

## EIGHTY-FOURTH DAY

St. Paul, Minnesota, Wednesday, March 25, 1992

The Senate met at 12:00 noon and was called to order by the President.

### CALL OF THE SENATE

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

Prayer was offered by Senator Dean E. Johnson.

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

Adkins	Day	Johnson, J.B.	Merriam	Ranum
Beckman	DeCramer	Johnston	Metzen	Reichgott
Belanger	Dicklich	Kelly	Moe, R.D.	Renneke
Benson, D.D.	Finn	Knaak	Mondale	Riveness
Benson, J.E.	Flynn	Kroening	Morse	Sams
Berg	Frank	Laidig	Neuville	Samuelson
Berglin	Frederickson, D.J.	Langseth	Novak	Solon
Bernhagen	Frederickson, D.R.	Larson	Olson	Spear
Bertram	Gustafson	Lessard	Pappas	Stumpf
Brataas	Hottinger	Luther	Pariseau	Terwilliger
Chmielewski	Hughes	Marty	Piper	Traub
Cohen	Johnson, D.E.	McGowan	Pogemiller	Vickerman
Davis	Johnson, D.J.	Mehrken	Price	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 and referred to the committee indicated.

March 3, 1992

The Honorable Jerome Hughes  
President of the Senate

Dear Sir:

The following appointments are hereby respectfully submitted to the Senate for confirmation as requested by law:

## STATE BOARD OF EDUCATION

George Jernberg, 340 Parkview, Detroit Lakes, Becker County, Minnesota, has been appointed by me, effective March 4, 1992, for a term expiring on the first Monday in January, 1996.

Marina Lyon, 1738 Hague Avenue, St. Paul, Ramsey County, Minnesota, has been appointed by me, effective March 4, 1992, for a term expiring on the first Monday in January, 1996.

(Referred to the Committee on Education.)

Warmest regards,  
Arne H. Carlson, Governor

March 24, 1992

The Honorable Dee Long  
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 1992 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 1992	Date Filed 1992
	2044	366		March 23
	917	367	4:20 p.m. March 20	March 23
	2259	368	4:23 p.m. March 20	March 23
	2002	369	4:25 p.m. March 20	March 23

Sincerely,  
Joan Anderson Growe  
Secretary of State

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1666, 1689, 1919 and 2385.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 24, 1992

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

S.F. No. 720: A bill for an act relating to housing and economic development; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; requiring counseling for reverse mortgage loans; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; authorizing certain economic development activities within the city of St. Paul; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; appropriating money; amending Minnesota Statutes 1990, sections 47.58, by adding a subdivision; 268.39; 273.1399, subdivision 1; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivision 20, and by adding a subdivision; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, and 14; 462A.22, subdivision 9; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.002, subdivision 24; 469.011, subdivision 4; 469.012, subdivisions 1 and 3; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20, subdivisions 3, 4, 5, and 7; 504.27; 559.17, subdivision 2; 566.03, subdivision 1; 566.17, by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.29, subdivisions 2 and 4; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1988, chapter 594, section 6; Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29.

Senate File No. 720 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 24, 1992

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. 1399: A bill for an act relating to utilities; determining when reconciliation of actual assessments to public utilities and telephone companies must be completed; amending Minnesota Statutes 1990, sections 216B.62, subdivision 3; and 237.295, subdivision 2.

Senate File No. 1399 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 24, 1992

Mrs. Benson, J.E. moved that the Senate do not concur in the amendments

by the House to S.F. No. 1399, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1489, 1988, 2186, 2683, 2732, 2854, 2375, 2849, 1996, 2063, 1978, 2273, 2388, 2106, 2352, 1701, 2030, 2115, 1969, 2099 and 2113.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 24, 1992

### FIRST READING OF HOUSE BILLS

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

H.F. No. 1489: A bill for an act relating to cooperatives; regulating regular or special meetings; requiring meetings to be open to members, with certain exceptions; proposing coding for new law in Minnesota Statutes, chapter 308A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1297, now on General Orders.

H.F. No. 1988: A bill for an act relating to intoxicating liquor; authorizing Lake township in Roseau county to establish, own, and operate an exclusive liquor store.

Referred to the Committee on Commerce.

H.F. No. 2186: A bill for an act relating to retirement; St. Paul fire department relief association; authorizing the payment of benefits to surviving former spouses of certain members.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1780, now on General Orders.

H.F. No. 2683: A bill for an act relating to the city of Nashwauk; authorizing an increase in benefits payable to surviving spouses by the police relief association; repealing a surviving spouse remarriage penalty; amending Laws 1943, chapter 196, section 4, as amended.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2467, now on General Orders.

H.F. No. 2732: A bill for an act relating to public utilities; removing the public service member from the telecommunications access for communication-impaired persons board; amending Minnesota Statutes 1990, section 237.51, subdivisions 2 and 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2660, now on General Orders.

H.F. No. 2854: A bill for an act relating to local government; providing for membership terms for the city of Hibbing public safety commission;

providing for the size of the Hibbing public utilities commission; providing for its compensation; authorizing boards of counties to publish newsletters; amending Minnesota Statutes 1990, section 375.18, by adding a subdivision; Laws 1949, chapter 422, section 2, as amended.

Referred to the Committee on Local Government.

H.F. No. 2375: A bill for an act relating to metropolitan government; providing a name for the transportation accessibility advisory committee; amending Minnesota Statutes 1990, section 473.386, subdivisions 2 and 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1770, now on General Orders.

H.F. No. 2849: A bill for an act relating to state parks; authorizing the commissioner of natural resources to negotiate a special fee structure for the Split Rock Lighthouse state historic site within Split Rock Lighthouse state park; amending Minnesota Statutes 1990, section 85.053, by adding a subdivision.

Referred to the Committee on Finance.

H.F. No. 1996: A bill for an act relating to retirement; permitting certain persons to have employer contributions transferred from the teachers retirement association to the individual retirement account plan; amending Laws 1990, chapter 570, article 3, section 11.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2023, now on General Orders.

H.F. No. 2063: A bill for an act relating to retirement; changing provisions governing reduced annuities from the public employees retirement association due to reemployment of annuitants; amending Minnesota Statutes 1990, section 353.37, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1819, now on General Orders.

H.F. No. 1978: A bill for an act relating to health; regulating ionizing radiation; delaying the effective date of certain rules; requiring their review by the commissioner of health.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1824.

H.F. No. 2273: A bill for an act relating to mental health; adding licensed marriage and family therapists to the list of qualified mental health professionals; amending Minnesota Statutes 1991 Supplement, sections 245.462, subdivision 18; and 245.4871, subdivision 27.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2084, now on General Orders.

H.F. No. 2388: A bill for an act relating to local government; regulating certain interests in contracts by public officers; amending Minnesota Statutes 1990, section 471.88, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2170, now on General Orders.

H.F. No. 2106: A bill for an act relating to financial institutions; currency exchanges; imposing distance limitations and operating restrictions; requiring local approval of licenses; amending Minnesota Statutes 1990, sections

53A.02; 53A.04; and 53A.05.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1836.

H.F. No. 2352: A bill for an act relating to state agencies; providing that agency heads may not delegate affirmative action duties; amending Minnesota Statutes 1990, section 43A.191, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2292, now on General Orders.

H.F. No. 1701: A bill for an act relating to railroads; authorizing expenditure of rail service improvement account money for maintenance of rail lines and rights-of-way in the rail bank; authorizing the commissioner of transportation to acquire abandoned rail lines and rights-of-way by eminent domain; eliminating requirement to offer state rail bank property to adjacent land owners; amending Minnesota Statutes 1990, sections 222.50, subdivision 7; 222.63, subdivisions 2, 2a, and 4; repealing Minnesota Statutes 1990, section 222.63, subdivision 5.

Referred to the Committee on Finance.

H.F. No. 2030: A bill for an act relating to motor carriers; making all persons who transport passengers for hire in intrastate commerce subject to rules of the commissioner of transportation on insurance and driver hours of service; amending Minnesota Statutes 1990, sections 221.031, by adding a subdivision; and 221.141, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 221.025.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2057, now on General Orders.

H.F. No. 2115: A bill for an act relating to partition fences; providing for apportionment of cost of a partition fence; amending Minnesota Statutes 1990, sections 344.03, subdivision 1; and 344.06; proposing coding for new law in Minnesota Statutes, chapter 344.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2461, now on General Orders.

H.F. No. 1969: A bill for an act relating to education; providing for the location of a school within a retail and entertainment complex within the city of Bloomington.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2175, now on the Calendar.

H.F. No. 2099: A bill for an act relating to insurance; auto; prohibiting discrimination in automobile insurance policies; requiring insurers to fully reimburse insureds for deductible amounts before retaining subrogation proceeds; specifying how subrogation recoveries affect insureds; amending Minnesota Statutes 1990, section 72A.20, subdivision 23; Minnesota Statutes 1991 Supplement, section 72A.201, subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2374.

H.F. No. 2113: A bill for an act relating to traffic regulations; authorizing the operation of flashing lights and stop arms on school buses transporting persons age 18 and under to and from certain activities; authorizing revolving safety lights on rural mail carrier vehicles; requiring school bus sign on

school bus providing such transportation; amending Minnesota Statutes 1991 Supplement, sections 169.441, subdivision 3; 169.443, subdivision 3, and by adding a subdivision; and 169.64, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1999, now on General Orders.

## REPORTS OF COMMITTEES

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

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

S.F. No. 2384: A bill for an act relating to real estate foreclosures; establishing a voluntary foreclosure process with waiver of deficiency claims and equity; proposing coding for new law in Minnesota Statutes, chapter 582.

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

Delete everything after the enacting clause and insert:

“Section 1. [582.32] [VOLUNTARY FORECLOSURE; PROCEDURE.]

*Subdivision 1. [APPLICATION.] Upon the mutual written agreement of the mortgagor and mortgagee, a mortgage of real estate that is not homestead or agricultural property may be foreclosed pursuant to this section.*

*Subd. 2. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given:*

*(b) “Date of conveyance” means the date the mortgagor and mortgagee enter into the agreement for nonjudicial foreclosure and the mortgagor conveys the mortgaged real estate to the mortgagee under subdivision 4, paragraph (b).*

*(c) “Junior lien” means a lien with a redeemable interest in the real estate under section 580.23 or 580.24 subordinate to the lien of the mortgagee foreclosing under this section.*

*(d) “Mortgagor” means the original grantor of the mortgage, whether one or several, and their grantees, personal representatives, heirs, successors, or assignees.*

*(e) “Real estate” means the real property covered by the mortgage and, where applicable, fixtures, equipment, furnishings, or other personalty related to the real estate and covered by the mortgage.*

*Subd. 3. [REQUEST FOR NOTICE; CONTENT REQUIREMENTS.]*

*(a) A person having a junior lien may file for record a request for notice of a mortgage foreclosure under this section with the county recorder or registrar of titles of the county where the real estate is located.*

*(b) A request for notice must specify: (1) the name and mailing address of the person requesting notice; (2) a legal description of the real estate; (3) a description of the person's redeemable interest including, if applicable, the date and recording information of the document creating the interest; and (4) a request for notice of a mortgage foreclosure under this section. The request must be executed and acknowledged by the person requesting*

notice.

(c) *The recording of a request for notice by itself does not give the person requesting notice any interest in the real estate for any purpose. A recorded request for notice does not constitute actual or constructive notice of any interest in the real estate.*

*Subd. 4. [PROCEDURE.] (a) Voluntary nonjudicial foreclosure must be done in accordance with the procedure contained in this section.*

*(b) The mortgagor shall enter into a written agreement to foreclosure under this section and simultaneously convey to the mortgagee all interest in the real estate subject to the mortgage. The mortgagee may not file or record the deed of conveyance until after the expiration of the period for cancellation provided for in paragraph (f).*

*(c) The mortgagee shall accept the mortgagor's conveyance and waive any rights to a deficiency or other claim for personal liability against the mortgagor arising from the mortgage. This does not preclude an agreement between the mortgagor and mortgagee to a stipulated payment as part of the voluntary foreclosure process.*

*(d) The mortgagor shall consent to the appointment of a receiver for, or grant the mortgagee possession of the real estate upon expiration of the period of cancellation provided for in paragraph (f), for the purposes of operating, maintaining, and protecting the real estate and the making of any additions or betterments to the real estate.*

*(e) Within 15 business days after the expiration of the period of cancellation provided in paragraph (f), the mortgagor and mortgagee shall record or file a jointly executed document, with the disclosure and notice of right to cancel provided for in subdivision 8 attached to the document, with the county recorder or registrar of titles, as appropriate, in the county where the real estate is located, stating that the mortgagor and mortgagee have elected to follow the nonjudicial voluntary foreclosure procedures under this section and indicating the date of conveyance.*

*(f) The mortgagor has a right to cancel the agreement within five business days after entry into the agreement. If the mortgagor cancels the agreement, no documents shall be recorded by the mortgagee under this section.*

*(g) A certificate signed by the county assessor where the real estate is located stating that the real estate as legally described in the certificate is not in agricultural use as defined in section 40A.02, subdivision 3, or a homestead as defined in section 510.01, must be recorded in the office of the county recorder or registrar of titles where the real estate is located and is prima facie evidence of the facts contained in the certificate and may be relied upon by an examiner of title of the real estate.*

*(h) An affidavit signed by the mortgagee, after the expiration of the period of cancellation provided in paragraph (f), stating that the mortgagor has not canceled the agreement within that period must be recorded in the office of the county recorder or registrar of titles where the real estate is located and is prima facie evidence of the facts contained in the affidavit and may be relied upon by an examiner of title of the real estate.*

*Subd. 5. [NOTICE TO CREDITORS.] Within 15 business days after the expiration of the period of cancellation provided for in subdivision 4, paragraph (f), the mortgagee shall:*



(1) send by certified mail a notice of the voluntary foreclosure election to all creditors having a junior lien of record upon the real estate or some part of the real estate, as of the date of conveyance, who have filed or recorded a request for this notice under subdivision 3;

(2) publish notice of the election under this section in the same fashion as in a foreclosure by advertisement for four consecutive weeks; and

(3) post notice of the election in a conspicuous place on the mortgaged real estate.

The notices must indicate all information required under section 580.04, clauses (1) to (4), the date of the conveyance, and that each junior creditor may redeem in the order and manner provided in subdivision 9, beginning two months after the date of conveyance. Affidavits of posting, mailing, and publication to evidence the same must be recorded in the office of the county recorder or registrar of titles where the real estate is located and are prima facie evidence of the facts stated in the affidavits and may be relied upon by an examiner of title of the real estate.

Subd. 6. [EFFECT OF FAILURE TO MAIL NOTICE.] If a person foreclosing a mortgage under this section fails to mail a notice in accordance with subdivision 5 to a person with a properly recorded request for notice, the failure does not invalidate the foreclosure.

Subd. 7. [REMEDIES.] If notice of the sale is not mailed in accordance with subdivision 5 to a person with a properly recorded request for notice, the person requesting notice has a cause of action against the person foreclosing the mortgage for money damages for the lesser of: (1) the equity in the mortgaged premises that would have been available to the person if the person had redeemed; or (2) the value of the person's redeemable interest. The value of a lienholder's redeemable interest is the amount due on and secured by the lien. The person requesting notice has the burden of proving that the notice of the sale was not mailed in accordance with subdivision 5 and that the person requesting notice had a valid redeemable interest in the mortgaged premises, had measurable damages, and had the financial ability to redeem. An action for damages resulting from failure to mail notice must be brought within two years of the date of conveyance.

Subd. 8. [DISCLOSURE AND NOTICE OF RIGHT TO CANCEL.] At the time the mortgagor signs the written agreement under subdivision 4, paragraph (b), the mortgagee shall furnish the mortgagor a completed disclosure and notice of right to cancel form in duplicate. The form must be attached to the written agreement, must be in ten-point boldface type, and must be in the following form:

**"DISCLOSURE AND NOTICE  
OF RIGHT TO CANCEL**

.....

(enter date of transaction)

Under Minnesota law, in the event of foreclosure, you have the right to reclaim your property within ..... (enter length of redemption period), the redemption period provided by law, and you may continue to occupy your property during that time. If you agree to a voluntary nonjudicial foreclosure under this procedure, you will be giving up your rights to redeem and to occupy your property during the redemption period.

*Under a foreclosure, if your mortgage lender does not receive enough money to cover what you owe when the property is sold, you may be required to pay the difference, unless the redemption period is six months or less and the mortgage is foreclosed by advertisement. If your mortgage lender receives more money than you owe, the difference must be paid to you. IF YOU AGREE TO A VOLUNTARY NONJUDICIAL FORECLOSURE UNDER THIS PROCEDURE, YOU WILL NOT HAVE TO PAY THE AMOUNT OF YOUR DEBT NOT COVERED BY THE SALE OF YOUR PROPERTY, BUT YOU ALSO WILL NOT BE PAID ANY EXTRA MONEY, IF ANY, OVER THE AMOUNT YOU OWE. IF YOU HAVE SUBSTANTIAL EQUITY IN YOUR PROPERTY, THE VOLUNTARY FORECLOSURE PROCEDURE MAY NOT BE TO YOUR ADVANTAGE.*

*Note: There may be other advantages and disadvantages to you, including an effect on your income tax liability, depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you should discuss them with an attorney.*

*You may cancel this transaction, without penalty or obligation, within five business days from the above date.*

*This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.*

*This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to . . . . . (name of mortgagee), postmarked before midnight of . . . . . (enter proper date which is five business days after entry into the agreement).*

*I HEREBY CANCEL THIS TRANSACTION.*

*. . . . .*

*DATE*

*. . . . .*

*SIGNATURE"*

*Subd. 9. [CREDITOR REDEMPTION.] A subsequent creditor having a junior lien upon the real estate or some part of the real estate may redeem in the order and manner specified in sections 580.24 and 580.25, but only if before the end of the two-month period the creditor files with the county recorder or registrar of titles of each county where the mortgaged real estate is located, a notice of intention to redeem. If a junior creditor fails to redeem its lien as provided in this subdivision, its lien is null and void.*

*Sec. 2. [EFFECTIVE DATE.]*

*This act is effective August 1, 1993, and applies to mortgages entered into on or after August 1, 1993."*

*Delete the title and insert:*

*"A bill for an act relating to real estate foreclosures; establishing a voluntary foreclosure process with waiver of deficiency claims and equity; proposing coding for new law in Minnesota Statutes, chapter 582."*

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

Mr. Lessard from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 2095: A bill for an act relating to the environment; pollution control; clarifying and distinguishing organizational duties of the board of the pollution control agency; conforming certain pollution control measures to federal Clean Air Act amendments; authorizing assessment of emission fees; changing method used for calculating emission fees; changing the definition of chlorofluorocarbons; establishing a small business air quality compliance assistance program; providing for the appointment of an ombudsman for small business air quality compliance assistance; creating a small business air quality compliance advisory council; requiring a report; amending Minnesota Statutes 1990, sections 116.02, subdivisions 1, 2, 3, 4, and by adding a subdivision; and 116.70, subdivision 3; Minnesota Statutes 1991 Supplement, section 116.07, subdivision 4d; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Page 2, delete lines 23 to 28 and insert:

*“(3) adopt procedures and criteria for hearing appeals of the commissioner’s decisions;*

*(4) hear and decide appeals of decisions of the commissioner of the agency that are not decided as contested cases under chapter 14;”*

Page 2, line 29, delete “(6)” and insert “(5)”

Page 2, line 31, delete “(7)” and insert “(6)”

Page 2, line 33, delete “(8)” and insert “(7)” and delete “broad”

Page 2, line 34, delete “administrative and”

Page 3, lines 25 and 26, delete the new language

Page 4, line 26, before “for” insert “or”

Page 4, line 27, delete everything after “adopted” and insert a period

Page 4, delete line 28

Page 6, line 14, delete “an” and insert “a volatile”

Page 6, line 20, delete “other” and delete everything after “pollutant” and insert “that is regulated under Minnesota Rules, chapter 7005, or for which a state ambient air quality standard has been adopted.”

Page 7, line 7, after “businesses” insert “that are stationary sources”

Page 9, line 33, before “making” insert “contacting and”

Page 9, line 34, after “officials” insert “as necessary to carry out the duties imposed by sections 9 to 12”

Page 9, line 35, delete everything after the period

Page 9, delete line 36

Page 10, delete lines 1 to 4

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

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

H.F. No. 1889: A bill for an act relating to employment; modifying provisions related to access to employee personnel records; amending Minnesota Statutes 1990, sections 181.961, subdivision 2; and 181.962, subdivision 1.

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

Page 1, line 21, delete "*The*"

Page 1, delete lines 22 and 23 and insert "*After the review*"

Page 1, line 24, delete "*this paragraph,*"

Page 1, line 25, delete "*personnel*"

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

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

S.F. No. 2463: A bill for an act relating to insurance; solvency; making various technical corrections; amending Minnesota Statutes 1990, sections 60A.03, subdivision 6; and 60A.10, subdivision 4; Minnesota Statutes 1991 Supplement, sections 60A.092, subdivision 3; 60A.11, subdivisions 13 and 20; 60A.112; 60A.12, subdivision 10; 60A.124; and 60D.17, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60C; repealing Minnesota Statutes 1991 Supplement, section 72A.206.

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

Page 1, after line 11, insert:

#### "ARTICLE 1

### BUSINESS TRANSACTED WITH PRODUCER CONTROLLED PROPERTY/CASUALTY INSURER ACT

#### Section 1. [60J.06] [SHORT TITLE.]

*Sections 1 to 6 may be cited as the "business transacted with producer controlled insurer act."*

#### Sec. 2. [60J.07] [DEFINITIONS.]

*Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 1 to 6.*

*Subd. 2. [ACCREDITED STATE.] "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners (NAIC).*

*Subd. 3. [CAPTIVE INSURER.] "Captive insurer" means an insurance company owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, an insurance organization owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members and their affiliates.*

*Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.*

*Subd. 5. [CONTROL.] "Control" or "controlled" has the meaning given in section 60D.15, subdivision 4.*

*Subd. 6. [CONTROLLED INSURER.] "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.*

*Subd. 7. [CONTROLLING PRODUCER.] "Controlling producer" means a producer who, directly or indirectly, controls an insurer.*

*Subd. 8. [LICENSED INSURER.] "Licensed insurer" or "insurer" means any person, firm, association, or corporation licensed to transact a property/casualty insurance business in this state. The following entities are not licensed insurers for the purposes of sections 1 to 6:*

*(1) all risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Public Law Number 99-499, 100 Stat. 1613; the Risk Retention Act, 15 United States Code, section 3901, et seq.; and chapter 60;*

*(2) all residual market pools and joint underwriting authorities or associations; and*

*(3) all captive insurers.*

*Subd. 9. [PRODUCER.] "Producer" means an insurance broker or any other person, firm, association, or corporation, when, for any compensation, commission or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association, or corporation.*

#### **Sec. 3. [60J.08] [APPLICATION.]**

*Sections 1 to 6 apply to licensed insurers, either domiciled in this state or domiciled in a state that is not an accredited state having in effect a substantially similar law. All provisions of chapter 60D, to the extent they are not superseded by sections 1 to 6, apply to all parties within holding company systems subject to sections 1 to 6.*

#### **Sec. 4. [60J.09] [MINIMUM STANDARDS.]**

*Subdivision 1. [APPLICATION.] The provisions of this section apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the prior year.*

*Subd. 2. [EXEMPTION.] Notwithstanding subdivision 1, this section does not apply under the following conditions:*

*(1) the controlling producer:*

*(i) places insurance only with the controlled insurer, or only with the controlled insurer and a member of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with the insurance; and*

*(ii) accepts insurance placements only from nonaffiliated subproducers*

and not directly from insureds; and

(2) the controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

*Subd. 3. [REQUIRED CONTRACT PROVISIONS.] A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the insurer specifying the responsibilities of each party. The contract must be approved by the board of directors of the insurer and contain the following minimum provisions:*

(1) the controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination;

(2) the controlling producer shall submit accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer;

(3) the controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date must be fixed so that premiums or installments collected are remitted no later than 90 days after the effective date of any policy placed with the controlled insurer under this contract;

(4) all funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System, in accordance with the provisions of the insurance law as applicable. Funds of a controlling producer not required to be licensed in this state must be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction;

(5) the controlling producer shall maintain separately identifiable records of business written for the controlled insurer;

(6) the contract may not be assigned in whole or in part by the controlling producer;

(7) the controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures, manuals specifying the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions must be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer;

(8) the rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of the commissions, charges, and other fees may be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this clause and clause (7), examples of "comparable business" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and

*similar quality of business;*

*(9) if the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then the compensation may not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event may the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified as provided under subdivision 5;*

*(10) a limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and*

*(11) the controlling producer may negotiate but may not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which the automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.*

**Subd. 4. [AUDIT COMMITTEE.]** *A controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.*

**Subd. 5. [REPORTING REQUIREMENTS.]** *In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year end, including incurred but not reported, on business placed by the producer. The controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage the amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.*

**Sec. 5. [60J.10] [DISCLOSURE.]**

*The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer; except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between*

*the insurer and the producer and that the subproducer has or will notify the insured.*

Sec. 6. [60J.11] [PENALTIES.]

*Subdivision 1. [CEASE AND DESIST ORDER.] If the commissioner believes that the controlling producer or any other person has not materially complied with sections 1 to 6 or any rule or order, after notice and opportunity to be heard, the commissioner may order the controlling producer to cease placing business with the controlled insurer.*

*Subd. 2. [INITIATION OF ACTION.] If the commissioner has reason to believe that a controlling producer has committed or is committing an act that could be determined to be a violation of sections 1 to 6, the commissioner shall serve upon the controlling producer, in the manner provided by chapter 14, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 14, at a time not less than 30 days after the service of the notice and at a place fixed in the notice.*

*Subd. 3. [CIVIL ACTION BY COMMISSIONER.] The commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or other appropriate relief.*

*Subd. 4. [CIVIL ACTION BY RECEIVER.] If an order for liquidation or rehabilitation of the controlled insurer has been entered under chapter 60B and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with sections 1 to 6, or any rule or order, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.*

*Subd. 5. [ADDITIONAL PENALTIES AND RIGHTS.] Nothing contained in this section affects the right of the commissioner to impose any other penalties provided for in the insurance law. Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors, or other third parties.*

Sec. 7. [REPEALER.]

*Minnesota Statutes 1991 Supplement, sections 60J.01; 60J.02; 60J.03; 60J.04; and 60J.05, are repealed.*

ARTICLE 2

MISCELLANEOUS SOLVENCY PROVISIONS"

Page 2, after line 20, insert:

"Sec. 2. Minnesota Statutes 1991 Supplement, section 60A.031, subdivision 1, is amended to read:

**Subdivision 1. [POWER TO EXAMINE.]** (1) **[INSURERS AND OTHER LICENSEES.]** At any time and for any reason related to the enforcement of the insurance laws, or to ensure that companies are being operated in a safe and sound manner and to protect the public interest, the commissioner may examine the affairs and conditions of any foreign or domestic insurance or reinsurance company, including reciprocals and fraternal, licensee or applicant for a license under the insurance laws, or any other person or organization of persons doing or in the process of organizing to do any insurance business in this state, and of any licensed advisory organization



serving any of the foregoing in this state.

The commissioner shall examine the affairs and conditions of every ~~domestic insurance company~~ *at least insurer licensed in this state not less frequently than once every five years.*

(2) [WHO MAY BE EXAMINED.] The commissioner in making any examination of an insurance company as authorized by this section may, if in the commissioner's discretion, there is cause to believe the commissioner is unable to obtain relevant information from such insurance company or that the examination or investigation is, in the discretion of the commissioner, necessary or material to the examination of the company, examine any person, association, or corporation:

(a) transacting, having transacted, or being organized to transact the business of insurance in this state;

(b) engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a domestic insurance company;

(c) holding shares of capital stock of an insurance company for the purpose of controlling the management thereof as voting trustee or otherwise;

(d) having a contract, written or oral, pertaining to the management or control of an insurance company as general agent, managing agent, attorney-in-fact, or otherwise;

(e) which has substantial control directly or indirectly over an insurance company whether by ownership of its stock or otherwise, or owning stock in any domestic insurance company, which stock constitutes a substantial proportion of either the stock of the domestic insurance company or of the assets of the owner thereof;

(f) which is a subsidiary or affiliate of an insurance company;

(g) which is a licensed agent or solicitor or has made application for the licenses;

(h) engaged in the business of adjusting losses or financing premiums.

Nothing contained in this clause (2) shall authorize the commissioner to examine any person, association, or corporation which is subject to regular examination by another division of the commerce department of this state. The commissioner shall notify the other division when an examination is deemed advisable."

Page 4, line 24, after the period, insert "*Pursuant to section 106 of title I of the Secondary Mortgage Market Enhancement Act of 1984, United States Code, title 15, section 77r-1, included under this paragraph are obligations issued or guaranteed by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.*"

Page 4, line 32, delete everything after the period

Page 4, delete lines 33 to 36

Page 5, delete line 1

Pages 8 and 9, delete section 9 and insert:

"Sec. 10. [60C.21] [INSOLVENCY; NOTICE OF GUARANTY FUND PROTECTION.]

*Subdivision 1. [NOTICE REQUIRED.] No person, including an insurer, agent, or affiliate of an insurer or agent shall sell, or offer for sale, a covered property and casualty insurance policy, unless the notice, in the form specified in subdivision 2, is delivered with or as a part of the application for that policy. A copy of the notice must be given to the applicant. This section does not apply to renewals, unless the renewal increases the dollar amount of a coverage by more than 100 percent.*

*Subd. 2. [FORM.] The notice required under subdivision 1 must be in the following form:*

**"NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN  
INSOLVENCY UNDER THE MINNESOTA INSURANCE  
GUARANTY ASSOCIATION LAW**

*If the insurer who issued your property and casualty or liability insurance policy (includes homeowners and automobile insurance) becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of the insurer. The amount you recover will depend on the financial condition of the insurer.*

*Residents of Minnesota who purchase property and casualty or liability insurance from insurance companies licensed to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes insolvent. This protection is provided by the Minnesota Insurance Guaranty Association.*

*Minnesota Insurance Guaranty Association*

*4640 West 77th Street, Suite 342*

*Edina, Minnesota 65435*

*(612) 831-1908*

*The maximum amount that the Minnesota Insurance Guaranty Association will pay in regard to a claim under all policies issued by the same insurer is limited to \$300,000. This limit does not apply to workers' compensation insurance. Protection by the guaranty association is subject to other substantial limitations and exclusions. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds from the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell property and casualty or liability insurance in Minnesota after the insolvency occurs. Claims are paid from the assessment.*

**THE PROTECTION PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON PROTECTION BY THE GUARANTY ASSOCIATION.**

**THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF PROPERTY AND CASUALTY INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL PROPERTY AND CASUALTY INSURANCE POLICIES ARE REQUIRED TO**

**PROVIDE THIS NOTICE."**

*Subd. 3. [EFFECT OF NOTICE.] The distribution, delivery, contents, or interpretation of the notice required by this section shall not mean that the policy would be covered in the event of the insolvency of a member insurer if coverage is not otherwise provided by this chapter. Failure to receive the notice does not give the policyholder, certificate holder, or any other interested party any greater rights than those provided by this chapter.*

*Subd. 4. [EXEMPTION.] This section does not apply to fraternal benefit societies regulated under chapter 64B or to fidelity or surety bonds, policies, or contracts."*

Page 10, after line 24, insert:

"Sec. 12. Minnesota Statutes 1991 Supplement, section 61A.28, subdivision 1, is amended to read:

Subdivision 1. [INVESTMENT GUIDELINES AND PROCEDURES.] Each domestic life insurance company must comply with section 60A.112.

No investment or loan, except policy loans, shall be made by a domestic life insurance company unless authorized or approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board and charged with the duty of supervising the investment or loan. Accurate records of all authorizations and approvals must be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property. An investment may not be made under this section if the required interest obligation is in default.

*Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Other invested assets must be valued according to the procedures promulgated by the National Association of Insurance Commissioners, if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.*

Sec. 13. Minnesota Statutes 1990, section 61B.03, subdivision 5, is amended to read:

Subd. 5. [CONTRACTUAL OBLIGATION.] (a) "Contractual obligation" means any obligation under covered policies, *except as provided in paragraphs (b), (c), and (d) of this subdivision.*

*(b) For purposes of this chapter, contractual obligation includes an unallocated annuity contract which funds a qualified defined contribution pension plan pursuant to Internal Revenue Code of 1986, sections 401(k), 403(b), and 457.*

*(c) Notwithstanding the definition of contractual obligation contained in paragraphs (a) and (b), contractual obligation does not include any obligation to nonresident participants of a covered plan or to the plan sponsor, employer, trustee, or other party who owns the contract; in such cases, the association is obligated under this chapter only to participants in a covered*

plan who are residents of the state of Minnesota on the date of impairment.

(d) Except as provided in paragraphs (a) and (b), contractual obligation does not include an unallocated annuity contract issued in connection with a defined benefit plan protected by the federal Pension Benefit Guaranty Corporation, or a contract issued to, or purchased at the direction of, any governmental bonding authorities, such as a municipal guaranteed investment contract.

Sec. 14. Minnesota Statutes 1990, section 61B.06, subdivision 7, is amended to read:

Subd. 7. [ASSIGNMENT; SUBROGATION.] (a) ~~Any~~ A person receiving benefits under sections 61B.01 to 61B.16 shall be ~~deemed~~ considered to have assigned rights under, and any causes of action relating to, the covered policy or contract to the association to the extent of the benefits received because of sections 61B.01 to 61B.16, whether the benefits are payments of or on account of contractual obligations or continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to it of ~~the those~~ rights and causes of action by ~~any~~ a payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any rights or benefits conferred by sections 61B.01 to 61B.16 upon ~~the~~ that person. ~~The association shall be subrogated to these rights against the assets of any impaired insurer. The subrogation rights of the association include any rights that a person may have as a beneficiary of a plan covered under the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1003, as amended through December 31, 1991.~~

(b) The subrogation rights of the association under this subdivision shall have the same priority against the assets of the impaired or insolvent insurer as that of ~~possessed by~~ the person entitled to receive benefits under sections 61B.01 to 61B.16.

(c) In addition to paragraphs (a) and (b), the association has all common law rights of subrogation and other equitable or legal remedies that would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to that policy or contract.

Sec. 15. Minnesota Statutes 1991 Supplement, section 61B.12, subdivision 6, is amended to read:

Subd. 6. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] ~~On and after January 1, 1992,~~ No person, including an insurer, agent, or affiliate of an insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering at the time of application for that policy or contract a separate notice in the form ~~the commissioner from time to time may approve for use in this state specified in subdivision 8,~~ relating to coverage provided by the Minnesota Life and Health Insurance Guaranty Association. The notice ~~must be signed by the applicant and kept on file by the person offering the policy or contract for sale. A copy of the signed notice must be given to the applicant may be part of the application.~~

Sec. 16. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

Subd. 8. [FORM.] The notice required under subdivision 6 must be in the following form:

**"NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN  
INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH  
INSURANCE GUARANTY ASSOCIATION LAW**

*If the insurer who issued your life, annuity, or health insurance policy becomes impaired or insolvent, you are entitled to compensation for your policy from the assets of that insurer. The amount you recover will depend on the financial condition of the insurer.*

*In addition, residents of Minnesota who purchase life insurance, annuities, or health insurance from insurance companies authorized to do business in Minnesota are protected, SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially impaired or insolvent. This protection is provided by the Minnesota Life and Health Insurance Guaranty Association.*

*Minnesota Life & Health Insurance Guaranty Association*

*1750 Hennepin Avenue*

*Minneapolis, Minnesota 55403*

*(612) 377-2101*

*The maximum amount the guaranty association will pay for all policies issued on one life by the same insurer is limited to \$300,000. Subject to this \$300,000 limit, the guaranty association will pay up to \$100,000 in life insurance cash surrender values, \$300,000 in life insurance death benefits, or up to \$300,000 for other types of benefits. These are the maximum claim amounts. Coverage by the guaranty association is also subject to other substantial limitations and exclusions and requires continued residency in Minnesota. If your claim exceeds the guaranty association's limits, you may still recover a part or all of that amount from the proceeds of the liquidation of the insolvent insurer, if any exist. Funds to pay claims may not be immediately available. The guaranty association assesses insurers licensed to sell life and health insurance in Minnesota after the insolvency occurs. Claims are paid from this assessment.*

**THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE BY THE GUARANTY ASSOCIATION.**

**THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE, ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE THIS NOTICE."**

Sec. 17. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

*Subd. 9. [NOTICE FOR POLICY OR CONTRACT NOT COVERED.] A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in 10 point type, stamped in red ink on*

*the policy or contract and the application:*

***"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER WILL BE AVAILABLE TO PAY YOUR CLAIM."***

Page 10, line 29, delete "11" and insert "9, 11 to 14, and 18"

Page 10, line 30, after the period, insert "*Sections 13 and 14 are intended to clarify existing law and apply to all covered policies or contracts issued or renewed by insurers which become insolvent after May 27, 1977.*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "requiring notice; regulating business transacted with a producer controlled insurer; modifying various provisions relating to the guaranty association;"

Page 1, line 4, delete "and"

Page 1, line 5, after the semicolon, insert "61B.03, subdivision 5; 61B.06, subdivision 7; and 61B.12, by adding subdivisions;"

Page 1, line 6, after "sections" insert "60A.031, subdivision 1;"

Page 1, line 8, delete "and" and after the semicolon, insert "61A.28, subdivision 1; and 61B.12, subdivision 6;"

Page 1, line 9, delete "chapter 60C" and insert "chapters 60C; and 60J"

Page 1, line 10, delete "section" and insert "sections 60J.01; 60J.02; 60J.03; 60J.04; 60J.05; and"

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

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

H.F. No. 2369 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2369	2242				

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 2551 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2551	2413				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2551 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2551 and insert the language after the enacting clause of S.F. No. 2413, the first engrossment; further, delete the title of H.F. No. 2551 and insert the title of S.F. No. 2413, the first engrossment.

And when so amended H.F. No. 2551 will be identical to S.F. No. 2413, and further recommends that H.F. No. 2551 be given its second reading and substituted for S.F. No. 2413, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 2254 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2254	2049				

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 2082 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2082	2320				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2082 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2082 and insert the language after the enacting clause of S.F. No. 2320, the first engrossment; further, delete the title of H.F. No. 2082 and insert the title of S.F. No. 2320, the first engrossment.

And when so amended H.F. No. 2082 will be identical to S.F. No. 2320, and further recommends that H.F. No. 2082 be given its second reading and substituted for S.F. No. 2320, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 2792 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2792	2581				

and that the above Senate File be indefinitely postponed.

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

## SECOND READING OF SENATE BILLS

S.F. Nos. 2384 and 2463 were read the second time.

## SECOND READING OF HOUSE BILLS

H.F. Nos. 1889, 2369, 2551, 2254, 2082 and 2792 were read the second time.

## MOTIONS AND RESOLUTIONS

Ms. Pappas moved that the name of Mr. Marty be added as a co-author to S.F. No. 1156. The motion prevailed.

Ms. Johnson, J.B. moved that the name of Mr. McGowan be added as a co-author to S.F. No. 2316. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Lessard be added as a co-author to S.F. No. 2652. The motion prevailed.

Mr. Belanger introduced—

Senate Resolution No. 131: A Senate resolution congratulating the Bloomington Jefferson Jaguars Hockey Team for winning the 1992 Tier I State High School Hockey Tournament.

Referred to the Committee on Rules and Administration.



Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Reports of Committees.

## REPORTS OF COMMITTEES

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

S.F. No. 1905: A bill for an act relating to education; clarifying the debt service equalization program; authorizing a levy adjustment; amending Minnesota Statutes 1991 Supplement, section 124.95, subdivisions 1 and 2.

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

Delete everything after the enacting clause and insert:

"Section 1. [APPROPRIATIONS.]

*Subdivision 1. The sums in the column under "APPROPRIATIONS" are appropriated from the bond proceeds fund, or another named fund, to the state agencies or officials indicated, to be spent to acquire and to better public land and buildings and other public improvements of a capital nature, as specified in this section.*

### APPROPRIATIONS

§

*Subd. 2. Minnesota Library for the Blind and Physically Handicapped*

1,325,000

*To the commissioner of administration to construct and equip an addition to the current library for the blind and physically handicapped, remodel the existing building, and improve the utility system serving the library.*

*Subd. 3. Maximum Effort School Loans*

12,130,000

*To the commissioner of education from the maximum effort school loan fund to make debt service loans and capital loans to school districts as provided in Minnesota Statutes, sections 124.36 to 124.46.*

*The commissioner shall review the proposed plan and budgets of the projects and may reduce the amount of a loan to ensure that the project will be economical. The commissioner may recover the cost incurred by the commissioner for any professional services associated with the final review by reducing the proceeds of the loan paid to the district.*

*\$10,000,000 is approved for a capital loan to independent school district No. 38, Red Lake public schools for construction of a new elementary school and remodeling of the present elementary school into a middle school facility.*

*\$2,130,000 is approved for a capital loan to independent school district No. 139, Rush City public*

*schools for construction of a new high school.*

*Subd. 4. School District  
Construction Grant*

2,000,000

*To the commissioner of education to make grants for construction of a secondary facility for school districts. The grants may not be awarded until each district has passed a referendum under Minnesota Statutes, section 122.23 or 122.243, and the project has received a positive review and comment under Minnesota Statutes, section 121.15.*

*\$500,000 is for independent school district No. 145, Glyndon-Felton.*

*\$1,500,000 is for independent school district No. 147, Dilworth.*

*Subd. 5. Development and Learning  
Center of Minnesota*

250,000

*To the Minnesota development and learning center commission to conduct a site study and program study for the Minnesota development and learning center in the capitol complex.*

*The Minnesota development and learning center commission is created. The commission consists of three members of the house of representatives appointed by the speaker of the house and three members of the senate appointed by the subcommittee on committees of the committee on rules and administration of the senate. The six legislative members may appoint as many additional public members as they deem appropriate. The studies shall be the responsibility of the commission and a report of the studies shall be submitted to the governor and legislature by December 15, 1992.*

**Sec. 2. [BOND SALE.]**

*Subdivision 1. [BOND PROCEEDS FUND.] To provide the money appropriated in this act from the bond proceeds fund the commissioner of finance, on request of the governor, shall sell and issue bonds of the state in an amount up to \$3,575,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.*

*Subd. 2. [MAXIMUM EFFORT SCHOOL LOAN FUND.] To provide the money appropriated in this act from the maximum effort school loan fund, the commissioner of finance, on request of the governor, shall sell and issue bonds of the state in an amount up to \$12,130,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except accrued interest and any premium received on the sale of the bonds, must be credited to a bond proceeds account in the maximum effort school loan fund.*

**Sec. 3. [EFFECTIVE DATE.]**

*This act is effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to education; appropriating money for maximum effort school loans, secondary facilities, the Minnesota development and learning center, and other purposes; authorizing sale of state bonds."

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Moe, R.D. moved that Joint Rule 2.03 be suspended as to the Committee Report on S.F. No. 1905. The motion prevailed.

Mr. Moe, R.D. moved the adoption of the Committee Report on S.F. No. 1905. The motion prevailed. Amendments adopted. Report adopted.

## MOTIONS AND RESOLUTIONS - CONTINUED

### SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

### CALENDAR

S.F. No. 1794: A bill for an act relating to state government; appointments of department heads and members of administrative boards and agencies; clarifying procedures and requirements; amending Minnesota Statutes 1990, sections 15.0575, subdivision 4; 15.06, subdivision 5; and 15.066, subdivision 2.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Beckman	DeCramer	Kelly	Moe, R.D.	Reichgott
Belanger	Flynn	Knaak	Mondale	Renneke
Benson, D.D.	Frank	Kroening	Morse	Riveness
Benson, J.E.	Frederickson, D.J.	Laidig	Neuville	Sams
Berg	Frederickson, D.R.	Langseth	Novak	Samuelson
Berglin	Gustafson	Larson	Olson	Spear
Bernhagen	Hottinger	Lessard	Pappas	Stumpf
Bertram	Hughes	Luther	Pariseau	Terwilliger
Brataas	Johnson, D.E.	McGowan	Piper	Traub
Cohen	Johnson, D.J.	Mehrkens	Pogemiller	Vickerman
Davis	Johnson, J.B.	Merriam	Price	Waldorf
Day	Johnston	Metzen	Ranum	

So the bill passed and its title was agreed to.

S.F. No. 2328: A bill for an act relating to drivers' licenses; eliminating requirement for drivers of special transportation vehicles to take examination for license endorsement; making technical changes; amending Minnesota

Statutes 1991 Supplement, sections 171.01, subdivision 24; 171.02, subdivision 2; 171.10, subdivision 2; 171.13, subdivision 5; and 171.323, subdivisions 1 and 3.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Beckman	DeCramer	Kelly	Mondale	Renneke
Belanger	Flynn	Kroening	Morse	Riveness
Benson, D.D.	Frank	Laidig	Neuville	Sams
Benson, J.E.	Frederickson, D.J.	Langseth	Novak	Samuelson
Berg	Frederickson, D.R.	Larson	Olson	Spear
Berglin	Gustafson	Lessard	Pappas	Stumpf
Bernhagen	Hottinger	Luther	Pariseau	Terwilliger
Bertram	Hughes	Marty	Piper	Traub
Brataas	Johnson, D.E.	McGowan	Pogemiller	Vickerman
Cohen	Johnson, D.J.	Mehrkens	Price	Waldorf
Davis	Johnson, J.B.	Metzen	Ranum	
Day	Johnston	Moe, R.D.	Reichgott	

So the bill passed and its title was agreed to.

S.F. No. 1813: A bill for an act relating to education; allowing children to attend school for 30 days without participating in early childhood developmental screening; allowing parents to decline to provide certain information without penalty; adding health history as an optional screening component; adding height and weight as a required component; amending Minnesota Statutes 1991 Supplement, section 123.702, subdivisions 1, 1a, 1b, and 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Beckman	DeCramer	Kelly	Moe, R.D.	Reichgott
Belanger	Flynn	Knaak	Mondale	Renneke
Benson, D.D.	Frank	Kroening	Morse	Riveness
Benson, J.E.	Frederickson, D.J.	Laidig	Neuville	Sams
Berg	Frederickson, D.R.	Langseth	Novak	Samuelson
Berglin	Gustafson	Larson	Olson	Spear
Bernhagen	Hottinger	Lessard	Pappas	Stumpf
Bertram	Hughes	Luther	Pariseau	Terwilliger
Brataas	Johnson, D.E.	Marty	Piper	Traub
Cohen	Johnson, D.J.	McGowan	Pogemiller	Vickerman
Davis	Johnson, J.B.	Mehrkens	Price	Waldorf
Day	Johnston	Metzen	Ranum	

So the bill passed and its title was agreed to.

S.F. No. 2177: A bill for an act relating to juries; prohibiting exclusion from jury service based on a disability; amending Minnesota Statutes 1990, section 593.32.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Beckman	DeCramer	Kelly	Metzen	Ranum
Belanger	Flynn	Knaak	Moe, R.D.	Reichgott
Benson, D.D.	Frank	Kroening	Mondale	Renneke
Benson, J.E.	Frederickson, D.J.	Laidig	Morse	Riveness
Berg	Frederickson, D.R.	Langseth	Neuville	Samuelson
Berglin	Gustafson	Larson	Novak	Spear
Bernhagen	Hottinger	Lessard	Olson	Stumpf
Bertram	Hughes	Luther	Pappas	Terwilliger
Brataas	Johnson, D.E.	Marty	Pariseau	Traub
Cohen	Johnson, D.J.	McGowan	Piper	Vickerman
Davis	Johnson, J.B.	Mehrkens	Pogemiller	Waldorf
Day	Johnston	Merriam	Price	

So the bill passed and its title was agreed to.

S.F. No. 1985: A bill for an act relating to human rights; declaring a state policy of zero tolerance of violence; encouraging state agencies to act to implement the policy; proposing coding for new law in Minnesota Statutes, chapters 1 and 15.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kelly	Moe, R.D.	Reichgott
Beckman	Flynn	Knaak	Mondale	Renneke
Belanger	Frank	Kroening	Morse	Riveness
Benson, D.D.	Frederickson, D.J.	Laidig	Neuville	Sams
Benson, J.E.	Frederickson, D.R.	Larson	Novak	Samuelson
Berglin	Gustafson	Lessard	Olson	Spear
Bernhagen	Hottinger	Luther	Pappas	Stumpf
Bertram	Hughes	Marty	Pariseau	Terwilliger
Brataas	Johnson, D.E.	McGowan	Piper	Traub
Cohen	Johnson, D.J.	Mehrkens	Pogemiller	Vickerman
Davis	Johnson, J.B.	Merriam	Price	Waldorf
Day	Johnston	Metzen	Ranum	

So the bill passed and its title was agreed to.

S.F. No. 1691: A bill for an act relating to courts; authorizing certain appearances in conciliation court; modifying and clarifying conciliation court jurisdiction and procedures; increasing jurisdictional amounts; amending Minnesota Statutes 1990, sections 487.30, subdivisions 1, 3a, 4, 7, 8, and by adding subdivisions; 488A.12, subdivision 3; 488A.15, subdivision 2; 488A.16, subdivision 1; 488A.17, subdivision 10; 488A.29, subdivision 3; 488A.32, subdivision 2; 488A.33, subdivision 1; 488A.34, subdivision 9; Minnesota Statutes 1991 Supplement, section 481.02, subdivision 3; repealing Minnesota Statutes 1990, sections 487.30, subdivision 3; 488A.14, subdivision 6; 488A.31, subdivision 6.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Metzen	Riveness
Beckman	DeCramer	Kelly	Moe, R. D.	Sams
Belanger	Dicklich	Knaak	Mondale	Samuelson
Benson, D.D.	Flynn	Kroening	Neuville	Solon
Benson, J.E.	Frank	Laidig	Novak	Spear
Berg	Frederickson, D.J.	Langseth	Olson	Stumpf
Berglin	Frederickson, D.R.	Larson	Pappas	Terwilliger
Bernhagen	Gustafson	Lessard	Pariseau	Traub
Bertram	Hughes	Luther	Piper	Vickerman
Brataas	Johnson, D.E.	McGowan	Pogemiller	Waldorf
Cohen	Johnson, D.J.	Mehrkens	Price	
Davis	Johnson, J.B.	Merriam	Renneke	

Those who voted in the negative were:

Hottinger	Marty	Morse	Ranum	Reichgott
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So the bill passed and its title was agreed to.

S.F. No. 2257: A bill for an act relating to agricultural development; redefining agricultural business enterprise for purposes of the Minnesota agricultural development act; amending Minnesota Statutes 1991 Supplement, section 41C.02, subdivision 2.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kelly	Mondale	Riveness
Beckman	Dicklich	Knaak	Morse	Sams
Belanger	Flynn	Kroening	Neuville	Samuelson
Benson, D.D.	Frank	Laidig	Novak	Solon
Benson, J.E.	Frederickson, D.J.	Langseth	Olson	Spear
Berg	Frederickson, D.R.	Larson	Pappas	Stumpf
Berglin	Gustafson	Lessard	Pariseau	Terwilliger
Bernhagen	Hottinger	Luther	Piper	Traub
Bertram	Hughes	Marty	Pogemiller	Vickerman
Brataas	Johnson, D.E.	McGowan	Price	
Cohen	Johnson, D.J.	Mehrkens	Ranum	
Davis	Johnson, J.B.	Metzen	Reichgott	
Day	Johnston	Moe, R.D.	Renneke	

So the bill passed and its title was agreed to.

S.F. No. 1605: A bill for an act relating to lawful gambling; regulating the conduct of lawful gambling, licensed organizations, distributors, and manufacturers; authorizing certain expenditures for senior citizens, real estate taxes and assessments, noncash gifts for blood donors, wildlife management projects, and the combined receipts tax as lawful purposes; placing employment restrictions on members or employees of the board; changing requirements for the annual financial audit; increasing the aggregate value of cover-all prizes and total prizes for bingo; adding bonanza bingo as a form of bingo; increasing maximum prizes for pull-tabs; amending Minnesota Statutes 1990, sections 299L.03, subdivisions 1 and 2; 349.12, subdivisions 1, 11, 18, 21, 23, 30, and by adding a subdivision; 349.153; 349.16, subdivision 8; 349.161, subdivisions 1, 3, and 5; 349.162, subdivisions 1, 2, 4, and 5; 349.163, subdivisions 1, 1a, 3, 4, 5, and 6; 349.164, subdivisions 1, 3, and 6; 349.1641; 349.166; 349.168, subdivisions 3 and 6; 349.169, subdivision 2; 349.174; 349.18, subdivision 2; 349.19, subdivision 6; 349.191, subdivisions 1 and 4; 349.211, subdivisions 1, 2, and 2a; 349.2124; 349.2125, subdivisions 1 and 3; and 349.2127,

subdivisions 2 and 4; Minnesota Statutes 1991 Supplement, sections 299L.07, by adding a subdivision; 349.12, subdivision 25; 349.17, subdivision 5; 349.151, subdivision 4; 349.154, subdivision 2; 349.167, subdivision 4; 349.18, subdivisions 1 and 1a; 349.19, subdivisions 5 and 9; and 349.213, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 471.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Metzen	Reichgott
Beckman	DeCramer	Kelly	Moe, R.D.	Renneke
Belanger	Dicklich	Knaak	Mondale	Riveness
Benson, D.D.	Flynn	Kroening	Morse	Sams
Benson, J.E.	Frank	Laidig	Neuville	Samuelson
Berg	Frederickson, D.J.	Langseth	Novak	Solon
Berglin	Frederickson, D.R.	Larson	Olson	Spear
Bernhagen	Gustafson	Lessard	Pappas	Stumpf
Bertram	Hottinger	Luther	Pariseau	Terwilliger
Brataas	Hughes	Marty	Piper	Traub
Chmielewski	Johnson, D.E.	McGowan	Pogemiller	Vickerman
Cohen	Johnson, D.J.	Mehrrens	Price	Waldorf
Davis	Johnson, J.B.	Merriam	Ranum	

So the bill passed and its title was agreed to.

S.F. No. 2338: A bill for an act relating to commerce; authorizing the local government units to regulate tanning facilities; requiring licenses; providing exemptions; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 461.

With the unanimous consent of the Senate, Ms. Pappas moved to amend S.F. No. 2338 as follows:

Page 8, line 36, delete "PROHIBITED USE;"

Page 9, delete lines 1 to 3

Page 9, line 4, delete "*Subd. 2.* [CONSENT REQUIRED.]"

The motion prevailed. So the amendment was adopted.

S.F. No. 2338 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 37 and nays 26, as follows:

Those who voted in the affirmative were:

Beckman	Frederickson, D.J.	Langseth	Morse	Riveness
Berglin	Frederickson, D.R.	Larson	Neuville	Solon
Bertram	Hughes	Luther	Novak	Spear
Chmielewski	Johnson, D.J.	Marty	Pappas	Traub
Davis	Johnson, J.B.	Merriam	Piper	Waldorf
DeCramer	Kelly	Metzen	Price	
Flynn	Kroening	Moe, R.D.	Reichgott	
Frank	Laidig	Mondale	Renneke	

Those who voted in the negative were:

Adkins	Brataas	Johnston	Pariseau	Terwilliger
Belanger	Day	Knaak	Pogemiller	Vickerman
Benson, D.D.	Dicklich	Lessard	Ranum	
Benson, J.E.	Gustafson	McGowan	Sams	
Berg	Hottinger	Mehrkens	Samuelson	
Bernhagen	Johnson, D.E.	Olson	Stumpf	

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

S.F. No. 2392: A bill for an act relating to state parks; authorizing additions to and deletions from certain state parks; authorizing an easement and regulating campground use at McCarthy Beach state park.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Moe, R.D.	Renneke
Beckman	DeCramer	Kelly	Mondale	Riveness
Belanger	Dicklich	Knaak	Morse	Sams
Benson, D.D.	Flynn	Kroening	Neuville	Samuelson
Benson, J.E.	Frank	Laidig	Novak	Solon
Berg	Frederickson, D.J.	Larson	Olson	Spear
Berglin	Frederickson, D.R.	Lessard	Pappas	Stumpf
Bernhagen	Gustafson	Luther	Pariseau	Terwilliger
Bertram	Hottinger	Marty	Piper	Traub
Brataas	Hughes	McGowan	Pogemiller	Vickerman
Chmielewski	Johnson, D.E.	Mehrkens	Price	Waldorf
Cohen	Johnson, D.J.	Merriam	Ranum	
Davis	Johnson, J.B.	Metzen	Reichgott	

So the bill passed and its title was agreed to.

S.F. No. 1787: A bill for an act relating to state lands; changing provisions relating to withdrawal of certain lands from sale or exchange; authorizing the sale of surplus land bordering public waters for public use; authorizing public sale of certain tax-forfeited lands that border public water in Fillmore county; amending Minnesota Statutes 1991 Supplement, section 103F.535, subdivision 1; repealing Minnesota Statutes 1990, section 103F.535, subdivisions 2 and 3.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Moe, R.D.	Renneke
Beckman	DeCramer	Kelly	Mondale	Riveness
Belanger	Dicklich	Knaak	Morse	Sams
Benson, D.D.	Flynn	Kroening	Neuville	Samuelson
Benson, J.E.	Frank	Laidig	Novak	Solon
Berg	Frederickson, D.J.	Larson	Olson	Spear
Berglin	Frederickson, D.R.	Lessard	Pappas	Stumpf
Bernhagen	Gustafson	Luther	Pariseau	Terwilliger
Bertram	Hottinger	Marty	Piper	Traub
Brataas	Hughes	McGowan	Pogemiller	Vickerman
Chmielewski	Johnson, D.E.	Mehrkens	Price	Waldorf
Cohen	Johnson, D.J.	Merriam	Ranum	
Davis	Johnson, J.B.	Metzen	Reichgott	

So the bill passed and its title was agreed to.



S.F. No. 1735: A bill for an act relating to children; authorizing criminal background checks of professional and volunteer children's service workers; establishing procedures for the sharing of criminal record data with children's service providers; protecting privacy rights of subjects of the background checks; proposing coding for new law in Minnesota Statutes, chapter 299C.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Moe, R.D.	Renneke
Beckman	DeCramer	Kelly	Mondale	Riveness
Belanger	Dicklich	Knaak	Morse	Sams
Benson, D.D.	Flynn	Kroening	Neuville	Samuelson
Benson, J.E.	Frank	Laidig	Novak	Solon
Berg	Frederickson, D.J.	Langseth	Olson	Spear
Berglin	Frederickson, D.R.	Larson	Pappas	Stumpf
Bernhagen	Gustafson	Lessard	Pariseau	Terwilliger
Bertram	Hottinger	Luther	Piper	Traub
Brataas	Hughes	Marty	Pogemiller	Vickerman
Chmielewski	Johnson, D.E.	McGowan	Price	Waldorf
Cohen	Johnson, D.J.	Merriam	Ranum	
Davis	Johnson, J.B.	Metzen	Reichgott	

So the bill passed and its title was agreed to.

### GENERAL ORDERS

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

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

S.F. Nos. 2247, 2094, 2028, 1914, 2299, 2694, 2437, 1778, 2408, 2282, 1970, 2412, 2531, 1558, 2430, 1139, 1938 and H.F. Nos. 980, 2142, 2397, which the committee recommends to pass.

S.F. No. 1319, which the committee recommends to pass with the following amendment offered by Mr. Metzen:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1991 Supplement, section 481.02, subdivision 3, is amended to read:

Subd. 3. [PERMITTED ACTIONS.] The provisions of this section shall not prohibit:

(1) any person from drawing, without charge, any document to which the person, an employer of the person, a firm of which the person is a member, or a corporation whose officer or employee the person is, is a party, except another's will or testamentary disposition or instrument of trust serving purposes similar to those of a will;

(2) a person from drawing a will for another in an emