

(c) For an assistance unit consisting of a single adult who lives with a parent or parents, the general assistance standard of assistance 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, except that the standard 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, 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, the calculation methods, income deductions, exclusions, and disregards used when calculating the countable income for a single adult or childless couple must be used.

(d) For an assistance unit consisting of a childless couple, the standards of assistance 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, the standard of assistance for the other is the second adult standard of the aid to families with dependent children program.

(e) For an assistance unit consisting of all members of a family, the standards of assistance are the same as the standards of assistance 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 are the same as the standards of assistance that apply to an assistance unit composed of the entire family, less the standards of assistance 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. ~~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 is the same as the special child standard of the aid to families with dependent children program. In no case shall the standard for family members who are in the assistance unit for general assistance, when combined with the standard for family members who are not in the general assistance unit, total more than the standard for the entire family if all members were in an AFDC assistance unit.~~ A child 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 may not be counted in the determination of eligibility or benefit level for the assistance unit.

(f) *An assistance unit consisting of one or more members of a family must have its grant determined using the policies and procedures of the aid to families with dependent children program. However, the standard of assistance must be determined according to paragraph (e), the first \$50 of total child support received by an assistance unit in a month must be*

excluded and the balance counted as unearned income, and nonrecurring lump sums received by the family must be considered income in the month received and a resource in the following months.

Sec. 21. Minnesota Statutes 1988, section 256D.01, is amended by adding a subdivision to read:

Subd. 1d. [RULES REGARDING EMERGENCY ASSISTANCE.] 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 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. General assistance payments may not be made for foster care, child welfare services, or other social services. Vendor payments and vouchers may be issued only as authorized in sections 256D.05, subdivision 6, and 256D.09.

Sec. 22. Minnesota Statutes 1988, section 256D.02, subdivision 5, is amended to read:

Subd. 5. "Family" means the following persons who live together: a minor child or a group of minor children related to each other as siblings, half siblings, or stepsiblings, together with their natural or adoptive parents, their stepparents, or their legal custodians, and any other minor children of whom an adult member of the family is a legal custodian, applicant or recipient and the following persons who reside with the applicant or recipient:

(1) the applicant's spouse;

(2) any minor child of whom the applicant is a parent, stepparent, or legal custodian, and that child's minor siblings, including half-siblings and step-siblings;

(3) the other parent of the applicant's minor child or children together with that parent's minor children, and, if that parent is a minor, his or her parents, stepparents, legal guardians, and minor siblings; and

(4) if the applicant or recipient is a minor, the minor's parents, stepparents, or legal guardians, and any other minor children for whom those parents, stepparents, or legal guardians are financially responsible.

A "family" must contain at least one minor child and at least one of that child's natural or adoptive parents, stepparents, or legal custodians.

Sec. 23. Minnesota Statutes 1988, section 256D.02, subdivision 8, is amended to read:

Subd. 8. "Income" means any form of income, including remuneration for services performed as an employee and net earnings from self-employment, reduced by the amount attributable to employment expenses as defined by the commissioner. The amount attributable to employment expenses shall include amounts paid or withheld for federal and state personal income taxes and federal social security taxes.

"Income" includes any payments received as an annuity, retirement, or disability benefit, including veteran's or workers' compensation; old age,

survivors, and disability insurance; railroad retirement benefits; unemployment benefits; and benefits under any federally aided categorical assistance program, supplementary security income, or other assistance program; rents, dividends, interest and royalties; and support and maintenance payments. Such payments may not be considered as available to meet the needs of any person other than the person for whose benefit they are received, unless that person is a family member or a spouse and the income is not excluded under section 256D.01, subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, *and payments made on behalf of an applicant or recipient which the applicant or recipient could legally require to be paid in cash to himself or herself*, must be included as income.

Sec. 24. Minnesota Statutes 1988, section 256D.02, subdivision 12, is amended to read:

Subd. 12. "~~Local~~ County agency" means the agency designated by the county board of commissioners, human services boards, county welfare boards in the several counties of the state or multicounty welfare boards or departments where those have been established in accordance with law.

Sec. 25. Minnesota Statutes Second 1989 Supplement, section 256D.03, subdivision 2, is amended to read:

Subd. 2. After December 31, 1980, 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 and except that, ~~after December 31, 1987 until January 1, 1991~~, state aid is reduced to 65 percent of all 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.051.

~~After December 31, 1986, 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.~~

Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of local agency expenditures made under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 26. Minnesota Statutes 1989 Supplement, section 256D.051, subdivision 1a, is amended to read:

Subd. 1a. [WORK READINESS PAYMENTS.] (a) 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.

(b) 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).~~

At the time the county agency notifies the assistance unit that it is eligible for work readiness assistance, the county agency must inform all mandatory registrants in the assistance unit that they must attend an orientation within 30 days, and that work readiness eligibility will end at the end of the month in which the orientation is scheduled unless the registrants attend orientation. A registrant who fails, without good cause, to comply with requirements during this time period, including attendance at orientation, will lose work readiness eligibility without notice under section 256D.101, subdivision 1, paragraph (b). The registrant shall, however, be sent a notice, on or before the date that eligibility ends, which informs the registrant that work readiness eligibility has ended in accordance with this section for failure to comply with work readiness requirements. The notice shall set forth the factual basis for such determination, and advises the registrant of the right to reinstate eligibility upon a showing of good cause for the failure to meet the requirements. Subsequent assistance must not be issued unless the person completes an application, is determined eligible, and attends an orientation, or demonstrates that the person had good cause for failing to comply with the requirement.

Sec. 27. Minnesota Statutes 1989 Supplement, section 256D.051, subdivision 1b, is amended 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 prorated to cover only an 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, *without good cause*, 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). *The registrant shall, however, be sent a notice, on or before the date that eligibility ends, which informs the registrant that work readiness eligibility has ended in accordance with this section for failure to comply with work readiness requirements. The notice shall set forth the factual basis for such determination, and advises the registrant of the right to reinstate eligibility upon a showing of good cause for the failure to meet the requirements.* 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, and attending an orientation or demonstrating that the person had good cause for failing to comply with the requirement.~~

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. A county agency may, at its option, provide work readiness payments as provided under section 256D.05, subdivision 6, during the initial certification period.~~

Sec. 28. Minnesota Statutes 1989 Supplement, section 256D.051, subdivision 2, is amended to read:

Subd. 2. [LOCAL AGENCY DUTIES.] (a) The local agency shall provide to registrants 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 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 be completed in consultation with the registrant*, 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;

(4) referral to available programs including the Minnesota employment

and economic development program;

(5) a job search program, including job seeking skills training; and

(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.

The work readiness program may include a public sector or nonprofit work experience component only if the component is established according to section 268.90.

In order to allow time for job search, the local agency 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 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. 29. Minnesota Statutes 1989 Supplement, 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; (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~~ 3c.

Sec. 30. Minnesota Statutes 1989 Supplement, 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, *or quits*, 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. 31. Minnesota Statutes 1988, section 256D.052, subdivision 5, is amended to read:

Subd. 5. [REASSESSMENT AND LITERACY REFERRAL.] ~~(a)~~ When a person is no longer functionally illiterate under rules adopted by the commissioner or is terminated for failure to comply with literacy training requirements, the local agency must assess the person's eligibility for general assistance under the remaining provisions of section 256D.05, subdivision 1, paragraph (a). The local agency must refer to the work readiness program under section 256D.051 all people not eligible for general assistance.

~~(b) The local agency may also refer for voluntary work readiness services all recipients who reach a level of literacy that may allow successful participation in job training, provided that the job training does not interfere with a recipient's participation in literacy training. However, referral under this clause does not affect general assistance eligibility.~~

Sec. 32. Minnesota Statutes 1988, section 256D.06, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of subdivision 1, a grant of general assistance shall be made to an eligible individual, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist and the individual is ineligible for the program of emergency assistance under aid to families with dependent children and is not a recipient of aid to families with dependent children at the time of application hereunder. ~~If a an applicant or recipient relates facts to the local agency which may be sufficient to constitute an emergency situation, the local agency shall advise the recipient person of the procedure for applying for assistance pursuant to this subdivision.~~

Sec. 33. Minnesota Statutes 1989 Supplement, section 256D.09, subdivision 2a, is amended to read:

Subd. 2a. [REPRESENTATIVE PAYEE.] Notwithstanding subdivision 1, the commissioner shall adopt rules, and may adopt emergency rules, governing the assignment of a representative payee and management of the general assistance or work readiness assistance grant of a drug dependent person as defined in section 254A.02, subdivision 5. The representative payee is responsible for deciding how the drug dependent person's benefits can best be used to meet that person's needs. The determination of drug dependency must be made by an assessor qualified under Minnesota Rules, part 9530.6615, subpart 2, to perform an assessment of chemical use. Upon receipt of the assessor's determination of drug dependency, the county shall determine whether a representative payee will be assigned to manage the person's benefits. The chemical use assessment, *the decision to refer a person for the assessment*, and the county determination of whether a representative payee will be assigned are subject to the administrative and judicial review provisions of section 256.045. *However, notwithstanding any provision of section 256.045 to the contrary, an applicant or recipient who is referred for an assessment and is otherwise eligible to receive a general assistance or work readiness benefit, may only be provided with emergency general assistance or vendor payments pending the outcome of an administrative or judicial review.* If, at the time of application or at any other time, there is a reasonable basis for questioning whether a person ~~can responsibly manage that person's money due to possible~~ *is* drug dependency dependent, the person may be referred for a chemical health assessment, and only emergency assistance payments or general assistance vendor

payments may be provided until the assessment is complete *and the results of the assessment made available to the county agency*. A reasonable basis for questioning whether a person is drug dependent exists when:

(1) *the person has required detoxification two or more times in the past 12 months;*

(2) *the person appears intoxicated at the county agency as indicated by two or more of the following:*

(i) *the odor of alcohol;*

(ii) *slurred speech;*

(iii) *disconjugate gaze;*

(iv) *impaired balance;*

(v) *difficulty remaining awake;*

(vi) *consumption of alcohol;*

(vii) *responding to sights or sounds that are not actually present;*

(viii) *extreme restlessness, fast speech, or unusual belligerence;*

(3) *the person has been involuntarily committed for drug dependency at least once in the past 12 months; or*

(4) *the person has received treatment, including domiciliary care, for drug abuse or dependency at least twice in the past 12 months.*

The assignment to representative payee status must be reviewed at least every 12 months. The county agency shall designate the representative payee after consultation with the recipient. *The county agency shall select the representative payee from appropriate individuals, or public or non-profit agencies, including those suggested by the recipient, but the county agency's designation of representative payee is prevails,* subject to the administrative and judicial review provisions of section 256.045.

Sec. 34. Minnesota Statutes 1989 Supplement, 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, a program leading to a general equivalency or high school diploma, *post-secondary programs excluding postbaccalaureate 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, *meet the requirements of Minnesota Rules, parts 9565.5000 to 9565.5200* 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. 35. Minnesota Statutes 1989 Supplement, section 256H.01, subdivision 8, is amended to read:

Subd. 8. [EMPLOYMENT PROGRAM.] "Employment program" means

employment of recipients financially eligible for child care 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 *Minnesota Rules, parts 9565.5000 to 9565.5200*, and other programs that provide federal reimbursement for child care services.

Sec. 36. Minnesota Statutes 1989 Supplement, section 256H.01, subdivision 12, is amended to read:

Subd. 12. [PROVIDER.] "Provider" means a child care license holder who operates a family day care home, a group family day care home, a day care center, a nursery school, 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 a legal nonlicensed caregiver who is at least 18 years of age, *and who is not a member of the AFDC assistance unit.*

Sec. 37. Minnesota Statutes 1988, section 256H.01, is amended by adding a subdivision to read:

Subd. 16. [TRANSITION YEAR FAMILIES.] "*Transition year families*" means families who lose eligibility for AFDC due to increased hours of employment, increased income from employment, or the loss of income disregards due to time limitations, as provided under Public Law Number 100-485.

Sec. 38. Minnesota Statutes 1988, section 256H.01, is amended by adding a subdivision to read:

Subd. 17. [CHILD CARE FUND.] "*Child care fund*" means a program providing:

- (1) financial assistance for child care to parents engaged in employment or education and training leading to employment; and
- (2) grants to develop, expand, and improve the access and availability of child care services statewide.

Sec. 39. Minnesota Statutes 1989 Supplement, section 256H.03, subdivision 2, is amended to read:

Subd. 2. [ALLOCATION; LIMITATIONS.] 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 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.

Sec. 40. Minnesota Statutes 1989 Supplement, section 256H.03, subdivision 2a, is amended to read:

Subd. 2a. [ELIGIBLE RECIPIENTS.] Families that meet the eligibility requirements under sections 256H.10, *except AFDC recipients and transition year families*, and 256H.11 are eligible for child care assistance under the basic sliding fee program. *From July 1, 1990, to June 30, 1991, a county may not accept new applications for the basic sliding fee program unless the county can demonstrate that its state money expenditures for the basic sliding fee program for this period will not exceed 95 percent of the county's allocation of state money for the fiscal year ending June 30, 1990. As basic sliding fee program money becomes available to serve new families, eligible families whose benefits were terminated during the fiscal year ending June 30, 1990, for reasons other than loss of eligibility shall be reinstated. Families enrolled in the basic sliding fee program as of July 1, 1990, shall be continued until they are no longer eligible.* Counties shall make vendor payments to the child care provider or pay the parent directly for eligible child care expenses on a reimbursement basis.

Sec. 41. Minnesota Statutes 1989 Supplement, section 256H.03, subdivision 2b, is amended to read:

Subd. 2b. [FUNDING PRIORITY.] (a) First priority for child care assistance under the basic sliding fee program must be given to eligible ~~recipients non-AFDC families~~ 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.

Sec. 42. Minnesota Statutes 1989 Supplement, section 256H.05, subdivision 1b, is amended to read:

Subd. 1b. [ELIGIBLE RECIPIENTS.] Families eligible for *guaranteed* 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.:

(1) persons receiving services under section 256.736;

(2) AFDC recipients who are employed; and

(3) persons who are members of transition year families under section 256H.01, subdivision 16.

Sec. 43. Minnesota Statutes 1989 Supplement, section 256H.05, subdivision 1c, is amended to read:

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.

Sec. 44. Minnesota Statutes 1989 Supplement, section 256H.05, subdivision 2, is amended to read:

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 all AFDC recipients who receive services under section 256.736. 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 child care assistance from the county of their residence responsible for the current employability development plan.

Sec. 45. Minnesota Statutes 1989 Supplement, section 256H.05, subdivision 5, is amended to read:

Subd. 5. [FEDERAL REIMBURSEMENT.] Counties shall maximize their federal reimbursement under the AFDC special needs program Public Law Number 100-485 or other federal reimbursement programs for money spent for persons listed in this section and section 256H.03. The commissioner shall allocate any federal earnings to the county to be used to expand child care services under these sections.

Sec. 46. Minnesota Statutes 1989 Supplement, section 256H.08, is amended to read:

256H.08 [USE OF MONEY.]

Money for persons listed in 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. 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. *Time limitations for child care assistance, as specified in Minnesota Rules, parts 9565.5000 to 9565.5200, do not apply to basic or remedial educational programs needed to prepare for post-secondary education or employment. These programs include: high school, general equivalency diploma, and English as a second language. Programs exempt from this time limit must not run concurrently with a post-secondary program.* 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 sections 256H.03 and 256H.05. *If a student an AFDC recipient who is receiving AFDC child care assistance under this chapter moves to another county as specified authorized 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 participate in educational or training programs authorized in their employability development plans, and continues to be eligible for AFDC child care assistance under this chapter, the AFDC caretaker must receive continued child care assistance from the county responsible for their current employability development plan, without interruption.*

Sec. 47. Minnesota Statutes 1989 Supplement, section 256H.09, subdivision 1, is amended to read:

Subdivision 1. [QUARTERLY REPORTS.] The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). Counties shall submit on forms prescribed by the commissioner a quarterly financial and program activity report. 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 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 sections section 256H.03, subdivision 3, and 256H.05, subdivision 1a; 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.

Sec. 48. Minnesota Statutes 1988, section 256H.10, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY FACTORS.] Child care services must be available to families who need child care to find or keep employment or to obtain the training or education necessary to find employment and who:

(a) receive aid to families with dependent children *and are receiving employment and training services under section 256.736*;

(b) have household income below the eligibility levels for aid to families with dependent children; or

(c) have household income within a range established by the commissioner.

(d) Child care services for the families receiving aid to families with dependent children must be made available as in-kind services, to cover any difference between the actual cost and the amount disregarded under the aid to families with dependent children program. Child care services to families whose incomes are below the threshold of eligibility for aid to families with dependent children, but that are not receiving aid to families with dependent children, must be made available without cost to the families.

Sec. 49. Minnesota Statutes 1989 Supplement, section 256H.10, subdivision 3, is amended to read:

Subd. 3. [PRIORITIES; ALLOCATIONS.] ~~If more than 75 percent of the available money is provided to any one of the groups described in 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~~ section 256H.03 and 256H.05. Counties that have established a priority *for non-AFDC families beyond those established under section 256H.03* must submit the policy in the annual allocation plan.

Sec. 50. Minnesota Statutes 1988, section 256H.10, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY; ANNUAL INCOME; CALCULATION.] Annual income of the applicant family is the current monthly income of the family multiplied by 12 or the income for the 12-month period immediately preceding the date of application, ~~whichever~~ *or income calculated by the method which provides the most accurate assessment of income available to the family.* Self-employment income must be calculated based on gross receipts less operating expenses. Income must be redetermined when the family's income changes, but no less often than every six months. Income must be verified with documentary evidence. If the applicant does not have sufficient evidence of income, verification must be obtained from the source of the income.

Sec. 51. Minnesota Statutes 1989 Supplement, section 256H.11, subdivision 1, is amended to read:

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 *up to* 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.

Sec. 52. Minnesota Statutes 1989 Supplement, section 256H.15, subdivision 1, is amended to read:

Subdivision 1. [SUBSIDY RESTRICTIONS.] (a) *Until June 30, 1991, the maximum child care rate is determined under this paragraph.* 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 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. *The county shall pay the provider's full charges for every child in care, up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.*

(b) *Effective July 1, 1991, the maximum rate paid for child care assistance under the child care fund is the maximum rate eligible for federal reimbursement except as allowed under subdivision 2. The county shall pay the provider's full charges for every child in care, up to the maximum established. The commissioner shall determine the maximum rate for each type of care, including special needs and handicapped care.*

(c) When the provider charge is greater than the maximum provider rate ~~set by the county allowed~~, the parent is responsible for payment of the difference in the rates in addition to any family copayment fee.

Sec. 53. Minnesota Statutes 1989 Supplement, section 256H.15, subdivision 2, is amended to read:

Subd. 2. [PROVIDER RATE BONUS FOR ACCREDITATION.] Currently accredited child care centers shall be paid a ~~five~~ *ten* 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~~ *ten* percent bonus above the maximum rate established ~~by the county~~ in subdivision 1, if the provider holds a current ~~child early childhood development associate certificate credential approved by the commissioner,~~ 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.~~

Sec. 54. Minnesota Statutes 1988, section 256H.17, is amended to read:
256H.17 [EXTENSION OF EMPLOYMENT OPPORTUNITIES.]

The county board shall insure that child care services available to ~~county~~ *eligible* residents are well advertised and that everyone who receives or applies for aid to families with dependent children is informed of training and employment opportunities and programs, including child care *assistance and child care resource and referral* services.

Sec. 55. Minnesota Statutes 1989 Supplement, section 256H.21, subdivision 9, is amended to read:

Subd. 9. [MINI-GRANTS.] "Mini-grants" means child care grants for facility improvements that are ~~less than~~ *up to* \$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.

Sec. 56. Minnesota Statutes 1989 Supplement, section 256H.22, subdivision 2, is amended to read:

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~~ *economic development region*; and

(2) 50 percent of the child care service development grant appropriation shall be allocated to ~~greater Minnesota counties~~ *economic development regions other than the metropolitan economic development region*.

(b) The following formulas shall be used to allocate grant appropriations among the ~~counties~~ *economic development regions*:

(1) 50 percent of the funds shall be allocated in proportion to the ratio of children under 12 years of age in each ~~county~~ *economic development region* to the total number of children under 12 years of age in all ~~counties~~ *economic development regions*; 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~~ *economic development region* to the number of licensed child care spaces currently available in each ~~county~~ *economic development region*.

(c) Out of the amount allocated for each *economic 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.

Sec. 57. Minnesota Statutes 1989 Supplement, section 256H.22, subdivision 3, is amended to read:

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, *child care, and child care provider substitute 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.

Sec. 58. Minnesota Statutes 1989 Supplement, section 256H.22, subdivision 10, is amended to read:

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 *service development and 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~~ *child care, and child care provider substitute expenses* for 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.

Sec. 59. Minnesota Statutes 1989 Supplement, section 256I.05, subdivision 1, is amended to read:

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~~ *The maximum negotiated rate must be increased annually according to subdivision 7. The county agency may provide an annual increase in the March 1, 1985, payment rate using the formula in subdivision 7, provided the resulting rate does not exceed the maximum negotiated rate. The county agency may at any time negotiate a lower payment rate than the rate that would otherwise be paid under this subdivision and subdivision 7.*

Sec. 60. Minnesota Statutes 1989 Supplement, section 256I.05, subdivision 7, is amended to read:

Subd. 7. [RATE INCREASES.] The *maximum* 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. *A county may provide an annual negotiated rate increase that does not exceed the percentage increase in the maximum negotiated rate.*

Sec. 61. Minnesota Statutes 1989 Supplement, 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 readiness programs, 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. 62. Minnesota Statutes 1988, section 268.673, subdivision 3, is amended to read:

Subd. 3. [DEPARTMENT OF JOBS AND TRAINING.] The commissioner shall supervise wage subsidies and shall provide technical assistance to the ~~eligible~~ local service units for the purpose of delivering wage subsidies.

Sec. 63. Minnesota Statutes 1988, section 268.673, subdivision 5, is amended to read:

Subd. 5. [REPORT.] Each entity delivering wage subsidies shall report to the commissioner ~~and the coordinator~~ on a quarterly basis:

(1) the number of persons placed in private sector jobs, in temporary public sector jobs, or in other services;

(2) the outcome for each participant placed in a private sector job, in a temporary public sector job, or in another service;

(3) the number and type of employers employing persons under the program;

(4) the amount of money spent in each ~~eligible~~ local service unit for wages for each type of employment and each type of other expense;

(5) the age, educational experience, family status, gender, priority group status, race, and work experience of each person in the program;

(6) the amount of wages received by persons while in the program and 60 days after completing the program;

(7) for each classification of persons described in clause (5), the outcome of the wage subsidy placement, including length of time employed; nature of employment, whether private sector, temporary public sector, or other service; and the hourly wages; and

(8) any other information requested by the commissioner. Each report must include cumulative information, as well as information for each quarter.

Data collected on individuals under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, except that summary data may be provided under section 13.05, subdivision 7.

Sec. 64. Minnesota Statutes 1988, section 268.6751, subdivision 1, is amended to read:

Subdivision 1. [WAGE SUBSIDIES.] Wage subsidy money must be allocated to ~~eligible~~ local service units in the following manner:

(a) The commissioner shall allocate 87.5 percent of the funds available for allocation to ~~eligible~~ local service units for wage subsidy programs as follows: the proportion of the wage subsidy money available to each ~~eligible~~ local service unit must be based on the number of unemployed persons in the ~~eligible~~ local service unit for the most recent six-month period and the number of work readiness assistance cases and aid to families with dependent children cases in the ~~eligible~~ local service unit for the most recent six-month period.

(b) Five percent of the money available for wage subsidy programs must be allocated at the discretion of the commissioner.

(c) Seven and one-half percent of the money available for wage subsidy programs must be allocated at the discretion of the commissioner to provide jobs for residents of federally recognized Indian reservations.

(d) By December 31 of each fiscal year, providers and local service units receiving wage subsidy money shall report to the commissioner on the use of allocated funds. The commissioner shall reallocate uncommitted funds for each fiscal year according to the formula in paragraph (a).

Sec. 65. Minnesota Statutes 1988, section 268.676, subdivision 2, is amended to read:

Subd. 2. [AMONG EMPLOYERS.] Allocation of funds among eligible employers within ~~an eligible~~ a local service unit shall give priority to funding private sector jobs to the extent that eligible businesses apply for funds. If possible, no more than 25 percent of the statewide funds available for wages may be allocated for temporary jobs with eligible government and nonprofit agencies, or for temporary community investment program jobs with eligible government agencies during the biennium. This subdivision does not apply to jobs for residents of federally recognized Indian reservations.

Sec. 66. Minnesota Statutes 1988, section 268.677, subdivision 2, is amended to read:

Subd. 2. Reimbursement to the commissioner for the costs of administering wage subsidies must not exceed one-half percent of the money appropriated. Reimbursement to an ~~eligible~~ local service unit for the costs of administering wage subsidies must not exceed five percent and for the purchase of supplies and materials necessary to create permanent improvements to public property must not exceed one percent of the money allocated to that local service unit. The commissioner and the ~~eligible~~ local service units shall reallocate money from other sources to cover the costs of administering wage subsidies whenever possible.

Sec. 67. Minnesota Statutes 1988, section 268.677, subdivision 3, is amended to read:

Subd. 3. ~~Eligible~~ Local service units may use up to 25 percent of their wage subsidy allocations to provide eligible applicants with job search assistance, labor market orientation, job seeking skills, necessary child care services, relocation, and transportation, and to subsidize fringe benefits.

Sec. 68. Minnesota Statutes 1988, section 268.678, is amended to read:
268.678 ~~[ELIGIBLE LOCAL SERVICE UNITS; POWERS AND DUTIES.]~~

Subdivision 1. ~~[GENERAL POWERS.]~~ Eligible Local service units have the powers and duties given in this section and any additional duties given by the commissioner.

Subd. 3. ~~[OUTREACH.]~~ Each eligible local service unit shall publicize the availability of wage subsidies within its area to seek maximum participation by eligible job applicants and employers.

Subd. 4. ~~[CONTRACTS.]~~ Each eligible local service unit that has not agreed to a contract under section 268.673, subdivision 4a, may enter into contracts with certified service providers to deliver wage subsidies.

Subd. 5. ~~[SCREENING AND COORDINATION.]~~ Each eligible local service unit shall provide for the screening of job applicants and employers to achieve the best possible placement of eligible job applicants with eligible employers.

Subd. 6. ~~[ELIGIBLE JOB APPLICANT PRIORITY LISTS.]~~ Each eligible local service unit shall provide for the maintenance of a list of eligible job applicants unable to secure employment under the program at the time of application. The list shall prioritize eligible job applicants and shall be used to fill jobs with eligible employers as they become available.

Sec. 69. Minnesota Statutes 1988, section 268.681, subdivision 1, is amended to read:

Subdivision 1. ~~[ELIGIBLE BUSINESSES.]~~ A business employer is an eligible employer if it enters into a written contract, signed and subscribed to under oath, with an eligible local service unit or its contractor, containing assurances that:

(a) funds received by a business shall be used only as permitted under sections 268.672 to 268.682;

(b) the business has submitted information to the eligible local service unit or its contractor (1) describing the duties and proposed compensation of each employee proposed to be hired under the program; and (2) demonstrating that, with the funds provided under sections 268.672 to 268.682, the business is likely to succeed and continue to employ persons hired using wage subsidies;

(c) the business will use funds exclusively for compensation and fringe benefits of eligible job applicants and will provide employees hired with these funds with fringe benefits and other terms and conditions of employment comparable to those provided to other employees of the business who do comparable work;

(d) the funds are necessary to allow the business to begin, or to employ additional people, but not to fill positions which would be filled even in the absence of wage subsidies;

(e) the business will cooperate with the eligible local service unit and the commissioner in collecting data to assess the result of wage subsidies; and

(f) the business is in compliance with all applicable affirmative action, fair labor, health, safety, and environmental standards.

Sec. 70. Minnesota Statutes 1988, section 268.681, subdivision 2, is amended to read:

Subd. 2. [PRIORITIES.] (a) In allocating funds among eligible businesses, the ~~eligible~~ local service unit or its contractor shall give priority to:

- (1) businesses engaged in manufacturing;
- (2) nonretail businesses that are small businesses as defined in section 645.445; and
- (3) businesses that export products outside the state.

(b) In addition to paragraph (a), ~~an eligible~~ a local service unit must give priority to businesses that:

- (1) have a high potential for growth and long-term job creation;
- (2) are labor intensive;
- (3) make high use of local and Minnesota resources;
- (4) are under ownership of women and minorities;
- (5) make high use of new technology;
- (6) produce energy conserving materials or services or are involved in development of renewable sources of energy; and
- (7) have their primary place of business in Minnesota.

Sec. 71. Minnesota Statutes 1988, section 268.681, subdivision 3, is amended to read:

Subd. 3. [PAYBACK.] A business receiving wage subsidies shall repay 70 percent of the amount initially received for each eligible job applicant employed, if the employee does not continue in the employment of the business beyond the six-month subsidized period. If the employee continues in the employment of the business for one year or longer after the six-month subsidized period, the business need not repay any of the funds received for that employee's wages. If the employee continues in the employment of the business for a period of less than one year after the expiration of the six-month subsidized period, the business shall receive a proportional reduction in the amount it must repay. If an employer dismisses an employee for good cause and works in good faith with the ~~eligible~~ local service unit or its contractor to employ and train another person referred by the ~~eligible~~ local service unit or its contractor, the payback formula shall apply as if the original person had continued in employment.

A repayment schedule shall be negotiated and agreed to by the ~~eligible~~ local service unit and the business prior to the disbursement of the funds and is subject to renegotiation. The ~~eligible~~ local service unit shall forward 25 percent of the payments received under this subdivision to the commissioner on a monthly basis and shall retain the remaining 75 percent for local program expenditures. Notwithstanding section 268.677, subdivision 2, the local service unit may use up to 20 percent of its share of the funds returned under this subdivision for any administrative costs associated with the collection of the funds under this subdivision. At least 80 percent of the local service unit's share of the funds returned under this subdivision must be used as provided in section 268.677. The commissioner shall deposit payments forwarded to the commissioner under this subdivision in

the Minnesota wage subsidy account created by subdivision 4.

Sec. 72. Minnesota Statutes 1989 Supplement, 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, *and general assistance or work readiness 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. 73. Minnesota Statutes 1988, section 268.86, subdivision 8, is amended to read:

Subd. 8. [GRANT DIVERSION.] The commissioner shall develop grant diversion processes for recipients of ~~aid to families with dependent children general assistance and work readiness assistance payments and shall supervise the counties in the administration of the employment and training services to meet the needs and circumstances of public assistance these recipients. A grant diversion program that places general assistance and work readiness recipients in public sector employment must operate as a community investment program under section 268.90.~~

Sec. 74. Minnesota Statutes 1988, section 268.871, subdivision 1, is amended to read:

Subdivision 1. [RESPONSIBILITY AND CERTIFICATION.] (a) Unless prohibited by federal law or otherwise determined by state law, a local service unit is responsible for the delivery of employment and training services. After February 1, 1988, employment and training services must be delivered by certified employment and training service providers.

(b) *The local service unit's employment and training service provider must meet the certification standards in this subdivision in order to be certified to deliver any of the following employment and training services and programs: wage subsidies; work readiness; work readiness and general assistance grant diversion; food stamp employment and training programs; community work experience programs; AFDC job search; AFDC grant*

diversion; AFDC on-the-job training; and AFDC case management.

(c) The commissioner shall certify a local service unit's service provider to provide these employment and training services and programs if the commissioner determines that the provider has:

(1) past experience in direct delivery of the programs specified in paragraph (b);

(2) staff capabilities and qualifications, including adequate staff to provide timely and effective services to clients, and proven staff experience in providing specific services such as assessments, career planning, job development, job placement, support services, and knowledge of community services and educational resources;

(3) demonstrated effectiveness in providing services to public assistance recipients and other economically disadvantaged clients; and

(4) demonstrated administrative capabilities, including adequate fiscal and accounting procedures, financial management systems, participant data systems, and record retention procedures.

(d) When the only service provider that meets the criterion in paragraph (c), clause (1), has been decertified, pursuant to subdivision 1a, in that local service unit, the following criteria shall be substituted: past experience in direct delivery of multiple, coordinated, nonduplicative services, including outreach, assessments, identification of client barriers, employability development plans, and provision or referral to support services.

Employment and training service providers shall be certified by the commissioner for two fiscal years beginning July 1, 1991, and every second year thereafter.

Sec. 75. Minnesota Statutes 1988, section 268.871, is amended by adding a subdivision to read:

Subd. 1a. [DECERTIFICATION.] (a) The department, on its own initiative, or at the request of the local service unit, shall begin decertification processes for employment and training service providers who:

(1) no longer meet one or more of the certification standards;

(2) are delivering services in a manner that does not comply with the Family Support Act of 1988, Public Law Number 100-485 or relevant state law after corrective actions have been cited, technical assistance has been provided, and a reasonable period of time for remedial action has been provided; or

(3) are not complying with other state and federal laws or policy which are necessary for effective delivery of services.

(b) The initiating of decertification processes shall not result in decertification of the service provider unless and until adequate fact-finding and investigation has been performed by the department.

Sec. 76. Minnesota Statutes 1988, section 268.871, subdivision 2, is amended to read:

Subd. 2. [CONTRACTING PREFERENCE RESPONSIBILITY.] ~~In contracting,~~ A local service unit must give preference, whenever possible, to contract with certified employment and training service providers that can effectively coordinate federal, state, and local employment and training

services; that can maximize use of available federal and other nonstate funds; and that have demonstrated the ability to ~~serve~~ *achieve effective results in serving* public assistance clients as well as other unemployed people.

Sec. 77. Minnesota Statutes 1989 Supplement, 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 1990 an annual plan for the subsequent fiscal year. By April 15, 1991, and by April 15 of each second year thereafter, local service units shall prepare and submit to the commissioner a plan that covers the next two state fiscal years.~~ The commissioner shall notify each local service unit 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, 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;

~~(10)~~ (9) 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)~~ (10) 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) 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. Beginning April 15, 1992, and by April 15 of each second year thereafter, local service units must prepare and submit to the commissioner an interim year plan update that deals with performance in that state fiscal year and changes anticipated for the second year of the biennium. The update must include information about employment and training programs addressed in the local service unit's two-year plan and shall be completed in accordance with criteria established by the commissioner.~~

Sec. 78. Minnesota Statutes 1989 Supplement, section 268.881, is amended to read:

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.~~

(a) 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. Beginning April 15, 1991, and by April 15 of each second year thereafter, the Indian tribe shall prepare and submit to the commissioner a plan that covers the next two state fiscal years. Beginning April 15, 1992, and by April 15 of

each second year thereafter, the Indian tribe shall prepare and submit to the commissioner an interim year plan update that deals with performance during the past state fiscal year and that covers changes anticipated for the second year of the biennium. The commissioner shall notify the Indian tribe of approval or disapproval of the plans and updates for existing programs within 60 days of submission.

(b) A plan for a new tribal program must be submitted at least 45 days before the program is to commence. The commissioner shall approve or disapprove the plan for new programs within 30 days of receipt.

(c) The tribal plan and update must contain information that has been established by the commissioner and the commissioner of human services for the tribal employment and training service program.

(d) The commissioner may recommend to the commissioner of human services withholding the distribution of employment and training money from a tribe whose plan or update is disapproved by the commissioner or a tribe that does not submit a plan or update by the date established in this section.

Sec. 79. Minnesota Statutes 1988, section 268.90, subdivision 1, is amended to read:

Subdivision 1. Community investment programs provide temporary employment to people who are experiencing prolonged unemployment and economic hardship. Community investment programs consist of one or more projects. Community investment programs must be beneficial to the state and the communities in which they are located and must provide program ~~employees~~ *participants* with training and work experience *that will enhance their employability*. The projects must include activities that:

(1) expand or improve services, including education, health, social services, recreation, and safety;

(2) improve or maintain natural resources, including rivers, streams and lakes, forest lands and roads, and soil conservation;

(3) make permanent improvements to lands and buildings; or

(4) weatherize public buildings and private residential dwellings.

Community investment programs may not include job placements that replace work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1985.

Community investment programs that include other sources of money or authorized programs may provide employment for the groups eligible for the included programs under the terms and conditions of those programs. These programs include the Minnesota conservation corps, Minnesota summer youth program, county emergency jobs program, and the jobs training partnership act.

Sec. 80. Minnesota Statutes 1988, section 268.90, subdivision 3, is amended to read:

Subd. 3. [COMMISSIONER OF JOBS AND TRAINING.] The commissioner shall:

(1) Make emergency or permanent rules governing plan content, criteria for approval, and administrative standards;

(2) refer community investment program administrators to the appropriate state agency for technical assistance in developing and administering community investment programs;

(3) establish the method by which community investment programs will be approved or disapproved through the community investment program plan and the annual update component of the county plan;

(4) review and comment on community investment program plans;

(5) institute ongoing methods to monitor and evaluate community investment programs; and

(6) ~~inform~~ *consult with the commissioner of human services of on the counties that do not have an approved plan approval of county plans for community investment programs relating to the participation of public assistance recipients.*

Sec. 81. Minnesota Statutes 1988, section 268.90, subdivision 4, is amended to read:

Subd. 4. [COUNTY BOARDS OF COMMISSIONERS.] The county boards of commissioners shall:

(1) be encouraged to establish community investment programs that are administered jointly according to section 471.59, or through multicounty human service boards under chapter 402;

(2) develop community investment programs in consultation with the exclusive representatives of their employees;

(3) plan community investment programs by involving nonprofit organizations and other governmental units, community action agencies, community-based organizations, local union representatives, and representatives of client groups;

(4) submit to the commissioner a community investment program plan *identifying the program funding source and amount*, before the initiation of a community investment program, for approval according to standards established by the commissioner;

(5) plan community investment projects that, whenever possible, utilize existing programs that are administered under contract by nonprofit organizations and governmental units, including departments and agencies of cities, counties, towns, school districts, state and federal agencies, park reserve districts, and other special districts;

(6) include in their local service unit plans an annual update to their community investment program plans for approval according to standards established by the commissioner;

(7) submit reports and meet administrative standards established by ~~rule~~ *the commissioner*;

(8) monitor the performance of entities under contract to administer individual community investment projects;

(9) enter into contracts with other governmental and private bodies to jointly fund or jointly administer approvable projects when agreements expand the resources available, the scope of people employed, or further recognized public purposes; and

(10) be encouraged to enter into contracts with businesses or individuals

for eligible projects under subdivision 1 and charge a fee for the completion of a project.

Sec. 82. [WELFARE FRAUD DISQUALIFICATION DEMONSTRATION PROJECT.]

The commissioner of human services is authorized to seek federal approval to develop a demonstration project, using the administrative appeals process of section 256.045, to hear cases involving persons accused of wrongfully obtaining assistance in the AFDC or food stamps programs. Allegations of fraud must be proven by clear and convincing evidence. If a person is found to have wrongfully obtained assistance in the AFDC or food stamps program, that person shall be disqualified from the program and the needs of that individual shall not be taken into account in determining the grant or assistance level. The period of disqualification may be up to six months for a first offense and up to 12 months for a second offense. For a third or subsequent offense, the disqualification period may be in excess of one year and can be permanent. In determining the sanction to impose, the appeals referee shall consider the amount of assistance wrongfully obtained, the actions whereby assistance was wrongfully obtained, and the effect of proposed sanctions on other members of the affected assistance unit. When federal approval is received, the agency shall develop an implementation plan which includes criteria for sanctions to be applied, and shall present the plan to the legislature for approval.

Sec. 83. [WELFARE MIGRATION STUDY.]

The commissioner of human services shall conduct a study to determine the patterns of migration of welfare recipients to and from the state. The study must determine: (1) the numbers of new applicants for AFDC and general assistance who moved to the state a short time before applying for assistance; (2) the former states or countries of residence of these applicants and whether the applicants lived in Minnesota in the past; (3) the number of welfare recipients who leave the state and the states to which these recipients are moving; and (4) the reasons welfare applicants or recipients move to or from Minnesota. This information must be collected and analyzed to determine whether migration patterns are different for border counties; nonborder, rural counties where there is a perception that there is an unusually high incidence of recipient immigration; and metropolitan area counties. The commissioner shall provide a report to the legislature by December 15, 1990. The report must include: (1) a summary and analysis of the information collected in the study regarding welfare migration patterns; (2) a comparison of welfare recipient migration patterns to migration patterns in the general population; (3) a survey of existing research and reports relating to welfare migration; (4) a description of the decline in economic support from the federal government in these areas over the past ten years; (5) a description and analysis of federal statutes or regulations or constitutional law restrictions that limit the authority of states and local communities to take action relating to the migration of recipients; and (6) a list of options available to the legislature and local governments relating to migration of recipients.

Sec. 84. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute the phrase "target group," "target groups," "targeted caretaker," or "targeted caretakers" for the phrases "priority group," "priority groups,"

"priority caretaker," or "priority caretakers" wherever it appears in Minnesota Statutes, section 256.736. The revisor of statutes shall also substitute the phrase "county agency" or "county agencies" for the phrase "local agency" or "local agencies" wherever it appears in Minnesota Statutes, chapters 256 and 256D.

Sec. 85. [REPEALER.]

Subdivision 1. [AFDC PROGRAM.] Minnesota Statutes 1988, sections 256.736, subdivisions 1b, 2a, 8, and 17; and 256.7365, subdivision 8, are repealed.

Subd. 2. [GENERAL ASSISTANCE.] Minnesota Statutes 1988, section 256D.06, subdivision 1c, is repealed.

Subd. 3. [JOBS AND TRAINING.] Minnesota Statutes 1988, sections 268.672, subdivision 12; 268.86, subdivision 9; and 268.872, subdivision 3, are repealed.

Subd. 4. [CHILD CARE.] Minnesota Statutes 1988, sections 256H.01, subdivision 14, and 256H.16, are repealed. Minnesota Statutes 1989 Supplement, section 256H.05, subdivisions 1, 1a, and 3a, are repealed.

Sec. 86. [EFFECTIVE DATE.]

Subdivision 1. [AFDC; CHILD CARE.] Sections 1 to 18; 33 to 81; 84; and 85, subdivisions 1, 3, and 4, are effective May 1, 1990.

Subd. 2. [GENERAL ASSISTANCE.] Sections 20, 22 to 24; 26 to 32; and 85, subdivision 2, are effective October 1, 1990.

ARTICLE 5

MENTAL HEALTH

Section 1. Minnesota Statutes 1988, section 245.467, subdivision 2, is amended to read:

Subd. 2. [DIAGNOSTIC ASSESSMENT.] All providers of residential, acute care hospital inpatient, and regional treatment centers must complete a diagnostic assessment for each of their clients within five days of admission. Providers of outpatient and day treatment services must complete a diagnostic assessment within ~~ten~~ five days after the adult's second visit or within 30 days of admission after intake, whichever occurs first. In cases where a diagnostic assessment is available and has been completed within 90 180 days preceding admission, only updating is necessary. "Updating" means a written summary by a mental health professional of the adult's current mental health status and service needs. If the adult's mental health status has changed markedly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required. Compliance with the provisions of this subdivision does not ensure eligibility for medical assistance or general assistance medical care reimbursement under chapters 256B and 256D.

Sec. 2. Minnesota Statutes 1989 Supplement, 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. *Providers of residential treatment and acute care hospital inpatient treatment, and all regional treatment centers must develop the individual treatment plan must be developed within ten days of client intake and reviewed must review the individual treatment plan every 90 days thereafter after intake. Providers of day treatment services must develop the individual treatment plan before the completion of five working days in which service is provided or within 30 days after the diagnostic assessment is completed or obtained, whichever occurs first. Providers of outpatient services must develop the individual treatment plan within 30 days after the diagnostic assessment is completed or obtained or by the end of the second session of an outpatient service, not including the session in which the diagnostic assessment was provided, whichever occurs first. Outpatient and day treatment services providers must review the individual treatment plan every 90 days after intake.*

Sec. 3. Minnesota Statutes 1989 Supplement, 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 adults in the county who are experiencing an emotional crisis or mental illness. Clients may be required to pay a fee according to section 245.481. Emergency services must include assessment, crisis intervention, and appropriate case disposition. Emergency services must:

- (1) promote the safety and emotional stability of adults with mental illness or emotional crises;
- (2) minimize further deterioration of adults with mental illness or emotional crises;
- (3) help 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. *The commissioner may waive the requirement that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:*

- (1) *mental health professionals or mental health practitioners are unavailable to provide this service;*
- (2) *services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional; and*

(3) the service provider is not also the provider of fire and public safety emergency services.

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. 4. Minnesota Statutes 1989 Supplement, section 245.4711, subdivision 1, is amended to read:

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~~ *services* for all adults with serious and persistent mental illness ~~residing in~~ *who are residents of the county and 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.

Sec. 5. Minnesota Statutes 1989 Supplement, section 245.4711, subdivision 2, is amended to read:

Subd. 2. [NOTIFICATION AND DETERMINATION OF CASE MANAGEMENT ELIGIBILITY.] (a) The county board shall notify the ~~client~~ *adult of the person's adult'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~~ *adult* and the ~~client's~~ *adult's* representative, if any, that identifies the designated case management providers.

(b) The county board must determine whether an adult who requests or is referred for case management services meets the criteria of section 245.462, subdivision 20, paragraph (c). If a diagnostic assessment is needed to make the determination, the county board shall offer to assist the adult in obtaining a diagnostic assessment. The county board shall notify, in writing, the adult and the adult's representative, if any, of the eligibility determination. If the adult is determined to be eligible for case management services, the county board shall refer the adult to the case management provider for case management services. If the adult is determined not to be eligible or refuses case management services, the local agency shall offer to refer the adult to a mental health provider or other appropriate service provider and to assist the adult in making an appointment with the provider of the adult's choice.

Sec. 6. Minnesota Statutes 1989 Supplement, section 245.4711, subdivision 3, is amended to read:

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 case management services, and if the adult consents to the services, the case manager shall complete a written functional assessment according to section 245.462, subdivision 11a. The case manager shall develop an individual community support plan for ~~an~~ the adult according to subdivision 4, paragraph (a), review the ~~client's~~ adult'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.

Sec. 7. [245.4712] [COMMUNITY SUPPORT AND DAY TREATMENT SERVICES.]

Subdivision 1. [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 who are residents of the county. Adults 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; and*
- (5) obtain and maintain appropriate living arrangements.*

The community support services program must also be designed to reduce the need for and use of more intensive, costly, or restrictive placements both in number of admissions and length of stay.

Subd. 2. [DAY TREATMENT SERVICES PROVIDED.] (a) 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. Adults 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 support for residing in the community;*
- (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. 3. [BENEFITS ASSISTANCE.] The county board must offer to help adults with serious and persistent mental illness in applying for state and federal benefits, including supplemental security income, medical assistance, Medicare, general assistance, general assistance medical care, and Minnesota supplemental aid. The help must be offered as 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. 8. Minnesota Statutes 1989 Supplement, 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 adults with mental illness throughout the state who need this level of care. *Services must be as close to the patient's county of residence as possible. Regional treatment centers are responsible to:*

- (1) *provide acute care inpatient hospitalization;*
- (2) *stabilize the medical and mental health condition of the adult requiring the admission;*
- (2) (3) *improve functioning to the point where discharge to community-based mental health services is possible;*
- (3) (4) *strengthen family and community support; and*
- (4) (5) *facilitate appropriate discharge and referrals for follow-up mental health care in the community.*

Subd. 2. [QUALITY OF SERVICE.] The commissioner shall biennially determine the needs of all 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 *and the types of state-operated services needed.* 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. 9. Minnesota Statutes 1989 Supplement, section 245.487, subdivision 2, is amended to read:

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 *but the mental health services due any child with serious and persistent mental illness, as defined in section 245.462, subdivision 20, or with severe emotional disturbance, as defined in section 245.4871, subdivision 6, shall be made a part of any disposition affecting that child.*

Sec. 10. Minnesota Statutes 1989 Supplement, section 245.487, subdivision 5, is amended to read:

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 county board shall forward a copy of this notice to the commissioner.* 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 *and shall include a copy of the plain language notification described in section 245.4881, subdivision 2, paragraph (b).* Providers shall distribute copies of this notification when making a referral for case management.

Sec. 11. Minnesota Statutes 1989 Supplement, section 245.4871, subdivision 3, is amended to read:

Subd. 3. [CASE MANAGEMENT SERVICES.] "Case management services" means activities *that are coordinated with the family community support services and are* 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,~~ *obtaining a comprehensive diagnostic assessment, if needed,* 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.

Sec. 12. Minnesota Statutes 1989 Supplement, section 245.4873, subdivision 2, is amended to read:

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) *until February 15, 1992*, 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.

Sec. 13. Minnesota Statutes 1989 Supplement, section 245.4874, is amended to read:

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) *assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;*

(3) 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)~~ (4) assure that mental health services delivered according to sections 245.487 to 245.4887 are *delivered expeditiously and are* appropriate to the child's diagnostic assessment and individual treatment plan;

~~(4)~~ (5) 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)~~ (6) 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)~~ (7) 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)~~ (8) 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)~~ (9) 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)~~ (10) 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. 14. Minnesota Statutes 1989 Supplement, section 245.4875, subdivision 5, is amended to read:

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 seek input from parents, former consumers, providers, and others about the needs of children with emotional disturbance in the local area and services needed by families of these children, and shall meet at least quarterly monthly, unless otherwise determined by the council or subcommittee, but not less than 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.

Sec. 15. Minnesota Statutes 1989 Supplement, section 245.4876, subdivision 2, is amended to read:

Subd. 2. [DIAGNOSTIC ASSESSMENT.] All residential treatment facilities and acute care hospital inpatient treatment ~~services~~ *facilities* 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~~ *five days after the child's second visit or 30 days after intake, whichever occurs first*. In cases where a diagnostic assessment is available and has been completed within ~~90~~ 180 days preceding admission, only updating is necessary. "Updating" means a written summary by a mental health professional of the child's current mental health status and service needs. *If the child's mental health status has changed markedly since the child's most recent diagnostic assessment, a new diagnostic assessment is required. Compliance with the provisions of this subdivision does not ensure eligibility for medical assistance or general assistance medical care reimbursement under chapters 256B and 256D.*

Sec. 16. Minnesota Statutes 1989 Supplement, section 245.4876, subdivision 3, is amended to read:

Subd. 3. [INDIVIDUAL TREATMENT PLANS.] All *providers of outpatient services, day treatment services, family community support services, professional home-based family treatment, residential treatment facilities, and acute care hospital inpatient treatment facilities, and all regional treatment centers that provide mental health facilities services 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 *and the child's family* shall be involved in all phases of developing and implementing the individual treatment plan. *Providers of residential treatment, professional home-based family treatment, and acute care hospital inpatient treatment, and regional treatment centers must develop the individual treatment plan must be developed* within ten working days of client intake or admission and ~~reviewed~~ *must review*

the individual treatment plan every 90 days after that date intake, 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. Providers of day treatment services must develop the individual treatment plan before the completion of five working days in which service is provided or within 30 days after the diagnostic assessment is completed or obtained, whichever occurs first. Providers of outpatient services must develop the individual treatment plan within 30 days after the diagnostic assessment is completed or obtained or by the end of the second session of an outpatient service, not including the session in which the diagnostic assessment was provided, whichever occurs first. Providers of outpatient and day treatment services must review the individual treatment plan every 90 days after intake.

Sec. 17. Minnesota Statutes 1989 Supplement, section 245.4876, subdivision 4, is amended to read:

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. *The parent or child may directly request case management even if there has been no referral.*

Sec. 18. Minnesota Statutes 1989 Supplement, section 245.4879, is amended to read:

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, *and children's families when clinically appropriate*, in the county who are experiencing an emotional crisis or emotional disturbance. *The county board shall ensure that parents, providers, and county residents are informed about when and how to access emergency mental health services for children.* 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, *crisis* 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. *The commissioner may waive the requirement that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:*

(1) mental health professionals or mental health practitioners are unavailable to provide this service;

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional; and

(3) the service provider is not also the provider of fire and public safety emergency services.

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. 19. Minnesota Statutes 1989 Supplement, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) By July 1, 1991, the county board shall provide case management ~~activities~~ *services* for each child with severe emotional disturbance ~~residing in~~ *who is a resident of* 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.

Sec. 20. Minnesota Statutes 1989 Supplement, section 245.4881, subdivision 2, is amended to read:

Subd. 2. [NOTIFICATION AND DETERMINATION OF CASE MANAGEMENT ELIGIBILITY.] (a) The county board shall notify, as appropriate, the child, child's parent, or *child's* 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.

(b) The county board shall send a notification written in plain language of potential eligibility for case management and family community support services. The notification shall identify the designated case management providers and shall contain:

(1) a brief description of case management and family community support services;

(2) the potential benefits of these services;

(3) the identity and current phone number of the county employee designated to coordinate case management activities;

(4) an explanation of how to obtain county assistance in obtaining a diagnostic assessment, if needed; and

(5) an explanation of the appeal process.

~~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.

(c) The county board must promptly determine whether a child who requests or is referred for case management services meets the criteria of sections 245.471 or 245.4871, subdivision 6. If a diagnostic assessment is needed to make the determination, the county board must offer to assist the child and the child's family in obtaining one. The county board shall notify, in writing, the child and the child's representative, if any, of the eligibility determination. If the child is determined to be eligible for case management services, and if the child and the child's family consent to the services, the county board shall refer the child to the case management provider for case management services. If the child is determined not to be eligible or refuses case management services, the county board shall notify the child of the appeal process and shall offer to refer the child to a mental health provider or other appropriate service provider and to assist the child in making an appointment with the provider of the child's choice.

Sec. 21. Minnesota Statutes 1989 Supplement, section 245.4881, subdivision 3, is amended to read:

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 case management services, the case manager shall complete a written functional assessment according to section 245.4871, subdivision 18. 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.

(b) The case manager shall perform a functional assessment and note in the client's child'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 unmet needs of the child and family's unmet needs child's family.

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~~ child's record.

Sec. 22. Minnesota Statutes 1989 Supplement, section 245.4881, subdivision 4, is amended to read:

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~~ *an individual family community support plan*, the case manager shall assist the child and *child's* 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.

Sec. 23. Minnesota Statutes 1989 Supplement, section 245.4882, subdivision 1, is amended to read:

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 *severe* 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 appropriate to the child's age and treatment needs and* 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 *severe* emotional disturbance in the home.

Sec. 24. Minnesota Statutes 1989 Supplement, section 245.4883, subdivision 1, is amended to read:

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 *severe* 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 *severe* 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.

Sec. 25. [245.4884] [FAMILY COMMUNITY SUPPORT SERVICES.]

Subdivision 1. [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 among 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 need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Subd. 2. [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 support for residing in the community;*
- (3) prevent placements that are more intensive, costly, or restrictive than necessary to meet the child's need;*
- (4) coordinate with or be offered in conjunction with the child'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. 3. [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. The treatment team must develop an individual treatment plan that identifies the specific treatment objectives for both the child and the family.

Subd. 4. [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. 5. [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. 26. Minnesota Statutes 1989 Supplement, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] The county board shall ~~ensure that, upon admission, screen all children are screened upon admission~~ admitted for treatment of severe 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; and

(4) ~~the provides~~ a 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~~ During the screening process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and that an individual family community support plan is being developed by the case manager, if assigned.

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)~~ (5).

Sec. 27. Minnesota Statutes 1989 Supplement, section 245.4885, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] No later than ~~January~~ July 1, ~~1992~~ 1991, 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 after July 1, 1991, if the county documents that:~~

(1) mental health professionals or mental health practitioners are unavailable to provide this service; and

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.

Sec. 28. Minnesota Statutes 1989 Supplement, 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) adopt rules for minimum standards in community mental health services as directed by the legislature;

(5) cooperate with the commissioners of health and jobs and training to coordinate services and programs for people with mental illness;

~~(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 emotional or behavioral disorders;~~

~~(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;~~

~~(8)~~ (7) provide data and other information, as requested, to the advisory council on mental health;

(9) ~~(8)~~ 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;

~~(10)~~ (9) apply for grants and develop pilot programs to test and demonstrate new methods of assessing mental health needs and delivering

mental health services;

~~(11)~~ (10) study alternative reimbursement systems and make waiver requests that are deemed necessary by the commissioner;

~~(12)~~ (11) 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;

~~(13)~~ (12) 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;

~~(14)~~ (13) 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

~~(15)~~ (14) enter into contracts and promulgate rules the commissioner deems necessary to carry out the purposes of this chapter.

Sec. 29. Minnesota Statutes 1989 Supplement, 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, *finance*, 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 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 emotional disturbances;

(6) a present or former consumer of adolescent mental health services;

(7) educators 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;

(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. 30. Minnesota Statutes 1989 Supplement, 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 programs for ~~adult mentally ill persons~~ *adults with mental illness* to meet licensing requirements pursuant to sections 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 money 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 residential program for ~~adult mentally ill persons~~ *adults with mental illness* under sections 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. 31. Minnesota Statutes 1989 Supplement, 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~~.

(d) A neuroleptic medication may be administered without court review to a patient who is not competent to consent to neuroleptic medications if:

(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.

(e) A neuroleptic medication may be administered without judicial review and without consent in an emergency situation for so long as the emergency continues to exist if the treating physician determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. The treatment facility shall document the emergency in the patient's medical record in specific behavioral terms.

~~(d)~~ (f) 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)~~ (g) 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.

(h) A medical director or patient may petition the committing court, or the court to which venue has been transferred, for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to section 253B.08, 253B.09, 253B.12, or 253B.18. The hearing concerning the administration of neuroleptic medication must be held within 14 days from the date of the filing of the petition. The court may extend the time for hearing up to an additional 15 days for good cause shown.

Sec. 32. Minnesota Statutes 1988, section 253B.17, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] Any patient, except one committed as mentally ill and dangerous to the public, or any interested person may petition the committing court or the court to which venue has been transferred for an order that the patient is not in need of continued institutionalization or for an order that an individual is no longer mentally ill, mentally retarded, or chemically dependent, or for any other relief as the court deems just and equitable. A patient committed as mentally ill or mentally ill and dangerous may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to sections 253B.08, 253B.09 ~~and~~, 253B.12, and 253B.18.

Sec. 33. Minnesota Statutes 1988, section 260.151, is amended by adding a subdivision to read:

Subd. 3. [JUVENILE TREATMENT SCREENING TEAM.] (a) *The county welfare board, at its option, may establish a juvenile treatment screening team to conduct screenings and prepare case plans under this subdivision. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled,*

chemically dependent, or have a developmental disability. The team shall involve parents or guardians in the screening process as appropriate.

(b) This paragraph applies only in counties that have established a juvenile treatment screening team under paragraph (a). If the court, prior to, or as part of, a final disposition, proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A, the court shall notify the county welfare agency. The county's juvenile treatment screening team must either: (1) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (2) elect not to screen a given case, and notify the court of that decision within three working days.

(c) If the screening team has elected to screen and evaluate the child, the child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:

(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;

(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or

(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

Sec. 34. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

Column A	Column B	Column C
245.462, subd. 8, clause (3)	245.4711, subd. 7	245.4712, subd. 2
245.4871, subd. 10, clauses (3) and (4)	245.4881, subd. 7	245.4884, subd. 2
245.4871, subd. 17, clause (11)	245.4881, subd. 10	245.4884, subd. 5
245.4875, subd. 2, clause (6)	245.4881, subd. 7	245.4884, subd. 2
245.4875, subd. 2, clauses (11) and (12)	245.4881, subd. 9	245.4884, subd. 4

245.4881, subd. 4, subd. 6
paragraph (a)

245.4884, subd. 1

Sec. 35. [REPEALER.]

Minnesota Statutes 1989 Supplement, sections 245.4711, subdivisions 6, 7, and 8; and 245.4881, subdivisions 6, 7, 8, 9, and 10, are repealed.

Sec. 36. [EFFECTIVE DATE.]

Sections 31 and 32 are effective May 1, 1990.

ARTICLE 6

DISLOCATED WORKERS

Section 1. [268.02] [DISLOCATED WORKER FUND.]

Subdivision 1. [DETERMINATION AND COLLECTION OF SPECIAL ASSESSMENT.] (a) In addition to all other contributions, assessments and payment obligations under chapter 268, each employer is liable for a special assessment levied at the rate of one-tenth of one percent per year on all wages, as defined in section 268.04, subdivision 25. Such assessment shall become due and be paid by each employer to the department of jobs and training on the same schedule and in the same manner as other contributions required by section 268.06.

(b) The special assessment levied under this section shall not affect the computation of any other contributions, assessments, or payment obligations due under this chapter.

Subd. 2. [DISBURSEMENT OF SPECIAL ASSESSMENT FUNDS.]

(a) The money collected under this section shall be deposited in the state treasury and credited to a dedicated fund to provide for the dislocated worker programs established under sections 268.975 to 268.98; including vocational guidance, training, placement, and job development.

(b) All money in the dedicated fund is appropriated to the commissioner who must act as the fiscal agent for the money and must disburse the money for the purposes of this section, not allowing the money to be used for any other obligation of the state. All money in the dedicated fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for the other dedicated funds in the state treasury, except that all interest or net income resulting from the investment or deposit of money in the fund shall accrue to the fund for the purposes of the fund.

(c) No more than five percent of the dedicated funds collected in each fiscal year may be used by the department of jobs and training for its administrative costs.

Sec. 2. Minnesota Statutes 1989 Supplement, section 268.977, subdivision 1, is amended to read:

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, *dislocated workers*, 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.

Sec. 3. [STUDY.]

The governor shall appoint a commission to study and make legislative recommendations regarding worker displacement caused by corporate takeovers, buy outs, and other similar business ownership transfers and publicly funded economic development. The commission shall complete the study and report recommendations to the legislature before February 1, 1991.

Sec. 4. [SUNSET.]

Section 1 is repealed effective June 30, 1992.

Sec. 5. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment. Section 1 is effective January 1, 1991."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for human services and health and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 4.071; 13.46, subdivision 5; 144.581, subdivision 1; 144A.073, by

adding a subdivision; 148B.23, by adding a subdivision; 151.06, subdivision 1; 151.25; 171.07, subdivision 1a; 214.07, subdivision 1, and by adding a subdivision; 241.26, subdivision 2; 244.05, by adding a subdivision; 245.467, subdivision 2; 245A.07, subdivision 3; 245A.08, subdivision 3; 245A.11, subdivision 4; 245A.14, subdivisions 1 and 2; 245A.16, subdivision 4; 252.27, as amended; 253B.17, subdivision 1; 254B.04, as amended; 254B.08; 256.73, subdivision 2; 256.736, subdivisions 1a and 3a; 256.7365, subdivision 2; 256.81; 256B.04, subdivisions 15 and 16; 256B.055, subdivisions 3, 5, 6, and 12; 256B.056, subdivisions 2, 7, and by adding a subdivision; 256B.0625, subdivisions 4, 5, 9, and by adding subdivisions; 256B.091, subdivisions 4 and 6; 256B.092, subdivisions 1a, 1b, and by adding subdivisions; 256B.15; 256B.19, by adding a subdivision; 256B.431, subdivision 3e, and by adding subdivisions; 256B.48, subdivision 2, and by adding a subdivision; 256B.49, by adding a subdivision; 256B.50, subdivisions 1 and 1b; 256B.501, subdivisions 3c, 3e, and by adding a subdivision; 256B.69, subdivision 3; 256B.73, subdivision 7, as amended; 256D.01, by adding a subdivision; 256D.02, subdivisions 5, 8, and 12; 256D.03, subdivision 7; 256D.052, subdivision 5; 256D.06, subdivision 2; 256E.06, subdivisions 2 and 7; 256H.01, by adding subdivisions; 256H.10, subdivisions 1 and 4; 256H.17; 260.151, by adding a subdivision; 268.673, subdivisions 3 and 5; 268.6751, subdivision 1; 268.676, subdivision 2; 268.677, subdivisions 2 and 3; 268.678; 268.681, subdivisions 1, 2, and 3; 268.86, subdivision 8; 268.871, subdivisions 1, 2, and by adding a subdivision; 268.90, subdivisions 1, 3, and 4; 462.357, subdivisions 7 and 8; 518.171, subdivisions 1, 3, 4, and 7; 518.54, by adding subdivisions; 518.551, subdivisions 1 and 5; 518.611, subdivisions 1, 2, 8, 8a, and by adding a subdivision; 518C.02, by adding subdivisions; 518C.03; 518C.05; 518C.09; 518C.12; and 518C.27, subdivision 1; Minnesota Statutes 1989 Supplement, sections 116.76, subdivision 9; 116.78, by adding subdivisions; 144.50, subdivision 6; 144.802, subdivision 3; 144.804, subdivisions 1 and 7; 144.809; 144.8091; 145.894; 245.467, subdivision 3; 245.469; 245.70, subdivision 1; 245.4711, subdivisions 1, 2, and 3; 245.474; 245.487, subdivisions 2 and 5; 245.4871, subdivision 3; 245.4873, subdivision 2; 245.4874; 245.4875, subdivision 5; 245.4876, subdivisions 2, 3, and 4; 245.4879; 245.488, subdivision 1; 245.4881, subdivisions 1, 2, 3, and 4; 245.4882, subdivision 1; 245.4883, subdivision 1; 245.4885, subdivisions 1 and 2; 245.696, subdivision 2; 245.697, subdivision 2a; 245.73, subdivision 2; 245A.02, subdivision 6a; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, and 3b; 245A.12; 245A.13; 245A.16, subdivision 1; 252.46, subdivisions 1, 2, 3, 4, and 12; 253B.03, subdivision 6a; 254B.03, subdivision 4; 256.73, subdivision 3a; 256.736, subdivisions 3, 3b, 4, 10, 10a, 11, 14, 16, and 18; 256.737, subdivisions 1, 1a, and 2; 256.74, subdivision 1; 256.936, subdivision 1; 256.969, subdivisions 2c and 6a; 256.9695, subdivisions 1 and 3; 256B.055, subdivision 7; 256B.056, subdivisions 3 and 4; 256B.057, subdivisions 1, 2, and by adding subdivisions; 256B.0575; 256B.059, subdivisions 4 and 5; 256B.0595, subdivisions 1, 2, and 4; 256B.0625, subdivision 13; 256B.14; 256B.431, subdivisions 2b and 7; 256B.495, subdivision 1; 256B.69, subdivision 16; 256D.01, subdivision 1a; 256D.03, subdivisions 3 and 4; 256D.051, subdivisions 1a, 1b, 2, 3, and 8; 256D.09, subdivision 2a; 256D.425, subdivision 3; 256H.01, subdivisions 7, 8, and 12; 256H.03, subdivisions 2, 2a, and 2b; 256H.05, subdivisions 1b, 1c, 2, and 5; 256H.08; 256H.09, subdivision 1; 256H.10, subdivision 3; 256H.11, subdivision 1; 256H.15, subdivisions 1 and 2; 256H.21, subdivision 9; 256H.22, subdivisions 2, 3, and 10; 256I.05, subdivisions 1 and 7; 257.57, subdivision

1; 268.0111, subdivision 4; 268.86, subdivision 2; 268.88; 268.881; 268.977, subdivision 1; 515.551, subdivision 10; 518.611, subdivision 4; and 518.613, subdivision 2; Minnesota Statutes Second 1989 Supplement, sections 256B.091, subdivision 8; and 256D.03, subdivisions 2 and 6; Laws 1988, chapter 689, article 2, section 256, subdivision 3; Laws 1989, chapters 282, article 3, section 98, subdivisions 4 and 5; and 338, section 11; 1990 S. F. No. 1698, section 1, if enacted; proposing coding for new law in Minnesota Statutes, chapters 62A; 144; 151; 244; 245; 245A; 252; 254A; 256; 256B; and 268; repealing Minnesota Statutes 1988, sections 256.736, subdivisions 1b, 2a, 8, and 17; 256.7365, subdivision 8; 256D.06, subdivision 1c; 256H.01, subdivision 14; 256H.16; 268.672, subdivision 12; 268.86, subdivision 9; and 268.872, subdivision 3; Minnesota Statutes 1989 Supplement, sections 245.4711, subdivisions 6, 7, and 8; 245.4881, subdivisions 6, 7, 8, 9, and 10; 256B.055, subdivision 8; 256B.431, subdivisions 3a and 3f; 256H.05, subdivisions 1, 1a, and 3a; Laws 1989, chapter 333, section 11, subdivisions 1 and 3."

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

Senate Conferees: (Signed) Don Samuelson, Linda Berglin, Pat Piper, Howard A. Knutson, Sam G. Solon

House Conferees: (Signed) Lee Greenfield, Peter Rodosovich, Mary Murphy, Gloria Segal, Dave Gruenes

CALL OF THE SENATE

Mr. Samuelson imposed a call of the Senate for the balance of the proceedings on S.F. No. 2621. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Samuelson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2621 be now adopted, and that the bill be repassed as amended by the Conference Committee.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 35 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kroening	Morse	Samuelson
Berglin	Flynn	Lantry	Novak	Schmitz
Brandl	Frank	Luther	Pehler	Solon
Cohen	Frederickson, D.J.	Marty	Peterson, R. W.	Spear
Dahl	Freeman	Metzen	Piper	Stumpf
Davis	Hughes	Moe, D.M.	Pogemiller	Vickerman
DeCramer	Johnson, D.J.	Moe, R.D.	Reichgott	Waldorf

Those who voted in the negative were:

Anderson	Bertram	Johnson, D.E.	Lessard	Ramstad
Beckman	Brataas	Knaak	McGowan	Renneke
Belanger	Decker	Knutson	McQuaid	Storm
Benson	Frederick	Laidig	Olson	
Berg	Frederickson, D.R.	Langseth	Pariseau	
Bernhagen	Gustafson	Larson	Piepho	

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

S.F. No. 2621 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 36 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Luther	Pehler	Spear
Berglin	Frank	Marty	Peterson, R. W.	Stumpf
Brandl	Frederickson, D.J.	Merriam	Piper	Vickerman
Cohen	Freeman	Metzen	Pogemiller	Waldorf
Dahl	Hughes	Moe, D.M.	Reichgott	
Davis	Johnson, D.J.	Moe, R.D.	Samuelson	
DeCramer	Kroening	Morse	Schmitz	
Dicklich	Lantry	Novak	Solon	

Those who voted in the negative were:

Anderson	Bertram	Johnson, D.E.	Lessard	Ramstad
Beckman	Brataas	Knaak	McGowan	Renneke
Belanger	Decker	Knutson	McQuaid	Storm
Benson	Frederick	Laidig	Olson	
Berg	Frederickson, D.R.	Langseth	Pariseau	
Bernhagen	Gustafson	Larson	Piepho	

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. 2419 at 9:30 p.m.:

Messrs. Frederickson, D.R.; Lessard; Luther; Merriam and Kroening. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 394 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 394

A bill for an act relating to education; requiring a report on preparation of post-secondary education administrators and faculty.

April 20, 1990

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. 394, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 394 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. [REPORT ON TRAINING OF POST-SECONDARY ADMINISTRATION AND FACULTY.]

Subdivision 1. [LEGISLATIVE INTENT.] The Minnesota legislature

recommends that (1) post-secondary administrators have training in administrative skills relevant to their position in areas such as management, affirmative action, human relations, and contract negotiations; and (2) faculty have training in educational psychology, teaching methods, and advising students. Similar training is recommended for students preparing for post-secondary teaching or administrative careers.

Subd. 2. [REPORT.] Each post-secondary governing board shall examine its current programs that provide initial training and continuing education for its administrators and faculty to improve their administrative, teaching, and advising skills. The boards shall report to the education committees on their existing programs and their future plans by January 15, 1991."

Delete the title and insert:

"A bill for an act relating to education; recommending post-secondary education administrators and faculty members take certain coursework."

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

Senate Conferees: (Signed) Ronald R. Dicklich, Jim Ramstad, Gregory L. Dahl

House Conferees: (Signed) Mike Jaros, Mary Jo McGuire, Dick Pellow

Mr. Dicklich moved that the foregoing recommendations and Conference Committee Report on S.F. No. 394 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. 394 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Knaak	Moe, D.M.	Samuelson
Anderson	DeCramer	Knutson	Moe, R.D.	Schmitz
Beckman	Dicklich	Langseth	Morse	Solon
Belanger	Flynn	Lantry	Olson	Spear
Benson	Frank	Larson	Pariseau	Storm
Berglin	Frederick	Lessard	Piepho	Stumpf
Bernhagen	Frederickson, D.J.	Marty	Piper	Vickerman
Bertram	Frederickson, D.R.	McGowan	Pogemiller	Waldorf
Cohen	Gustafson	McQuaid	Ramstad	
Dahl	Hughes	Merriam	Reichgott	
Davis	Johnson, D.E.	Metzen	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. 1942 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1942

A bill for an act relating to insurance; making changes in arbitration proceedings concerning no-fault automobile insurance; amending Minnesota Statutes 1988, section 65B.525, by adding a subdivision; and Minnesota Statutes 1989 Supplement, section 72A.327.

April 20, 1990

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. 1942, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1942 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 65B.44, subdivision 2, is amended to read:

Subd. 2. [MEDICAL EXPENSE BENEFITS.] Medical expense benefits shall reimburse all reasonable expenses for necessary medical, surgical, X-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices, prescription drugs, necessary ambulance and all other reasonable transportation expenses incurred in traveling to receive covered medical benefits, hospital, extended care and nursing services. Hospital room and board benefits may be limited, except for intensive care facilities, to the regular daily semiprivate room rates customarily charged by the institution in which the recipient of benefits is confined. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with that person's religious beliefs. Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors. Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45. *Medical expense benefits for medical procedures and treatment are subject to section 65B.451.*

Sec. 2. [65B.451] [MEDICAL PROCEDURES AND TREATMENT.]

Subdivision 1. [NOTICE.] If an injured person has undertaken a medical procedure or treatment that is subject to section 65B.44, subdivision 2, the treating health professional must give written notice to the insurer within 60 days of the initial procedure or treatment, unless the insurer knows or has reason to know of the undertaking. The injured person must provide the treating health professional with the name and address of the insurer of the injured person. The insurer must notify the treating health professional if the insurer is not the reparation obligor. The notice must include the name and address of the treating health professional, a statement from the treating health professional of the medical procedure performed or the medical treatment provided, and the billing statement for the procedure or treatment provided up to the date of the notice.

Subd. 2. [BILLING STATEMENT.] Procedures or treatments provided

on or after the date of the notice must be billed no later than 60 days after the date of the procedure or treatment.

Subd. 3. [FAILURE TO SUBMIT NOTICE OR BILLING STATEMENT.] If the treating health professional does not submit the required notice or monthly billing statement within the specified time, the reparation obligor and the injured person are not responsible for the expense incurred for the medical procedure or treatment, unless failure to give timely notice or submit the billing statement within the required time is the result of excusable neglect.

Subd. 4. [EXEMPTION.] This section does not apply to a hospital as defined in section 144.50, subdivision 2, a physician who provides the medical procedure or treatment in a hospital, or an ambulance service as defined in section 144.801, subdivision 4.

Sec. 3. Minnesota Statutes 1989 Supplement, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. ~~Except as otherwise provided in section 72A.327,~~ The supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of \$5,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 4. Minnesota Statutes 1988, section 65B.525, is amended by adding a subdivision to read:

Subd. 3. [ENTRY OF ORDER.] An order on an arbitration proceeding under subdivision 1 or 2 must be entered within 90 days of submission of a case for arbitration.

Sec. 5. [65B.526] [NO-FAULT INSURANCE; CLAIM DENIAL.]

Subdivision 1. [ADVERSE MEDICAL EVALUATION.] No insurer shall deny a claim by an insured under no-fault coverage on the basis of a medical evaluation by a health professional selected by the insurer within the initial 210 days after the accident giving rise to the injury being treated unless: (1) the insurer allows the insured the option of obtaining a medical evaluation by a neutral health care provider from the roster established pursuant to subdivision 2; and (2) if the option is exercised, the medical evaluation is consistent with the insurer's initial evaluation. If the option is not exercised, the insurer may deny the claim. The cost of this evaluation must be borne by the insurer at a rate at least equal to the rate the insurer has customarily paid for similar medical evaluations. The medical evaluation required in this subdivision must be performed by a health professional, as defined in section 72A.491, subdivision 9, qualified to evaluate the injury that is the subject of the claim and having a licensure and specialty designation specified by the insurer.

Subd. 2. [NEUTRAL HEALTH CARE PROVIDER ROSTER.] The commissioner of commerce shall make any necessary rules to carry out the purposes of this section including, but not limited to, maintaining a roster. Every health professional is eligible to be placed on the roster. Health professionals on the roster must agree not to treat the insured or claimant after the evaluation for the injury that is the subject of the claim, except as permitted by the commissioner. The commissioner shall select the person

from the roster who is to provide the medical examination. This assignment shall be made by a random procedure, to be established by rule, based upon sub-pools within the roster. The sub-pools must be based upon geographic location of the health professional's office or offices and upon the licensure or designated specialty of the health professional. The commissioner shall by rule establish a procedure ensuring that neutral medical evaluations are normally completed within 30 days of receipt by the commissioner of a request from the insurer. The health professional must submit the medical evaluation report within 15 days of the completion of the evaluation. The state boards, or other officers whose duty it is to license or register a system or branch of healing, must provide the information the commissioner requires to develop and maintain the roster, and must provide any other assistance the commissioner requires.

Subd. 3. [NONAPPLICATION.] This section does not apply if the insurer's initial medical evaluation is performed by a neutral health care provider from the roster established pursuant to subdivision 2 and selected by the commissioner using the procedure set forth in subdivision 2.

Sec. 6. Minnesota Statutes 1988, section 72A.201, subdivision 8, is amended to read:

Subd. 8. [STANDARDS FOR CLAIM DENIAL.] The following acts by an insurer, adjuster, or self-insured, or self-insurance administrator constitute unfair settlement practices:

(1) denying a claim or any element of a claim on the grounds of a specific policy provision, condition, or exclusion, without informing the insured of the policy provision, condition, or exclusion on which the denial is based;

(2) denying a claim without having made a reasonable investigation of the claim;

(3) denying a liability claim because the insured has requested that the claim be denied;

(4) denying a liability claim because the insured has failed or refused to report the claim, unless an independent evaluation of available information indicates there is no liability;

(5) denying a claim without including the following information:

(i) the basis for the denial;

(ii) the name, address, and telephone number of the insurer's claim service office or the claim representative of the insurer to whom the insured or claimant may take any questions or complaints about the denial; and

(iii) the claim number and the policy number of the insured;

(6) denying a claim because the insured or claimant failed to exhibit the damaged property unless:

(i) the insurer, within a reasonable time period, made a written demand upon the insured or claimant to exhibit the property; and

(ii) the demand was reasonable under the circumstances in which it was made;

(7) failing to comply with section 65B.526.

Sec. 7. [REPEALER.]

Minnesota Statutes 1989 Supplement, section 72A.327, is repealed. Sections 5 and 6 are repealed December 31, 1991.

Sec. 8. [EFFECTIVE DATE.]

Sections 3, 4, and 7 are effective the day following final enactment. Sections 5 and 6 are effective January 1, 1991, except that the permanent rulemaking authority authorized in section 5 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; regulating no-fault insurance claim denials; amending Minnesota Statutes 1988, sections 65B.44, subdivision 2; 65B.525, by adding a subdivision; and 72A.201, subdivision 8; Minnesota Statutes 1989 Supplement, section 65B.525, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 65B; repealing Minnesota Statutes 1989 Supplement, section 72A.327."

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

Senate Conferees: (Signed) John E. Brandl, Michael O. Freeman

House Conferees: (Signed) Ted Winter, Wes Skoglund, Tony Onnen

CALL OF THE SENATE

Mr. Brandl imposed a call of the Senate for the balance of the proceedings on S.F. No. 1942. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Brandl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1942 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Cohen moved that the recommendations and Conference Committee Report on S.F. No. 1942 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

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

Mr. Larson moved that those not voting be excused from voting. The motion did not prevail.

Mr. Belanger moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 34 and nays 27, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Johnson, D.E.	McGowan	Ramstad
Anderson	Brataas	Knaak	McQuaid	Renneke
Beckman	Cohen	Knutson	Merriam	Schmitz
Belanger	Decker	Laidig	Metzen	Solon
Benson	Frederick	Larson	Olson	Storm
Berg	Frederickson, D.R.	Lessard	Pariseau	Vickerman
Bernhagen	Gustafson	Marty	Piepho	

Those who voted in the negative were:

Berglin	Flynn	Langseth	Novak	Spear
Brandl	Frank	Lantry	Pehler	Stumpf
Dahl	Frederickson, D.J.	Luther	Piper	Waldorf
Davis	Hughes	Moe, D.M.	Pogemiller	
DeCramer	Johnson, D.J.	Moe, R.D.	Reichgott	
Dicklich	Kroening	Morse	Samuelson	

The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1873 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1873

A bill for an act relating to crime victims; providing victims of delinquent acts the right to request notice of release of juvenile offenders from juvenile correctional facilities; providing notice to sexual assault victims when a juvenile offender is released from pretrial detention; requiring that victims be informed of their right to request the withholding of public law enforcement data that identifies them; clarifying the duty of court administrators to disburse restitution payments; making certain changes to the crime victims reparations act; amending Minnesota Statutes 1988, sections 611A.53, subdivision 2; and 611A.57, subdivision 6; Minnesota Statutes 1989 Supplement, sections 13.84, subdivision 5a; 260.161, subdivision 2; 611A.04, subdivision 2; 611A.06; 611A.52, subdivision 8; and 629.73; proposing coding for new law in Minnesota Statutes, chapter 611A.

April 12, 1990

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. 1873, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1873 be further amended as follows:

Page 2, line 8, before "*address*" insert "*home*"

Page 3, after line 10, insert:

"Sec. 3. Minnesota Statutes 1988, section 609.135, subdivision 1, is amended to read:

Subdivision 1. [TERMS AND CONDITIONS.] Except when a sentence of life imprisonment is required by law, or when a mandatory minimum term of imprisonment is required by section 609.11, any court may stay imposition or execution of sentence and (a) may order ~~noninstitutional~~ *intermediate* sanctions without placing the defendant on probation, or (b) may place the defendant on probation with or without supervision and on the terms the court prescribes, including ~~noninstitutional~~ *intermediate* sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or

in any case by some other suitable and consenting person. No ~~noninstitutional~~ *intermediate* sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them. For purposes of this subdivision, subdivision 6, and section 609.14, the term "~~noninstitutional~~ *intermediate* sanctions" includes but is not limited to *incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, and work in lieu of or to work off fines.*

A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169.121.

Sec. 4. Minnesota Statutes 1988, section 609.135, subdivision 6, is amended to read:

Subd. 6. [PREFERENCE FOR ~~NONINSTITUTIONAL~~ *INTERMEDIATE* SANCTIONS.] A court staying imposition or execution of a sentence that does not include a term of incarceration as a condition of the stay shall order ~~noninstitutional~~ *other intermediate* sanctions where practicable.

Sec. 5. Minnesota Statutes 1988, section 609.14, is amended to read:
609.14 [REVOCATION OF STAY.]

Subdivision 1. [GROUNDS.] When it appears that the defendant has violated any of the conditions of probation or ~~noninstitutional~~ *intermediate* sanction, or has otherwise been guilty of misconduct which warrants the imposing or execution of sentence, the court may without notice revoke the stay thereof and probation and direct that the defendant be taken into immediate custody.

Subd. 2. The defendant shall thereupon be notified in writing and in such manner as the court directs of the grounds alleged to exist for revocation of the stay of imposition or execution of sentence. If such grounds are brought in issue by the defendant, a summary hearing shall be held thereon at which the defendant is entitled to be heard and to be represented by counsel.

Subd. 3. [SENTENCE.] If any of such grounds are found to exist the court may:

(1) If imposition of sentence was previously stayed, again stay sentence or impose sentence and stay the execution thereof, and in either event place the defendant on probation or order ~~noninstitutional~~ *intermediate* sanctions pursuant to section 609.135, or impose sentence and order execution thereof; or

(2) If sentence was previously imposed and execution thereof stayed, continue such stay and place the defendant on probation or order ~~noninstitutional~~ *intermediate* sanctions in accordance with the provisions of section 609.135, or order execution of the sentence previously imposed.

Subd. 4. If none of such grounds are found to exist, the defendant shall be restored to liberty under the previous order of the court.

Sec. 6. Minnesota Statutes 1988, section 631.48, is amended to read:
631.48 [PENALTY MAY INCLUDE COSTS OF PROSECUTION.]

In a criminal action, upon conviction of the defendant, the court may

order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, *including disbursements made to extradite a defendant*. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements must be paid into the treasury of the county of conviction, but this payment may not interfere with the payment of officers', witnesses', or jurors' fees."

Page 3, line 11, delete "3" and insert "7"

Page 3, line 16, delete "4" and insert "8"

Page 3, line 33, delete "5" and insert "9"

Page 4, line 26, delete "6" and insert "10"

Page 6, line 30, delete "7" and insert "11"

Page 8, line 2, delete "8" and insert "12"

Page 8, line 14, delete "9" and insert "13"

Page 9, after line 4, insert:

"Sec. 14. [EFFECTIVE DATE.]

Sections 10 to 12 are effective June 30, 1990."

Delete the title and insert:

"A bill for an act relating to crime; providing victims of delinquent acts the right to request notice of release of juvenile offenders from juvenile correctional facilities; providing notice to sexual assault victims when a juvenile offender is released from pretrial detention; requiring that victims be informed of their right to request the withholding of public law enforcement data that identifies them; clarifying the duty of court administrators to disburse restitution payments; making certain changes to the crime victims reparations act; authorizing the court to order intermediate sanctions as a condition of probation; defining intermediate sanctions; providing for payment of costs of extradition; amending Minnesota Statutes 1988, sections 609.135, subdivisions 1 and 6; 609.14; 611A.53, subdivision 2; 611A.57, subdivision 6; and 631.48; Minnesota Statutes 1989 Supplement, sections 13.84, subdivision 5a; 260.161, subdivision 2; 611A.04, subdivision 2; 611A.06; 611A.52, subdivision 8; and 629.73; proposing coding for new law in Minnesota Statutes, chapter 611A."

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

Senate Conferees: (Signed) Richard J. Cohen, Ember D. Reichgott

House Conferees: (Signed) Arthur W. Seaberg, Randy C. Kelly, Sandy Pappas

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1873 be now adopted, and that the bill be repassed as amended by the Conference Committee.

CALL OF THE SENATE

Mr. Cohen imposed a call of the Senate for the balance of the proceedings on S.F. No. 1873. The Sergeant at Arms was instructed to bring in the

absent members.

The question recurred on the motion of Mr. Cohen. The motion prevailed. So the recommendation and Conference Committee Report were adopted.

S.F. No. 1873 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	Cohen	Hughes	McQuaid	Pogemiller
Anderson	Davis	Johnson, D.E.	Metzen	Ramstad
Beckman	Decker	Knaak	Moe, D.M.	Reichgott
Belanger	DeCramer	Knutson	Morse	Renneke
Benson	Dicklich	Laidig	Novak	Schmitz
Berg	Flynn	Langseth	Olson	Solon
Berglin	Frank	Lantry	Pariseau	Spear
Bernhagen	Frederick	Larson	Pehler	Storm
Bertram	Frederickson, D.J.	Luther	Peterson, R.W.	Stumpf
Brandl	Freeman	Marty	Piepho	Vickerman
Brataas	Gustafson	McGowan	Piper	Waldorf

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1946 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1946

A bill for an act relating to agriculture; providing for deficiency judgments relating to foreclosure and sale of mortgages on property used in agricultural production; requiring fair market value to be determined by the court; extending period for execution on judgment; amending Minnesota Statutes 1988, sections 500.24, subdivision 4; 582.30, subdivisions 3, 4, 5, and 6.

April 20, 1990

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. 1946, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1946 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 500.24, subdivision 4, is amended to read:

Subd. 4. [REPORTS.] (a) The chief executive officer of every pension or investment fund, corporation, or limited partnership, except a family

farm corporation or a family farm limited partnership, that holds any interest in agricultural land or land used for the breeding, feeding, pasturing, growing, or raising of livestock, dairy or poultry, or products thereof, or land used for the production of agricultural crops or fruit or other horticultural products, other than a bona fide encumbrance taken for purposes of security, or which is engaged in farming or proposing to commence farming in this state after May 20, 1973, shall file with the commissioner of agriculture a report containing the following information and documents:

(1) The name of the pension or investment fund, corporation, or limited partnership and its place of incorporation, certification, or registration;

(2) The address of the pension or investment plan headquarters or of the registered office of the corporation in this state, the name and address of its registered agent in this state and, in the case of a foreign corporation or limited partnership, the address of its principal office in its place of incorporation, certification, or registration;

(3) The acreage and location listed by quarter-quarter section, township and county of each lot or parcel of land in this state owned or leased by the pension or investment fund, limited partnership, or corporation and used for the growing of crops or the keeping or feeding of poultry or livestock;

(4) The names and addresses of the officers, administrators, directors or trustees of the pension or investment fund, or of the officers, shareholders owning more than ten percent of the stock, including the percent of stock owned by each such shareholder, and the members of the board of directors of the corporation, and the general and limited partners and the percentage of interest in the partnership by each partner;

(5) The farm products which the pension or investment fund, limited partnership, or corporation produces or intends to produce on its agricultural land;

(6) With the first report, a copy of the title to the property where the farming operations are or will occur indicating the particular exception claimed under subdivision 3, clauses (a) to (r); and

(7) With the first or second report, a copy of the conservation plan proposed by the soil and water conservation district, and with subsequent reports a statement of whether the conservation plan was implemented.

The report of a corporation seeking to qualify hereunder as a family farm corporation, an authorized farm corporation, a family farm partnership, or authorized farm partnership shall contain the following additional information: The number of shares or the partnership interests owned by persons residing on the farm or actively engaged in farming, or their relatives within the third degree of kindred according to the rules of the civil law or their spouses; the name, address and number of shares owned by each shareholder or partnership interests owned by each partner; and a statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest and annuities. No pension or investment fund, limited partnership, or corporation shall commence farming in this state until the commissioner of agriculture has inspected the report and certified that its proposed operations comply with the provisions of this section.

(b) Every pension or investment fund, limited partnership, or corporation

as described in clause (a) shall, prior to April 15 of each year, file with the commissioner of agriculture a report containing the information required in clause (a), based on its operations in the preceding calendar year and its status at the end of the year. A pension or investment fund, limited partnership, or corporation that does not file the report by April 15 must pay a \$500 civil penalty. The penalty is a lien on the land being farmed under subdivision 3 until the penalty is paid.

(c) The commissioner or the commissioner's authorized representative may enter into a written agreement with a person required to file a report under this subdivision who, for good cause shown, has failed to make a timely filing. An agreement must be construed as a "no contest" pleading and may encompass a reduction or waiver of the civil penalty for late filing. The agreement is final and conclusive with respect to the civil penalty, except upon a showing of fraud or malfeasance or misrepresentation of a material fact. The matter agreed upon in the agreement may not be reopened or modified by an officer, employee, or agent of the state. The report required under paragraph (b) must be completed prior to a reduction or waiver under this paragraph. The commissioner may enter into an agreement only once for each person required to file under this subdivision.

(d) Failure to file a required report, or the willful filing of false information, shall constitute a gross misdemeanor.

Sec. 2. Minnesota Statutes 1988, section 582.30, subdivision 3, is amended to read:

Subd. 3. [MORTGAGE ON AGRICULTURAL PROPERTY ENTERED AFTER MARCH 22, 1986.] (a) If a mortgage entered after March 22, 1986 on property used in agricultural production is foreclosed and sold, a deficiency judgment may only be obtained by filing ~~a separate~~ *an* action for a deficiency judgment *and a determination of the fair market value of the property* within 90 days after the foreclosure sale. *In the action all issues of fact, including determination of the fair market value of the property, shall be tried by a jury unless a jury trial is waived as provided in Minnesota district court rules.* A court may allow a deficiency judgment only if it determines that the sale of the property was conducted in a commercially reasonable manner.

(b) The amount of the deficiency judgment is limited to the difference of the fair market value of the property, and the amount remaining unpaid on the mortgage if the foreclosure is under chapter 580 or the amount of the judgment if the foreclosure is under chapter 581. A separate jury proceeding must be brought to determine the fair market value of the property. The property may not be presumed to be sold for its fair market value. A party adversely affected by a deficiency judgment may submit evidence relevant to establishing the fair market value of the property. Notice of the time and place where the action for the deficiency judgment and the determination of fair market value of the property is to be determined heard must be given to all parties adversely affected by the judgment.

Sec. 3. Minnesota Statutes 1988, section 582.30, subdivision 4, is amended to read:

Subd. 4. [JUDGMENT ON MORTGAGE NOTE.] A personal judgment may not be executed against a mortgagor liable on a mortgage note entered

after March 22, 1986 secured by real property used in agricultural production, unless the fair market value of the property is determined by a jury in a separate proceeding as provided in subdivision 3, paragraph (b). The personal judgment on the mortgage note may not be for more than the difference of the amount due on the note and the fair market value of the property.

Sec. 4. Minnesota Statutes 1988, section 582.30, subdivision 5, is amended to read:

Subd. 5. [MORTGAGE ON AGRICULTURAL PROPERTY ENTERED ON OR BEFORE MARCH 22, 1986.] (a) If a mortgage entered on or before March 22, 1986 on property used in agricultural production is foreclosed and sold, a deficiency judgment may only be obtained by filing a separate action for a deficiency judgment and a determination of the fair market value of the property within 90 days after the foreclosure sale. In the action all issues of fact, including determination of the fair market value of the property, shall be tried by a jury unless a jury trial is waived as provided in Minnesota district court rules. A court may allow a deficiency judgment only if it determines that the sale of the property was conducted in a commercially reasonable manner.

(b) The amount of the deficiency judgment is limited to the difference of the fair market value of the property, and the amount remaining unpaid on the mortgage if the foreclosure is under chapter 580 or the amount of the judgment if the foreclosure is under chapter 581. A separate jury proceeding must be brought to determine the fair market value of the property. The property may not be presumed to be sold for its fair market value. A party adversely affected by a deficiency judgment may submit evidence relevant to establishing the fair market value of the property. Notice of the time and place where the action for the deficiency judgment and the determination of fair market value of the property is to be determined heard must be given to all parties adversely affected by the judgment.

Sec. 5. Minnesota Statutes 1988, section 582.30, subdivision 6, is amended to read:

Subd. 6. [JUDGMENT ON MORTGAGE NOTE.] A personal judgment may not be executed against a mortgagor liable on a mortgage note entered on or before March 22, 1986 secured by real property used in agricultural production, unless the fair market value of the property is determined by a jury in a separate proceeding as provided in subdivision 5, paragraph (b). The personal judgment on the mortgage note may not be for more than the difference of the amount due on the note and the fair market value of the property.

Sec. 6. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment, but the provision allowing for an agreement concerning reduction or waiver of a civil penalty for late filing applies to a filing due April 15, 1989, or thereafter."

Delete the title and insert:

"A bill for an act relating to real property; regulating mortgage foreclosures and judgments and the filing of reports on certain agricultural property; amending Minnesota Statutes 1988, sections 500.24, subdivision 4; and 582.30, subdivisions 3, 4, and 5."

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

Senate Conferees: (Signed) Charles A. Berg, Don Anderson, John E. Brandl

House Conferees: (Signed) Jeff Bertram, Elton R. Redalen

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1946 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. 1946 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 40 and nays 11, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Knutson	Moe, D.M.	Pogemiller
Anderson	Cohen	Laidig	Moe, R.D.	Ramstad
Belanger	Decker	Langseth	Novak	Reichgott
Benson	Flynn	Lantry	Olson	Schmitz
Berg	Frederick	Larson	Pariseau	Storm
Bernhagen	Hughes	McGowan	Pehler	Stumpf
Bertram	Johnson, D.E.	McQuaid	Peterson, R. W.	Vickerman
Brandl	Knaak	Metzen	Piepho	Waldorf

Those who voted in the negative were:

Beckman	Dicklich	Johnson, D.J.	Morse	Renneke
Davis	Frederickson, D.J.	Marty	Piper	Spear
DeCramer				

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1777 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1777

A bill for an act relating to Ramsey county; setting the terms of charter commission members; amending Minnesota Statutes 1988, section 383A.553, subdivision 1.

April 23, 1990

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. 1777, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment.

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

Senate Conferees: (Signed) Richard J. Cohen, Gene Waldorf

House Conferees: (Signed) Dick Kostohryz, Mary Jo McGuire, Don Valento

Mr. Cohen moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1777 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Mr. Knaak moved that the recommendations and Conference Committee Report on S.F. No. 1777 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

CALL OF THE SENATE

Mr. Cohen imposed a call of the Senate for the balance of the proceedings on S.F. No. 1777. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 34 and nays 13, as follows:

Those who voted in the affirmative were:

Anderson	Brandl	Johnson, D.E.	McQuaid	Reichgott
Beckman	Brataas	Johnson, D.J.	Morse	Renneke
Belanger	Decker	Knaak	Novak	Schmitz
Berg	Dicklich	Laidig	Olson	Storm
Berglin	Flynn	Larson	Pariseau	Stumpf
Bernhagen	Frederick	Marty	Pehler	Vickerman
Bertram	Hughes	McGowan	Piepho	

Those who voted in the negative were:

Adkins	DeCramer	Langseth	Moe, D.M.	Spear
Cohen	Frederickson, D.J.	Lantry	Peterson, R.W.	
Davis	Knutson	Luther	Piper	

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 Senate File No. 1847, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1847: A bill for an act relating to human rights; amending the definition of age; clarifying medical information obtainable from prospective employees; clarifying protection for pregnant employees; prohibiting threats against home owners and renters; prohibiting discriminatory business practices; clarifying the meaning of business necessity and continuing violations; renumbering definitions; amending Minnesota Statutes 1988, sections 363.01, subdivision 28; 363.03, subdivisions 2, 8a, and by adding subdivisions; 363.06, subdivision 1, and by adding a subdivision; 363.071, by adding subdivisions; 363.116; Minnesota Statutes 1989 Supplement, sections 363.02, subdivision 1; and 363.03, subdivision 1.

Senate File No. 1847 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1854, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1854: A bill for an act relating to government data practices; establishing procedures for computerized comparisons of data; requiring matching agreements; providing for contesting of data; requiring reviews and reports; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 13B.

Senate File No. 1854 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2617, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2617: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; reducing appropriations for the biennium ending June 30, 1991, with certain conditions; providing for the transfer of money in the state treasury; amending Minnesota Statutes 1989 Supplement, section 297B.09, subdivision 1.

Senate File No. 2617 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2103, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2103 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2103

A bill for an act relating to public employee retirement plans; requiring the regular reporting of investment performance results calculated on a time-weighted total rate of return basis; proposing coding for new law in Minnesota Statutes, chapter 356.

April 20, 1990

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. 2103, 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. 2103 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

STATE PATROL RETIREMENT PLAN MEMBERSHIP

Section 1. Minnesota Statutes 1988, section 43A.34, subdivision 4, is amended to read:

Subd. 4. [STATE PATROL, CONSERVATION AND CRIME BUREAU OFFICERS EXEMPTED.] Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the state patrol retirement fund by reason of their employment, and members of the Minnesota state patrol ~~division~~ and *gambling enforcement divisions* of the department of public safety who are members of the state patrol retirement association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section 352B.01, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the state patrol retirement fund by reason of their employment before July 1, 1973, shall not continue employment after attaining the age of 70 years.

Sec. 2. Minnesota Statutes 1989 Supplement, section 352.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] "State employee" does not include:

- (1) elective state officers;
- (2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;
- (3) employees who are eligible for membership in the state teachers retirement association except employees of the department of education who have chosen or may choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval militia who are assigned to permanent peacetime duty and who under federal law are or are required to be members of a federal retirement system;

(6) election officers;

(7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;

(8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;

(9) receivers, jurors, notaries public, and court employees who are not in the judicial branch as defined in section 43A.02, subdivision 25, except referees and adjusters employed by the department of labor and industry;

(10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;

(11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;

(12) employees of the Sibley House Association;

(13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;

(14) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its full-time secretary;

(15) state troopers;

(16) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of that year; and persons employed at any time by the state fair administration for special events held on the fairgrounds;

(17) emergency employees in the classified service; except that if an emergency employee, within the same pay period, becomes a provisional or probationary employee on other than a temporary basis, the employee shall be considered a "state employee" retroactively to the beginning of the pay period;

(18) persons described in section 352B.01, subdivision 2, clauses ~~(b)~~ and ~~(c)~~, ~~formerly defined as state police officers (2) to (5)~~;

(19) temporary employees in the classified service, temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and seasonal help in the classified service employed by the department of revenue;

(20) trainees paid under budget classification number 41, and other

trainee employees, except those listed in subdivision 2a, clause (10);

(21) persons whose compensation is paid on a fee basis;

(22) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(23) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(24) chaplains and nuns who have taken a vow of poverty as members of a religious order;

(25) labor service employees employed as a laborer 1 on an hourly basis;

(26) examination monitors employed by departments, agencies, commissions, and boards to conduct examinations required by law;

(27) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(28) persons appointed to serve as members of fact-finding commissions or adjustment panels, arbitrators, or labor referees under chapter 179;

(29) temporary employees employed for limited periods under any state or federal program for training or rehabilitation including persons employed for limited periods from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(30) full-time students employed by the Minnesota historical society intermittently during part of the year and full-time during the summer months;

(31) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members are appointed by the metropolitan council;

(32) persons employed in positions designated by the department of employee relations as student workers;

(33) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days after appointment that coverage is desired;

(34) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage under a collective bargaining agreement first employed after June 1, 1977;

(35) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act after March 30, 1978, unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the

federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employee contribution;

(36) off-duty peace officers while employed by the metropolitan transit commission under section 629.40, subdivision 5; and

(37) persons who are employed as full-time firefighters by the department of military affairs and as firefighters are members of the public employees police and fire fund.

Sec. 3. Minnesota Statutes 1988, section 352B.01, subdivision 2, is amended to read:

Subd. 2. [MEMBER.] "Member" means:

(a) (1) persons referred to and employed after June 30, 1943, under Laws 1929, chapter 355, as amended or supplemented, currently employed by the state, whose salaries or compensation is paid out of state funds;

(b) (2) a conservation officer employed under section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds; ~~and~~

(c) (3) a crime bureau officer who was employed by the crime bureau and was a member of the highway patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant under section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds;

(4) *a person who is employed by the state in the department of public safety in a data processing management position with salary or compensation paid from state funds, who was a crime bureau officer covered by the state patrol retirement plan on August 15, 1987, and who was initially hired in the data processing management position within the department during September 1987, or January 1988, with membership continuing for the duration of the person's employment in that position, whether or not the person has the power of arrest by warrant after August 15, 1987; and*

(5) *public safety employees defined as peace officers in section 626.84, subdivision 1, paragraph (c), and employed with the division of gambling enforcement under section 299L.01.*

Sec. 4. Minnesota Statutes 1988, section 352B.14, subdivision 4, is amended to read:

Subd. 4. [RETIREEES UNDER OLD LAW.] A member defined in section 352B.01, subdivision 2, clause ~~(a)~~ (1), who has retired and began collecting a retirement annuity before April 21, 1961, or any surviving spouse or child who began collecting an annuity or benefit before April 21, 1961, shall continue to receive an annuity or benefit in the amount and subject to the conditions specified in the law before April 21, 1961.

Sec. 5. [PAYMENT OF OMITTED CONTRIBUTION AMOUNTS.]

(a) *A person affected by section 3 who has not made the full member contribution to the state patrol retirement plan for service before the effective date of this section shall pay the amount of omitted member contributions, plus annual compound interest at the rate of 8.5 percent. The*

omitted member contribution amount and interest must be paid by January 1, 1991. The person shall be paid a refund from any other Minnesota public pension plan for the period of the omitted member contributions and service credit for that period in that plan is forfeited upon receipt of the refund.

(b) Upon payment of the omitted member contribution amount under paragraph (a), the department of public safety shall pay an amount equal to the amount of the omitted member contribution multiplied by the factor of 2.224. This omitted employer contribution must be paid within 30 days of the payment of the omitted member contribution amount.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective on the day following final enactment.

ARTICLE 2

PENSION PLAN INVESTMENT PERFORMANCE REPORTING

Section 1. [356.218] [INVESTMENT PERFORMANCE REPORT.]

Subdivision 1. [REPORT REQUIRED.] (a) Unless paragraph (c) applies, the chief administrative officer of a public pension plan with an associated pension fund or investment fund specified in subdivision 2 shall annually prepare and file an investment performance report meeting the contents requirements of subdivision 3. The report must be filed with or distributed as specified in paragraph (b) by April 1 each year and must cover the previous calendar year. The report must be prepared under the supervision or at the direction of the chief administrative officer and must be signed by that officer. The investment performance report is a public record.

(b) A copy of the report or a synopsis of the report must be distributed to each member of the pension plan and must be filed with the chief administrative officer of each employing unit making employer contributions to the pension plan. A copy of the report also must be filed with the executive director of the legislative commission on pensions and retirement.

(c) This section does not apply to the state board of investment. This section also does not apply to a public pension plan if all assets of the pension fund or investment fund attributable to the public pension plan are invested by the state board of investment under chapters 11A and 356A and if the executive director of the state board of investment makes public in an annual report or in other documents the fiscal year investment performance results of the pension fund or investment fund attributable to the pension plan that substantially meet the requirements of subdivision 3 for that fiscal year period.

Subd. 2. [COVERED PUBLIC PENSION PLANS.] The provisions of this section apply to any Minnesota public pension plan, including a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.775, that has assets with a book value of at least \$500,000 as of the end of the preceding plan year.

Subd. 3. [CONTENTS OF THE INVESTMENT PERFORMANCE REPORT.] The investment performance report required by this section must contain the time-weighted total rate of return results for each quarter and annually for each significant asset class or type of investment and for the portfolio as a whole. The time-weighted rate of return results must be

computed using market values and the formula or formulas prescribed by the state board of investment under section 11A.04, clause (11). The person performing the calculations shall certify conformance to that formula or those formulas. The investment performance report may also include any additional investment performance or investment related information that the chief administrative officer considers necessary to provide an adequate summary of the performance of the portfolio. The additional information must be clearly indicated as a supplement to the information required by this subdivision. The executive director of the legislative commission on pensions and retirement shall prescribe the forms on which the report must be submitted and may prescribe other directions for submitting the report.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on July 1, 1990.

ARTICLE 3

STATE UNIVERSITY AND COMMUNITY COLLEGE
FACULTY RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 1989 Supplement, section 136.81, subdivision 1, is amended to read:

Subdivision 1. [DEDUCTIONS.] The state university board and the state board for community colleges shall deduct from the salary of each person described in section 136.80, subdivision 1, a sum equal to five percent of the person's annual salary paid between \$6,000 and \$15,000. The deduction must be made in the same manner as other retirement deductions are made from the salary of the person. The employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person. If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above \$15,000 as specified in this subdivision. ~~The money deducted and the employer contribution must be deposited to the credit of the state university and community college supplemental retirement plan account of the teachers retirement fund. The account must be separate and distinct from other funds, accounts, or assets of the teachers retirement fund. Two percent of the amount of the salary deductions and employer contributions must be credited to the administrative expense reserve account of the supplemental retirement plan and must may be used by the state university board and the state board for community colleges for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65.~~

~~Deductions taken from the salary of a person for the supplemental retirement plan in error must, upon discovery and verification, be refunded to the person. Any related employer contributions must be refunded to the employer. The executive director shall establish a reserve reflecting any gains or losses realized due to the purchase and redemption of shares representing salary deductions and employer contributions made in error. The balance of the reserve remaining after the refund of contributions made in error must be credited annually to the administrative expense reserve account.~~

~~If salary deductions required under this section are omitted, the amount of the omitted salary deductions may be remitted by the person to the~~

supplemental retirement plan investment account of the teachers retirement association within 90 days following the association's written notification to the person of the omission, but not thereafter. If the omitted salary deductions are received from the person, the required employer contribution must be paid by the employer within 30 days after the association's written notification to the employer of the amount due.

Sec. 2. Minnesota Statutes 1988, section 136.81, is amended by adding a subdivision to read:

Subd. 1a. [ADMINISTRATION.] The executive director of the teachers retirement association shall transfer the administration records of the supplemental retirement plan to the chancellor of the state university system and the chancellor of the state community college system on July 1, 1991. The chancellor of the state university system and the chancellor of the state community college system shall administer the supplemental retirement plan for their employees. The chancellors shall invest contributions made under this section, less amounts used for administrative expenses, as required by section 354B.05, subdivisions 2 and 3. The retirement contributions and death benefits provided by annuity contracts or custodial accounts purchased by the chancellors are owned by the plan and must be paid in accordance with the provisions of the annuity contracts or custodial accounts.

Sec. 3. Minnesota Statutes 1989 Supplement, section 136.82, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The executive director of the teachers retirement fund shall redeem shares in the accounts of the Minnesota supplemental retirement investment fund standing in an employee's share account record under the following circumstances, but always in accordance with the laws and rules governing the Minnesota supplemental retirement investment fund:

(b) The executive director shall redeem shares under this subdivision when requested to do so in writing on forms provided by the executive director by a person having shares to the credit of the employee's share account record if the person is age 55 or older and is no longer employed by the state university board or state board for community colleges. In such case the person must receive the cash realized on the redemption of the shares. The person may direct the redemption of not more than 20 percent of the person's shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year.

(c) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person has left employment by the state university board or state board for community colleges because of a total and permanent disability as defined in section 354.05, subdivision 14. If the executive director finds that the person is totally and permanently disabled and will as a result be unable to return to similar employment, the person must receive the cash realized on the redemption of the shares. The person may

direct the redemption of not more than 20 percent of the shares in the employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, at their sole discretion, permit greater withdrawals in any one year. If the person returns to good health, the person owes no restitution to the state or a fund established by its laws for a redemption under this paragraph.

(d) The executive director shall redeem shares under this subdivision in the event of the death of a person having shares to the credit of the employee's share account record and leaving a *surviving spouse designated beneficiary*, when requested to do so in writing, on forms provided by the executive director, by the *surviving spouse designated beneficiary*. The *surviving spouse designated beneficiary* must receive the cash realized on the redemption of the shares. *If the designated beneficiary is a surviving spouse, the surviving spouse may direct the redemption of not more than 20 percent of the shares in the deceased spouse's person's employee's share account record in any one year and may not direct more than one redemption in any one calendar month; provided, however, that the state university board or its designee, in the case of a person employed by the state university board, and the state board for community colleges or its designee, in the case of a person employed by the state board for community colleges, may, upon application, their sole discretion, permit greater withdrawals in any one year. In that case the surviving spouse must receive the cash realized from the redemption of the shares. Upon the death of the surviving spouse any shares remaining in the employee's share account record must be redeemed by the executive director and the cash realized from the redemption must be distributed to the estate of the surviving spouse.*

(e) In the event of the death of a person having shares to the credit of the employee's share account record and leaving *no designated beneficiary*, *the surviving spouse must receive the cash realized on the redemption of the shares as provided in paragraph (d). If there is no surviving spouse*, the executive director shall redeem all shares to the credit of the employee's share account record and pay the cash realized from the redemption to the estate of the deceased person.

(f) The executive director shall redeem shares under this subdivision when requested to do so in writing, on forms provided by the executive director, by a person having shares to the credit of the employee's share account record if the person is no longer employed by the state university board or state board for community colleges, but does not qualify under the provisions of paragraphs (b) to (e). In that case, the person is entitled upon application to receive one-half of the cash realized on the redemption of shares and one-half must be credited to the administrative expense reserve account of the supplemental retirement plan for payment of necessary and reasonable administrative expenses of the supplemental retirement plan as provided in section 354.65.

Sec. 4. Minnesota Statutes 1989 Supplement, section 136.82, subdivision 2, is amended to read:

Subd. 2. [REDEMPTION OF SHARES AS AN ANNUITY.] A person who has shares to the credit of the employee's share account record, who

is 55 years of age or older and who is no longer employed by the state university board or the state board for community colleges or who is totally and permanently disabled pursuant to subdivision 1, paragraph (c), or who has the status of a surviving spouse of a person who has shares to the credit of the employee's share account pursuant to subdivision 1, paragraph (d) or (e), may redeem all or part of the shares to purchase an annuity by depositing the cash realized upon redemption with the executive director of the teachers retirement fund and receive in exchange an annuity for life or an optional annuity as hereinafter provided. The election to purchase an annuity may be made only once by any individual. If an election is made before the date on which the person is entitled to request redemption, the redemption shall not be made prior to the date upon which the person would be entitled to make the request. The annuity purchase rates shall be based on the annuity table of mortality adopted by the board of trustees of the teachers retirement fund for the fund as provided in section 354.07, subdivision 1, using the interest assumption specified in section 356.215, subdivision 4d. The amount of the annuity for life shall be that amount which has a present value equal to the cash realized on the redemption of the shares as of the first day of the month next following the date of the election to purchase an annuity. The board of trustees of the teachers retirement fund shall establish an optional joint and survivor annuity, an optional annuity payable for a period certain and for life thereafter, and an optional guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the cash realized from the redemption of shares is payable to the designated beneficiary. The optional forms of annuity shall be actuarially equivalent to the single life annuity as defined in section 354.05, subdivision 7. In establishing these optional forms, the board of trustees shall obtain the written recommendation of the actuary retained by the legislative commission on pensions and retirement, and these recommendations shall be a part of the permanent records of the board of trustees.

Sec. 5. Minnesota Statutes 1988, section 354B.01, subdivision 2, is amended to read:

Subd. 2. [COVERED EMPLOYMENT; STATE UNIVERSITIES.] "Covered employment," with respect to employment by the state university system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2, other than that of an administrator covered by or eligible for coverage in the Minnesota state retirement system unclassified employees retirement plan. *"Covered employment" does not include employment when the initial appointment is defined as less than 25 percent of a full academic year, exclusive of summer session.*

Sec. 6. Minnesota Statutes 1988, section 354B.01, subdivision 3, is amended to read:

Subd. 3. [COVERED EMPLOYMENT; COMMUNITY COLLEGES.] "Covered employment," with respect to employment by the community college system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2. *"Covered employment" does not include employment when the initial appointment is defined as less than 25 percent of a full academic year, exclusive of summer session.*

Sec. 7. Minnesota Statutes 1989 Supplement, section 354B.02, is amended by adding a subdivision to read:

Subd. 4. [PURCHASE OF PRIOR SERVICE CREDIT.] *A person who*

is initially excluded from participation, but is subsequently appointed to a position that qualifies for participation, may purchase credit for the prior uncovered employment. This purchase must be made by paying to the employer the amount the person would have paid if the prior service had been covered employment. This payment must be made within 45 days of the start of covered employment. The employer must contribute an amount to match any contribution made by an employee under this subdivision. Contributions for prior service must be invested under this section. Once a person is employed in a position that qualifies for participation, all subsequent employment by the person is under the provisions of this plan.

Sec. 8. Minnesota Statutes 1989 Supplement, section 354B.03, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE.] If a person with less than three years of allowable service elects a transfer to the plan under section 354B.02, subdivision 2 or 3, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions plus interest compounded annually at ~~five~~ six percent a year. The transfer must be made within 90 days from the date the executive director receives notification of the election. The transfer may not include any amount representing an employer contribution nor any amount representing the repayment of a refund received by the association after the date of enactment of this act.

Sec. 9. Minnesota Statutes 1989 Supplement, section 354B.05, subdivision 3, is amended to read:

Subd. 3. [SELECTION OF FINANCIAL INSTITUTIONS.] *The supplemental investment fund administered by the state board of investment is one of the investment options for the plan. The state university board and the community college board shall select no more than ~~three~~ two other financial institutions to provide annuity contracts or custodial accounts. Each board may at its discretion change a selection of an institution. Investment programs offered by the institutions must meet the requirements of section 401(a) or 403(b) of the Internal Revenue Code of 1986, as amended. In making their selections, the boards shall consider these criteria:*

- (1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;
- (2) the relationship of the benefits to their cost; and
- (3) the financial strength and stability of the institution.

The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the guaranteed return account must not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

Sec. 10. [INTEREST ON CERTAIN PRIOR TRANSFERS.]

The increase in interest payable on transfers specified in section 8 is also payable on transfers made before the effective date of section 8. The

executive director of the teachers retirement association shall calculate the transfer interest amounts payable on these prior transfers and transfer the additional interest within 60 days of the effective date of this section.

Sec. 11. [TRANSFERS IN CERTAIN CASES.]

Notwithstanding any provision of Minnesota Statutes, section 354B.03, to the contrary, a person in covered employment under Minnesota Statutes, chapter 354, who was first employed by the state university system board or the community college board after June 30, 1988, and before July 1, 1989, and who has no prior allowable service under chapter 354, and who elected, or elects before January 1, 1991, to have their employee contributions transferred under Minnesota Statutes, chapter 354B, shall have an amount equal to the employer contributions made on behalf of the person under Minnesota Statutes, section 354.42, subdivision 3, plus annual interest compounded annually at a rate of six percent, transferred by the executive director of the teachers retirement association from the teachers retirement fund to the individual retirement account plan under Minnesota Statutes, chapter 354B. The election must be made on a form prescribed by the executive director and must be made by January 1, 1991.

Sec. 12. [REPEALER.]

Minnesota Statutes 1988, sections 136.81, subdivisions 2 and 3; 136.82, subdivisions 3 and 4; 136.83; and 136.85, are repealed. Minnesota Statutes 1989 Supplement, sections 136.82, subdivisions 1 and 2, as amended by sections 3 and 4; and 136.84, are repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 1, 2, 9, and 12 are effective July 1, 1991. Sections 3 to 8, 10, and 11 are effective the day following final enactment.

ARTICLE 4

UNCLASSIFIED RETIREMENT PROGRAM MEMBERSHIP

Section 1. Minnesota Statutes 1988, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. [COVERAGE.] ~~The following~~ (a) Employees enumerated in paragraph (b), if they are in the unclassified service of the state and are eligible for coverage under the general state employees retirement fund plan under chapter 352, ~~shall participate~~ are participants in the unclassified program under this chapter unless ~~an~~ the employee gives notice to the executive director of the Minnesota state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the ~~regular employee~~ general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director ~~shall be~~ is deemed to have exercised the option to participate in the unclassified plan.

(b) Enumerated employees are:

(1) ~~any~~ an employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general or an employee of the state board of investment;

(2) the head of ~~any~~ a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed

to the position, or ~~any~~ *an* employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4;

(3) ~~any~~ *a* permanent, full-time unclassified employee of the legislature or ~~any~~ *a* commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system;

(4) ~~any~~ *a* person employed in a position established ~~pursuant to~~ *under* section 43A.08, subdivision 1, clause (c), or subdivision 1a, or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; and the chair, executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations ~~shall~~ *may* be made without approval of the board of directors of the Minnesota state retirement system;

(6) the executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations ~~shall~~ *may* be made without approval of the board of directors of the Minnesota state retirement system;

(7) the clerk of the appellate courts appointed ~~pursuant to~~ *under* article VI, section 2, of the Constitution of the state of Minnesota;

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services;

(9) ~~any~~ *an* employee whose principal employment is at the state ceremonial house;

(10) ~~employees~~ *an employee* of the Minnesota educational computing corporation; ~~and~~;

(11) ~~any~~ *an* employee of the world trade center board; *and*

(12) *an employee of the division of the state lottery in the department of gaming who is covered by the managerial plan established under section 43A.18, subdivision 3.*

Sec. 2. [TRANSFER OF ASSETS.]

An unclassified employee of the division of the state lottery in the department of gaming on the effective date of this section who is covered by the managerial plan established under Minnesota Statutes, section 43A.18, subdivision 3, and who was covered by the general state employees retirement plan under Minnesota Statutes, chapter 352, while employed as an

unclassified employee of the division of the state lottery may transfer accumulated employee and employer contributions made while employed with the division of the state lottery to the unclassified plan, as provided in Minnesota Statutes, section 352D.03.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment and apply to any person who was employed with the division of the state lottery in the department of gaming and who is covered by the managerial plan established under Minnesota Statutes, section 43A.18, subdivision 3, before that date and after that date.

ARTICLE 5

FIDUCIARY RESPONSIBILITY MODIFICATIONS

Section 1. Minnesota Statutes 1989 Supplement, section 356A.06, subdivision 4, is amended to read:

Subd. 4. [ECONOMIC INTEREST STATEMENT.] (a) Each member of the governing board of a covered pension plan and the chief administrative officer of the plan shall file with the plan a statement of economic interest.

(b) *For a covered pension plan other than a plan specified in paragraph (c), the statement must contain the information required by section 10A.09, subdivision 5, and any other information that the fiduciary or the governing board of the plan determines is necessary to disclose a reasonably foreseeable potential or actual conflict of interest.*

(c) *For a covered pension plan governed by sections 69.771 to 69.776 or a covered pension plan governed by section 69.77 with assets under \$8,000,000, the statement must contain the following:*

(1) the person's principal occupation and principal place of business;

(2) whether or not the person has an ownership of or interest of ten percent or greater in an investment security brokerage business, a real estate sales business, an insurance agency, a bank, a savings and loan, or another financial institution; and

(3) any relationship or financial arrangement that can reasonably be expected to give rise to a conflict of interest.

(d) The statement must be filed annually with the chief administrative officer of the plan and be available for public inspection during regular office hours at the office of the pension plan.

(e) A disclosure form meeting the requirements of the federal Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21 as amended, and filed with the state board of investment or the pension plan meets the requirements of this subdivision.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 6

MISCELLANEOUS LOCAL PENSION MODIFICATIONS

Section 1. Laws 1978, chapter 689, section 4, subdivision 2, as amended by Laws 1981, chapter 224, section 272, is amended to read:

Subd. 2. [THIEF RIVER FALLS POLICE ~~RETIREMENT PENSION TRUST FUND; REPORTING ACTUARIAL VALUATION.~~] Upon the transfer of money and the establishment of the trust fund pursuant to subdivision 1 and periodically thereafter, the board of trustees shall have an actuarial valuation ~~or survey and experience study~~ made of the trust fund in accordance with the filing requirements and applicable actuarial standards set forth in the general statute governing actuarial reporting by police and fire funds, *except that the actuarial valuation and experience study need be made at least once every five years.* The board of trustees shall also complete and file a financial report for the trust fund in accordance with Minnesota Statutes, Section 69.051.

Sec. 2. Laws 1980, chapter 612, section 3, as amended by Laws 1981, chapter 301, section 4, is amended to read:

Sec. 3. [SAINT PAUL AND MINNEAPOLIS, CITIES OF; EMPLOYMENT OF UNIVERSITY OR COLLEGE STUDENTS.]

Notwithstanding any contrary provision of the Saint Paul city charter and the Minneapolis city charter, or, a statute, including the veterans preference act, or a civil service rule or regulation, the governing body or any board or commission of the city of Saint Paul and the city of Minneapolis having authority to hire employees may employ university, college, or professional school students pursuant to an intern or other training program when the program is sponsored or substantially financed by the state or the United States or by a philanthropic foundation or organization. Persons hired under a program shall be in the unclassified service of the city and serve at the pleasure of the body employing them. No full time appointment under this section shall exceed one year. Persons employed under this section shall be excluded from the provisions of Minnesota Statutes, Sections 268.03 to 268.24, and *Minnesota Statutes, Chapters 353 and 356.*

Sec. 3. [MOOSE LAKE FIREFIGHTERS' RELIEF ASSOCIATION ASSETS.]

Notwithstanding the requirements of Minnesota Statutes, section 424A.02, or any other law, for firefighters' relief association purposes the Moose Lake area fire protection district must be treated as a continuation of the fire department of the city of Moose Lake. Assets of the Moose Lake fire department relief association must be transferred to a relief association now or hereafter established by the district and service of transferred members must be considered continuous for purpose of computing retirement benefits.

Sec. 4. [PURCHASE OF SERVICE CREDIT FOR ST. PAUL BUREAU OF HEALTH SERVICE.]

Subdivision 1. [ELIGIBILITY.] A person who was born on May 28, 1941, who was initially employed by the St. Paul bureau of health in November 1963, who was covered by the St. Paul bureau of health relief association under Laws 1919, chapter 430, sections 1 to 9, as amended, by virtue of that employment, who terminated employment by the St. Paul bureau of health in August 1966, and who became a member of the general plan of the public employees retirement association in May 1967, is entitled to purchase service credit in the general plan of the public employees retirement association for any months of employment by the St. Paul bureau of health in which member contributions to the St. Paul bureau of health

relief association were made.

Subd. 2. [PURCHASE PAYMENT AMOUNT.] (a) *The person requesting the purchase of prior service shall establish in the records of the fund or association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the public employees retirement association. For a person eligible to purchase credit under subdivision 1, there must be paid to the public employees retirement association an amount on the date of payment equal to the amount computed in paragraph (b) minus the amount computed in paragraph (c).*

(b) *The present value, on the date of payment, of the amount of additional retirement annuity that would be obtained due to the purchase of additional service credit by the individual specified in subdivision 1, using the pre-retirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the public employees retirement association and assuming continuous future service in the public employees retirement association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased, and also assuming a future salary history that includes annual salary increases at the salary increase rate specified in Minnesota Statutes, section 356.215, subdivision 4d.*

(c) *The present value of employee and employer contributions paid to the St. Paul bureau of health relief association by or on behalf of the individual eligible to purchase credit under subdivision 1. The present value will be computed assuming investment earnings on these contributions equal to the rate actually earned by the assets of active employees covered by the public employees retirement association, beginning with the date the individual specified in subdivision 1 first made contributions to the St. Paul bureau of health relief association.*

Subd. 3. [PAYMENT; CREDITING SERVICE.] *Payment must be made in one lump sum, unless the executive director of the public employees retirement association agrees to accept payment in installments over a period not to exceed three years from the date of the agreement, with interest at a rate deemed appropriate by the executive director. The period of allowable service may be credited to the account of the person only after receipt of full payment by the executive director.*

Subd. 4. [OPTIONAL EMPLOYER PARTIAL PAYMENT.] *Payment must be made by the person entitled to purchase prior service. However, the city of St. Paul may, at its discretion, pay all or any portion of the required payment amount.*

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the Thief River Falls city council and governs actuarial valuations and experience studies to be made under section 1 beginning with the next actuarial valuation and experience study required after 1989.

Section 2 is effective, if approved by both the city councils of the city of Saint Paul and the city of Minneapolis, the day after compliance by them with Minnesota Statutes, section 645.021, subdivision 3.

Sections 3 and 4 are effective the day following final enactment.

ARTICLE 7

TEACHER RETIREMENT FUND PROVISIONS

Section 1. [354.095] [MEDICAL LEAVE; PAYMENT PROCEDURES.]

A member of the fund who is on an authorized medical leave of absence and subsequently returns to teaching service, is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354.42, subdivisions 2, 3, and 5, as applied to the member's average full-time monthly salary rate on the date of return from the leave of absence plus annual interest at the rate of 8.5 percent per year from the midpoint date of the leave until the date of payment. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid before the effective date of retirement or by the end of the fiscal year following the fiscal year in which the leave of absence terminated, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association on a form specified by the executive director. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354.48 and receive allowable service credit under this section for the same period of time.

Sec. 2. [354A.096] [MEDICAL LEAVE.]

Any teacher in the coordinated program of either the Minneapolis teachers retirement fund association or the St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association who is on an authorized medical leave of absence and subsequently returns to teaching service is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354A.12, subdivisions 1 and 2, as applied to the member's average full-time monthly salary rate on the date of return from the leave of absence plus annual interest at the rate of 8.5 percent per year from the midpoint date of the leave until the date of payment. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid by the end of the fiscal year following the fiscal year in which the leave of absence terminated or before the member retires, whichever is earlier. Payment must be accompanied by a copy of the resolution or action of the employing authority granting the leave and the employing authority, upon granting the leave, must certify the leave to the association in a manner specified by the executive director. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354A.36 and receive allowable service credit under this section for the same period of time.

Sec. 3. [ST. PAUL TEACHERS RETIREMENT FUND ASSOCIATION.]

In accordance with Minnesota Statutes, section 354A.12, subdivision 4, approval is granted for the St. Paul teachers retirement fund association to amend its articles of incorporation or bylaws to allow basic plan members who are granted a medical leave of absence by independent school district No. 625, St. Paul, to receive up to one year service credit of that leave in accordance with the provisions of Minnesota Statutes, section 354A.096.

Sec. 4. [DULUTH TEACHERS RETIREMENT FUND AND ST. PAUL TEACHERS RETIREMENT FUND: ALTERNATE METHOD OF PAYING ADDITIONAL LUMP SUM AMOUNT.]

Notwithstanding the articles or bylaws of the Duluth teachers retirement fund association or St. Paul teachers retirement fund association, approval is granted for the Duluth teachers retirement fund association and St. Paul teachers retirement fund association to provide that a lump sum postretirement adjustment that is payable may, upon the request of the annuitant or survivor and approval of the board of trustees of the fund, be converted to a monthly annuity benefit of equivalent actuarial value. The amount of the additional annuity shall be determined by:

(1) the age of the annuitant or survivor on the date of the lump sum postretirement adjustment;

(2) use of an annuity table of mortality established by the board of trustees of the association as required by Minnesota Statutes, section 356.215; and

(3) use of the postretirement interest rate assumption specified in Minnesota Statutes, section 11A.18.

Sec. 5. [EFFECTIVE DATE.]

(a) Sections 1 to 4 are effective the day following final enactment.

(b) Section 1 is also effective retroactively to October 9, 1988, for a former teacher employed by independent school district No. 831 who began a long-term disability medical leave on October 10, 1988, who terminated employment on June 16, 1989, and who has retired. The contribution amounts for the leave must be based on the salary rate of the teacher in effect for the 1988-1989 school year and the contributions must be made by June 30, 1990, with interest as calculated under section 1. If the contribution amounts are paid, the person's retirement annuity must be recomputed based on the resulting additional allowable service credit and revision in the person's highest five successive years average salary and the increased annuity amount accrues as of the first day of the first month next following the date of the payment. If an optional annuity form has been selected, the increased annuity amount must be appropriately adjusted.

ARTICLE 8

PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN

Section 1. Minnesota Statutes 1988, section 353.01, subdivision 7, is amended to read:

Subd. 7. [MEMBER.] ~~A member is~~ "Member" means a person who accepts employment as a "public employee" and is not covered by the plan established in chapter 353D. A person who is a member remains a member while performing services as a public employee and while on an authorized leave of absence or an authorized temporary layoff; provided, however, (1)

that any elected public officer or any person appointed to fill a vacancy in an elective office shall have the right to exercise an option to become a member by filing application for membership, but the option to become a member, once exercised, may not be withdrawn during the incumbency of the person in office; and (2) that any member who is appointed by the governor to be a state department head and elects pursuant to section 352.021, subdivision 3, not to be covered by the Minnesota state retirement system, shall remain a member of the public employees retirement association. Membership in the retirement association of any person shall terminate upon the person ceasing to be a "public employee."

Sec. 2. Minnesota Statutes 1988, section 353D.01, is amended to read:

353D.01 [AMBULANCE SERVICE PERSONNEL RETIREMENT PUBLIC EMPLOYEES DEFINED CONTRIBUTION PLAN.]

Subdivision 1. [ESTABLISHMENT.] ~~The ambulance service personnel retirement public employees defined contribution plan is administered by the public employees retirement association under supervision of the association board of directors trustees. To assist it in governing the operations of the plan, the board may appoint an advisory committee of not more than seven nine members who are representative of ambulance service operators and ambulance service personnel the employers and employees who participate in the plan.~~

Subd. 2. [COVERAGE ELIGIBILITY.] ~~Coverage under~~ Except as provided in section 353D.11, eligibility to participate in the retirement plan is open to an elected local government official of a governmental subdivision who elects to participate in the plan who is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7, and to basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate. *For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Elected local government official does not include an elected county sheriff. Except as provided in section 353D.11, elected local government officials and first response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the plan.*

Sec. 3. Minnesota Statutes 1988, section 353D.02, is amended to read:

353D.02 [ELECTION OF COVERAGE.]

Eligible elected local government officials may elect to participate in the plan after being elected or appointed to a public office by filing an application to participate on a form prescribed by the executive director of the association. Participation begins on the first day of the month after the application is received in the association's office or on the date when the term of office commences, whichever date is later. An election to participate in the plan is irrevocable during incumbency in office.

Each public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity with eligible personnel may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within the latter of 30

days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, *whichever date is later*. An election by a service or an individual is irrevocable.

Sec. 4. Minnesota Statutes 1988, section 353D.03, is amended to read:
353D.03 [FUNDING OF PLAN.]

(a) An eligible elected local government official who elects to participate in the public employees defined contribution plan shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10. A participating elected local government official's governmental subdivision shall contribute a matching amount.

(b) A public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity that elects to participate in the plan shall fund benefits for its qualified personnel who individually elect to participate, except that personnel who are paid for their services may elect to make member contributions in an amount not to exceed the service's contribution on their behalf. Ambulance service contributions on behalf of salaried employees must be a fixed percentage of salary. An ambulance service making contributions for volunteer or largely uncompensated personnel may assign a unit value for each call or each period of alert duty for the purpose of calculating ambulance service contributions.

Sec. 5. Minnesota Statutes 1988, section 353D.04, is amended to read:
353D.04 [CONTRIBUTIONS TO PLAN.]

(a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association at least monthly and must be credited to the individual account established for the participating officer.

(b) Ambulance service contributions to the plan may be made from any source of funds available to the ambulance service. Contributions must be remitted monthly on a regular periodic basis to the association together with any member contributions paid or withheld during the preceding month. Those contributions shall must be credited to the individual account of each participating member.

Sec. 6. Minnesota Statutes 1988, section 353D.05, subdivision 1, is amended to read:

Subdivision 1. [INVESTMENT.] ~~Ambulance service~~ *Employing unit* contributions, after the deduction of an amount for administrative expenses, and ~~member individual participant~~ contributions must be remitted to the state board of investment for investment in the Minnesota supplemental investment fund established by section 11A.17.

Sec. 7. Minnesota Statutes 1988, section 353D.05, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE EXPENSES.] The public employees retirement association may deduct an amount, set annually by the executive director of the association, but not to exceed two percent of ~~ambulance service the employing unit~~ contributions to the plan, to defray the expenses of the association in administering the plan.

Sec. 8. Minnesota Statutes 1988, section 353D.06, is amended to read:
353D.06 [REPORTING ~~BY~~ AMBULANCE SERVICES.]

The executive director of the public employees retirement association shall prescribe the ~~form of monthly and any other reports reporting forms~~ required from an ambulance service ~~employing units and the election forms~~ required from ambulance service ~~members participants~~. ~~Member Reporting forms shall~~ must contain names, identification numbers, amount of contribution by and on behalf of each ~~member participant~~, and such other data as is required to keep an accurate ~~account record~~ of the account value of each ~~participating employee participant~~.

Sec. 9. Minnesota Statutes 1988, section 353D.07, is amended to read:
353D.07 [BENEFITS.]

Subdivision 1. [TYPE OF PLAN; UNIFORMITY.] (a) The plan is a defined contribution plan ~~when the benefits from which are payable upon~~ termination of service, retirement, ~~disability~~, or death. The amount of benefits is determined by the value of accumulated contributions plus a proportionate share of investment income of the fund credited to each individual account. ~~Each ambulance service shall determine eligibility for participation subject to terms of Laws 1987, chapter 372.~~

(b) *In the case of ambulance service personnel*, eligibility standards must be uniform among all ambulance service personnel of an ambulance service electing to participate.

Subd. 2. [PAYMENT OF BENEFITS.] Withdrawal of or a retirement benefit based on ~~member individual participant~~ contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of ~~an active member a participant~~ for a period that exceeds 30 days. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Subd. 3. [FORM OF BENEFIT.] A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of retirement and may be rolled over into another qualified plan at the option of the ~~member participant~~. As an alternative to a lump sum distribution, the ~~member participant~~ may choose to have the association use the total account value to purchase an annuity payable at a designated age from an insurance company licensed to do business in the state.

Subd. 4. [DISABILITY OF PARTICIPANT.] *If an active participant becomes permanently and totally disabled as defined in section 353.01, subdivision 19, that participant may withdraw from the account in equal monthly installments an amount, designated by the participant in increments of \$100 but not to exceed ten times the joint employer and employee contribution for the month preceding disability. The option must be exercised by filing an application on a form prescribed by the executive director. Payments begin on the first day of the month following the month in which the disability occurred. Payments end when the participant's disabled status ends or the account balance is exhausted, whichever occurs first.*

Subd. 5. [DEATH OF A ~~MEMBER PARTICIPANT~~.] ~~In the event of the death of~~ *If an active participant dies*, the total value of the account must be paid in a lump sum to the designated beneficiary or, if none, the heirs at law of the decedent.

Sec. 10. Minnesota Statutes 1988, section 353D.08, is amended to read:
353D.08 [PORTABILITY.]

~~Qualified~~ *Participating* ambulance service personnel who change employment or membership among participating ambulance services ~~must~~ *shall* continue participation in the plan if termination from one participating ambulance service and commencement in another participating ambulance service ~~occur~~ *occurs* within 30 days.

Sec. 11. Minnesota Statutes 1988, section 353D.09, is amended to read:
353D.09 [TAX QUALIFICATION.]

The public employees retirement association shall adopt rules ~~required~~ *necessary* for administration of the plan. The proposed plan shall be formulated and adopted in accordance with applicable restrictions and standards of the Internal Revenue Code and rulings and regulations of the Internal Revenue Service in order to assure the tax exempt status of the plan as a qualified pension plan. Contributions ~~by ambulance service personnel and by ambulance service operators~~ may be accepted only after approval by the Internal Revenue Service.

Sec. 12. [353D.11] [CURRENT ELECTED PUBLIC OFFICERS.]

Subdivision 1. [EXERCISE OF OPTION.] As of July 1, 1990, an elected local government official, who with respect to elected service is participating in, and covered by, the general employees defined benefit plan administered by the public employees retirement association under chapter 353, may elect to participate in the public employees defined contribution plan and terminate further participation in, and coverage under, the defined benefit plan. The necessary election must be made before June 30, 1991.

Subd. 2. [REFUND OR DEFERRED ANNUITY.] An elected public officer who, with respect to elected service is participating in, and covered by, the general employees defined benefit plan administered by the public employees retirement association under chapter 353 and who, with respect to future elected service, elects to participate in the public employees defined contribution plan, is deemed to have terminated public service for purposes of the return of the accumulated employee deductions with interest or the deferred annuity allowed under section 353.34. The termination of public service is deemed to occur as of the first day of the month following the month in which the election is made to participate in the public employees defined contribution plan and any refund of accumulated employee deductions with interest or future deferred annuity is governed by the law in effect on that day.

Sec. 13. [353D.12] [CONTRIBUTIONS FOR PREVIOUS SERVICE.]

Subdivision 1. [ELIGIBILITY; CONTRIBUTIONS.] An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before the effective date of this section that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353.

Subd. 2. [AMOUNT OF PRIOR SERVICE CONTRIBUTIONS.] (a) The employee purchase amount is that amount that the participating elected local government official specifies, but combined with subdivision 6 may

not exceed in total the amount of the employee and employer contributions that would have been payable under section 353.27, subdivisions 2, 3, and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service and based on the rates in effect during the prior service, plus interest at an annual compound rate of six percent.

(b) In any year, the purchase amount to be paid in is subject to the limitation for defined contribution plans under section 415(c) of the federal Internal Revenue Code, as amended, or comparable contribution limitation set forth in the federal Internal Revenue Code, and applicable regulations and revenue rulings, remaining after subtracting the funding amounts under section 353D.03, paragraph (a), for that year.

Subd. 3. [INSTALLMENT PAYMENTS.] The purchase amount may be made in annual installments but may not exceed, combined with subdivision 6, in any installment the limitation set forth in subdivision 2, paragraph (a), or in total the limitation set forth in subdivision 2, paragraph (a).

Subd. 4. [AUTHORIZED ROLLOVERS.] To the extent allowed by federal law, the employee purchase amount may be made with funds distributed from: (1) a plan qualified under section 401(a) of the federal Internal Revenue Code, as amended; (2) an annuity qualified under section 403(a) of the federal Internal Revenue Code, as amended; (3) an individual retirement account used solely to receive a nontaxable rollover from that type of plan or annuity; (4) the state deferred compensation plan authorized under section 352.96 and qualified under section 457 of the federal Internal Revenue Code, as amended; or (5) another tax qualified plan or annuity that authorizes rollovers. The participating elected local government official shall supply sufficient written documentation that the transfer amounts are eligible for tax-free rollover treatment. An authorized tax-free rollover, plus any other purchase amount payments under this section, including subdivision 6, may not exceed the limitation in subdivision 2, paragraph (a). Notwithstanding any provision of state law or rule to the contrary, to the extent permitted under federal law, the employee purchase amount may be transferred from the state deferred compensation plan before the employee terminates public employment.

Subd. 5. [PRIOR SERVICE AND COMPENSATION DOCUMENTATION.] The participating elected local government official shall supply sufficient documentation of the person's prior uncredited service and compensation for which the purchase payment is made.

Subd. 6. [EMPLOYING UNIT PAYMENT.] The employing unit of the participating elected local government official shall pay the amount of the employer contributions that could have been payable under section 353.27, subdivisions 3 and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service, plus interest at an annual compound rate of six percent. This amount combined with any employee purchase amount and any contributions under section 353D.03, paragraph (a), must in any year comply with the limitation set forth in subdivision 2, paragraph (a).

Sec. 14. [PURCHASE OF PRIOR SERVICE CREDIT.]

Subdivision 1. [ENTITLEMENT.] An elected public officer who participates in the public employees retirement association defined benefit plan under Minnesota Statutes, chapter 353, may purchase service credit from

the association for all or any portion of prior uncredited service as an elected public officer when the officer could have been, but was not, a member of the association on account of failure to exercise the membership option under Minnesota Statutes, section 353.01, subdivision 7.

Subd. 2. [PURCHASE PAYMENT AMOUNT.] To purchase credit for prior service under subdivision 1, there must be paid to the public employee retirement association an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by the purchase of the additional service credit. Calculation of this amount must be made using the applicable preretirement interest rate for the association specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the association. The calculation must assume continuous future service in the association until, and retirement at, the age at which the minimum requirements of the association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the applicable salary increase rate for the association specified in section 356.215, subdivision 4d. The member must establish in the records of the association proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the association.

Subd. 3. [PAYMENT; CREDITING SERVICE.] Payment may be made in one lump sum, or in annual increments over a period not to exceed five years from the effective date of this section. If payments are made in increments, the period of allowable service purchased by each payment is credited to the account of the member upon receipt of each payment by the executive director. If payments are made in increments, the executive director must calculate the present value of the amount of the additional retirement annuity obtained by each incremental payment.

Subd. 4. [OPTIONAL EMPLOYER PARTIAL PAYMENT.] Payment of the amount calculated under subdivision 2 must be made by the member. However, the current or former governmental subdivision employer of the member may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period or periods of prior service applied to the actual salary rates in effect during the period or periods of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective on the day following final enactment.

ARTICLE 9

TRANSFERS TO MINNESOTA POSTRETIREMENT INVESTMENT FUND

Section 1. Minnesota Statutes 1988, section 11A.18, subdivision 6, is amended to read:

Subd. 6. [PARTICIPATING PUBLIC RETIREMENT FUNDS OR PLANS; TRANSFER OF REQUIRED RESERVES.] (a) Any public retirement fund

or plan authorized by law to participate in the postretirement investment fund shall no later than the last business day of the month in which the benefit payment from the postretirement investment fund begins to accrue, certify and transfer to the state board money equal to the reserves required for those retirement annuities and benefits which are payable by the public retirement fund or plan and which are specified in law to be included in the participation in the fund as determined by or determined under a procedure specified by the actuary retained by the legislative commission on pensions and retirement.

(b) If the exact amount of the actuarially determined required reserves is not readily calculable ~~as of the date of the commencement of a benefit payment on the required transfer date~~, the initial transfer must be based on the best estimate ~~by the executive director of for the teachers retirement fund involved and shall be made on a timely basis and the public employees retirement fund and may be based on the best estimate for the other participating funds~~. Any necessary adjustments based on specific calculations of actuarially determined required reserves must be made in later transfers. If a ~~best estimate initial~~ transfer is insufficient, the later transfer from the retirement fund must include interest on the amount of the required reserve insufficiency at ~~the greater of the following rates:~~

(1) ~~the average short-term investment return rate earned by the state board over the 30-day period ending with the last business day of the month before the month in which the later adjustment transfer is made; or~~

(2) the preretirement interest assumption for the retirement fund as specified in section 356.215, subdivision 4d, stated as a monthly rate.

Interest on the amount of a required reserve insufficiency payable by a retirement fund shall be compounded on a monthly basis. No interest shall be payable from the postretirement investment fund in the event of a required reserve oversufficiency.

(c) The state board shall confirm in writing each certification and transfer of money made by a participating public retirement fund or plan. Each participating public retirement fund or plan shall maintain adequate records to account for money transferred to or from the postretirement investment fund.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 10

MINNESOTA STATE RETIREMENT SYSTEM

ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 1988, section 352.01, subdivision 13, is amended to read:

Subd. 13. [SALARY.] "Salary" means ~~any the periodical compensation paid to any employee including wages, allowances, and fees, but excluding amounts of severance pay before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs. It also means wages and includes net income from fees. Lump sum sick leave payments, severance payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between~~

single and family rates that may be paid to an employee with single coverage, are not deemed to be salary. Workers' compensation payments are not considered salary.

Sec. 2. Minnesota Statutes 1989 Supplement, section 352.021, subdivision 5, is amended to read:

Subd. 5. [CONTINUING COVERAGE.] Any state employee who has made contributions to the retirement fund for a period of one year and who, continuing in state service after that year, becomes eligible for membership in the state teachers retirement association as a full-time teacher, as defined in section 354.05, subdivision 2, *or is covered by section 354.05, subdivision 2a*, may continue coverage under the system by filing in its office written notice of election to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision 2b, clause (3), must be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee is not thereafter entitled to membership in the teachers retirement association *or in the individual retirement account plan for community college and state university faculty* while employed by the state in a position that entitled the employee to make this election.

Sec. 3. Minnesota Statutes 1988, section 352.029, subdivision 3, is amended to read:

Subd. 3. [CONTRIBUTIONS.] The employee, ~~employer~~, and ~~additional employer~~ contributions required by section 352.04, *or by section 352.92 for employees covered by section 352.91*, are the obligation of the employee who chooses coverage under this section. However, the employing labor organization may pay the employer ~~and employer additional~~ contributions. Contributions made by the employee must be made by salary deduction. The employing labor organization shall pay all contributions to the system as required by section 352.04, *or by section 352.92 for employees covered by section 352.91*.

Sec. 4. Minnesota Statutes 1988, section 352.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP OF BOARD; ELECTION; TERM.] The policy-making function of the system is vested in a board of 11 members, who ~~shall~~ *must* be known as the board of directors. This board shall consist of three members appointed by the governor, one of whom must be a constitutional officer or appointed state official and two of whom must be public members knowledgeable in pension matters, four state employees elected by state employees covered by the system excluding employees in categories specifically authorized to designate or elect a member by this subdivision, one employee of the transit operating division of the metropolitan transit commission designated by the executive committee of the labor organization that is the exclusive bargaining agent representing employees of the transit division, one member of the state patrol retirement fund elected by members of that fund at a time and in a manner fixed by the board, one employee covered by the correctional employees plan elected by employees covered by that plan, and one retired employee elected by *disabled and retired employees of all plans administered by the system* at a time and in a manner to be fixed by the board. Two state employee members, whose terms of office begin on the first Monday in ~~March~~ *May* after their election, must be elected biennially. Elected members and the appointed transit operating division member hold office for a term of four

years, except the retired member whose term is two years, and until their successors are elected or appointed, and have qualified. *An employee of the system is not eligible for membership on the board of directors.* A state employee on leave of absence is not eligible for election or reelection to membership on the board of directors. The term of any board member who is on leave for more than six months automatically ends on expiration of this period.

Sec. 5. Minnesota Statutes 1988, section 352.115, subdivision 7, is amended to read:

Subd. 7. [APPLICATION FOR ANNUITY.] Application for annuity *or optional annuity payment* may be made by the employee *at time of retirement*, or by someone acting in behalf of the employee, upon proof of authority satisfactory to the director.

Sec. 6. Minnesota Statutes 1988, section 352.96, subdivision 4, is amended to read:

Subd. 4. [EXECUTIVE DIRECTOR TO ESTABLISH RULES.] The executive director of the system shall establish rules and procedures to carry out this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay these costs are appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director must conform to federal and state tax laws, regulations, and rulings, and are not subject to the administrative procedure act. *Except for the marketing rules, rules adopted after July 1, 1977,* relating to the options provided under subdivision 2, clauses (2) and (3), must be approved by the state board of investment. A state employee must not make payments under a plan until the plan or applicable component of the plan has been approved for tax-deferred status by the internal revenue service.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective the day following final enactment.

ARTICLE 11

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

ADMINISTRATIVE PROVISIONS

Section 1. Minnesota Statutes 1989 Supplement, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

(5) members of boards, *and commissions, bands, and others* who serve a governmental subdivision intermittently *unless their position on the board*

or commission is the result of public employment within the same governmental unit;

(6) ~~employees whose employment is not expected to continue for a period longer than six consecutive months, unless it involves employment for a probationary period that is part of a permanent position who are hired for a period of less than six consecutive months but not those employees who are hired for an unlimited period but are serving a probationary period. Immediately following the expiration of a six-month period of employment,~~ If the period of employment is extended beyond the six-month period and the employee continues in public service and earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee in accordance with section 353.27, subdivision 4. Membership eligibility of an employee who holds concurrent temporary employment of six months or less and ~~part-time nontemporary~~ positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) ~~part-time appointed and elected employees who receive monthly whose actual compensation from one governmental subdivision does not exceeding exceed~~ \$425 per month, and ~~part-time employees and elected officials or~~ whose annual compensation from one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service as defined in subdivision 11a. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have

not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers who are paid entirely on a fee basis and who were not members on June 30, 1971;

(16) persons who hold a part-time adult supplementary technical institute license who render part-time teaching service in a technical institute;

(17) persons exempt from licensure under section 125.031;

(18) persons employed by the Minneapolis community development agency;

(19) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(20) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Sec. 2. Minnesota Statutes 1989 Supplement, section 353.01, subdivision 11a, is amended to read:

Subd. 11a. [TERMINATION OF PUBLIC SERVICE.] *"Termination of public service" occurs when an officer or employee who terminates employment but or is on temporary layoff as defined in subdivision 12 and does not within 30 days returns of termination or expiration of the temporary layoff return to nontemporary employment in the same governmental subdivision or begins employment in another position otherwise excluded from membership is considered a member from the beginning of the reemployment unless the total period covered by all periods of employment is less than six months or the amount earned does not exceed the dollar limitations in subdivision 2b, clause (7).*

Sec. 3. Minnesota Statutes 1988, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] (a) "Allowable service" means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions made as provided in section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence; provided, however, that if the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date the leave of absence terminates. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing that it will cause to be paid the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at the rate of six percent a year from the date of the termination of the leave of absence to the date payment is made.

(d) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay limited to one year, or an authorized temporary layoff, or a maternity leave. *The association will grant a maximum of two months service credit for a maternity leave upon documentation from the member's governmental subdivision. A member on personal leave of absence who provides the association with a birth certificate or other evidence of birth during the personal leave time period will be granted up to two months of service credit.*

(e) "Allowable service" also means a period during which a member is

on an authorized leave of absence to enter military service, provided that the member returns to public service upon discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at six percent a year compounded annually from the date of return to public service to the date payment is made. In such cases the matching employer contribution and additional employer contribution provided in section 353.27, subdivisions 3 and 3a, must be paid by the department employing the member upon return to public service, and the governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

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

(g) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund, and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 4. Minnesota Statutes 1988, section 353.15, subdivision 2, is amended to read:

Subd. 2. [AUTOMATIC DEPOSITS.] The association may pay an annuity, benefit or refund to a trust company, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former member, the association may mail or *send by electronic transfer* the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with a spouse. The association may prescribe the conditions under which such payment will be made.

Sec. 5. Minnesota Statutes 1988, section 353.27, subdivision 7, is amended to read:

Subd. 7. [ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS.] (a) [ERRONEOUS DEDUCTIONS.] Deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association must be refunded to the employee calculated in accordance with section 353.34, subdivision 2; and the employer contribution and the additional employer contribution, if any, for the erroneous employee contribution must be refunded to the employer, provided, however, that the association and the state social security agency may make proper adjustments of money taken as employee and employer deductions, and provided further that the refund of deductions taken in error has been made within three calendar years of the calendar year in which the initial

erroneous deduction taken in error was received by the association, *except for erroneous deductions of sick leave, vacation pay, and severance pay, which may be made at any time.* If the refund of deductions taken in error has not been made within three calendar years of the calendar year in which the initial erroneous deduction taken in error was received by the association, the erroneous contributions are considered valid, and the years of allowable service attributable to the erroneous deductions must be credited to the member in accordance with section 353.01, subdivision 16, and, notwithstanding a law to the contrary, the employee may continue to be a member until termination of public service.

(b) [ERRONEOUS DISBURSEMENT.] In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or a portion of it that is required to adjust the deductions, must be made to the department or institution.

Sec. 6. Minnesota Statutes 1988, section 353.27, subdivision 10, is amended to read:

Subd. 10. [EMPLOYERS; FURNISH COPIES OF PAYROLL ABSTRACTS.] The head of each department is required to furnish the executive director with a carbon or duplicate copy of the departmental payroll abstracts for the last full pay period during the month of May for school districts and *December the last pay period covering calendar-year earnings* for all other governmental subdivisions, respectively, in each year. Instead of a duplicate copy of the payroll abstract, the employer may submit an exception report listing only those employees who worked the last full pay period of May or December, but who are not members of the association. Minimum reporting requirements to be shown on either the payroll abstract or exception report include: (1) name of the governmental subdivision and department identification; (2) the association's assigned unit number and unique code; (3) pay period coverage dates; (4) any employee deductions; (5) gross salary for the pay period; (6) each employee's year-to-date gross pay; and (7) the reason for any exclusion. The executive director shall check the copies of all payroll abstracts against the membership records of the association to ascertain whether any omissions have been made by a department head in the reporting of new public employees for membership. The head of any department shall furnish a carbon or duplicate copy of the department payroll abstract at the request of the executive director. The executive director may delegate an association employee by appointment, in accordance with section 353.03, subdivision 3a, paragraph (b), clause (5), to conduct a field audit to review the payroll records of a governmental subdivision.

Sec. 7. Minnesota Statutes 1989 Supplement, section 353.35, is amended to read:

353.35 [CONSEQUENCES OF REFUND; REPAYMENT, RIGHTS RESTORED.]

When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of the refund ~~shall must~~ terminate and ~~shall must~~ not again be restored until the person acquires ~~not less than~~ *at least* 18 months allowable service credit after taking the last refund and repays all refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest

at six percent per annum compounded annually. If more than one refund has been taken, the person may repay all refunds or only the refund for the fund in which the person had most recently been a member, with interest at six percent per annum compounded annually. All refunds must be repaid within ~~three~~ six months of the last date of termination of public service.

Sec. 8. Minnesota Statutes 1988, section 353.46, subdivision 4, is amended to read:

Subd. 4. Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, ~~shall must~~ be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973. *If the survivor is also eligible to receive a retirement annuity from the association, the survivor is eligible to receive both benefits.*

Sec. 9. Minnesota Statutes 1989 Supplement, section 353.656, subdivision 1, is amended to read:

Subdivision 1. [IN LINE OF DUTY; COMPUTATION OF BENEFITS.] Any member of the police and fire fund less than 55 years of age, who ~~shall become~~ becomes disabled and physically unfit to perform duties as a police officer or firefighter subsequent to June 30, 1973, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which ~~shall has or is expected to~~ render the member physically or mentally unable to perform duties as a police officer or firefighter for a period of at least one year, shall receive disability benefits during the period of such disability. The benefits ~~shall must~~ be in an amount equal to 50 percent of the "average salary" pursuant to subdivision 3 plus an additional 2-1/2 percent of said average salary for each year of service in excess of 20 years. Should disability under this subdivision occur before the member has at least five years of allowable service credit in the police and fire fund, the disability benefit ~~shall must~~ be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Sec. 10. Minnesota Statutes 1989 Supplement, section 353.656, subdivision 3, is amended to read:

Subd. 3. [NONDUTY DISABILITY BENEFIT.] Any member who becomes disabled after not less than one year of allowable service, before reaching the age of 55, because of sickness or injury occurring while not on duty as a police officer or firefighter, and by reason of that sickness or injury the member *has been or is expected to be* unable to perform duties as a police officer or firefighter for a period of at least one year, ~~shall be~~ is entitled to receive a disability benefit. The benefit ~~shall must~~ be in the same amount and paid in the same manner as if the member were 55 years of age at the date of disability and the benefit were paid pursuant to under section 353.651. If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit ~~shall must~~ be the same as though the member had at least 15 years service. For ~~any~~ a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Sec. 11. Minnesota Statutes 1988, section 353.657, subdivision 1, is

amended to read:

Subdivision 1. In the event any member of the police and fire fund ~~shall die~~ dies from any cause *before retirement or after becoming disabled and receiving disability benefits if no optional annuity form was elected under section 353.656, subdivision 1a*, the association shall grant survivor benefits to ~~any~~ a surviving spouse who had the same legal residence as the member at the time of death and who was married to the member for a period of at least one year, except that if death occurs in the line of duty no time limit is required, and to a dependent child or children, unmarried and under the age of 18 years. The spouse and child or children ~~shall be~~ are entitled to monthly benefits as provided in the following subdivisions.

Sec. 12. Minnesota Statutes 1988, section 353.83, is amended to read:

353.83 [ADDITIONAL PAYMENTS TO CERTAIN ANNUITANTS.]

Payments of retirement annuities pursuant to this chapter, to annuitants who (a) retired prior to July 1, 1962, (b) had at least 20 years of allowable service credit in the public employees retirement association upon their termination of public employment, and (c) receive annuities of less than \$200 per month ~~shall must~~, retroactive to July 1, 1967, be supplemented by additional payments ~~by of \$15 per month from the public employees retirement association from moneys in the general fund of the state of Minnesota in the amount of \$15 per month, provided that such, if the annuitants have not previously qualified for the additional payments pursuant to under this section, and provided further that in no case shall the annuities plus the additional payments do not exceed \$200 per month. These additional payments shall must be made in the same manner and at the same time retirement annuities are paid and shall must be included in the warrants on which the annuities are so paid. The supplemental payment herein provided shall be excluded from additional payments are to be added to and considered a portion of the annuity otherwise payable to the recipient and must be included in the computation of any monthly survivor benefit or optional annuity which may become due and payable to any person following the death of an annuitant who, during life, received a benefit pursuant to under this section. If an annuitant entitled to receive additional payment under this section should die dies before such retroactive payment is received, payment shall must be made upon demand to the designated beneficiary in an amount equal to the accumulated benefit from July 1, 1967, to the date of death, without interest.~~

Sec. 13. [REPEALER.]

Minnesota Statutes 1989 Supplement, section 353.87, subdivision 5, is repealed.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective the day following final enactment.

ARTICLE 12

TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 1988, section 3A.03, subdivision 2, is amended to read:

Subd. 2. [REFUND.] (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a member of the legislature is

entitled to receive upon application to the director a refund of all contributions credited to the member's account with interest at the rate of five six percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former member of the legislature or survivors of the former member under this chapter. Should the former member of the legislature again be a member of the legislature after having taken a refund as provided above, the member shall be considered a new member. However, a new member may reinstate the rights and credit for service forfeited, provided the new member repays all refunds taken plus interest ~~thereon~~ *at the rate of six percent per annum compounded annually.*

(3) No person shall be required to apply for or accept a refund.

Sec. 2. Minnesota Statutes 1989 Supplement, section 352.01, subdivision 25, is amended to read:

Subd. 25. [NORMAL RETIREMENT AGE.] "Normal retirement age" means age 65 for a person who first became a covered employee *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989. For a person who first becomes a covered employee after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(1), as amended.

Sec. 3. Minnesota Statutes 1989 Supplement, section 352.031, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under chapter 352, other than sections 352.96 and 352.97; chapters 3A, 352B, 352C, and 352D; sections 490.121 to 490.133; or the applicable sections of chapters 355 and 356, the executive director ~~must~~ *shall* serve upon that person written notice containing:

(1) the reasons for the termination or denial;

(2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;

(3) *a statement that relevant documentation submitted by the petitioner to the executive director must be received in the office of the Minnesota state retirement system at least 30 days before the meeting prescribed in subdivision 4;*

(4) *a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and*

~~(4)~~ (5) a copy of this section.

Sec. 4. Minnesota Statutes 1989 Supplement, section 352.031, subdivision 3, is amended to read:

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the

petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation. *Relevant documentation submitted by the petitioner to the executive director must be received in the office of the Minnesota state retirement system at least 30 days before the meeting prescribed in subdivision 4.*

Sec. 5. Minnesota Statutes 1989 Supplement, section 352.031, is amended by adding a subdivision to read:

Subd. 5a. [EXECUTIVE DIRECTOR'S ORDER.] Notwithstanding subdivisions 4 and 5, if the executive director determines with respect to a petition that no relevant facts are in dispute, the executive director shall inform the board of that determination, and the board may issue findings of fact, a decision, reasons for the decision, and a final order and serve it upon the petitioner as provided in subdivision 8. If a petitioner receives an adverse decision, the petitioner may appeal the board's final order under subdivision 9.

Sec. 6. Minnesota Statutes 1989 Supplement, section 352.115, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] (a) This paragraph, in conjunction with section 352.116, subdivision 1, applies to a person who became a covered employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a higher annuity amount, in which case paragraph (b) will apply. The employee's average salary, as defined in subdivision 2, multiplied by one percent per year of allowable service for the first ten years and 1.5 percent for each later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

(b) This paragraph applies to a person who has become at least 55 years old and first became a covered employee after June 30, 1989, and to any other covered employee who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1. The employee's average salary, as defined in subdivision 2, multiplied by 1.5 percent for each year of allowable service and pro rata for months less than a full year shall determine the amount of the retirement annuity to which the employee is entitled.

Sec. 7. Minnesota Statutes 1989 Supplement, section 352.116, subdivision 1, is amended to read:

Subdivision 1. [REDUCED ANNUITY BEFORE NORMAL RETIREMENT AGE.] This subdivision applies only to a person who first became a covered employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with subdivision 1a.

(a) Any employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires before normal retirement age with

credit for at least three but less than 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the employee is under normal retirement age at the time of retirement. An employee who is eligible for a retirement annuity under section 352.115, subdivision 1, and who retires prior to age 62 with credit for at least 30 years of allowable service shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the employee is under age 62 at the time of retirement.

(b) Any person whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in section 352.115, subdivisions 2 and 3, paragraph (a), without any reduction by reason of early retirement.

Sec. 8. Minnesota Statutes 1989 Supplement, section 352.116, subdivision 1a, is amended to read:

Subd. 1a. [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] This subdivision applies to a person who *has become at least 55 years old and* first became a covered employee after June 30, 1989, and to any other *covered employee who has become at least 55 years old and* whose annuity is higher when calculated under section 352.115, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 352.115, subdivision 3, paragraph (a), in conjunction with subdivision 1. ~~An~~ *A covered employee who retires before the normal retirement age shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.*

Sec. 9. Minnesota Statutes 1989 Supplement, section 352.116, is amended by adding a subdivision to read:

Subd. 3c. [EFFECTIVE DATE OF BOUNCE-BACK ANNUITY.] *In the event of the death of the designated optional annuity beneficiary before the retired employee or disabilitant, the restoration of the normal single life annuity under subdivision 3a or 3b will take effect as of the first of the month following the date of death of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death certificate of the designated optional annuity beneficiary is received in the office of the Minnesota state retirement system, whichever date is later.*

Sec. 10. Minnesota Statutes 1988, section 352.73, is amended by adding a subdivision to read:

Subd. 1a. [PAYMENT ADDED.] *The supplemental benefit payable under subdivision 1 is to be added to and considered a portion of the annuity otherwise payable to the recipient.*

Sec. 11. Minnesota Statutes 1989 Supplement, section 352.93, subdivision 2a, is amended to read:

Subd. 2a. [EARLY RETIREMENT.] Any covered correctional employee who ~~has attained the age of~~ *becomes* at least 50 years old and who has at

least ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 12. Minnesota Statutes 1989 Supplement, section 352.93, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS; DURATION AND AMOUNT.] The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, and must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee attains normal retirement age, whichever occurs first, except that payment must not cease before the first of the month following the month in which the employee becomes 62. It must then be reduced to the amount as calculated *at normal retirement age* under section 352.115, except that if this amount, when added to *that portion of* the social security benefit based on state service the employee ~~is would be~~ eligible to receive at the time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to the social security benefit will equal the amount payable under subdivision 2. *If the employee retired prior to age 55, the reduced benefit as calculated under section 352.115 must be actuarially reduced as provided in subdivision 2a.*

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, before the reduction, must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan or the unclassified employees retirement program between the age of 58 and normal retirement age shall receive a partial return of correctional contributions at retirement with six percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions the employee would have contributed as a regular employee	X	Years and complete months of regular service between age 58 and the normal retirement age number of years between age 58 and normal retirement age
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Sec. 13. Minnesota Statutes 1989 Supplement, section 352B.08, subdivision 2a, is amended to read:

Subd. 2a. [EARLY RETIREMENT.] Any member who has ~~attained the age of~~ *become* at least 50 *years old* and who has at least ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 2, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable if the member deferred receipt of the annuity from the day the annuity begins to accrue to age 55.

Sec. 14. Minnesota Statutes 1989 Supplement, section 352B.08, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL ANNUITY FORMS.] In lieu of the single life

annuity provided in subdivision 2, the member or former member ~~with five years or more of service~~ may elect an optional annuity form. The board of the Minnesota state retirement system shall establish a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The board shall also establish an additional optional annuity with an actuarial equivalent value of the single life annuity in the form of a joint and survivor annuity which provides that the elected annuity be reinstated to the single life annuity provided in subdivision 2, if after commencing the elected joint and survivor annuity, the designated beneficiary dies before the member, which reinstatement is not retroactive but takes effect for the first full month occurring after the death of the designated beneficiary. The board may also establish other actuarial equivalent value optional annuity forms. In establishing actuarial equivalent value optional annuity forms, each optional annuity form shall have the same present value as a regular single life annuity using the mortality table adopted by the board and the interest assumption specified in section 356.215, subdivision 4d, and the board shall obtain the written recommendation of the commission-retained actuary. These recommendations shall be a part of the permanent records of the board.

Sec. 15. Minnesota Statutes 1989 Supplement, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

(c) The surviving spouse of a member who had credit for at least three years service and who died after ~~attaining becoming~~ 55 years of age old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years of age old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have ~~reached the age of become~~ 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries before the deceased member's 55th ~~birthdate birth date~~, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit *for any one family* must not be less than 50 nor exceed 70 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have ~~reached the age of~~ *become* 55 years *old*, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.

Sec. 16. Minnesota Statutes 1988, section 352B.11, subdivision 4, is amended to read:

Subd. 4. [REENTRY INTO STATE SERVICE.] When a former member, who has become separated from state service that entitled the member to membership and has received a refund of retirement payments, reenters the state service in a position that entitles the member to membership, that member shall receive credit for the period of prior allowable state service if the member repays into the fund the amount of the refund, plus interest on it at the rate of ~~five~~ six percent per year, at any time before subsequent retirement. Repayment may be made in installments or in a lump sum.

Sec. 17. Minnesota Statutes 1988, section 352C.09, subdivision 2, is amended to read:

Subd. 2. (1) Any person who has made contributions pursuant to subdivision 1 who is no longer a constitutional officer or commissioner is entitled to receive upon application to the director a refund of all contributions credited to the individual's account with interest at the rate of ~~five~~ six percent per annum compounded annually.

(2) The refund of contributions as provided in clause (1) above terminates all rights of a former constitutional officer or commissioner or survivors thereof under the provisions of this chapter. Should the former constitutional officer or commissioner again hold such office after having taken a refund

as provided above, the former officer or commissioner shall be considered a new member and may reinstate the rights and credit for service forfeited provided all refunds previously taken are repaid with interest at six percent per annum compounded annually.

(3) No person shall be required to apply for or accept a refund.

Sec. 18. Minnesota Statutes 1988, section 352D.05, subdivision 3, is amended to read:

Subd. 3. Thirty days after termination of covered employment or at any time thereafter, a participant ~~shall be~~ *is* entitled, upon application, to withdraw the cash value of the participant's total shares or ~~may~~ leave such shares on deposit with the supplemental retirement fund. Shares not withdrawn ~~shall must~~ remain on deposit with the supplemental retirement fund until the former participant ~~attains the age of~~ *becomes* at least ~~58~~ 55 years old, and applies for an annuity as ~~provided in~~ *under* section 352D.06, subdivision 1.

Sec. 19. Minnesota Statutes 1989 Supplement, section 353.01, subdivision 37, is amended to read:

Subd. 37. [NORMAL RETIREMENT AGE.] "Normal retirement age" means age 65 for a person who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989.* For a person who first becomes a public employee after June 30, 1989, "normal retirement age" means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

Sec. 20. Minnesota Statutes 1989 Supplement, section 353.29, subdivision 3, is amended to read:

Subd. 3. [RETIREMENT ANNUITY FORMULA.] (a) This paragraph, in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c, applies to any member who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989,* unless paragraph (b), in conjunction with section 353.30, subdivision 5, produces a higher annuity amount, in which case paragraph (b) will apply. The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and thereafter by 2.5 percent per year of allowable service and completed months less than a full year for the "basic member", and one percent for each year of allowable service for the first ten years and thereafter by 1.5 percent per year of allowable service and completed months less than a full year for the "coordinated member," shall determine the amount of the "normal" retirement annuity.

(b) This paragraph applies to a member who *has become at least 55 years old and first became* a public employee after June 30, 1989, and to any other member whose annuity amount, when calculated under this paragraph and in conjunction with section 353.30, subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with section 353.30, subdivisions 1, 1a, 1b, and 1c. The average salary, as defined in subdivision 2, multiplied by 2.5 percent for each year of allowable service and completed months less than a full year for a basic member and 1.5 percent per year of allowable service and completed months less than a full year for a coordinated member, shall determine the amount of the normal retirement annuity.

Sec. 21. Minnesota Statutes 1989 Supplement, section 353.30, is amended to read:

353.30 [ANNUITIES UPON RETIREMENT.]

Subdivision 1. Upon separation from public service, any person who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, and who has ~~attained the age of become~~ at least 58 years old but not more than normal retirement age and who received credit for not less than 20 years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement.

Subd. 1a. Any person who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, and whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), without any reduction in annuity by reason of such early retirement.

Subd. 1b. Any person who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, with 30 years or more of allowable service credit, who elects early retirement under subdivision 1, shall receive an annuity in an amount equal to the normal annuity provided under section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under age 62 at the time of retirement.

Subd. 1c. Any person who first became a public employee *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, and who has received credit for at least 30 years of allowable service or who has ~~attained the age of become~~ at least 55 years old but not normal retirement age, and has received credit for at least three years of allowable service is entitled upon application to a retirement annuity in an amount equal to the normal annuity provided in section 353.29, subdivisions 2 and 3, paragraph (a), reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement, except that for any member who has 30 or more years of allowable service the reduction shall be applied only for each month that the member is under age 62 at the time of retirement.

Subd. 3. [OPTIONAL RETIREMENT ANNUITY FORMS.] The board of trustees shall establish optional annuities which shall take the form of a joint and survivor annuity. Except as provided in subdivision 3a, the optional annuity forms shall be actuarially equivalent to the forms provided in section 353.29 and subdivisions 1, 1a, 1b, 1c, and 5. In establishing those optional forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendations shall be a part of the permanent records of the board. A member or former member may select an optional form of annuity in lieu of accepting any other form of annuity which might otherwise be available.

Subd. 3a. [BOUNCE-BACK ANNUITY.] (a) If a former member or disabliant selects a joint and survivor annuity option under subdivision 3, the former member or disabliant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former

member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary *dies first but has not* died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

Subd. 3b. [BOUNCE-BACK ANNUITY.] (a) The board of trustees must provide a joint and survivor annuity option to members of the police and fire fund. Under this option, a former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant of the police and fire fund who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former member or disabilitant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabilitant if the designated optional beneficiary *dies first but has not* died before July 1, 1989, shall have their annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have

provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

Subd. 3c. [EFFECTIVE DATE OF BOUNCE-BACK ANNUITY.] In the event of the death of the designated optional annuity beneficiary before the retired employee or disabiltant, the restoration of the normal single life annuity under subdivision 3a or 3b will take effect on the first of the month following the date of death of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death certificate is received in the office of the public employees retirement association, whichever date is later.

Subd. 4. ~~Any~~ Monthly payments to which any person may be entitled under this chapter may be reduced ~~in amount~~ upon application of the person ~~entitled thereto~~ to the association, provided that the person shall first relinquish in writing all claim to that part of the full monthly payment which is the difference between the monthly payment which that person would be otherwise entitled to receive and the monthly payment which that person will receive. The reduced monthly payment shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced monthly payment releases the retirement association from all obligation to pay to the person the difference between the amount of the reduced monthly payment and the full amount of the monthly payment which the person would otherwise have received. Upon application of the person who is entitled to such monthly payment, it may be increased prospectively to not more than the amount to which the person would have been entitled had no portion thereof been waived.

Subd. 5. [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] This subdivision applies to a member who *has become at least 55 years old* and first became a public employee after June 30, 1989, and to any other member *who has become at least 55 years old* and whose annuity is higher when calculated under section 353.29, subdivision 3, paragraph (b), in conjunction with this subdivision than when calculated under section 353.29, subdivision 3, paragraph (a), in conjunction with subdivision 1, 1a, 1b, or 1c. An employee who retires before normal retirement age shall be paid the retirement annuity provided in section 353.29, subdivision 3, paragraph (b), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

Sec. 22. Minnesota Statutes 1989 Supplement, section 353.651, subdivision 4, is amended to read:

Subd. 4. [EARLY RETIREMENT.] Any police officer or firefighter member who has ~~attained the age of~~ *become* at least 50 years old and who has at least ~~five~~ *three* years of allowable service is entitled upon application to a retirement annuity equal to the normal annuity calculated under subdivision 3, reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity from the day the annuity begins to accrue until the member attains age 55.

Sec. 23. Minnesota Statutes 1989 Supplement, section 354.05, subdivision 38, is amended to read:

Subd. 38. [NORMAL RETIREMENT AGE.] "Normal retirement age" means age 65 for a person who first became a member of the fund *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989. For a person who first becomes a member of the fund after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended.

Sec. 24. Minnesota Statutes 1988, section 354.07, subdivision 4, is amended to read:

Subd. 4. It shall be the duty of the board from time to time to certify to the state board of investment for investment as much of the funds in its hands as shall not be needed for current purposes. ~~Such funds that are certified to the variable annuity division shall include employee deductions as well as an equal amount for state's matching.~~ Such funds that are certified as to investment in the postretirement investment fund shall include the amount as required for the total reserves needed for the purposes described in section 354.63. The state board of investment shall thereupon transfer such assets to the appropriate fund provided herein, in accordance with the procedure set forth in ~~sections 354.62 and~~ section 354.63, or invest and reinvest an amount equal to the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for state employees retirement fund and all such securities so transferred or purchased shall be deposited with the state treasurer. All interest from these investments shall be credited to the appropriate funds and used for current purposes or investments, except as hereinafter provided. The state board of investment shall have authority to sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and shall sell securities upon request of the officers of the association when such officers determine funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, purchase and sale of securities for the teachers' retirement fund.

Sec. 25. Minnesota Statutes 1989 Supplement, section 354.071, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF TERMINATION OR DENIAL.] If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under this chapter or the applicable sections of chapters 136, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

- (1) the reasons for the termination or denial;
- (2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;
- (3) *a statement that relevant documentation submitted by the petitioner to the executive director must be received in the office of the teachers retirement association at least 30 days before the meeting prescribed in subdivision 4;*
- (4) a statement that failure to petition the board within 60 days will

preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(4) (5) a copy of this section.

Sec. 26. Minnesota Statutes 1989 Supplement, section 354.071, subdivision 3, is amended to read:

Subd. 3. [PETITION FOR REVIEW.] A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation. *Relevant documentation submitted by the petitioner to the executive director must be received in the office of the teachers retirement association at least 30 days before the meeting prescribed in subdivision 4.*

Sec. 27. Minnesota Statutes 1989 Supplement, section 354.071, is amended by adding a subdivision to read:

Subd. 5a. [EXECUTIVE DIRECTOR'S ORDER.] *Notwithstanding subdivisions 4 and 5, if the executive director determines with respect to a petition that no relevant facts are in dispute, the executive director shall inform the board of that determination, and the board may issue findings of fact, a decision, reasons for the decision, and a final order and serve it upon the petitioner as provided in subdivision 8. If a petitioner receives an adverse decision, the petitioner may appeal the board's final order under subdivision 9.*

Sec. 28. Minnesota Statutes 1988, section 354.146, subdivision 1, is amended to read:

Subdivision 1. Every member who has rendered teaching service or was on an authorized leave of absence after June 30, 1972 is covered by the full formula program ~~except that those members who have contributed to the variable annuity fund are covered by the combined formula and variable annuity program.~~ The benefit of a former member who does not return to teaching service ~~prior to~~ before retirement shall be determined under the program in effect at the time of termination.

Sec. 29. Minnesota Statutes 1988, section 354.42, subdivision 2, is amended to read:

Subd. 2. The employee contribution to the fund shall be an amount equal to 4-1/2 percent of the salary of every coordinated member and 8-1/2 percent of the salary of every basic member. This contribution shall be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, such member's employee contribution shall be based on the entire salary received. ~~For purposes of financing the various options related to the variable annuity division, employee variable annuity contributions will be credited in accordance with section 354.62, subdivision 2.~~

Sec. 30. Minnesota Statutes 1988, section 354.42, subdivision 3, is amended to read:

Subd. 3. The employer contribution to the fund shall be an amount equal to 4-1/2 percent of the salary of each coordinated member and 8-1/2 percent of the salary of each basic member. This contribution shall be made in the manner provided in section 354.43. ~~For purposes of financing the various options related to the variable annuity division, employer contributions equal to the employee variable annuity contributions prescribed in section 354.62, subdivision 2, shall be allocated at the same time to the employer variable annuity contribution account in section 354.62, subdivision 3.~~

Sec. 31. Minnesota Statutes 1989 Supplement, section 354.44, subdivision 6, is amended to read:

Subd. 6. [COMPUTATION OF FORMULA PROGRAM RETIREMENT ANNUITY.] (1) The formula retirement annuity hereunder shall be computed in accordance with the applicable provisions of the formulas stated in clause (2) or (4) on the basis of each member's average salary for the period of the member's formula service credit. ~~For the purposes of computing the formula benefits under the formula and variable program, if a combination of these formulas is used, the formula percentages used will be those percentages in each formula as continued for the respective years of service from one formula to the next.~~

For all years of formula service credit, "average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made and upon which payments were made to increase the salary limitation provided in Minnesota Statutes 1971, section 354.511 for the highest five successive years of formula service credit provided, however, that such "average salary" shall not include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of formula service credit if this service credit is less than five years.

(2) This clause, in conjunction with clause (3), applies to a person who first became a member of the fund ~~or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless clause (4), in conjunction with clause (5), produces a higher annuity amount, in which case clause (4) applies.~~ The average salary as defined in clause (1), multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
Each year of service during first ten	1.0 percent per year	2.0 percent per year
Each year of service thereafter	1.5 percent per year	2.5 percent per year

(3)(i) This clause applies only to a person who first became a member of the fund ~~or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under clause (2), in conjunction with this clause than when calculated under clause (4), in conjunction with clause (5).~~

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in clause (2) ~~and subdivision 7, paragraph (a), reduced by one-quarter of one percent for each month that~~

the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in clause (2), without any reduction by reason of early retirement.

(4) This clause applies to a member who *has become at least 55 years old and* first became a member of the fund after June 30, 1989, and to any other member *who has become at least 55 years old and* whose annuity amount when calculated under this clause and in conjunction with clause (5), is higher than it is when calculated under clause (2), in conjunction with clause (3). The average salary, as defined in clause (1) multiplied by 2.5 percent for each year of service for a basic member and by 1.5 percent for each year of service for a coordinated member shall determine the amount of the retirement annuity to which the member is entitled.

(5) This clause applies to a person who *has become at least 55 years old and* first becomes a member of the fund after June 30, 1989, and to any other member *who has become at least 55 years old and* whose annuity is higher when calculated under clause (4) in conjunction with this clause than when calculated under clause (2), in conjunction with clause (3). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in clause (4) ~~and subdivision 7, paragraph (b),~~ reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

Sec. 32. Minnesota Statutes 1989 Supplement, section 354.45, subdivision 1a, is amended to read:

Subd. 1a. [BOUNCE-BACK ANNUITY.] (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former member or disabilitant who selected an optional joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabilitant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabilitant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) *The restoration of the normal single life annuity under this subdivision will take effect on the first of the month following the date of death*

of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death certificate of the designated optional annuity beneficiary is received in the office of the teachers retirement association, whichever date is later.

Sec. 33. Minnesota Statutes 1988, section 354.46, subdivision 1, is amended to read:

Subdivision 1. [BASIC PROGRAM; BENEFITS FOR SPOUSE AND CHILDREN OF TEACHER.] If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6 equal to or greater than \$75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies prior to attaining the age of 65 years, the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

(a) Surviving
dependent

spouse 50 percent of the basic member's monthly
average salary paid in the last full
fiscal year preceding death

(b) Each
dependent

child ten percent of the basic member's
monthly average salary paid in the
last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed \$1,000 for any one family, and the minimum benefit per family shall not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The surviving dependent spouse benefit shall terminate upon remarriage, and the surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to ~~sections~~ section 354.47, subdivision 1 ~~or 354.62, subdivision 5, clause (3)~~. If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Sec. 34. Minnesota Statutes 1989 Supplement, section 354.46, subdivision 2, is amended to read:

Subd. 2. [DEATH WHILE ELIGIBLE DESIGNATED BENEFICIARY BENEFIT.] The surviving spouse of any member or former member who has attained the age of at least 50 years and has credit for at least three years of allowable service or who has credit for at least 30 years of allowable service irrespective of age shall be entitled to joint and survivor annuity coverage in the event of death of the member prior to retirement. If the surviving spouse does not elect to receive a surviving spouse benefit provided pursuant to subdivision 1, if applicable, or does not elect to receive a refund of accumulated member contributions provided pursuant to section 354.47, subdivision 1, ~~or 354.62, subdivision 5, clause (3), whichever is applicable,~~ the surviving spouse shall be entitled to receive, upon written application on a form prescribed by the executive director, a benefit equal to the second portion of a 100 percent joint and survivor annuity as provided pursuant to section 354.45 and computed pursuant to section 354.44, subdivision 2, 6, or 7, whichever is applicable. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 354.44, subdivisions 6 and 7, and 354.60 apply to a deferred annuity payable under this section. ~~If the member was a participant in the variable annuity division, the applicable portion of the benefit shall be computed pursuant to section 354.62, subdivision 5, clause (1).~~ The benefit shall be payable for life.

Sec. 35. Minnesota Statutes 1989 Supplement, section 354.47, subdivision 1, is amended to read:

Subdivision 1. [DEATH BEFORE RETIREMENT.] (1) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit pursuant to section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death.

(2) If a member dies before retirement and is covered pursuant to the provisions of section 354.44, ~~subdivisions~~ subdivision 6 and 7, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, the surviving spouse, or if there is no surviving spouse, the designated beneficiary shall be entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death the member's accumulated deductions plus interest at the rate of six percent per annum compounded annually.

~~(3) The amounts payable in clause (1) or (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.~~

Sec. 36. Minnesota Statutes 1989 Supplement, section 354.48, subdivision 3, is amended to read:

Subd. 3. [COMPUTATION OF BENEFITS.] (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;
- (d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 4d.

In addition, a supplementary monthly benefit shall be paid to basic members only in accordance with the following table:

Age When Benefit Begins to Accrue	Supplementary Benefit
Under Age 56	\$50
56	45
57	40
58	35
59	30
60	25
61	20
62	15
63	10
64	5

(2) The disability benefit granted to members covered under section 354.44, subdivision 6 or 7, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6 or 7, ~~whichever is applicable~~. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

Sec. 37. Minnesota Statutes 1989 Supplement, section 354.49, subdivision 2, is amended to read:

Subd. 2. Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually ~~plus any variable annuity account accumulations payable pursuant to section 354.62, subdivision 5, clause (4).~~ For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Sec. 38. Minnesota Statutes 1989 Supplement, section 354.49, subdivision 3, is amended to read:

Subd. 3. Any person who has attained normal retirement age with less than three years of credited allowable service shall be entitled to receive a refund in an amount equal to the person's accumulated deductions plus interest in lieu of a proportionate annuity pursuant to section 356.32 except those covered under the provisions of section 354.44, subdivision 6 ~~or 7~~, in which case the refund shall be an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957, and after July 1, 1957, the accumulated deductions plus interest at the rate of six percent compounded annually.

Sec. 39. Minnesota Statutes 1989 Supplement, section 354.50, subdivision 5, is amended to read:

Subd. 5. ~~Notwithstanding section 354.62, subdivision 5, clause (4),~~ A member who received a refund of variable account accumulations may repay this refund to the member's formula account under this section.

Sec. 40. Minnesota Statutes 1988, section 354.52, subdivision 2, is amended to read:

Subd. 2. Each school board or managing body shall, on or before August 1, each year, report to the teachers retirement board giving an itemized summary of the total amount withheld from the salaries of teachers for ~~regular teacher's teachers~~ retirement deductions ~~and for variable annuity deductions~~, and such other information as the executive director may require. If the itemized summary is received after August 1 in any year, there shall be a penalty not to exceed \$25 for each month or portion thereof which the summary is delinquent, as determined by the board of trustees. The penalty shall be paid by the school board or the managing body.

Sec. 41. Minnesota Statutes 1989 Supplement, section 354.55, subdivision 11, is amended to read:

Subd. 11. [DEFERRED ANNUITY; AUGMENTATION.] Any person covered under section 354.44, ~~subdivisions subdivision 6 and 7~~, who ceases to render teaching service, may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision shall be governed pursuant to section 354.44, subdivision 1, or 354.60.

The amount of the deferred retirement annuity shall be determined by section 354.44, ~~subdivisions subdivision 6 and 7~~, and augmented as provided in this subdivision. The required reserves related to that portion of the annuity which had accrued when the member ceased to render teaching service shall be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to

render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose shall be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former member attains age 55. From that date to the effective date of retirement, the rate is five percent compounded annually. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period shall be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the basis for purchasing the deferred annuity. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund. If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service shall be those applicable to new members. The mortality table and interest assumption used to compute the annuity shall be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

~~The provisions of this subdivision shall not apply to variable account accumulations as defined in section 354.05, subdivision 23.~~

In no case shall the annuity payable under this subdivision be less than the amount of annuity payable pursuant to section 354.44, ~~subdivisions subdivision 6 and 7.~~

The requirements and provisions for retirement before normal retirement age contained in section 354.44, subdivision 6, clause (3) or (5), shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

Sec. 42. Minnesota Statutes 1988, section 354.55, subdivision 19, is amended to read:

Subd. 19. Any member or retired former member who is covered by the formula ~~or formula and variable programs~~ in effect after June 30, 1973 and who made payments to the fund pursuant to Minnesota Statutes 1965, section 354.511 shall upon request receive a refund of such payments.

Sec. 43. Minnesota Statutes 1989 Supplement, section 354.65, is amended to read:

354.65 [ADMINISTRATIVE EXPENSES.]

Necessary and reasonable administrative expenses incurred by the teachers retirement association must be prorated and allocated to the teachers retirement fund; and the organization's participation in ~~both the Minnesota variable annuity investment fund and the Minnesota supplemental investment fund~~ in accordance with policies and procedures established by the board of trustees of the teachers retirement association.

Sec. 44. Minnesota Statutes 1989 Supplement, section 354.66, subdivision 2, is amended to read:

Subd. 2. A teacher in the public elementary schools, secondary schools, or technical institutes or in the community college system or the state university system of the state who has 20 years or more of allowable service in the fund or 20 years or more of full-time teaching service in Minnesota public elementary schools, secondary schools, or technical institutes or in the community college system or the state university system, or a teacher in the community college system or state university system who has attained at least age 55 and has ten years or more *of allowable service in the fund or ten years or more of full-time teaching service as described in this subdivision*, may, by agreement with the board of the employing district, be assigned to teaching service within the district in a part-time teaching position.

Sec. 45. Minnesota Statutes 1989 Supplement, section 354A.011, subdivision 15a, is amended to read:

Subd. 15a. [NORMAL RETIREMENT AGE.] "Normal retirement age" means age 65 for a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association *or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989*. For a person who first became a member of the coordinated program of the Minneapolis or St. Paul teachers retirement fund association or the new law coordinated program of the Duluth teachers retirement fund association after June 30, 1989, normal retirement age means the higher of age 65 or retirement age, as defined in United States Code, title 42, section 416(l), as amended. For a person who is a member of the basic program of the Minneapolis or St. Paul teachers retirement fund association or the old law coordinated program of the Duluth teachers retirement fund association, normal retirement age means the age at which a teacher becomes eligible for a normal retirement annuity computed upon meeting the age and service requirements specified in the applicable provisions of the articles of incorporation or bylaws of the respective teachers retirement fund association.

Sec. 46. Minnesota Statutes 1989 Supplement, section 354A.095, is amended to read:

354A.095 [MATERNITY LEAVE.]

~~A Basic or coordinated member~~ *members* of the St. Paul teachers retirement fund association and ~~old or~~ *new* coordinated members of the Duluth teachers retirement fund association, who are granted parental or maternity leave of absence by the employing authority, are entitled to obtain service credit not to exceed one year for the period of leave upon payment to the applicable fund by the end of the fiscal year *following the fiscal year* in which the leave of absence terminated. The amount of the payment must include the total required employee and employer contributions for the

period of leave prescribed in section 354A.12. Payment must be based on the member's average monthly salary upon return to teaching service, and is payable without interest. Payment must be accompanied by a certified or otherwise adequate copy of the resolution or action of the employing authority granting or approving the leave.

Sec. 47. Minnesota Statutes 1989 Supplement, section 354A.31, subdivision 4, is amended to read:

Subd. 4. [COMPUTATION OF THE NORMAL COORDINATED RETIREMENT ANNUITY.] (a) The normal coordinated retirement annuity shall be an amount equal to a retiring coordinated member's average salary multiplied by the retirement annuity formula percentage. Average salary for purposes of this section shall mean an amount equal to the average salary upon which contributions were made for the highest five successive years of service credit, but which shall not in any event include any more than the equivalent of 60 monthly salary payments. Average salary must be based upon all years of service credit if this service credit is less than five years.

(b) This paragraph, in conjunction with subdivision 6, applies to a person who first became a member *or a member in a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, unless paragraph (c), in conjunction with subdivision 7, produces a higher annuity amount, in which case paragraph (c) will apply. The retirement annuity formula percentage for purposes of this paragraph is one percent per year for each year of coordinated service for the first ten years and ~~1-1/2~~ 1.5 percent for each year of coordinated service thereafter.

(c) This paragraph applies to a person *who has become at least 55 years old and who first becomes a member after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount, when calculated under this paragraph and in conjunction with subdivision 7 is higher than it is when calculated under paragraph (b), in conjunction with the provisions of subdivision 6.* The retirement annuity formula percentage for purposes of this paragraph is ~~1-1/2~~ 1.5 percent for each year of coordinated service.

Sec. 48. Minnesota Statutes 1989 Supplement, section 354A.31, subdivision 6, is amended to read:

Subd. 6. [REDUCED RETIREMENT ANNUITY.] This subdivision applies only to a person who first became a coordinated member *or a member of a pension fund listed in section 356.30, subdivision 3*, before July 1, 1989, and whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision ~~(4)~~ 4, paragraph (b), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (c), in conjunction with subdivision 7.

(a) Upon retirement at an age ~~prior to~~ *before* normal retirement age with three years of service credit or prior to age 62 with at least 30 years of service credit, a coordinated member shall be entitled to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), reduced by one-quarter of one percent for each month that the coordinated member is under normal retirement age if the coordinated member has less than 30 years of service credit or is under the age of 62 if the coordinated member has at least 30 years of service credit.

(b) Any coordinated member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal retirement annuity calculated using the retirement annuity formula percentage in subdivision (4), paragraph (b), without any reduction by reason of early retirement.

Sec. 49. Minnesota Statutes 1989 Supplement, section 354A.31, subdivision 7, is amended to read:

Subd. 7. [ACTUARIAL REDUCTION FOR EARLY RETIREMENT.] This subdivision applies to a person who *has become at least 55 years old and* first becomes a coordinated member after June 30, 1989, and to any other coordinated member *who has become at least 55 years old and* whose annuity is higher when calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), in conjunction with this subdivision than when calculated under subdivision 4, paragraph (b), in conjunction with subdivision 6. A coordinated member who retires before the full benefit age shall be paid the retirement annuity calculated using the retirement annuity formula percentage in subdivision 4, paragraph (c), reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the member if the member deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age.

Sec. 50. Minnesota Statutes 1989 Supplement, section 354A.32, subdivision 1, is amended to read:

Subdivision 1. [OPTIONAL FORMS GENERALLY.] The boards of the Minneapolis and the St. Paul teachers retirement fund associations shall each establish for the coordinated program and the board of the Duluth teachers retirement fund association shall establish for the new law coordinated program an optional retirement annuity which shall take the form of a joint and survivor annuity. Each board may also in its discretion establish an optional annuity which shall take the form of an annuity payable for a period certain and for life thereafter. *Each board shall also establish an optional retirement annuity that guarantees payment of the balance of the annuity recipient's accumulated deductions to a designated beneficiary upon the death of the annuity recipient.* Except as provided in subdivision 1a, optional annuity forms shall be the actuarial equivalent of the normal forms provided in section 354A.31. In establishing these optional annuity forms, the board shall obtain the written recommendation of the commission-retained actuary. The recommendation shall be a part of the permanent records of the board.

Sec. 51. Minnesota Statutes 1989 Supplement, section 354A.32, subdivision 1a, is amended to read:

Subd. 1a. [BOUNCE-BACK ANNUITY.] (a) If a former coordinated member or disabilitant has selected a joint and survivor annuity option under subdivision 1, the former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) A former coordinated member or disabilitant who selected an optional

joint and survivor annuity before July 1, 1989, but did not choose an option that provides that the normal single life annuity is payable to the former member or the disabliant if the designated optional annuity beneficiary dies first, is eligible for restoration of the normal single life annuity if the designated optional annuity beneficiary dies first, without further actuarial reduction of the person's annuity. A former member or disabliant who selected an optional joint and survivor annuity, but whose designated optional annuity beneficiary died before July 1, 1989, shall receive a normal single life annuity after that date, but shall not receive retroactive payments for periods before that date.

(c) A former coordinated member or disabliant who took a further actuarial reduction to elect an optional joint and survivor annuity that provides that the normal annuity is payable to the former member or disabliant if the designated optional beneficiary *dies first but has not* died before July 1, 1989, shall have the annuity increased as of July 1, 1989, to the amount the person would have received if, at the time of retirement or disability, the person had selected only optional survivor coverage that would not have provided for restoration of the normal annuity upon the death of the designated optional annuity beneficiary. Any annuity or benefit increase under this paragraph is effective only for payments made after June 30, 1989, and is not retroactive for payments made before July 1, 1989.

(d) *The restoration of the normal single life annuity under this subdivision will take effect on the first of the month following the date of death of the designated optional annuity beneficiary or on the first of the month following one year before the date on which a certified copy of the death certificate of the designated optional annuity beneficiary is received in the office of the appropriate teachers retirement fund association, whichever date is later.*

Sec. 52. Minnesota Statutes 1989 Supplement, section 354B.02, subdivision 2, is amended to read:

Subd. 2. [PERSONS WITH CERTAIN PRIOR ALLOWABLE SERVICE.] A person with less than three years of prior allowable service as a member of the teachers retirement association other than in covered employment under section 354B.01, subdivision 2 or 3, and who is first employed in covered employment after June 30, 1989, ~~may remain~~ *remains* a member of the teacher's retirement association for all purposes ~~or, but a coordinated member may elect to participate in the plan.~~ This election to *participate in the plan* must be made within 60 days of the start of covered employment.

Sec. 53. Minnesota Statutes 1989 Supplement, section 354B.02, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL PARTICIPATION.] A person with less than three years of allowable service who was first employed in covered employment before July 1, 1989, and who is a coordinated member of the teachers retirement association, may elect to transfer retirement coverage to the plan under section ~~6~~ *354B.03*. The election must be made on a form provided by the executive director. An election to transfer retirement coverage to the plan must be made before July 1, 1992, and is irrevocable. When a member transfers coverage to the plan, all existing service credits with the association to which the person was entitled before the transfer terminate and may not be restored.

Sec. 54. Minnesota Statutes 1989 Supplement, section 354B.03, subdivision 1, is amended to read:

Subdivision 1. [~~PROCEDURE TRANSFER.~~] If a person with less than three years of allowable service elects a transfer to the plan under section 354B.02, subdivision 2 or 3, the executive director of the teachers retirement association shall transfer from the teachers retirement fund to the plan the person's member contributions plus interest compounded annually at five percent a year. The transfer must be made within 90 days from the date the executive director receives notification of the election. The transfer may not include any amount representing an employer contribution ~~nor any amount representing the repayment of a refund received by the association after the date of enactment of this act.~~

Sec. 55. Minnesota Statutes 1989 Supplement, section 354B.03, subdivision 3, is amended to read:

Subd. 3. [~~ELECTION.~~] A person with ~~more than three or more~~ years of allowable service credit who was first employed in covered employment before July 1, 1989, or after June 30, 1989, as provided in section 354B.02, subdivision 2, may elect coverage by the plan ~~before July 1, 1992.~~ If coverage is elected, accumulated employer and employee contributions and allowable service credit ~~shall must~~ remain with the teachers retirement fund and that person ~~shall remain~~ is eligible for a deferred annuity from that fund augmented with interest at the rate of five percent computed as specified in section 354.55, subdivision 11. Future contributions only shall be made to the plan. *An election made under this subdivision is irrevocable.*

Sec. 56. Minnesota Statutes 1988, section 356.302, subdivision 3, is amended to read:

Subd. 3. [~~GENERAL EMPLOYEE PLAN ELIGIBILITY REQUIREMENTS.~~] A disabled member of a covered retirement plan who has credit for allowable service in a combination of general employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than 65 years of age on the date of application for the disability benefit;

(2) has become totally and permanently disabled;

(3) has credit for allowable service in any combination of general employee retirement plans totaling at least ~~five~~ *three* years;

(4) has credit for at least six months of allowable service with the current general employee retirement plan before the commencement of the disability;

(5) has at least ~~five~~ *three* continuous years of allowable service credit by the general employee retirement plan or has at least a total of ~~five~~ *three* years of allowable service credit by a combination of general employee retirement plans in a 72-month period during which no interruption of allowable service credit from a termination of employment exceeded 29 days; and

(6) is not receiving a retirement annuity or disability benefit from any covered general employee retirement plan at the time of the commencement of the disability.

Sec. 57. Minnesota Statutes 1988, section 356.302, subdivision 4, is amended to read:

Subd. 4. [PUBLIC SAFETY PLAN ELIGIBILITY REQUIREMENTS.] A disabled member of a covered retirement plan who has credit for allowable service in a combination of public safety employee retirement plans is entitled to a combined service disability benefit if the member:

(1) is less than 55 years of ~~age~~ *old* on the date of application for the disability benefit;

(2) has become occupationally disabled;

(3) has credit for allowable service in any combination of public safety employee retirement plans totaling at least one year if the disability is duty-related or totaling at least ~~five~~ *three* years if the disability is not duty-related;

(4) has credit for at least six months of allowable service with the current public safety employee retirement plan before the commencement of the disability; and

(5) is not receiving a retirement annuity or disability benefit from any covered public safety employee retirement plan at the time of the commencement of the disability.

Sec. 58. Minnesota Statutes 1989 Supplement, section 356.371, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.] If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the chief administrative officer of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

Following the election of ~~an optional~~ *a* retirement annuity ~~form~~ by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form must be sent by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form to the spouse by certified mail.

Sec. 59. Minnesota Statutes 1989 Supplement, section 356.86, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT.] (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan ~~members~~ *annuity or benefit recipients*, the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year, the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement

funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(c) For basic plan ~~members~~ *annuity or benefit recipients*, the postretirement adjustment in 1989 is the greater of:

(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

(i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and

(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the social security administration.

In 1990 and each following year, each *eligible* basic plan ~~member~~ *annuity or benefit recipient* shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years, the adjustment must be paid on December 1, ~~unless the beneficiary~~ *to those persons receiving an annuity or benefit on the preceding November 30. A person who is entitled eligible may elect to participate in an optional annuity or benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid.*

Sec. 60. Minnesota Statutes 1989 Supplement, section 356.86, subdivision 4, is amended to read:

Subd. 4. [OPTIONAL ~~BENEFIT~~ POSTRETIREMENT ADJUSTMENT PAYMENT SCHEDULE.] Basic plan *annuity or benefit recipients* receiving adjustments under subdivision 2, paragraph (c), clause (2), and whose adjustment exceeds 20 percent of their Minnesota plan *annuity or benefit* may elect to have the amount of the ~~benefit~~ adjustment paid in equal monthly amounts instead of receiving a ~~benefit adjustment~~ *lump sum payment* on December 1 ~~of each year, 1989~~. Selection of this option must be made by the recipient in writing on forms prepared by the retirement association. *This option may be revoked by the recipient in writing prior to November 1 preceding the December 1 lump sum distribution. Upon the death of the annuity or benefit recipient, any remaining unpaid monthly amounts shall be paid to the surviving spouse, or if no spouse survives, to the annuity or benefit recipient's beneficiary or estate.*

Sec. 61. Minnesota Statutes 1989 Supplement, section 356.86, subdivision 5, is amended to read:

Subd. 5. [SOCIAL SECURITY INFORMATION.] To be eligible for a

~~benefit~~ *postretirement* adjustment calculated under subdivision 2, paragraph (c), clause (2), a person must authorize the social security administration to release to the retirement association information on the person's social security cash benefits. *This authorization must be received by the retirement association before the December 1, 1989, payment date.*

Sec. 62. Minnesota Statutes 1989 Supplement, section 356.86, subdivision 6, is amended to read:

Subd. 6. [REPORT.] By September 30, 1990, the retirement funds listed in subdivision 3 shall report to the legislature and the commissioner of finance on the number of *annuity and* benefit recipients eligible for each type of adjustment established in subdivision 2, the annual cost of each type of adjustment, and the estimated actuarial liability associated with each.

Sec. 63. Laws 1989, chapter 319, article 19, section 7, subdivision 4, is amended to read:

Subd. 4. [AMOUNT OF ANNUAL POSTRETIREMENT PAYMENT.] The amount determined under subdivision 3 must be applied in accordance with this subdivision. The relief association shall apply the first one-half of one percent of *assets which constitute* excess investment income to the payment of an annual postretirement payment as specified in this subdivision. The second one-half of one percent of *assets which constitute* excess investment income shall be applied to reduce the state amortization state aid or supplementary amortization state aid payments otherwise due to the relief association under section 423A.02 for the current calendar year. The relief association shall pay an annual postretirement payment to all eligible members in an amount not to exceed one-half of one percent of the assets of the fund. Payment of the annual postretirement payment must be in a lump sum amount on June 1 following the determination date in any year. Payment of the annual postretirement payment may be made only if the time weighted total rate of return exceeds by two percent the actual percentage increase in the current monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, in the most recent fiscal year and the yearly average percentage increase of the time weighted total rate of return of the fund for the previous five years exceeds by two percent the yearly average percentage increase in monthly salary of a top grade patrol officer or a top grade firefighter, whichever applies, of the previous five years. The total amount of all payments to members may not exceed the amount determined under subdivision 3. Payment to each eligible member must be calculated by dividing the total number of pension units to which eligible members are entitled into the excess investment income available for distribution to members, and then multiplying that result by the number of units to which each eligible member is entitled to determine each eligible member's annual postretirement payment. Payment to each eligible member may not exceed an amount equal to the total monthly benefit that the eligible member was entitled to in the prior year under the terms of the benefit plan of the relief association or each eligible member's proportionate share of the excess investment income, whichever is less.

Sec. 64. [REPEALER.]

Minnesota Statutes 1988, sections 11A.19, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 354.05, subdivisions 23, 24, 33, and 34; 354.146, subdivision 2; and 354.62, subdivisions 1, 3, 4, 5, and 6; Minnesota Statutes 1989 Supplement, sections 11A.19, subdivision 9; 354.44, subdivision 7; and

354.62, subdivisions 2 and 7, are repealed.

Sec. 65. [EFFECTIVE DATE.]

Sections 1 to 64 are effective the day following final enactment.

ARTICLE 13

PURCHASES OF CREDIT FOR PRIOR SERVICE

Section 1. [BUY-BACK OF PRIOR SERVICE CREDIT.]

Subdivision 1. [MILITARY AFFAIRS.] A person who was employed by the department of military affairs between April 14, 1967, and December 31, 1974, may purchase service credit from the Minnesota state retirement system for periods of that employment for which allowable service credit has not been obtained.

Subd. 2. [ST. CLOUD CITY COUNCIL.] A person who began service as an elected member of the St. Cloud city council on April 20, 1980, and who began participating in the public employees retirement association on February 19, 1989, may purchase credit for prior service as an elected member of the city council from April 20, 1980, to February 18, 1989.

Subd. 3. [AITKIN COUNTY OFFICIAL.] A member of the public employees retirement association with prior service as an elected county official in Aitkin county between January 4, 1971, and December 31, 1975, may purchase allowable service credit in the association for that period of service.

Subd. 4. [ST. LOUIS PARK.] A person who was born on July 31, 1927, who is the city attorney for the city of Brooklyn Park, and who was a member of the city council for the city of St. Louis Park from January 1, 1960, to January 1, 1968, is entitled to purchase credit from the public employees retirement association for that period of service if not otherwise credited as allowable service by the association.

Subd. 5. [PURCHASE.] Notwithstanding Minnesota Statutes, section 352.01, subdivision 11, any member of the Minnesota state retirement system currently employed by the Willmar Regional Treatment Center who left state service to attend the University of Michigan, Ann Arbor, between February 1966 and April 1968 may obtain allowable service credit for that period.

Subd. 6. [PERA.] A basic member of the public employees retirement association who was employed by the city of White Bear Lake from March 1, 1966, to February 1979, employed by the metropolitan transit commission on February 23, 1979, and who received a reduced salary based on service with the metropolitan transit commission between November 4, 1987, and March 1, 1988, may elect to exclude that service from calculation of the highest five successive years average salary used to determine the person's annuity from the public employees retirement association.

Subd. 7. [PURCHASE PAYMENT AMOUNT.] To purchase credit for prior service under subdivisions 1 to 5 there must be paid to the applicable fund an amount equal to the present value, on the date of payment, of the amount of the additional retirement annuity obtained by the purchase of the additional service credit. To make an exclusion under subdivision 6, there must be paid to the public employees retirement association an amount equal to the difference in the present value, on the date of payment, of the additional retirement annuity obtained by the exclusion of service between

November 4, 1987, and March 1, 1988, from calculation of the highest five successive years average salary. Calculation of this amount must be made using the applicable preretirement interest rate specified in Minnesota Statutes, section 356.215, subdivision 4d, and the mortality table adopted for the fund. The calculation must assume continuous future service in the association until, and retirement at, the age at which the minimum requirements of the retirement association for normal retirement or retirement with an annuity unreduced for retirement at an early age, including Minnesota Statutes, section 356.30, are met with the additional service credit purchased. The calculation must also assume a future salary history that includes annual salary increases at the salary increase rate specified in section 356.215, subdivision 4d. The person requesting the purchase of prior service shall establish in the records of the fund or association sufficient proof of the service for which the purchase of prior service is requested. The manner of the proof of service must be in accordance with procedures prescribed by the executive director of the association.

Subd. 8. [PAYMENT; CREDITING SERVICE.] Payment must be made in one lump sum, unless the executive director of the fund or association agrees to accept payment in installments over a period not to exceed three years from the date of the agreement, with interest at a rate deemed appropriate by the executive director. The period of allowable service may be credited to the account of the person or the period of service excluded from calculation of the high five only after receipt of full payment by the executive director.

Subd. 9. [OPTIONAL EMPLOYER PARTIAL PAYMENT.] Payment is the obligation of the person entitled to purchase credit for the prior service. However, the current or former employer of a person specified in subdivisions 1 to 6 may, at its discretion, pay all or any portion of the payment amount that exceeds an amount equal to the employee contribution rates in effect during the period of prior service applied to the actual salary rates in effect during the period of prior service, plus interest at the rate of six percent a year compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.

ARTICLE 14

MISCELLANEOUS RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 1988, section 424A.02, subdivision 3, is amended to read:

Subd. 3. [FLEXIBLE SERVICE PENSION MAXIMUMS.] On or before August 1 of each year as part of the certification of the financial requirements and minimum municipal obligation made pursuant to section 69.772, subdivision 4, or 69.773, subdivision 5, the secretary or some other official of the relief association designated in the bylaws of each relief association shall calculate and certify to the governing body of the applicable qualified municipality the average amount of available financing per active covered firefighter for the most recent three-year period. The amount of available financing shall include any amounts of fire state aid received or receivable by the relief association, any amounts of municipal contributions to the relief association raised from levies on real estate or from other available

revenue sources exclusive of fire state aid, and one-tenth of the amount of assets in excess of the accrued liabilities of the relief association calculated pursuant to sections 69.772, subdivision 2; 69.773, subdivisions 2 and 4; or 69.774, subdivision 2, if any. The maximum service pension which the relief association may provide for in its bylaws for payment to a member retiring after the calculation date when the minimum age and service requirements specified in subdivision 1 are met shall be determined using the applicable following table.

For a relief association where the governing bylaws provide for a monthly service pension to a retiring member, if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below, then the maximum monthly service pension amount per month for each year of service credited which may be provided for in the bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of calculation; or (2) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Service Pension Amount Payable per Month for Each Year of Service
\$. . .	\$.25
37	.50
75	1.00
112	1.50
149	2.00
186	2.50
224	3.00
261	3.50
298	4.00
336	4.50
373	5.00
447	6.00
522	7.00
597	8.00
671	9.00
746	10.00
820	11.00
895	12.00
969	13.00
1044	14.00
1119	15.00
1193	16.00
1268	17.00
1342	18.00
1417	19.00
1491	20.00
1566	21.00
1640	22.00
1678 or more	22.50
1715	23.00
1790	24.00
1865	25.00
1940	26.00

2015	27.00
2090	28.00
2165	29.00
2240 or more	30.00

For a relief association in which the governing bylaws provide for a lump sum service pension to a retiring member, if the average amount of available financing per active covered firefighter does not exceed the minimum average amount specified below, then the maximum lump sum service pension amount for each year of service credited which may be provided for in the bylaws shall be the greater of: (1) the service pension amount provided for in the bylaws on the date of the calculation; or (2) the maximum service pension figure corresponding to the average amount of available financing per active covered firefighter:

Minimum Average Amount of Available Financing per Firefighter	Maximum Lump Sum Service Pension Amount Payable for Each Year of Service
\$. . .	\$10
10	20
14	30
20	40
24	50
28	60
38	80
48	100
58	120
68	140
76	160
86	180
96	200
116	240
134	280
154	320
172	360
192	400
212	440
230	480
250	520
268	560
288	600
308	640
326	680
346	720
364	760
384	800
432	900
480	1000
528	1100
576	1200
624	1300
672	1400
720	1500
768	1600
816	1700

864	1800
912	1900
960	2000
1008	2100
1056	2200
1104	2300
1152	2400
1200	2500
1248	2600
1296	2700
1344	2800
1392	2900
1440 or more	3000

For a relief association in which the governing bylaws provide for a monthly benefit service pension as an alternative form of service pension payment to a lump sum service pension at the option of the retiring member, the maximum service pension amount shall be determined using the applicable table contained in this subdivision.

Sec. 2. [REPEAL OF REDUNDANT POSTRETIREMENT ADJUSTMENT.]

Subdivision 1. Laws 1989, chapter 335, article 1, section 50, is repealed.

Subd. 2. This section is effective retroactively to July 1, 1989.

Sec. 3. Laws 1989, chapter 319, article 17, section 18, is amended to read:

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to ~~17~~ 15 are effective July 1, 1989. *Sections 16 and 17 are effective May 16, 1989.*

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 3 are effective on the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; various retirement plans; including gambling enforcement division officers in the membership of the state patrol retirement plan; requiring regular investment performance reporting from public pension plans; modifying various retirement provisions related to state university and community college faculty members; including certain state lottery employees in the unclassified state employees retirement programs; modifying economic interest statement requirements for certain pension plan fiduciaries; changing schedule for actuarial valuations for the Thief River Falls police pension trust fund; excluding certain interns from public employees retirement association membership; extending retirement coverage to certain former crime bureau employees; restoring forfeited service credit for certain former St. Paul bureau of health employees; authorizing the transfer of the Moose Lake volunteer firefighters relief association; authorizing additional college supplemental retirement plan designated beneficiaries; authorizing service credit for medical leave periods in teacher retirement plans; authorizing annuitization of certain teacher postretirement amounts; expanding coverage of a public employees defined contribution plan to include elected local government employees; transferring certain employer contributions from the teachers retirement association to

the individual retirement account plan for post-June 30, 1988, state university and community college faculty; modifying the Minnesota postretirement investment fund reserve transfer procedure; making certain administrative modifications in Minnesota state retirement system and in public employees retirement association laws; making certain technical corrections related to the 1989 benefit increase legislation; authorizing various purchases of credit for prior service; modifying the flexible service pension maximums for volunteer firefighters relief associations providing monthly service pensions; repealing a redundant postretirement adjustment provision; amending Minnesota Statutes 1988, sections 3A.03, subdivision 2; 11A.18, subdivision 6; 43A.34, subdivision 4; 136.81, by adding a subdivision; 352.01, subdivision 13; 352.029, subdivision 3; 352.03, subdivision 1; 352.115, subdivision 7; 352.73, by adding a subdivision; 352.96, subdivision 4; 352B.01, subdivision 2; 352B.11, subdivision 4; 352B.14, subdivision 4; 352C.09, subdivision 2; 352D.02, subdivision 1; 352D.05, subdivision 3; 353.01, subdivisions 7 and 16; 353.15, subdivision 2; 353.27, subdivisions 7 and 10; 353.46, subdivision 4; 353.657, subdivision 1; 353.83; 353D.01; 353D.02; 353D.03; 353D.04; 353D.05, subdivisions 1 and 3; 353D.06; 353D.07; 353D.08; 353D.09; 354.07, subdivision 4; 354.146, subdivision 1; 354.42, subdivisions 2 and 3; 354.46, subdivision 1; 354.52, subdivision 2; 354.55, subdivision 19; 354B.01, subdivisions 2 and 3; 356.302, subdivisions 3 and 4; 424A.02, subdivision 3; Minnesota Statutes 1989 Supplement, sections 136.81, subdivision 1; 136.82, subdivisions 1 and 2; 352.01, subdivisions 2b and 25; 352.021, subdivision 5; 352.031, subdivisions 2, 3, and by adding a subdivision; 352.115, subdivision 3; 352.116, subdivisions 1 and 1a, and by adding a subdivision; 352.93, subdivisions 2a and 3; 352B.08, subdivisions 2a and 3; 352B.11, subdivision 2; 353.01, subdivisions 2b, 11a, and 37; 353.29, subdivision 3; 353.30; 353.35; 353.651, subdivision 4; 353.656, subdivisions 1 and 3; 354.05; 354.071, subdivisions 2, 3, and by adding a subdivision; 354.44, subdivision 6; 354.45, subdivision 1a; 354.46, subdivision 2; 354.47, subdivision 1; 354.48, subdivision 3; 354.49, subdivisions 2 and 3; 354.50, subdivision 5; 354.55, subdivision 11; 354.65; 354.66, subdivision 2; 354A.011, subdivision 5a; 354A.095; 354A.31, subdivisions 4, 6, and 7; 354A.32, subdivisions 1 and 1a; 354B.02, subdivisions 2, 3, and by adding a subdivision; 354B.03, subdivisions 1 and 3; 354B.05, subdivision 3; 356.371, subdivision 3; 356.86, subdivisions 2, 4, 5, and 6; 356A.06, subdivision 4; Laws 1978, chapter 689, section 4, subdivision 2, as amended; Laws 1980, chapter 612, section 3, as amended; Laws 1989, chapter 319, articles 17, section 18; and 19, section 7, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 353D; 354; 354A; and 356; repealing Minnesota Statutes 1988, sections 11A.19, subdivisions 1 to 8; 136.81, subdivisions 2 and 3; 136.82, subdivisions 3 and 4; 136.83; 136.85; 354.05, subdivisions 23, 24, 33, and 34; 354.146, subdivision 2; 354.62, subdivisions 1, 3, 4, 5, and 6; Minnesota Statutes 1989 Supplement, sections 11A.19, subdivision 9; 136.82, subdivisions 1 and 2; 136.84; 353.87, subdivision 5; 354.44, subdivision 7; and 354.62, subdivisions 2 and 7; and Laws 1989, chapter 335, article 1, section 50."

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

House Conferees: (Signed) Leo J. Reding, Bob Johnson, Jerry Knickerbocker, Rich O'Connor, Wayne Simoneau

Senate Conferees: (Signed) Donald M. Moe, Gene Waldorf, Earl W. Renneke, Steven Morse

Mr. Moe, D.M. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2103 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. 2103 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Knutson	Moe, R.D.	Reichgott
Anderson	Davis	Laidig	Morse	Renneke
Beckman	Decker	Langseth	Novak	Schmitz
Belanger	DeCramer	Lantry	Olson	Spear
Benson	Dicklich	Larson	Pariseau	Storm
Berg	Flynn	Luther	Pehler	Stumpf
Berglin	Frederick	Marty	Peterson, R.W.	Vickerman
Bernhagen	Frederickson, D.J.	McGowan	Piepho	Waldorf
Bertram	Hughes	McQuaid	Piper	
Brandl	Johnson, D.E.	Metzen	Pogemiller	
Brataas	Knaak	Moe, D.M.	Ramstad	

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. 2081, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2081 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2081

A bill for an act relating to state government; regulating certain employment practices; permitting the transfer of vacation and sick leave for certain gubernatorial appointees; permitting employees on permanent layoff to test into new state positions; authorizing the donation of the value accrued vacation leave to other state employees under certain circumstances; making technical changes in the public employees insurance program; eliminating the authority of the board of medical examiners and the board of dentistry to set the salaries of their executive directors; designating certain positions in the unclassified service; eliminating obsolete language; appropriating money; amending Minnesota Statutes 1988, sections 15A.081, subdivision 7b, and by adding a subdivision; 15A.083, subdivisions 5 and 7; 43A.04, subdivisions 1 and 3, and by adding a subdivision; 43A.10, subdivisions 7 and 8; 43A.12, subdivision 5; 43A.13, subdivisions 2, 3, 4, 5, 6, and

7; 43A.15, subdivision 10; 43A.17, subdivisions 1 and 8; 43.18, subdivisions 4 and 5; 43A.191, subdivisions 2 and 3; 43A.23, subdivision 1; 43A.27, subdivision 4; 43A.316, subdivisions 2, 3, 5, 7, and 8; 43A.37, subdivision 1; 176.421, by adding a subdivision; 176B.02; 237.51, subdivision 5; 473.405, subdivision 12; Minnesota Statutes 1989 Supplement, section 43A.08, subdivision 1; 43A.316, subdivisions 9 and 10; 214.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 43A; repealing Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5.

April 20, 1990

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. 2081, 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. 2081 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 15A.081, subdivision 7b, is amended to read:

Subd. 7b. [HIGHER EDUCATION OFFICERS.] The state university board, the state board for community colleges, the state board of vocational technical education, and the higher education coordinating board shall set the salary rates for, respectively, the chancellor of the state universities, the chancellor of the community colleges, the state director of vocational technical education, and the executive director of the higher education coordinating board. The respective board shall submit the proposed salary increase to the legislative commission on employee relations for approval, modification, or rejection in the manner provided in section 43A.18, subdivision 2. Salary rates for the positions specified in this subdivision may not exceed 95 percent of the salary of the governor under section 15A.082, subdivision 3. *In deciding whether to recommend a salary increase, the governing board shall consider the performance of the chancellor or director, including the chancellor's or director's progress toward attaining affirmative action goals.*

Sec. 2. Minnesota Statutes 1988, section 15A.081, is amended by adding a subdivision to read:

Subd. 9. [TRANSFER OF VACATION AND SICK LEAVE; CERTAIN APPOINTEES.] *(a) This subdivision governs transfers of accumulated vacation leave and sick leave if the governor appoints the incumbent of a position listed in this section to another position listed in this section.*

(b) An appointee moving between positions in the executive branch shall transfer all vacation leave and sick leave hours to the appointee's credit at the time of the new appointment.

(c) The governor may authorize an appointee to transfer accumulated vacation leave and sick leave hours under the following conditions:

(1) an appointee moving to a position in the executive branch from a

position outside the executive branch may be permitted to transfer no more than 275 hours of accumulated unliquidated vacation leave and no more than 900 hours of accumulated unliquidated sick leave; and

(2) an appointee moving to a position outside the executive branch from a position within the executive branch may be permitted to transfer accumulated unliquidated vacation leave and sick leave hours up to the maximum accumulations permitted by the personnel policies governing the new position.

The governor shall notify the commissioner of employee relations of any transfers authorized under this paragraph.

Sec. 3. Minnesota Statutes 1988, section 15A.083, subdivision 5, is amended to read:

Subd. 5. [TAX COURT.] Salaries of judges of the tax court ~~shall be~~ are the same as the base salary for district judges as ~~provided in~~ set under section 15A.082, subdivision ~~+~~ 3.

Sec. 4. Minnesota Statutes 1988, section 15A.083, is amended by adding a subdivision to read:

Subd. 6a. [ADMINISTRATIVE LAW JUDGE; MAXIMUM SALARY.] *The maximum salary of an administrative law judge in the classified service employed by the office of administrative hearings is 90 percent of the salary of district court judges as set under section 15A.082, subdivision 3.*

Sec. 5. Minnesota Statutes 1988, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals ~~shall be 90 percent of~~ are the same as the salary for district judges as ~~provided in~~ set under section 15A.082, subdivision ~~+~~ 3. Salaries of compensation judges ~~shall be~~ are 75 percent of the salary of district court judges as ~~provided in~~ subdivision ~~+~~ 4. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry.

Sec. 6. Minnesota Statutes 1988, section 43A.04, subdivision 1, is amended to read:

Subdivision 1. [STATEWIDE LEADERSHIP] (a) The commissioner ~~shall be~~ is the chief personnel and labor relations manager of the civil service in the executive branch.

~~(a)~~ Whenever any power or responsibility is given to the commissioner by any provision of Laws 1981, chapter 210, unless otherwise expressly provided, the power or authority ~~shall apply~~ applies to all employees of agencies in the executive branch and to employees in classified positions in the office of the legislative auditor, the Minnesota state retirement system, the public employees retirement association, and the teacher's retirement association. Unless otherwise provided by law, the power or authority ~~shall~~ does not apply to unclassified employees in the legislative and judicial branches.

(b) The commissioner shall operate an information system from which personnel data, as defined in section 13.43, concerning employees and applicants for positions in the classified service can be retrieved.

The commissioner ~~shall have~~ *has* access to all public and private personnel data kept by appointing authorities ~~which~~ *that* will aid in the discharge of the commissioner's duties.

(c) The commissioner may consider and investigate any matters concerned with the administration of provisions of Laws 1981, chapter 210, and may order any remedial actions consistent with law.

(d) The commissioner has sole authority to settle state employee workers' compensation claims.

(e) The commissioner may assess all state entities for the costs of programs under sections 15.46 and 176.603.

Sec. 7. Minnesota Statutes 1988, section 43A.04, subdivision 3, is amended to read:

Subd. 3. [RULES.] The commissioner shall ~~promulgate~~ *adopt* rules ~~pursuant to~~ *under* the administrative procedure act to implement the provisions of this chapter ~~which~~ *that* directly affect the rights of or processes available to the general public. The rules ~~shall~~ have the force and effect of law and ~~shall~~ *may* include but are not limited to:

~~(a)~~ (1) the processes for determining the extent of competition for filling vacancies, for recruiting applicants, for conducting competitive open examinations, for ranking candidates and maintaining competitive open eligible lists, and for certification and appointment of eligibles from competitive open eligible lists;

~~(b)~~ (2) the process for effecting noncompetitive and qualifying appointments;

~~(c)~~ (3) the process for temporary designation of positions in the unclassified service and for effecting appointments to the unclassified service;

~~(d)~~ (4) a statewide affirmative action program to include requirements for agency affirmative action plans, statewide policies and procedures, reporting requirements, accountability and responsibility of employees in the executive branch, and overall objectives of the program;

~~(e)~~ (5) conditions under which moving and other expenses may be authorized and paid prior to appointment to persons who have accepted state employment;

~~(f)~~ (6) procedures for administration of the code of ethics for employees of the executive branch; ~~and~~

~~(g)~~ (7) examination procedures for candidates with ~~handicaps~~ *disabilities* as described in section 43A.10, subdivision 8-; and

(8) procedures or policies that affect the operation of or participation in the public employees insurance program.

Sec. 8. Minnesota Statutes 1988, section 43A.04, is amended by adding a subdivision to read:

Subd. 9. [EXPERIMENTAL OR RESEARCH PROJECTS.] *The commissioner of employee relations may conduct experimental or research*

projects designed to improve recruitment, selection, referral, or appointment processes for the filling of state classified positions.

The commissioner shall meet and confer with the affected exclusive bargaining representative of state employees concerning the design and implementation of experimental and research projects under this subdivision.

Any provision in sections 43A.09 to 43A.15, associated personnel rules adopted under subdivision 3, or administrative procedures established under subdivision 4, is waived for the purposes of these projects. The number of appointments under this subdivision may not exceed five percent of the total number of appointments in the preceding fiscal year.

The commissioner shall report by September 1 to the legislative commission on employee relations the results of the experimental research projects conducted in the preceding fiscal year.

Sec. 9. Minnesota Statutes 1989 Supplement, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

- (a) chosen by election or appointed to fill an elective office;
- (b) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (c) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a;
- (d) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (e) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (f) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (g) employees of the Washington, D.C., office of the state of Minnesota;
- (h) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (i) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;
- (j) officers and enlisted persons in the national guard;

(k) attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(l) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(m) members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

(n) chaplains employed by the state;

(o) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(p) student workers;

(q) one position in the hazardous substance notification and response activity in the department of public safety;

(r) employees unclassified pursuant to other statutory authority; ~~and~~

(s) intermittent help employee^d by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; ~~and~~

(t) the administrators and the deputy administrators at the state academies for the deaf and the blind.

Sec. 10. Minnesota Statutes 1988, section 43A.10, subdivision 7, is amended to read:

Subd. 7. [EXAMINATION ACCOMMODATIONS.] Upon request, the commissioner shall provide examination accommodations to a candidate with a ~~handicap~~ disability that does not prevent performance of the duties of the class. The accommodations ~~shall~~ must provide an opportunity to fairly examine the ability of the candidate to perform the duties of the class notwithstanding the ~~handicap~~ disability but ~~shall~~ must preserve, to the extent feasible, the validity of the examination process and equitable comparison of examination scores with competitors without ~~handicaps~~ disabilities.

Sec. 11. Minnesota Statutes 1988, section 43A.10, subdivision 8, is amended to read:

Subd. 8. [ELIGIBILITY FOR QUALIFIED ~~HANDICAPPED DIS- ABLED~~ EXAMINATIONS.] The commissioner shall establish examination procedures for candidates whose ~~handicaps~~ disabilities are of such a severe nature that the candidates are unable to demonstrate their abilities in competitive examination processes. The examination procedures ~~shall~~ must consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the disabled person has the option of being paid or unpaid. Up to three persons with severe disabilities and their job coach ~~shall~~ may be allowed to demonstrate their job competence as a unit through the on-the-job trial work experience examination procedure. This work experience ~~shall~~ must be limited to candidates for appointment, promotion, or transfer who have a physical or mental impairment for which there is no reasonable accommodation in the examination process. Implementation of provisions of this subdivision ~~shall~~ may not be deemed a violation of other provisions of Laws 1981, chapter 210

or 363.

Sec. 12. Minnesota Statutes 1988, section 43A.12, subdivision 5, is amended to read:

Subd. 5. [QUALIFIED ~~HANDICAPPED~~ *DISABLED* LISTS.] On qualified ~~handicapped~~ *disabled* lists eligibles ~~shall~~ *must* be ranked in alphabetical order.

Sec. 13. Minnesota Statutes 1988, section 43A.13, subdivision 2, is amended to read:

Subd. 2. [LAYOFF] If an agency has a layoff list for the class and employment conditions of the vacancy to be filled, the commissioner shall certify eligibles as provided in collective bargaining agreements, plans established ~~pursuant to~~ *under* section 43A.18, rules, or procedures implemented ~~pursuant to~~ *under* section 43A.04, subdivision 4.

The commissioner, in accordance with collective bargaining agreements or plans established under section 43A.18, may also afford employees on permanent layoff from state service the opportunity to be tested for existing competitive open and promotional eligible lists for classes equal to or lower than those from which they are on layoff. Candidates tested under this procedure who obtain passing scores are eligible in accordance with the ranking and certification provisions of section 43A.12 and this section.

Sec. 14. Minnesota Statutes 1988, section 43A.13, subdivision 3, is amended to read:

Subd. 3. [REEMPLOYMENT.] For positions to be filled by reemployment of a former employee, the commissioner may certify any eligible on the reemployment list for the class or approve direct reinstatement of a former classified employee within ~~three~~ *four* years of separation.

Sec. 15. Minnesota Statutes 1988, section 43A.13, subdivision 4, is amended to read:

Subd. 4. [COMPETITIVE OPEN.] (a) For positions to be filled by competitive open examination, the commissioner shall certify the first 20 eligibles on the list plus those eligibles having the same score as the 20th eligible certified.

(b) When the position to be filled by competitive open examination is in a class for which the initially established eligible list contained the names of more than 200 eligibles and that list has existed for more than 12 months and been referred to more than ten vacancies, the commissioner shall certify the first 40 eligibles on the list plus those eligibles having the same score as the 40th eligible certified.

Sec. 16. Minnesota Statutes 1988, section 43A.13, subdivision 5, is amended to read:

Subd. 5. [COMPETITIVE PROMOTIONAL.] For positions to be filled by competitive promotional examination *limited to employees of one or more agencies or organizational units*, the commissioner shall certify the first ten eligibles on the list plus those eligibles having the same score as the tenth eligible certified. *For positions to be filled by competitive promotional examination extended to all employees of the civil service, the commissioner shall certify the first 20 eligibles on the list, plus those eligibles having the same score as the 20th eligible certified.*

Sec. 17. Minnesota Statutes 1988, section 43A.13, subdivision 6, is amended to read:

Subd. 6. [~~QUALIFIED HANDICAPPED DISABLED.~~] For a position to be filled by qualified ~~handicapped disabled~~ examination, the commissioner shall certify only the one eligible who has successfully completed the examination processes provided in section 43A.10, subdivision 8 for the position.

Sec. 18. Minnesota Statutes 1988, section 43A.13, subdivision 7, is amended to read:

Subd. 7. [EXPANDED CERTIFICATION.] When the commissioner determines that a disparity as defined in rules exists between an agency's work force and its affirmative action plan approved in accordance with section 43A.19, the commissioner shall ensure to the extent possible that eligibles who are members of the protected groups for which the disparity exists are certified for appointment. When fewer than two eligibles of each protected group for which a disparity has been determined to exist would be certified under subdivisions 4 and 5, the commissioner shall certify two eligibles from each protected group for which a disparity exists *or four from each group for which a disparity exists if the number of names referred has been increased under subdivision 4, paragraph (b).* Implementation of this subdivision ~~shall~~ may not be deemed a violation of other provisions of Laws 1981, chapter 210 or 363.

Sec. 19. Minnesota Statutes 1988, section 43A.15, subdivision 10, is amended to read:

Subd. 10. [ROUTINE SERVICE AND ENTRY CLERICAL APPOINTMENTS.] The commissioner may authorize the administration of a qualifying selection process if a class is of a routine, service nature involving unskilled tasks, the performance of which cannot be directly related to qualifications beyond a minimum competency level. ~~Appointing authorities may consider any candidate found so qualified for probationary appointment to such a position.~~ *The commissioner may also authorize the administration of qualifying skill tests for entry level clerical positions as an alternative to certification from an eligible list as provided in section 43A.13.*

Sec. 20. Minnesota Statutes 1988, section 43A.17, subdivision 1, is amended to read:

Subdivision 1. [SALARY LIMITS.] As used in subdivisions 1 to & 9, "salary" means hourly, monthly, or annual rate of pay including any lump-sum payments and cost-of-living adjustment increases but excluding payments due to overtime worked, shift or equipment differentials, work out of class as required by collective bargaining agreements or plans established under section 43A.18, and back pay on reallocation or other payments related to the hours or conditions under which work is performed rather than to the salary range or rate to which a class is assigned.

The salary, as established in section 15A.081, of the head of a state agency in the executive branch is the upper limit of compensation in the agency. The salary of the commissioner of labor and industry is the upper limit of compensation of employees in the bureau of mediation services. However, if an agency head is assigned a salary that is lower than the current salary of another agency employee, the employee retains the salary, but may not receive an increase in salary as long as the salary is above that

of the agency head. The commissioner may grant exemptions from these upper limits as provided in subdivisions 3 and 4.

Sec. 21. Minnesota Statutes 1988, section 43A.17, subdivision 8, is amended to read:

Subd. 8. [ACCUMULATED VACATION LEAVE.] The commissioner of employee relations shall not agree to a collective bargaining agreement or recommend a compensation plan pursuant to section 43A.18, subdivisions 1, 2, 3, and 4, nor shall an arbitrator issue an award under sections 179A.01 to 179A.25, if the compensation plan, agreement, or award permits an employee to convert accumulated vacation leave into cash or deferred compensation before separation from state service.

This section does not prohibit the commissioner from negotiating a collective bargaining agreement or recommending approval of a compensation plan which permits an employee to receive payment for accumulated vacation leave upon beginning an unpaid leave of absence approved for more than one year in duration if the leave of absence is not for the purpose of accepting an unclassified position in state civil service.

Sec. 22. Minnesota Statutes 1988, section 43A.18, subdivision 4, is amended to read:

Subd. 4. [PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.] Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision ~~shall~~ must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. *Compensation plans established under paragraphs (b), (c), and (d) must be approved by the legislature and the legislative commission on employee relations under subdivision 2 before becoming effective.*

(a) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer ~~shall~~ must be determined by the governor, lieutenant governor, attorney general, secretary of state, state auditor and state treasurer, respectively.

(b) Total compensation for unclassified positions pursuant to section 43A.08, subdivision 1, clause ~~(h)~~ (i), ~~in the higher education coordinating board, and in the state board of vocational technical education shall in the state universities and the community colleges not covered by a collective bargaining agreement must be determined by the state university board and the state board for community colleges, the higher education coordinating board, and the state board of vocational technical education, respectively.~~

(c) Total compensation for classified administrative law judges in the office of administrative hearings ~~shall~~ must be determined by the chief administrative law judge.

(d) *Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education coordinating board and in the state board of vocational technical education must be determined by the higher education coordinating board and the state board of vocational technical education, respectively.*

Sec. 23. Minnesota Statutes 1988, section 43A.18, is amended by adding a subdivision to read:

Subd. 4a. [COMPENSATION REPORTS.] On July 1 of each odd-numbered year the state agricultural society, the world trade center corporation board of directors, the greater Minnesota corporation board of directors, and the governing board of the Minnesota state high school league shall each submit a report to the legislative commission on employee relations on the total compensation plan for their employees.

Sec. 24. Minnesota Statutes 1988, section 43A.18, subdivision 5, is amended to read:

Subd. 5. [GOVERNOR TO RECOMMEND CERTAIN SALARIES.] (a) The governor shall, by July 1 of each odd-numbered year, submit to the legislative commission on employee relations recommendations for salaries within the salary range for the positions listed in section 15A.081, subdivisions 1 and 7. The governor may also propose additions or deletions of positions from those listed.

~~(a)~~ (b) Before submitting the recommendations, the governor shall consult with the commissioner of administration, the commissioner of finance, and the commissioner of employee relations concerning the recommendations.

~~(b)~~ (c) In making recommendations, the governor shall consider ~~only~~ the criteria established in subdivision 8 and ~~may not take into account the~~ performance of individual incumbents. *The performance evaluation must include a review of an incumbent's progress toward attainment of affirmative action goals.* The governor shall establish an objective system for quantifying knowledge, abilities, duties, responsibilities, and accountabilities and in determining recommendations rate each position by this system.

~~(c)~~ (d) Before the governor's recommended salaries take effect, the recommendations must be reviewed and approved, rejected, or modified by the legislative commission on employee relations and the legislature in the same manner as provided for the commissioner's plan in subdivision 2. The governor may also at any time propose changes in the salary rate of any positions covered by this subdivision, which must be submitted and approved in the same manner as provided in this subdivision.

~~(d)~~ (e) The governor shall set the initial salary of a head of a new agency or a chair of a new metropolitan board or commission whose salary is not specifically prescribed by law after consultation with the commissioner, whose recommendation is advisory only. The amount of the new salary must be comparable to the salary of an agency head or commission chair having similar duties and responsibilities.

~~(e)~~ (f) The salary of a newly appointed head of an agency or chair of a metropolitan agency listed in section 15A.081, subdivision 1 or 7, may be increased or decreased by the governor from the salary previously set for that position within 30 days of the new appointment after consultation with the commissioner. If the governor increases a salary under this paragraph, the governor shall submit the new salary 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. If the legislature rejects an increased salary or adjourns without action during the following legislative session, the salary for the position reverts to the level in effect before the governor proposed the change.

Sec. 25. [43A.181] [UNREIMBURSED MEDICAL COSTS VACATION DONATION PROGRAM.]

Subdivision 1. [DONATION OF VACATION TIME.] A state employee may donate up to eight hours of accrued vacation time in any fiscal year to the account established by subdivision 2 for the benefit of another state employee. The employee must notify the employee's agency head of the amount of accrued vacation time the employee wishes to donate and the name of the other state employee who is to benefit from the donation. The agency head shall determine the monetary value of the donated time, using the gross salary of the employee making the donation. The agency head shall transfer that amount, less deductions for applicable taxes and retirement contributions, to the account established by subdivision 2. A donation of accrued vacation time is irrevocable once its monetary value has been transferred to the account.

Subd. 2. [BENEFIT ACCOUNT.] The vacation benefit account, consisting of money transferred under subdivision 1, is administered by the commissioner of employee relations. Money in the account is appropriated to the commissioner for purposes of this section.

Subd. 3. [USE OF ACCOUNT ASSETS.] Expenditures from the account established by subdivision 2 may be made only to pay unreimbursed medical expenses when the total of those expenses is at least \$10,000 and the expenses are incurred because of the illness of or injury to a state employee or the employee's spouse or dependent. Any money remaining after all of the unreimbursed medical expenses incurred by the employee named to benefit from a donation have been paid may be transferred to a general pool. The commissioner may use the pool to pay unreimbursed medical expenses for another state employee named to benefit from donated vacation time but whose unreimbursed expenses exceed the monetary value of the donated time.

Sec. 26. Minnesota Statutes 1988, section 43A.191, subdivision 2, is amended to read:

Subd. 2. [AGENCY AFFIRMATIVE ACTION PLANS.] (a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3.

(b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion of qualified ~~handicapped~~ disabled persons. The reasonable accommodation plan ~~shall~~ must consist of at least the following:

(1) procedures for compliance with section 363.03 and, where appropriate, regulations implementing United States Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended;

(2) methods and procedures for providing reasonable accommodation for ~~handicapped~~ disabled job applicants, current employees, and employees seeking promotion; and

(3) provisions for funding reasonable accommodations.

(c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of equal employment opportunity. The council on disability shall provide assistance with the agency reasonable accommodation plan.

(d) An agency affirmative action plan may not be implemented without

the commissioner's approval.

Sec. 27. Minnesota Statutes 1988, section 43A.191, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS AND INCENTIVES.] (a) The director of equal employment opportunity shall annually audit the record of each agency to determine the rate of compliance with annual hiring goals of each goal unit and to evaluate the agency's overall progress toward its affirmative action goals and objectives.

(b) By March 1 of each year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the finance committee of the senate, the appropriations committee of the house of representatives, the governmental operations committees of both houses of the legislature, and the legislative commission on employee relations. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, *subdivisions 3 to 13*, and cover each agency's rate of compliance with annual hiring goals. In addition, any agency that has not met its affirmative action hiring goals, that fails to make an affirmative action hire, or fails to justify its nonaffirmative action hire in 25 percent or more of the appointments made in the previous calendar year must be designated in the report as an agency not in compliance with affirmative action requirements.

(c) The commissioner shall study methods to improve the performance of agencies not in compliance with affirmative action requirements.

(d) The commissioner shall establish a program to recognize agencies that have made significant and measurable progress toward achieving affirmative action objectives.

Sec. 28. Minnesota Statutes 1988, section 43A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] The commissioner is authorized to request bids from carriers or to negotiate with carriers and to enter into contracts with carriers which in the judgment of the commissioner are best qualified to underwrite and service the benefit plans. *Contracts entered into with carriers are not subject to the requirements of sections 16B.189 to 16B.22.* The commissioner may negotiate premium rates and coverage provisions with all carriers licensed under chapters 62A, 62C, and 62D. The commissioner may also negotiate reasonable restrictions to be applied to all carriers under chapters 62A, 62C, and 62D. Contracts to underwrite the benefit plans must be bid or negotiated separately from contracts to service the benefit plans, which may be awarded only on the basis of competitive bids. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. The commissioner shall, to the extent feasible, make hospital and medical benefits available from at least one carrier licensed to do business pursuant to each of chapters 62A, 62C and 62D. The commissioner need not provide health maintenance organization services to an employee who resides in an area which is not served by a licensed health maintenance organization. The commissioner may refuse to allow a health maintenance organization

to continue as a carrier. The commissioner may elect not to offer all three types of carriers if there are no bids or no acceptable bids by that type of carrier or if the offering of additional carriers would result in substantial additional administrative costs. A carrier licensed under chapter 62A is exempt from the tax imposed by section 60A.15 on premiums paid to it by the state.

Sec. 29. Minnesota Statutes 1988, section 43A.27, subdivision 4, is amended to read:

Subd. 4. [RETIRED JUDGES; FORMER LEGISLATORS.] A (a) Retired judge judges or a former legislator legislators may elect to purchase coverage for themselves or their dependents at their own expense as provided ~~below~~ in paragraphs (b) and (c).

~~(a)~~ (b) A retired judge of the state supreme court, the court of appeals, a district court, a county court, a county municipal court, or a probate court may elect to purchase coverage provided persons listed in section 43A.24, subdivision 2, clause (c); ~~provided that the retired judge exercises this option within 30 days of the effective date of retirement; or. The commissioner shall notify judges no later than the effective date of their retirement of their right to exercise the option provided in this subdivision. A retired judge must notify the commissioner or designee of the commissioner within 30 days after the effective date of retirement if the judge intends to exercise the option.~~

~~(b)~~ (c) A former member of the legislature may elect to purchase coverage provided persons listed in section 43A.24, subdivision 2, clause (a).

Sec. 30. Minnesota Statutes 1988, section 43A.316, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purpose of this section, the terms defined in this subdivision have the meaning given them.

(a) [COMMISSIONER.] "Commissioner" means the commissioner of employee relations.

(b) [EMPLOYEE.] "Employee" means:

(1) a person who is a public employee within the definition of section 179A.03, subdivision 14, who is insurance eligible and is employed by an eligible employer ~~or~~;

(2) *an elected public official of an eligible employer who is insurance eligible; or*

(3) a person employed by a labor organization or employee association certified as an exclusive representative of employees of an eligible employer or by another public employer approved by the commissioner, *so long as the plan meets the requirements of a governmental plan under United States Code, title 29, section 1002(32).*

(c) [ELIGIBLE EMPLOYER.] "Eligible employer" means

(1) a public employer within the definition of section 179A.03, subdivision 15, that is a town, county, city, school district as defined in section 120.02, educational cooperative service unit as defined in section 123.58, intermediate district as defined in section 136C.02, subdivision 7, cooperative center for vocational education as defined in section 123.351, regional

management information center as defined in section 121.935, or an education unit organized under the joint powers action, section 471.59; or

(2) an exclusive representative of employees, as defined in paragraph (b); or

(3) another public employer approved by the commissioner.

(d) [EXCLUSIVE REPRESENTATIVE.] "Exclusive representative" means an exclusive representative as defined in section 179A.03, subdivision 8.

(e) [LABOR-MANAGEMENT COMMITTEE.] "Labor-management committee" means the committee established by subdivision 4.

(f) [PLAN.] "Plan" means the statewide public employees insurance plan created by subdivision 3.

Sec. 31. Minnesota Statutes 1988, section 43A.316, subdivision 3, is amended to read:

Subd. 3. [PUBLIC EMPLOYEE INSURANCE PLAN.] ~~There is created the "public employee insurance plan."~~ The commissioner shall be the administrator of the *public employee insurance plan and may determine its funding arrangements*. The commissioner shall model the plan after the plan established in section 43A.18, subdivision 2, but may modify that plan, in consultation with the labor-management committee.

Sec. 32. Minnesota Statutes 1988, section 43A.316, subdivision 5, is amended to read:

Subd. 5. [PUBLIC EMPLOYEE PARTICIPATION.] (a) Participation in the plan is subject to the conditions in this subdivision.

~~(a)~~ (b) Each exclusive representative for an eligible employer determines whether the employees it represents ~~shall~~ *will* participate in the plan. The exclusive representative ~~must~~ *shall* give the employer notice of intent to participate at least 90 days before the expiration date of the collective bargaining agreement preceding the collective bargaining agreement that covers the date of entry into the plan. The exclusive representative and the eligible employer shall give notice to the commissioner of the determination to participate in the plan at least 90 days ~~prior to~~ *before* entry into the plan. Entry into the plan ~~shall be according to~~ *is governed by* a schedule established by the commissioner.

~~(b)~~ (c) Employees not represented by exclusive representatives may become members of the plan upon a determination of an eligible employer to include these employees in the plan. Either all or none of the employer's unrepresented employees must participate. The eligible employer shall give at least 90 days' notice to the commissioner ~~prior to~~ *before* entering the plan. Entry into the plan ~~shall be according to~~ *is governed by* a schedule established by the commissioner.

~~(e)~~ (d) Participation in the plan ~~shall be~~ *is* for a ~~three-year~~ *two-year* term if coverage begins in an even-numbered year and a four-year term if coverage begins in an odd-numbered year. Participation is automatically renewed for an additional ~~four-year~~ *two-year* term unless the exclusive representative, or the employer for unrepresented employees, gives the commissioner notice of withdrawal at least 90 days ~~prior to~~ *before* expiration of the participation period. A group that withdraws must wait two years before rejoining. An exclusive representative, or employer for unrepresented employees, may also withdraw if premiums increase 50 percent or more

from one insurance year to the next.

~~(d)~~ (e) The exclusive representative shall give the employer notice of intent to withdraw to the commissioner at least 90 days before the expiration date of a collective bargaining agreement that includes the date on which the term of participation expires.

(e) (f) Each participating eligible employer shall notify the commissioner of names of individuals who will be participating within two weeks of the commissioner receiving notice of the parties' intent to participate. The employer ~~must~~ *shall* also submit other information as required by the commissioner for administration of the plan.

Sec. 33. Minnesota Statutes 1988, section 43A.316, subdivision 7, is amended to read:

Subd. 7. [PREMIUMS.] The proportion of premium paid by the employer and employee is subject to collective bargaining *or personnel policies*. If, at the beginning of the coverage period, no collective bargaining agreement has been finalized, the increased dollar costs, if any, from the previous year is the sole responsibility of the individual participant until a collective bargaining agreement states otherwise. Premiums, including an administration fee, shall be established by the commissioner. Each ~~eligible~~ employer shall pay monthly the amounts due for employee benefits including the amounts under subdivision 8 to the commissioner ~~on or before no later than the dates established by the commissioner. Failure to pay may result in cancellation of the~~ *If an employer fails to make the payments as required, the commissioner may cancel plan benefits and pursue other civil remedies.*

Sec. 34. Minnesota Statutes 1988, section 43A.316, subdivision 8, is amended to read:

Subd. 8. [CONTINUATION OF COVERAGE.] (a) ~~A participating employee who is laid off or is on leave may elect to continue the plan coverage. This coverage is at the expense of the employee unless otherwise provided by a collective bargaining agreement. Premiums for these employees must be established by the commissioner. Coverage continues until one of the following occurs:~~

~~(1) the employee is reemployed and eligible for health care coverage under a group policy; or~~

~~(2) the insurance continuation periods required by state and federal laws expire.~~

~~(b) A participating employee who retires and is receiving an annuity or is eligible for and has applied for an annuity under chapter 352, 352B, 352C, 352D, 353, 353C, 354, 354A, 356, 422A, 423, 423A, or 424, or 490 is eligible to continue participation in the plan. These employees, and employees who have already retired prior to the group from which they retired entering the plan, are eligible to participate as long as their group continues to participate. This participation is at the retiree's expense unless a collective bargaining agreement or personnel policy provides otherwise. Premiums for these participants must be established by the commissioner. An employer shall notify an employee of this option no later than the effective date of retirement. The retired employee shall notify the employer within 30 days of the effective date of retirement of intent to exercise this option.~~

~~(c) (b) The spouse of a deceased, active, or retired employee may purchase~~

the benefits provided at premiums established by the commissioner if the spouse was a dependent under the active or retired employee's coverage under this section at the time of the death. These participants are eligible to participate as long as the group which included their spouse participates. Coverage under this clause must be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

~~(d)~~ (c) The plan benefits must continue in the event of strike permitted by section 179A.18, if the exclusive representative chooses to have coverage continue and the employee pays the total monthly premiums when due.

~~(e)~~ (d) A person who desires to participate under paragraphs (a) to ~~(d)~~ (c) shall notify the eligible employer or former employer of intent to participate according to rules established by the commissioner. The eligible employer shall notify the commissioner and coverage begins as soon as the commissioner permits.

Persons participating under these paragraphs shall make appropriate premium payments in the time and manner established by the commissioner.

Sec. 35. Minnesota Statutes 1989 Supplement, section 43A.316, subdivision 9, is amended to read:

Subd. 9. [INSURANCE TRUST FUND.] ~~An~~ The insurance trust fund ~~is established~~ in the state treasury. ~~The consists of deposits consist~~ of the premiums received from employers participating in the plan and transfers from the public employees insurance reserve holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. *Premiums are exempt from the tax imposed by sections 60A.15 and 60A.198.* The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund ~~shall must~~ be credited to the fund.

Sec. 36. Minnesota Statutes 1989 Supplement, section 43A.316, subdivision 10, is amended to read:

Subd. 10. [BIDDING REQUIREMENT EXEMPTION.] The public employee insurance plan ~~is and, where applicable, the employers participating in it are~~ exempt from chapter 62H, section 471.617, subdivisions 2 and 3, and the bidding requirements ~~imposed by~~ of section 471.6161.

Sec. 37. Minnesota Statutes 1988, section 43A.37, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Neither the commissioner of finance nor any other fiscal officer of this state ~~shall may~~ draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor ~~shall may~~ the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the civil service, unless a payroll register for the salary or compensation containing the name of every person to be paid ~~shall bear~~ bears the certificate of the commissioner that the persons named in the payroll register have been appointed; as required by law, rules, or administrative procedures and that the salary or compensation is within the compensation plan fixed ~~pursuant to~~ by law. The appointing authority shall certify that all employees named in the payroll register are performing service as required by law.

This provision ~~shall~~ does not apply to positions defined in section 43A.08, subdivision 1, clauses ~~(g)~~, (h), (i), (j), and ~~(k)~~ (l). Employees to whom this subdivision does not apply may be paid on the state's payroll system, and the appointing authority or fiscal officer submitting their payroll register ~~shall be~~ is responsible for the accuracy and legality of the payments.

Salary or compensation claims presented against existing appropriations, which have been deemed in violation of the provisions of this subdivision, may be certified for payment if, upon investigation, the commissioner determines the personal services for which payment is claimed actually have been rendered in good faith without collusion and without intent to defraud.

Sec. 38. Minnesota Statutes 1988, section 176.421, is amended by adding a subdivision to read:

Subd. 6a. [TIME LIMIT FOR DECISION.] The court shall issue a decision in each case within 90 days after certification of the record to the court by the chief administrative law judge, the filing of a cross-appeal, oral argument, or a final submission of briefs or memoranda by the parties, whichever is latest. No part of the salary of a workers' compensation court of appeals judge may be paid unless the judge, upon accepting the payment, certifies that decisions in cases in which the judge has participated have been issued within the time limits prescribed by this subdivision.

Sec. 39. Minnesota Statutes 1988, section 176B.02, is amended to read: 176B.02 [PEACE OFFICERS BENEFIT FUND.]

~~There is hereby created in The peace officers benefit fund is an account in the state treasury an account to be known as peace officers benefit fund. Funds in the peace officers benefit fund shall consist consisting of money appropriated to that fund. The administrator of the fund is the commissioner of employee relations public safety, who shall follow the procedures specified in section 176.541, subdivisions 2, 3, and 4.~~

Sec. 40. Minnesota Statutes 1989 Supplement, 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. 41. Minnesota Statutes 1988, section 237.51, subdivision 5, is amended to read:

Subd. 5. [DUTIES.] In addition to any duties specified elsewhere in sections 237.51 to 237.56, the board shall:

- (1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;
- (2) establish a method to verify eligibility requirements;
- (3) establish specifications for communication devices to be purchased under section 237.53, subdivision 3;
- (4) enter contracts for the establishment and operation of the message relay service pursuant to section 237.54;
- (5) inform the public and specifically the community of communication-impaired persons of the program;
- (6) prepare the reports required by section 237.55;
- (7) administer the fund created in section 237.52;

(8) retain the services of a program administrator *whose position is in the unclassified service*;

(9) adopt rules, including emergency rules, under chapter 14 to implement the provisions of sections 237.50 to 237.56; and

(10) study the potential economic impact of the program on local communication device retailers and dispensers. Notwithstanding any provision of chapter 16B, the board shall develop guidelines for the purchase of some communication devices from local retailers and dispensers if the study determines that otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

Sec. 42. Minnesota Statutes 1988, section 268.0121, subdivision 3, is amended to read:

Subd. 3. [UNCLASSIFIED POSITIONS.] The commissioner may establish positions in the unclassified service in accordance with section 43A.08. The commissioner may appoint and define the duties of other subordinate officers and employees as the commissioner deems necessary to discharge the functions of the department.

The commissioner may establish the position of director of the state job training office in the unclassified service.

Sec. 43. Minnesota Statutes 1988, section 473.405, subdivision 12, is amended to read:

Subd. 12. [MANAGEMENT CONTRACTS.] Notwithstanding any of the other provisions of sections 473.404 to 473.449, the commission may, in lieu of directly operating any public transit system or any part thereof, enter into contracts for management services. The contracts may provide for compensation, incentive fees, the employment of personnel, the services provided, and other terms and conditions that the commission deems proper. *The contracts must provide that the compensation of personnel who work full time or substantially full time providing management or other services for the commission is public data under chapter 13.*

The commission may not permit a contract manager to supervise or manage internal audit activities. Internal audit activity must be supervised and managed directly by the commission. The commission shall advertise for bids and select contracts for management services through competitive bidding. The term of the contract may not be longer than two years. The contract must include clear operating objectives, stating the service policies and goals of the commission in terms of the movement of various passenger groups, and performance criteria, by means of which success in achieving the operating objectives can be measured. The commission shall consider and determine the feasibility and desirability of having all its transit management services provided internally by employees of the commission.

The employees of any public transit system operated pursuant to the provisions of this subdivision for the purpose of resolving any dispute arising under any existing or new collective bargaining agreement relating to the terms or conditions of their employment, may either engage in a concerted refusal to work or to invoke the processes of final and binding arbitration as provided by chapter 572, subject to any applicable provisions of the agreement not inconsistent with law.

Sec. 44. Minnesota Statutes 1988, section 487.13, is amended to read:

487.13 [BUDGET.]

The county board by resolution shall provide the budget for (1) the salaries of deputies, clerks and other employees in the office of the court administrator of county court; (2) other expenses necessary in the performance of the duties of said office and (3) the payment of premiums of any bonds required of the court administrator of county court or any deputy, clerk or employee in said office and the board is authorized to appropriate funds therefor and for the salary of the court administrator of county court. ~~Appeal from this resolution of the county board may be made in the manner prescribed in section 485.018, subdivision 7.~~

Sec. 45. [RATIFICATIONS.]

Subdivision 1. [COUNCIL 6.] The labor agreement between the state of Minnesota and the American Federation of State, County and Municipal Employees, Council 6, approved by the legislative commission on employee relations on July 26, 1989, is ratified.

Subd. 2. [PROFESSIONAL EMPLOYEES.] The labor agreement between the state of Minnesota and the Minnesota Association of Professional Employees, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 3. [SPECIAL TEACHERS.] The labor agreement between the state of Minnesota and the State Residential Schools Education Association, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 4. [LAW ENFORCEMENT.] The labor agreement between the state of Minnesota and the Bureau of Criminal Apprehension Agents' Association, Minnesota Conservation Officers' Association, and the Minnesota State Patrol Officers' Association, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 5. [MIDDLE MANAGERS.] The labor agreement between the state of Minnesota and the Middle Management Association, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 6. [ENGINEERS.] The labor agreement between the state of Minnesota and the Minnesota Government Engineers Council, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 7. [COMMUNITY COLLEGE FACULTY.] The labor agreement between the state of Minnesota and the Minnesota Community College Faculty Association, approved by the legislative commission on employee relations on November 7, 1989, is ratified.

Subd. 8. [NURSES.] The labor agreement between the state of Minnesota and the Minnesota Nurses Association, approved by the legislative commission on employee relations on December 18, 1989, is ratified.

Subd. 9. [STATE UNIVERSITY FACULTY.] The labor agreement between the state of Minnesota and the State University Inter-Faculty Organization, approved by the legislative commission on employee relations on December 18, 1989, is ratified.

Subd. 10. [STATE UNIVERSITY ADMINISTRATORS.] The labor

agreement between the state of Minnesota and the State University Administrative Unit, approved by the legislative commission on employee relations on December 18, 1989, is ratified.

Subd. 11. [MANAGERIAL PLANS.] The commissioner of employee relations' plan for managerial employees, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 12. [COMMISSIONER'S PLAN.] The commissioner of employee relations' plan for unrepresented employees, approved by the legislative commission on employee relations on September 6, 1989, is ratified.

Subd. 13. [AGENCY HEADS.] The salary plan for positions listed in Minnesota Statutes, section 15A.081, approved by the legislative commission on employee relations on November 7, 1989, is ratified.

Subd. 14. [BOARD OF MEDICAL EXAMINERS.] The salary for the executive director of the board of medical examiners, approved by the legislative commission on employee relations on July 26, 1989, is ratified.

Subd. 15. [CHANCELLOR, STATE UNIVERSITY SYSTEM.] The salary for the chancellor of the Minnesota state university system, approved by the legislative commission on employee relations on December 18, 1989, is ratified.

Subd. 16. [CHANCELLOR, COMMUNITY COLLEGE SYSTEM.] The salary for the chancellor of the Minnesota community college system, approved by the legislative commission on employee relations on December 18, 1989, is ratified.

Subd. 17. [DIRECTOR, HIGHER EDUCATION COORDINATING BOARD.] The salary for the executive director of the Minnesota higher education coordinating board, approved by the legislative commission on employee relations on January 23, 1990, is ratified.

Subd. 18. [BOARD OF DENTISTRY.] The salary for the executive director of the board of dentistry, approved by the legislative commission on employee relations on January 23, 1990, is ratified.

Sec. 46. [INTERIM APPROVAL.]

After adjournment of the 1990 session but before the 1991 session of the legislature, the legislative commission on employee relations may give interim approval to any negotiated agreement, arbitration award, or compensation or salary plan submitted to it under other law. The commission shall submit the agreement, award, or plan to the entire legislature for ratification in the same manner and with the same effect as provided for agreements, awards, and plans submitted after adjournment of the legislature in an odd-numbered year.

Sec. 47. [RETIRED JUDGES; OPTION TO PURCHASE INSURANCE.]

The following judges may exercise the option provided in section 29 within 30 days after the effective date of that section:

(1) judges who retired before July 1, 1981; and

(2) judges who retired after July 1, 1981, but who were not notified of the option available under Minnesota Statutes, section 43A.27, subdivision 4.

Sec. 48. [APPLICABILITY.]

Section 43 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 49. [REPEALER.]

Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5; and Minnesota Statutes 1989 Supplement, section 485.018, subdivision 7, are repealed.

Sec. 50. [EFFECTIVE DATES.]

Sections 1, 3, 4, 5, 20, 24, and 28 are effective July 1, 1990. Sections 8, 14, 15, 16, 18, 19, 29, 42, 45, 46, and 47 are effective the day following final enactment. Section 2 is effective the day following final enactment and applies to appointments made after June 30, 1989. Section 38 is effective August 1, 1991. Section 22 applies only to changes in compensation plans under that section after its effective date."

Delete the title and insert:

"A bill for an act relating to state government; regulating state employment practices; regulating the setting of certain salaries; ratifying certain salaries; amending Minnesota Statutes 1988, sections 15A.081, subdivision 7b, and by adding a subdivision; 15A.083, subdivisions 5, 7, and by adding a subdivision; 43A.04, subdivisions 1, 3, and by adding a subdivision; 43A.10, subdivisions 7 and 8; 43A.12, subdivision 5; 43A.13, subdivisions 2, 3, 4, 5, 6, and 7; 43A.15, subdivision 10; 43A.17, subdivisions 1 and 8; 43A.18, subdivisions 4 and 5, and by adding a subdivision; 43A.191, subdivisions 2 and 3; 43A.23, subdivision 1; 43A.27, subdivision 4; 43A.316, subdivisions 2, 3, 5, 7, and 8; 43A.37, subdivision 1; 176.421, by adding a subdivision; 176B.02; 237.51, subdivision 5; 268.0121, subdivision 3; 473.405, subdivision 12; and 487.13; Minnesota Statutes 1989 Supplement, sections 43A.08, subdivision 1; 43A.316, subdivisions 9 and 10; and 214.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 43A; repealing Minnesota Statutes 1988, section 43A.081, subdivisions 1, 2, and 5; and Minnesota Statutes 1989 Supplement, section 485.018, subdivision 7."

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

House Conferees: (Signed) Leo J. Reding, Tom Rukavina, James I. Rice, Harold Lasley, Bob Haukoos

Senate Conferees: (Signed) Donald M. Moe, Steven Morse, John J. Marty, Pat Pariseau, Dennis R. Frederickson

Mr. Moe, D.M. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2081 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. 2081 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 51 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Knutson	Morse	Renneke
Anderson	Davis	Laidig	Novak	Schmitz
Beckman	Decker	Langseth	Olson	Spear
Belanger	DeCramer	Lantry	Pariseau	Storm
Benson	Dicklich	Larson	Pehler	Stumpf
Berg	Flynn	Marty	Peterson, R.W.	Vickerman
Berglin	Frederick	McGowan	Piepho	Waldorf
Bernhagen	Frederickson, D.J.	McQuaid	Piper	
Bertram	Hughes	Metzen	Pogemiller	
Brandl	Johnson, D.E.	Moe, D.M.	Ramstad	
Brataas	Knaak	Moe, R.D.	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 has adopted the recommendation and report of the Conference Committee on House File No. 2162, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2162 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2162

A bill for an act relating to the operation of state government; changing certain procedures and limits for contracts with the state; establishing an advisory task force; authorizing reimbursement of certain expenses; changing certain vehicle marking and color provisions; clarifying certain transfer authority; amending Minnesota Statutes 1988, sections 16B.09, by adding a subdivision; 16B.17, subdivisions 3 and 4; 16B.24, subdivision 10; 16B.41, subdivision 4; 16B.58, subdivision 7; and Minnesota Statutes 1989 Supplement, sections 16B.28, subdivision 3; 16B.54, subdivision 2; and 40.46, subdivision 1.

April 18, 1990

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. 2162, 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. 2162 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 16B.09, subdivision 5, is amended to read:

Subd. 5. [COOPERATIVE AGREEMENTS PURCHASING REVOLVING FUND.] *The cooperative purchasing revolving fund is a separate account in the state treasury. The commissioner may charge a fee to cover the commissioner's administrative expenses to government units that have joint or cooperative purchasing agreements with the state under section 471.59. The fees collected must be deposited in the revolving fund established by this subdivision. Money in the fund is appropriated to the commissioner to administer the programs and services covered by this section.*

Sec. 2. Minnesota Statutes 1988, section 16B.17, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF CONTRACTING AGENCY.] Before an agency may seek approval of a consultant or professional and technical services contract valued in excess of ~~\$2,000~~ \$5,000, it must certify to the commissioner that:

(1) no state employee is able to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

(3) the services are not available as a product of a prior consultant or professional and technical services contract, and the contractor has certified that the product of the services will be original in character;

(4) reasonable efforts were made to publicize the availability of the contract;

(5) the agency has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract; and

(6) the agency has developed, and fully intends to implement, a written plan providing for the assignment of specific agency personnel to a monitoring and liaison function; the periodic review of interim reports or other indications of past performance, and the ultimate utilization of the final product of the services.

Sec. 3. Minnesota Statutes 1988, section 16B.17, subdivision 4, is amended to read:

Subd. 4. [REPORTS.] ~~After completion of performance under a consultant or professional and technical services contract, the agency shall evaluate the performance under the contract and the utility of the final product. This evaluation must be delivered to the commissioner, who shall retain all the evaluations for future reference.~~ The commissioner shall submit to the governor and the legislature a monthly listing of all contracts for consultant services and for professional and technical services executed or disapproved in the preceding month. The report must identify the parties and the contract amount, duration, and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of the department during the preceding quarter.

Sec. 4. Minnesota Statutes 1988, section 16B.24, subdivision 5, is amended to read:

Subd. 5. [RENTING OUT STATE PROPERTY.] (a) [AUTHORITY.] The commissioner may rent out state property, real or personal, that is not needed for public use, if the rental is not otherwise provided for or prohibited by law. The property may not be rented out for more than five years at a

time without the approval of the state executive council and may never be rented out for more than 25 years. *A rental agreement may provide that the state will reimburse a tenant for a portion of capital improvements that the tenant makes to state real property if the state does not permit the tenant to renew the lease at the end of the rental agreement.*

(b) [RESTRICTIONS.] Paragraph (a) does not apply to state trust fund lands, other state lands under the jurisdiction of the department of natural resources, lands forfeited for delinquent taxes, lands acquired under section 298.22, or lands acquired under section 41.56 which are under the jurisdiction of the department of agriculture.

(c) [FORT SNELLING CHAPEL; RENTAL.] The Fort Snelling Chapel, located within the boundaries of Fort Snelling State Park, is available for use only on payment of a rental fee. The commissioner shall establish rental fees for both public and private use. The rental fee for private use by an organization or individual must reflect the reasonable value of equivalent rental space. Rental fees collected under this section must be deposited in the general fund.

(d) [RENTAL OF LIVING ACCOMMODATIONS.] The commissioner shall establish rental rates for all living accommodations provided by the state for its employees. Money collected as rent by state agencies pursuant to this paragraph must be deposited in the state treasury and credited to the general fund.

(e) [LEASE OF SPACE IN CERTAIN STATE BUILDINGS TO STATE AGENCIES.] The commissioner may lease portions of the state owned buildings in the capitol complex, the capitol square building, the health building, and the building at 1246 University Avenue, St. Paul, Minnesota, to state agencies and charge rent on the basis of space occupied. Notwithstanding any law to the contrary, all money collected as rent pursuant to the terms of this section shall be deposited in the state treasury. Money collected as rent to recover the depreciation cost of a building built with state dedicated funds shall be credited to the dedicated fund which funded the original acquisition or construction. All other money received shall be credited to the general services revolving fund.

Sec. 5. Minnesota Statutes 1988, section 16B.24, subdivision 10, is amended to read:

Subd. 10. [~~CHILD CARE SERVICES~~ CARE/WORK-PLACE SCHOOL SPACE.] For state office space that is leased, purchased, or substantially remodeled after August 1, 1988, the commissioner shall consider including space usable for child care services or for a workplace school. ~~Child care~~ Space must be included if the commissioner determines that it is needed and that it could be provided at reasonable cost. The commissioner may prepare a ~~day care site~~ sites as a common usage space for the capitol complex.

Sec. 6. Minnesota Statutes 1989 Supplement, section 16B.28, subdivision 3, is amended to read:

Subd. 3. [REVOLVING FUND.] (a) [CREATION.] The materials distribution revolving fund is a separate fund in the state treasury. All money relating to the resource recovery program established under section 115A.15, subdivision 1, all money resulting from the acquisition, acceptance, warehousing, distribution, and public sale of surplus property, and all money resulting from the sale of centrally acquired, warehoused, and distributed

supplies, materials, and equipment; and ~~all money relating to the cooperative purchasing venture established under section 471.59~~ must be deposited in the fund. Money paid into the materials distribution revolving fund is appropriated to the commissioner for the purposes of the programs and services referred to in this section.

(b) [TRANSFER OR SALE TO STATE AGENCY.] When the state or an agency operating under a legislative appropriation obtains surplus property from the commissioner, the commissioner of finance must, at the commissioner's request, transfer the cost of the surplus property, including any expenses of acquiring, accepting, warehousing, and distributing the surplus property, from the appropriation of the state agency receiving the surplus property to the materials distribution revolving fund. The determination of the commissioner is final as to the cost of the surplus property to the state agency receiving the property.

(c) [TRANSFER OR SALE TO OTHER GOVERNMENTAL UNITS OR NONPROFIT ORGANIZATIONS.] When any governmental unit or nonprofit organization other than a state agency receives surplus property, supplies, materials, or equipment from the commissioner, the governmental unit or nonprofit organization must reimburse the materials distribution revolving fund for the cost of the property, including the expenses of acquiring, accepting, warehousing, and distributing it, in an amount the commissioner sets. The commissioner may, however, require the governmental unit or nonprofit organization to deposit in advance in the materials distribution revolving fund the cost of the surplus property, supplies, materials, and equipment upon mutually agreeable terms and conditions. The commissioner may charge a fee to political subdivisions and nonprofit organizations to establish their eligibility for receiving the property and to pay for costs of storage and distribution.

Sec. 7. Minnesota Statutes 1988, section 16B.41, subdivision 4, is amended to read:

Subd. 4. [ADVISORY TASK FORCE.] The commissioner must appoint a state information systems advisory task force to help develop and coordinate a state information architecture that is consistent with the information management direction developed by the information policy council, and make recommendations to the commissioner concerning the progress, direction, and needs of the state's information systems. The task force must include representatives of state agencies, the supreme court, higher education systems, librarians, *local government*, and private industry. The task force must also have two members of the house of representatives appointed by the speaker of the house and two members of the senate appointed by the senate committee on committees. No more than one member from the house of representatives and one from the senate shall be chosen from the same political party. ~~The task force expires and the terms, compensation, and removal of nonlegislative members are as provided in section 15.059, but the task force does not expire until June 30, 1993.~~

Sec. 8. Minnesota Statutes 1989 Supplement, section 16B.54, subdivision 2, is amended to read:

Subd. 2. [VEHICLES.] (a) [ACQUISITION FROM AGENCY; APPROPRIATION.] The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck presently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been

paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the national automobile dealers association official used car guide.

(b) [PURCHASE.] To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) [TRANSFER AT AGENCY REQUEST.] On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck shall be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) [VEHICLES; MARKING.] The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide ~~by rule~~ for the use of motor vehicles without ~~uniform coloring or marking~~ by the governor, the lieutenant governor, the division of criminal apprehension, division of gambling enforcement, arson investigators of the division of fire marshal in the department of public safety, financial institutions division of the department of commerce, division of state lottery in the department of gaming, *criminal investigators of the department of revenue, state-owned community service facilities in the department of human services*, and the office of the attorney general.

Sec. 9. Minnesota Statutes 1988, section 16B.58, subdivision 7, is amended to read:

Subd. 7. [SURCHARGE FOR VEHICLES OCCUPIED BY ONE PERSON.] The commissioner shall impose a surcharge of 25 percent for vehicles occupied by only one person parking in a state parking facility in the capitol area, as described by section 15.50, subdivision 2. The revenue from this additional charge shall be placed by the commissioner in a special account. For the benefit of employees employed in the capitol area, the money in the account is appropriated to the commissioner and shall be used by the commissioner in the following order of priority: (1) to acquire or lease commuter vans pursuant to section 16B.56; (2) within limits and upon conditions the commissioner determines to be necessary, to reimburse state agencies for *all* costs resulting from agreements with the metropolitan transit commission or other operators pursuant to section 473.409, *including costs related to employees employed outside the capitol area*; and (3) to be used for maintaining and improving parking lots or facilities owned or operated by the state. The commissioner may adopt rules necessary to administer the provisions of this subdivision, subdivision 5, and section 473.409. The rules may exempt from the surcharge vehicles operated by persons whom the commissioner determines have job requirements that make car pooling impractical.

Sec. 10. Minnesota Statutes 1988, section 16B.60, is amended by adding

a subdivision to read:

Subd. 9. [HISTORIC BUILDING.] "Historic building" means a state-owned building that is on the national register of historic places.

Sec. 11. Minnesota Statutes 1988, section 16B.60, is amended by adding a subdivision to read:

Subd. 10. [EQUIVALENT PROTECTION.] "Equivalent protection" means a measure other than a code requirement that provides essentially the same protection that would be provided by a code requirement.

Sec. 12. [16B.625] [EXEMPTIONS.]

The commissioner may exempt a part of a historic building occupied by the state from the state or another building, fire, safety, or other code if the exemption is necessary to preserve the historic or esthetic character of the building or to prevent theft, vandalism, terrorism, or another crime. When the commissioner grants an exemption, the commissioner shall consider providing equivalent protection. A certificate of occupancy may not be denied because of an exemption under this section.

Sec. 13. Minnesota Statutes 1989 Supplement, section 40.46, subdivision 1, is amended to read:

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

(b) This section does not apply to transfers of land by the board of water and soil resources to correct errors in legal descriptions under section 40.43, subdivision 8, or to transfers by the commissioner of natural resources for:

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

(2) land in platted subdivisions;

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

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

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

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

(c) *This section does not apply to transfers of land by the commissioner of administration for:*

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

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

Sec. 14. Minnesota Statutes 1988, section 471.59, subdivision 1, is

amended to read:

Subdivision 1. [AGREEMENT.] Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units. The term "governmental unit" as used in this section includes every city, county, town, school district, other political subdivision of this or ~~any adjoining another state, another state,~~ and any agency of the state of Minnesota or the United States, and includes any instrumentality of a governmental unit. For the purpose of this section, an instrumentality of a governmental unit means an instrumentality having independent policy making and appropriating authority."

Delete the title and insert:

"A bill for an act relating to the operation of state government; changing certain procedures and limits for contracts with the state; creating a cooperative purchasing revolving fund; directing commissioner of administration to consider making state-owned space available for a workplace school; establishing an advisory task force; authorizing reimbursement of certain expenses; changing certain vehicle marking and color provisions; clarifying certain transfer authority; permitting exemptions from building and other codes to preserve historic state buildings; exempting certain land transfers from certain reviews; providing for certain intergovernmental agreements; amending Minnesota Statutes 1988, sections 16B.09, subdivision 5; 16B.17, subdivisions 3 and 4; 16B.24, subdivisions 5 and 10; 16B.41, subdivision 4; 16B.58, subdivision 7; 16B.60, by adding subdivisions; 471.59, subdivision 1; Minnesota Statutes 1989 Supplement, sections 16B.28, subdivision 3; 16B.54, subdivision 2; 40.46, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 16B."

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

House Conferees: (Signed) Diane Wray Williams, Steve Dille, Richard H. Jefferson

Senate Conferees: (Signed) Donald M. Moe, Cal Larson, David J. Frederickson

Mr. Moe, D.M. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2162 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. 2162 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	Johnson, D.J.	Metzen	Piper
Anderson	Davis	Knaak	Moe, D.M.	Ramstad
Beckman	Decker	Knutson	Moe, R.D.	Reichgott
Belanger	DeCramer	Laidig	Morse	Renneke
Benson	Dicklich	Langseth	Novak	Schmitz
Berg	Flynn	Lantry	Olson	Spear
Bernhagen	Frederick	Larson	Pariseau	Storm
Bertram	Frederickson, D.J.	Marty	Pehler	Stumpf
Brandl	Hughes	McGowan	Peterson, R. W.	Vickerman
Brataas	Johnson, D.E.	McQuaid	Piepho	

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. 2365, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2365 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2365

A bill for an act relating to the collection and dissemination of data; proposing classifications of data as private and nonpublic; clarifying access to data on decedents; changing classification nomenclature as it relates to medical examiner's data; amending Minnesota Statutes 1988, sections 13.03, subdivision 3; 13.10, subdivision 3; 13.41, subdivision 2; 13.46, subdivision 4; 13.83, subdivisions 4, 5, 7, and 9; Minnesota Statutes 1989 Supplement, sections 13.46, subdivision 2; 13.83, subdivision 8; 13.84, subdivision 5a; 171.06, subdivision 3; 270B.14, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1988, section 13.641.

April 21, 1990

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. 2365, 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. 2365 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 13.03, subdivision 3, is amended to read:

Subd. 3. [REQUEST FOR ACCESS TO DATA.] Upon request to a

responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. If a person requests access for the purpose of inspection, the responsible authority may not assess a charge or require the requesting person to pay a fee to inspect data. The responsible authority or designee shall provide copies of public data upon request. If a person requests copies *or electronic transmittal of the data to the person*, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, *including the cost of employee time*, and for making, certifying ~~and~~, compiling, *and electronically transmitting* the copies of the data *or the data*, but may not charge for separating public from not public data. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

When a request under this subdivision involves any person's receipt of copies of public government data that has commercial value and is *a substantial and discrete portion of or an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the agency*, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies. Any fee charged must be clearly demonstrated by the agency to relate to the actual development costs of the information. The responsible authority, upon the request of any person, shall provide sufficient documentation to explain and justify the fee being charged.

If the responsible authority or designee determines that the requested data is classified so as to deny the requesting person access, the responsible authority or designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of federal law upon which the denial was based.

Sec. 2. Minnesota Statutes 1988, section 13.10, subdivision 3, is amended to read:

Subd. 3. [RIGHTS.] Rights conferred by this chapter on individuals who are the subjects of private or confidential data shall, in the case of private data on decedents or confidential data on decedents, be exercised by the representative of the decedent. *Nonpublic data concerning a decedent, created or collected after death, are accessible by the representative of the decedent.* Nothing in this section may be construed to prevent access to appropriate data by a trustee appointed in a wrongful death action.

Sec. 3. Minnesota Statutes 1988, section 13.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of

which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. *"Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.*

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that 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.

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

Sec. 4. Minnesota Statutes 1988, section 13.37, is amended by adding a subdivision to read:

Subd. 3. [DATA DISSEMINATION.] Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs.

Sec. 5. Minnesota Statutes 1988, section 13.41, is amended by adding a subdivision to read:

Subd. 2a. [BOARD OF PEACE OFFICER STANDARDS AND TRAINING.] The following government data of the board of peace officer standards and training are private data:

- (1) home addresses of licensees and applicants for licenses; and*
- (2) data that identify the state agency, statewide system, or political subdivision that employs a licensed peace officer.*

The board may disseminate private data on applicants and licensees as is necessary to administer law enforcement licensure.

Sec. 6. Minnesota Statutes 1989 Supplement, 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 or prosecution of a 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 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; *or*

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased 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. 7. Minnesota Statutes 1988, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration *or who formerly were licensed or registered* under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b) Except as provided in paragraph (c), the following data are public: name, address, telephone number of licensees, licensed capacity, type of ~~children~~ *client* preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of

license, ~~the nature and content and the existence and status of complaints after resolution when the information is not maintained in anticipation of legal action, record of informal resolutions of licensing violations.~~ When disciplinary action has been taken against a licensee or the complaint is resolved, the following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, and conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12.

(e) Data classified as private, confidential, ~~or~~ nonpublic, or *protected nonpublic* under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, are subject to the destruction provisions of section 626.556, subdivision 11.

Sec. 8. [13.511] [LODGING TAX DATA.]

Data, other than basic taxpayer identification data, collected from taxpayers under a lodging tax ordinance are nonpublic.

Sec. 9. [13.521] [TRANSPORTATION SERVICE DATA.]

Personal, medical, financial, familial, or locational information data pertaining to applicants for or users of services providing transportation for the disabled or elderly, with the exception of the name of the applicant or user of the service, are private.

Sec. 10. [13.643] [DEPARTMENT OF AGRICULTURE DATA.]

The following data on applicants, collected by the department of agriculture in its sustainable agriculture revolving loan and grant programs under sections 17.115 and 17.116, are private or nonpublic: nonfarm income; credit history; insurance coverage; machinery and equipment list; financial information; and credit information requests.

Sec. 11. [13.644] [STATE AUDITOR'S DATA.]

(a) Data collected by the office of the state auditor relating to an audit

are protected nonpublic data or confidential data until the final report of the audit has been completed or the audit is no longer being actively pursued.

(b) Data collected by the office of the state auditor that could reasonably be used to determine the identity of an individual supplying data for an audit are private, if the data supplied by the individual was needed for an audit or was provided to initiate an audit, and the individual would not have provided the data to the state auditor without an assurance that the individual's identity would remain private.

Sec. 12. Minnesota Statutes 1988, section 13.69, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATIONS.] (a) The following government data ~~collected and maintained by~~ of the state department of public safety are ~~classified as private, pursuant to section 13.02, subdivision 12 data:~~

(1) medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons; and

(2) social security numbers in driver's license and motor vehicle registration records, except that social security numbers must be provided to the department of revenue for purposes of tax administration.

(b) The following government data ~~collected and maintained by~~ of the state department of public safety are ~~classified as confidential, pursuant to section 13.02, subdivision 3 data:~~ data concerning an individual's driving ability when that data is received from a member of the individual's family.

Sec. 13. Minnesota Statutes 1988, section 13.83, subdivision 4, is amended to read:

Subd. 4. [~~CONFIDENTIAL~~ INVESTIGATIVE DATA.] Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data ~~on individuals pursuant to section 13.02, subdivision 3 or protected nonpublic data~~, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data ~~on individuals~~, except that nothing in this subdivision shall be construed to make ~~private or confidential~~ not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Sec. 14. Minnesota Statutes 1988, section 13.83, subdivision 5, is amended to read:

Subd. 5. [~~PRIVATE~~ OTHER DATA.] All other medical examiner data on deceased individuals is ~~private pursuant to section 13.02, subdivision 12,~~ are nonpublic and shall not be disclosed except pursuant to the provisions of chapter 390, or any other general or local law on county coroners or medical examiners, or pursuant to a valid court order.

Sec. 15. Minnesota Statutes 1988, section 13.83, subdivision 7, is amended to read:

Subd. 7. [COURT REVIEW.] Any person may petition the district court located in the county where medical examiner data is being maintained to

authorize disclosure of ~~private nonpublic, protected nonpublic~~, or confidential medical examiner data. The petitioner shall notify the medical examiner or coroner. The court may notify other interested persons and require their presence at a hearing. A hearing may be held immediately if the parties agree, and in any event shall be held as soon as practicable. After examining the data in camera, the court may order disclosure of the data if it determines that disclosure would be in the public interest.

Sec. 16. Minnesota Statutes 1989 Supplement, section 13.83, subdivision 8, is amended to read:

Subd. 8. [ACCESS TO ~~PRIVATE~~ NONPUBLIC DATA.] The data made ~~private nonpublic~~ by this section are accessible to the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Sec. 17. Minnesota Statutes 1988, section 13.83, subdivision 9, is amended to read:

Subd. 9. [CHANGE IN CLASSIFICATION.] ~~Notwithstanding section 13.10,~~ Data classified as ~~private nonpublic, protected nonpublic~~, or confidential by this section shall be classified as public 30 years after the date of death of the decedent.

Sec. 18. Minnesota Statutes 1989 Supplement, section 13.84, subdivision 5a, is amended to read:

Subd. 5a. [PUBLIC BENEFIT DATA.] (a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to: (1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; and (2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim's legal right to restitution. In the case of delinquent acts, the data that may be released include only the juvenile's name, address, date of birth, and place of employment; the name and address of the juvenile's parents or guardians; and the factual part of police reports related to the investigation of the delinquent act.

(b) *A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.*

Sec. 19. Minnesota Statutes 1988, section 60A.03, is amended by adding a subdivision to read:

Subd. 9. [CONFIDENTIALITY OF INFORMATION.] *The commissioner may not be required to divulge any information obtained in the course of the supervision of insurance companies, or the examination of insurance companies, including examination related correspondence and workpapers, until the examination report is finally accepted and issued by the commissioner, and then only in the form of the final public report of examinations. This subdivision does not apply to the extent the commissioner is required or permitted by law, or ordered by a court of law to testify or produce evidence in a civil or criminal proceeding. For purposes of this subdivision, a subpoena is not an order of a court of law.*

Sec. 20. Minnesota Statutes 1989 Supplement, section 144.335, subdivision 1, is amended to read:

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

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

(b) "Provider" means (1) any person who furnishes health care services and is licensed to furnish the services pursuant to chapter 147, 148, 148B, 150A, 151, or 153; (2) a home care provider licensed under section 144A.46; and (3) a health care facility licensed pursuant to this chapter or chapter 144A.

Sec. 21. Minnesota Statutes 1989 Supplement, section 171.06, subdivision 3, is amended to read:

Subd. 3. [CONTENTS OF APPLICATION.] ~~Every~~ *An* application shall state the full name, date of birth, ~~social security number~~, sex and residence address of the applicant, a description of the applicant in such manner as the commissioner may require, and shall state whether or not the applicant has theretofore been licensed as a driver; and, if so, when and by what state or country and whether any such license has ever been suspended or revoked, or whether an application has ever been refused; and, if so, the date of and reason for such suspension, revocation, or refusal, together with such facts pertaining to the applicant and the applicant's ability to operate a motor vehicle with safety as may be required by the commissioner. *An application for a Class CC, Class B, or Class A driver's license also must state the applicant's social security number.* The application form shall contain a notification to the applicant of the availability of the donor document provided pursuant to section 171.07, subdivision 5, and shall contain spaces where the applicant must indicate a desire to receive or not to receive the donor document. The application shall be in the form prepared by the commissioner.

The application form must be accompanied by a pamphlet containing relevant facts relating to:

- (1) the effect of alcohol on driving ability;
- (2) the effect of mixing alcohol with drugs;
- (3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and
- (4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations.

Sec. 22. Minnesota Statutes 1989 Supplement, section 260.161, subdivision 3, is amended to read:

Subd. 3. (a) Peace officers' records of children shall be kept separate from records of persons 18 years of age or older and shall not be open to public inspection or their contents disclosed to the public except (1) by

order of the juvenile court, ~~or~~ (2) as required by section 126.036, ~~or~~ (3) as authorized under section 13.82, subdivision 2, ~~or~~ (4) *to the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation*; except that traffic investigation reports may be open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

Sec. 23. [REPEALER.]

Minnesota Statutes 1988, section 13.641, is repealed.

Sec. 24. [EFFECTIVE DATE.]

Sections 12 and 21 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the collection and dissemination of data; providing for classifications of government data; clarifying access to data on decedents; changing classification nomenclature as it relates to medical examiner's data; amending Minnesota Statutes 1988, sections 13.03, subdivision 3; 13.10, subdivision 3; 13.37, subdivision 1, and by adding a subdivision; 13.41, by adding a subdivision; 13.46, subdivision 4; 13.69, subdivision 1; 13.83, subdivisions 4, 5, 7, and 9; 60A.03, by adding a subdivision; Minnesota Statutes 1989 Supplement, sections 13.46, subdivision 2; 13.83, subdivision 8; 13.84, subdivision 5a; 144.335, subdivision 1; 171.06, subdivision 3; 260.161, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1988, section 13.641."

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

House Conferees: (Signed) Thomas W. Pugh, Phil Carruthers, Marcus Marsh

Senate Conferees: (Signed) Randolph W. Peterson, Gene Merriam, Fritz Knaak

Mr. Peterson, R. W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2365 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. 2365 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Morse	Renneke
Anderson	Decker	Knutson	Novak	Schmitz
Beckman	DeCramer	Laidig	Olson	Solon
Belanger	Dicklich	Langseth	Pariseau	Spear
Benson	Flynn	Lantry	Pehler	Storm
Berg	Frederick	Larson	Peterson, R.W.	Stumpf
Berglin	Frederickson, D.J.	Marty	Piepho	Vickerman
Bernhagen	Freeman	McGowan	Piper	Waldorf
Bertram	Hughes	McQuaid	Pogemiller	
Brataas	Johnson, D.E.	Metzen	Ramstad	
Cohen	Johnson, D.J.	Moe, R.D.	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. 2704:

H.F. No. 2704: A bill for an act relating to commerce; removing a real estate licensing prohibition; amending Minnesota Statutes 1988, section 82.20, subdivision 4.

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

Scheid, Sarna and Heap have been appointed as such committee on the part of the House.

House File No. 2704 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 April 23, 1990

Mr. Freeman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2704, 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. 1855, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1855 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1855

A bill for an act relating to family law; modifying dissolution statistical report requirements; regulating child custody and visitation in dissolution and other proceedings; modifying standards for joint legal custody; providing for the award of temporary attorney fees; providing standards for visitation and custody rights when a parent has been convicted of certain crimes; providing funding for legal representation in family law matters; amending Minnesota Statutes 1988, sections 144.224; 257.025; 257.541, subdivision 2; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1 and 7; 518.14; 518.156; 518.167, subdivision 2; 518.175, by adding a subdivision; 518.551, subdivision 5; and 518.619; Minnesota Statutes 1989 Supplement, sections 518.17, subdivision 2; 518.175, subdivisions 1 and 5; and 518.64, subdivision 2; proposing coding for new law in chapter 518.

April 20, 1990

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. 1855, 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. 1855 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 144.224, is amended to read:

144.224 [REPORTS OF DISSOLUTION AND ANNULMENT OF MARRIAGE.]

Each month the court administrator shall forward to the commissioner of health the statistical report forms collected pursuant to section 518.147 during the preceding month. The report form shall include only the following information:

(a) name, date of birth, birthplace, residence, race, and educational attainment of the husband and wife;

(b) county of decree;

(c) date and type of decree;

(d) place and date of marriage;

(e) date of separation;

(f) number and ages of children of marriage;

(g) amount and status of maintenance and child support;

(h) custody of children, *including whether joint legal or physical custody*

was awarded;

- (i) income of the parties;
- (j) length of separation and length of marriage; and
- (k) number of previous marriages and reasons for ending the previous marriages (death, dissolution, or annulment).

The commissioner may publish data collected under this section in summary form only. The statistical report form shall contain a statement that neither the report form, nor information contained in the form, shall be admissible in evidence in this or any subsequent proceeding.

Sec. 2. Minnesota Statutes 1988, section 257.025, is amended to read:
257.025 [CUSTODY DISPUTES.]

(a) In any proceeding where two or more parties seek custody of a child the court shall ~~determine the best interests of the child by considering and evaluating~~ *consider and evaluate all relevant factors in determining the best interests of the child, including the following factors:*

~~(a) The love, affection and other emotional ties existing between the competing parties and the child;~~

~~(b) The capacity and disposition of competing parties to give the child love, affection and guidance and continuation of the educating and raising of the child in its religion, creed, if any, or culture;~~

~~(c) The capacity and disposition of competing parties to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs;~~

~~(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;~~

~~(e) The permanence, as a family unit, of the existing or proposed custodial home;~~

~~(f) The mental and physical health of the competing parties;~~

~~(g) The home, school and community record of the child;~~

~~(h) The cultural background of the child;~~

~~(i) The reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;~~

~~(j) Any other factor considered by the court to be relevant to a particular child custody dispute.~~

(1) the wishes of the party or parties as to custody;

(2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(3) the child's primary caretaker;

(4) the intimacy of the relationship between each party and the child;

(5) the interaction and interrelationship of the child with a party or parties, siblings, and any other person who may significantly affect the child's best interests;

- (6) *the child's adjustment to home, school, and community;*
- (7) *the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;*
- (8) *the permanence, as a family unit, of the existing or proposed custodial home;*
- (9) *the mental and physical health of all individuals involved;*
- (10) *the capacity and disposition of the parties to give the child love, affection and guidance, and to continue educating and raising the child in the child's culture, religion or creed, if any;*
- (11) *the child's cultural background; and*
- (12) *the effect on the child of the actions of an abuser, if related to domestic abuse as defined in section 518B.01, that has occurred between the parents or the parties.*

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The fact that the parents of the child are not or were never married to each other shall not be determinative of the custody of the child.

(c) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

(d) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(e) A person may seek custody of a child by filing a petition or motion pursuant to section 518.156.

(f) Section 518.619 applies to this section.

Sec. 3. Minnesota Statutes 1988, section 257.541, subdivision 2, is amended to read:

Subd. 2. [FATHER'S RIGHT TO VISITATION.] (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of visitation or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the biological father may petition for rights of visitation or custody in *the paternity proceeding or in a separate proceeding* under section 518.156.

Sec. 4. Minnesota Statutes 1989 Supplement, 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 \$55, except that in an action for marriage dissolution, the fee is ~~\$75~~ \$85.

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 \$55, except that in an action for marriage dissolution, the fee for the respondent is \$75 \$85.

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. 5. Minnesota Statutes 1989 Supplement, section 480.241, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF SURCHARGE; COLLECTION BY COURT ADMINISTRATORS.] A plaintiff, petitioner, defendant, respondent, intervenor or moving party in any trial court civil action or civil proceeding in which an initial filing fee is payable by that party, except a marriage dissolution or conciliation court action, shall pay to the court administrator a surcharge of ~~\$25~~ \$30 in addition to the initial filing fee otherwise prescribed. A plaintiff, defendant, or moving party in any conciliation court action in which an initial filing fee is payable shall pay to the court administrator of conciliation court a surcharge of \$3 in addition to the initial filing fee otherwise prescribed. Notwithstanding any other law or rule to the contrary, no surcharge shall be paid by any governmental unit of the state of Minnesota, any local unit of government, or agency thereof.

Sec. 6. Minnesota Statutes 1988, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "*Custody determination*" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "*Custody proceeding*" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 7. Minnesota Statutes 1988, section 518.003, is amended by adding a subdivision to read:

Subd. 4. [MEDIATION.] "*Mediation*" means a process in which an impartial third party facilitates an agreement between two or more parties in a proceeding.

Sec. 8. Minnesota Statutes 1988, section 518.131, subdivision 1, is amended to read:

Subdivision 1. In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property, maintenance, or child support following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

(a) Temporary custody and visitation rights of the minor children of the parties;

(b) Temporary maintenance of either spouse;

(c) Temporary child support for the children of the parties;

(d) *Temporary costs and reasonable attorney fees;*

(e) Award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles and other property of the parties;

~~(e)~~ (f) Restrain one or both parties from transferring, encumbering, concealing or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions and expenditures made after the order is served

or communicated to the party restrained in open court;

(f) (g) Restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(g) (h) Restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(h) (i) Exclude a party from the family home of the parties or from the home of the other party; and

(i) (j) Require one or both of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Sec. 9. Minnesota Statutes 1988, section 518.131, subdivision 7, is amended to read:

Subd. 7. The court shall be guided by the factors set forth in sections 518.551 (concerning child support), 518.552 (concerning maintenance) and, 518.17 to 518.175 (concerning custody and visitation), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Sec. 10. Minnesota Statutes 1988, section 518.14, is amended to read:

518.14 [COSTS AND DISBURSEMENTS AND ATTORNEY FEES.]

~~In a proceeding brought either for dissolution or legal separation under this chapter, the court, from time to time, after considering the financial resources of both parties, may require one party to pay a reasonable amount necessary to enable the other spouse to carry on or to contest the proceeding, and to pay attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement or after entry of judgment. In a proceeding under this chapter, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:~~

(1) that the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be

enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided.

Sec. 11. Minnesota Statutes 1988, section 518.156, is amended to read:
518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) By a parent

(1) By filing a petition for dissolution or legal separation; or

(2) Where a decree of dissolution or legal separation has been entered or where none is sought, by filing a petition or motion seeking custody *or visitation* of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) By a person other than a parent, *where a decree of dissolution or legal separation has been entered or where none is sought* by filing a petition or motion seeking custody *or visitation* of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered.

Subd. 2. Written notice of a child custody *or visitation* proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 12. Minnesota Statutes 1988, section 518.167, subdivision 2, is amended to read:

Subd. 2. [PREPARATION.] (a) In preparing a report concerning a child, the investigator may consult any person who may have information about the child and the potential custodial arrangements except for persons involved in mediation efforts between the parties. Mediation personnel may disclose to investigators and evaluators information collected during mediation only if agreed to in writing by all parties. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, school personnel, or other expert persons who have served the child in the past after obtaining the consent of the parents or the child's custodian or guardian.

(b) *The report submitted by the investigator must consider and evaluate the factors in section 518.17, subdivision 1, and include a detailed analysis of all information considered for each factor. If joint custody is contemplated or sought, the report must consider and evaluate the factors in section 518.17, subdivision 2, state the position of each party and the investigator's recommendation and the reason for the recommendation, and reference established means for dispute resolution between the parties.*

Sec. 13. Minnesota Statutes 1989 Supplement, section 518.17, subdivision 1, is amended to read:

Subdivision 1. [THE BEST INTERESTS OF THE CHILD.] (a) "The best interests of the child" means all relevant factors to be considered and

evaluated by the court including:

- (1) the wishes of the child's parent or parents as to custody;
- (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;
- (3) the child's primary caretaker;
- (4) the intimacy of the relationship between each parent and the child;
- (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;
- (6) the child's adjustment to home, school, and community;
- (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- (8) the permanence, as a family unit, of the existing or proposed custodial home;
- (9) the mental and physical health of all individuals involved;
- (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;
- (11) the child's cultural background; and
- (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents.

The court may not use one factor to the exclusion of all others. *The primary caretaker factor may not be used as a presumption in determining the best interests of the child.* The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

Sec. 14. Minnesota Statutes 1989 Supplement, section 518.17, subdivision 2, is amended to read:

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

- (a) The ability of parents to cooperate in the rearing of their children;
- (b) Methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods;
- (c) Whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and
- (d) Whether domestic abuse, as defined in section 518B.01, has occurred between the parents.

The court shall use a rebuttable presumption that upon request of either

or both parties, joint legal custody is in the best interests of the child. *However, the court shall use a rebuttable presumption that joint legal custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents.*

If the court awards joint legal or physical custody over the objection of a party, the court shall make detailed findings on each of the factors in this subdivision and explain how the factors led to its determination that joint custody would be in the best interests of the child.

Sec. 15. Minnesota Statutes 1989 Supplement, section 518.175, subdivision 5, is amended to read:

Subd. 5. The court shall modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; ~~but the court shall~~. *Except as provided in section 23, the court may not restrict visitation rights unless it finds that:*

(1) the visitation is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the noncustodial parent has chronically and unreasonably failed to comply with court-ordered visitation.

If the custodial parent makes specific allegations that visitation places the custodial parent *or child* in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting visitation rights. The court may require a third party, including the county welfare board, to supervise the visitation or may restrict a parent's visitation rights if necessary to protect the custodial parent *or child* from harm.

Sec. 16. [518.179] [CUSTODY OR VISITATION WHEN PERSON CONVICTED OF CERTAIN OFFENSES.]

Subdivision 1. [SEEKING CUSTODY OR VISITATION.] Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or visitation has been convicted of a crime described in subdivision 2, the person seeking custody or visitation has the burden to prove that custody or visitation by that person is in the best interests of the child if:

(1) the conviction occurred within the preceding five years;

(2) the person is currently incarcerated, on probation, or under supervised release for the offense; or

(3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

If this section applies, the court may not grant custody or visitation to the person unless it finds that the custody or visitation is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence.

Subd. 2. [APPLICABLE CRIMES.] *This section applies to the following crimes or similar crimes under the laws of the United States, or any other state:*

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

- (2) manslaughter in the first degree under section 609.20;*
- (3) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;*
- (4) kidnapping under section 609.25;*
- (5) depriving another of custodial or parental rights under section 609.26;*
- (6) soliciting, inducing, or promoting prostitution involving a minor under section 609.322;*
- (7) receiving profit from prostitution involving a minor under section 609.323;*
- (8) criminal sexual conduct in the first degree under section 609.342;*
- (9) criminal sexual conduct in the second degree under section 609.343;*
- (10) criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);*
- (11) solicitation of a child to engage in sexual conduct under section 609.352;*
- (12) incest under section 609.365;*
- (13) malicious punishment of a child under section 609.377; or*
- (14) neglect of a child under section 609.378.*

Sec. 17. Minnesota Statutes 1988, section 518.18, is amended to read:
518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with clause (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with clause (c).

(c) The time limitations prescribed in clauses (a) and (b) shall not prohibit a motion to modify a custody order if the court finds that there is persistent and willful denial or interference with visitation, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the custodian and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custodian established by the prior order unless:

- (i) The custodian agrees to the modification;
- (ii) The child has been integrated into the family of the petitioner with the consent of the custodian; or
- (iii) The child's present environment endangers the child's physical or

emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order under section 23.

Sec. 18. Minnesota Statutes 1988, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support agreement of the parties if each party is represented by independent counsel, unless the agreement is not in the interest of justice. In other cases the court shall *determine and* order child support *in a specific dollar amount* in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom.

The court shall ~~multiply~~ *derive a specific dollar amount by multiplying* the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
\$400 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
\$401 - 500	14%	17%	20%	22%	24%	26%	28%
\$501 - 550	15%	18%	21%	24%	26%	28%	30%
\$551 - 600	16%	19%	22%	25%	28%	30%	32%
\$601 - 650	17%	21%	24%	27%	29%	32%	34%
\$651 - 700	18%	22%	25%	28%	31%	34%	36%
\$701 - 750	19%	23%	27%	30%	33%	36%	38%
\$751 - 800	20%	24%	28%	31%	35%	38%	40%
\$801 - 850	21%	25%	29%	33%	36%	40%	42%
\$851 - 900	22%	27%	31%	34%	38%	41%	44%
\$901 - 950	23%	28%	32%	36%	40%	43%	46%
\$951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001- 4000	25%	30%	35%	39%	43%	47%	50%

Guidelines for support for an obligor with a monthly income of \$4,001 or more shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income of \$4,000.

Net Income defined as:

Total monthly
income less

*(i) Federal Income Tax

*(ii) State Income Tax

***Standard**

Deductions apply-
use of tax tables
recommended

- (iii) Social Security
Deductions
- (iv) Reasonable
Pension Deductions
- (v) Union Dues
- (vi) Cost of Dependent
Insurance Coverage
- (vii) Cost of Individual or Group
Health/Hospitalization
Coverage or an
Amount for Actual
Medical Expenses
- (viii) A Child Support or
Maintenance Order that is
Currently Being Paid.

“Net income” does not include:

(1) the income of the obligor's spouse; or

(2) *compensation received by a party for employment in excess of a 40-hour work week, provided that:*

(a) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(b) the party demonstrates, and the court finds, that:

(i) the excess employment began after the filing of the petition for dissolution;

(ii) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(iii) the excess employment is voluntary and not a condition of employment;

(iv) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(v) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

(b) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support:

(1) all earnings, income, and resources of the parents, including real and personal property, *but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (a), clause (2)(b);*

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) the amount of the aid to families with dependent children grant for the child or children;

(5) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it; and

(6) the parents' debts as provided in paragraph (c).

(c) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

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

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

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

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

(e) The above guidelines are binding in each case unless the court makes express findings of fact as to the reason for departure below or above the guidelines.

Sec. 19. Minnesota Statutes 1988, section 518.57, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Upon a decree of dissolution, legal separation or annulment, the court ~~may~~ *shall* make a further order which is just and proper concerning the maintenance of the minor children as provided by section 518.551, and for the maintenance of any child of the parties as defined in section 518.54, as support money, and may make the same a lien or charge upon the property of the parties to the proceeding, or either of them, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 20. [518.583] [NOTICE OF TAX EFFECT ON PRINCIPAL RESIDENCE.]

If the parties to an action for dissolution own a principal residence, the court must make express findings of fact that the parties who are represented by an attorney have been advised as to the income tax laws respecting the capital gain tax, or that parties who are not represented by an attorney have been notified that income tax laws regarding the capital

gain tax may apply to the sale of the residence. This includes, but is not limited to, the exclusion available on the sale of a principal residence for those over a certain age under section 121 of the Internal Revenue Code of 1986, or other applicable law. The order must expressly provide for the use of that exclusion unless the court otherwise orders. All judgment and decrees involving a principal residence must include a notice to the parties that income tax laws regarding the capital gain tax may apply to the sale of the residence and that the parties may wish to consult with an attorney concerning the applicable laws.

Sec. 21. Minnesota Statutes 1988, section 518.619, is amended to read:

518.619. [~~CONTESTED CUSTODY OR VISITATION~~; MEDIATION SERVICES.]

Subdivision 1. [MEDIATION PROCEEDING.] Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody or visitation is contested, *or that any issue pertinent to a custody or visitation determination, including visitation rights, is unresolved*, the matter may be set for mediation of the contested issue prior to ~~or~~, concurrent with, *or subsequent to the setting of the matter for hearing*. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement ~~assuring the child's close and continuing contact with both parents after the marriage is dissolved that is supportive of the child's best interests~~. The mediator shall use best efforts to effect a settlement of the custody or visitation dispute, *but shall have no coercive authority*.

Subd. 2. [EXCEPTION.] If the court determines that there is probable cause that one of the parties, or a child of a party, has been physically or sexually abused by the other party, the court shall not *require or refer the parties to mediation or any other process that requires parties to meet and confer without counsel, if any, present*.

Subd. 3. [MEDIATOR APPOINTMENT.] In order to participate in a custody mediation, a mediator must be appointed by the family court. A mediator must be a member of the professional staff of a family court, probation department, mental health services agency, or a private mediation service. The mediator must be on a list of mediators approved by the court having jurisdiction of the matter, unless the parties stipulate to a mediator not on the list.

Subd. 4. [MEDIATOR QUALIFICATIONS.] A mediator who performs mediation in contested child custody matters shall meet the following minimum qualifications:

(a) knowledge of the court system and the procedures used in contested child custody matters;

(b) knowledge of other resources in the community to which the parties to contested child custody matters can be referred for assistance;

(c) knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, and child custody research; and

(d) a minimum of 40 hours of certified mediation training.

Subd. 5. [RECORDS; PRIVATE DATA.] Mediation proceedings shall be

conducted in private. All records of a mediation proceeding shall be private and not available as evidence in an action for marriage dissolution and related proceedings on any issue in controversy in the dissolution.

Subd. 6. [MEDIATOR RECOMMENDATIONS.] When the parties have not reached agreement as a result of the mediation proceeding, the mediator may recommend to the court that an investigation be conducted under section 518.167, or that other action be taken to assist the parties to resolve the controversy before hearing on the issues. The mediator may *not* conduct the investigation. The mediator may recommend that mutual restraining orders be issued in appropriate cases, pending determination of the controversy, to protect the well-being of the children involved in the controversy.

Subd. 7. [MEDIATION AGREEMENT.] An agreement reached by the parties as a result of mediation shall be discussed by the parties with their attorneys, if any, and the approved agreement may then be included in the marital dissolution decree or other stipulation submitted to the court. *An agreement reached by the parties as a result of mediation may not be presented to the court nor made enforceable unless the parties and their counsel, if any, consent to its presentation to the court, and the court adopts the agreement.*

Sec. 22. Minnesota Statutes 1989 Supplement, section 518.64, subdivision 2, is amended to read:

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

(b) On a motion for modification of maintenance, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall take into consideration the needs of the children and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments

to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(c) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability or a material misrepresentation of another party and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

Sec. 23. [631.52] [EFFECT OF CERTAIN CONVICTIONS ON CUSTODY AND VISITATION RIGHTS.]

Subdivision 1. [SUSPENSION OF VISITATION RIGHTS; TRANSFER OF CUSTODY.] (a) If a person who has court-ordered custody of a child or visitation rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or visitation, the sentencing court shall refer the matter to the appropriate family court for action under this section. The family court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend visitation rights, unless it finds that visitation with the convicted person is in the best interests of the child.

The family court shall expedite proceedings under this section. The defendant has the burden of proving that continued custody or visitation with the defendant is in the best interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence.

(b) If a person who has child custody or visitation rights was convicted of a crime listed in subdivision 2 before July 1, 1990, then any interested party may petition the sentencing court for relief under paragraph (a) if:

(1) the defendant is currently incarcerated, on probation, or under supervised release for the offense; or

(2) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

Subd. 2. [APPLICATION.] Subdivision 1 applies to the following crimes or similar crimes under the laws of the United States or any other state:

(1) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

- (2) *manslaughter in the first degree under section 609.20;*
- (3) *assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;*
- (4) *kidnapping under section 609.25;*
- (5) *depriving another of custodial or parental rights under section 609.26;*
- (6) *soliciting, inducing, or promoting prostitution involving a minor under section 609.322;*
- (7) *receiving profit from prostitution involving a minor under section 609.323;*
- (8) *criminal sexual conduct in the first degree under section 609.342;*
- (9) *criminal sexual conduct in the second degree under section 609.343;*
- (10) *criminal sexual conduct in the third degree under section 609.344, subdivision 1, paragraph (c), (f), or (g);*
- (11) *solicitation of a child to engage in sexual conduct under section 609.352;*
- (12) *incest under section 609.365;*
- (13) *malicious punishment of a child under section 609.377; or*
- (14) *neglect of a child under section 609.378.*

Sec. 24. [FEDERAL WAIVER.]

The department of human services shall seek from the Congress of the United States or the United States Department of Health and Human Services a change in or waiver of existing requirements of the aid to families with dependent children program (AFDC) to the extent necessary to allow the retroactive modification of support or maintenance payments permitted by section 22, paragraph (c). The attorney general shall prepare the necessary documentation and request letter for the waiver request.

Sec. 25. [APPROPRIATION.]

\$890,000 is appropriated from the general fund to the supreme court to be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in section 480.242, subdivision 2, paragraph (a), to improve the access of low-income clients to legal representation in family law matters.

Sec. 26. [EFFECTIVE DATE.]

Section 20 is effective August 1, 1990, and applies to actions commenced on or after that date. The provisions of section 22, paragraph (c), allowing retroactive modification of support or maintenance payments in certain cases, are effective July 1, 1991, provided that these provisions do not take effect if a change in or waiver of the existing AFDC requirements is not obtained under section 24."

Delete the title and insert:

"A bill for an act relating to family law; regulating child support, custody and visitation in dissolution and other proceedings; providing for suspension of visitation rights or change of custody when a parent has been convicted of certain crimes; requiring expedited hearings of visitation motions alleging that a child is in danger of harm and providing for supervised or

restricted visitation; modifying dissolution statistical reporting requirements; modifying standards for joint legal custody; requiring specific findings supporting joint custody in certain cases; requiring certain findings about taxes; providing for the award of temporary attorney fees; providing for funding of legal representation in family law matters; increasing marriage dissolution filing fees and civil filing fees surcharge; appropriating money; amending Minnesota Statutes 1988, sections 144.224; 257.025; 257.541, subdivision 2; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1 and 7; 518.14; 518.156; 518.167, subdivision 2; 518.18; 518.551, subdivision 5; 518.57, subdivision 1; 518.619; Minnesota Statutes 1989 Supplement, sections 357.021, subdivision 2; 480.241, subdivision 1; 518.17, subdivisions 1 and 2; 518.175, subdivision 5; and 518.64, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 518; and 631."

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

House Conferees: (Signed) Randy C. Kelly, Kathleen Vallenga, Bill Macklin, Kathleen Blatz, Jerry Janeczich

Senate Conferees: (Signed) Allan H. Spear, John E. Brandl, Ember D. Reichgott, Fritz Knaak

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1855 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. 1855 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 4, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Laidig	Morse	Reichgott
Anderson	Decker	Langseth	Novak	Renneke
Beckman	DeCramer	Lantry	Olson	Schmitz
Belanger	Frederick	Larson	Pariseau	Solon
Benson	Frederickson, D.J.	Marty	Pehler	Spear
Berg	Freeman	McGowan	Peterson, R. W.	Storm
Bernhagen	Hughes	McQuaid	Piepho	Stumpf
Bertram	Johnson, D.E.	Metzen	Piper	Vickerman
Brataas	Knaak	Moe, D.M.	Pogemiller	Waldorf
Cohen	Knutson	Moe, R.D.	Ramstad	

Ms. Berglin, Mr. Dicklich, Ms. Flynn and Mr. Johnson, D.J. voted in the negative.

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 the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1973, 1925 and 2030.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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

S.F. No. 394: A bill for an act relating to education; requiring a report on preparation of post-secondary education administrators and faculty.

Senate File No. 394 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 2621, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2621: A bill for an act relating to the organization and operation of state government; appropriating money for human services and health and other purposes with certain conditions; amending Minnesota Statutes 1988, sections 13.46, subdivision 5; 144A.073, by adding a subdivision; 245A.07, subdivision 3; 245A.08, subdivision 3; 245A.16, subdivision 4; 254B.04, subdivision 1; 254B.08; 256.736, subdivision 3a; 256.936, by adding a subdivision; 256B.04, subdivisions 15 and 16; 256B.055, subdivisions 3, 5, 6, and 12; 256B.056, subdivisions 2 and 7, and by adding a subdivision; 256B.0625, subdivisions 4, 5, 9, and by adding subdivisions; 256B.091, subdivisions 4 and 6; 256B.092, subdivisions 1a and 1b, and by adding subdivisions; 256B.15; 256B.19, by adding a subdivision; 256B.431, subdivision 3e, and by adding subdivisions; 256B.48, subdivision 2, and by adding a subdivision; 256B.49, by adding a subdivision; 256B.50, subdivisions 1 and 1b; 256B.501, subdivision 3e, and by adding a subdivision; 256B.69, subdivision 3; 256D.03, subdivision 7; 256E.06, subdivisions 2 and 7; 256H.01, by adding subdivisions; 518.171, subdivisions 1, 3, 4, and 7; 518.54, by adding subdivisions; 518.551, subdivisions 1 and 5; 518.611, subdivisions 1, 2, 8, and 8a, and by adding a subdivision; 518C.02, by adding subdivisions; 518C.03; 518C.05; 518C.09; 518C.12; and 518C.27, subdivision 1; Minnesota Statutes 1988, section 252.27, as amended by Laws 1989, chapter 282, article 2, section 92; Minnesota Statutes 1989 Supplement, sections 144.50, subdivision 6; 245.470, subdivision 1; 245.488, subdivision 1; 245A.02, subdivision 6a; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, and 3b; 245A.12; 245A.13; 245A.16, subdivision 1; 252.46, subdivisions 1, 2, 3, 4, and 12; 254B.03, subdivision 4; 256.736, subdivision 16; 256.74, subdivision 1; 256.936, subdivision 1; 256.969, subdivisions 2c and 6a; 256.9695, subdivisions 1 and 3; 256B.055, subdivision 7; 256B.056, subdivisions 3 and 4; 256B.057, subdivisions 1 and 2, and by adding subdivisions; 256B.0575; 256B.059, subdivisions 4 and 5; 256B.0595, subdivisions 1, 2, and 4; 256B.0625, subdivision 13; 256B.091, subdivision 8; 256B.14; 256B.431,

subdivision 2b; 256B.495, subdivision 1; 256B.69, subdivision 16; 256D.03, subdivisions 3, 4, and 6; 256D.425, subdivision 3; 256H.03, subdivisions 2, 2a, and 2b; 256H.05, subdivisions 1b, 1c, 2, and 5; 256H.08; 256H.15, subdivisions 1 and 2; 256I.05, subdivisions 1 and 7; 257.57, subdivision 1; 518.551, subdivision 10; 518.611, subdivision 4; and 518.613, subdivision 2; Laws 1988, chapter 689, article 2, section 256; Laws 1989, chapter 282, article 3, section 98, subdivisions 4 and 5; proposing coding for new law in Minnesota Statutes, chapters 60A; 144; 245A; 252; 254A; 256; and 256B; repealing Minnesota Statutes 1988, sections 256.736, subdivision 8; 256B.0625, subdivision 2; 256B.431, subdivisions 3, 3b, 3c, and 3d; and 256B.50, subdivision 2; Minnesota Statutes 1989 Supplement, sections 256.736, subdivision 15; 256B.055, subdivision 8; and 256B.431, subdivisions 3a and 3f.

Senate File No. 2621 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

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. 1854, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1854 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 23, 1990

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1854

A bill for an act relating to real estate; validating certain cancellation of contracts; validating certain conveyances by religious corporations; allowing county boards to set certain fees charged by the examiner of titles; providing for the effect of dissolution on joint tenancy; permitting the filing of summaries of dissolution judgments in real estate filings; clarifying provisions on certain liens by reordering clauses; amending Minnesota Statutes 1988, sections 287.01, by adding a subdivision; 500.19, subdivision 5; and 514.12, subdivision 3; Minnesota Statutes Second 1989 Supplement, section 508A.82; proposing coding for new law in Minnesota Statutes, chapters 315, 518, and 559; repealing Minnesota Statutes 1988, section 580.031.

April 19, 1990

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. 1854, 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. 1854 be further amended as follows:

Page 2, after line 5, insert:

"Sec. 3. Minnesota Statutes 1989 Supplement, section 487.30, subdivision 1, is amended to read:

Subdivision 1. (a) Except as provided in paragraph (b), the conciliation court shall hear and determine civil claims if the amount of money or property which is the subject matter of the claim does not exceed \$3,500 for the determination thereof without jury trial and by a simple and informal procedure. The rules of the supreme court shall provide for a right of appeal from the decision of the conciliation court to the county court for a trial on the merits. The territorial jurisdiction of a conciliation court shall be coextensive with the county in which the court is established.

(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~~ \$2,500. "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;

(3) the claimant is the seller or lender in the transaction; and

(4) the personal property is purchased primarily for a personal, family, or household purpose and not for a commercial, agricultural, or business purpose."

Page 7, after line 8, insert:

"Sec. 10. Laws 1989, chapter 344, section 13, subdivision 1, is amended to read:

Sec. 13. [CONCILIATION COURT JURISDICTION AMOUNTS.]

Subdivision 1. [INCREASE IN LIMITS.] The conciliation court jurisdictional limits provided in sections 1, 2, 5, 6, 9, and 10, *other than the \$2,500 limit for actions involving consumer credit transactions*, shall increase to \$4,000 on July 1, 1990."

Page 7, after line 16, insert:

"Section 3 is effective July 1, 1990."

Page 7, line 17, delete "Section 9 is" and insert "Sections 10 and 11 are"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 2, delete "real estate" and insert "public administration"

Page 1, line 10, after the semicolon insert "regulating conciliation court jurisdiction limits;"

Page 1, line 12, after the second semicolon insert "Minnesota Statutes

1989 Supplement, section 487.30, subdivision 1;"

Page 1, line 13, after the semicolon insert "Laws 1989, chapter 344, section 13, subdivision 1;"

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

House Conferees: (Signed) Thomas W. Pugh, Randy C. Kelly, Bill Macklin

Senate Conferees: (Signed) Randolph W. Peterson, William P. Luther, Fritz Knaak

Mr. Peterson, R. W. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1854 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. 1854 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Moe, R.D.	Reichgott
Anderson	Decker	Knutson	Morse	Renneke
Beckman	DeCramer	Laidig	Novak	Schmitz
Belanger	Dicklich	Langseth	Olson	Solon
Benson	Flynn	Lantry	Pariseau	Spear
Berg	Frederick	Larson	Pehler	Storm
Berglin	Frederickson, D.J.	Luther	Peterson, R. W.	Stumpf
Bernhagen	Frederickson, D.R.	Marty	Piepho	Vickerman
Bertram	Hughes	McGowan	Piper	
Brataas	Johnson, D.E.	McQuaid	Pogemiller	
Cohen	Johnson, D.J.	Moe, D.M.	Ramstad	

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 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. 1813: A bill for an act relating to human services; amending the Medicare certification requirement for nursing homes; amending Minnesota Statutes 1989 Supplement, section 256B.48, subdivision 6.

Senate File No. 1813 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 23, 1990

Ms. Berglin moved that the Senate do not concur in the amendments by the House to S.F. No. 1813, 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.

RECESS

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

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

APPOINTMENTS

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

H.F. No. 2704: Messrs. Freeman; Peterson, R.W. and Belanger.

S.F. No. 1813: Ms. Berglin, Messrs. Samuelson and Knutson.

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

MEMBERS EXCUSED

Messrs. Diessner and Mehrkens were excused from the Session of today. Mr. Freeman was excused from the Session of today from 12:00 noon to 2:00 p.m. Mr. Renneke was excused from the Session of today from 1:45 to 2:20 p.m. Mr. Purfeerst was excused from the Session of today from 12:00 noon to 1:30 p.m. and at 5:00 p.m. Mr. Chmielewski was excused from the Session of today at 2:30 p.m. Mr. Knaak was excused from the Session of today at 7:35 to 9:00 p.m. Mr. Gustafson was excused from the Session of today from 8:30 to 9:15 p.m. Ms. Reichgott was excused from the Session of today from 8:00 to 9:00 p.m. Mr. Peterson, R.W. was excused from the Session of today from 11:20 p.m. to 12:30 a.m. Mr. Dahl was excused from the Session of today at 12:45 a.m. Mr. Frank was excused from the Session of today at 1:00 a.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m., Tuesday, April 24, 1990. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate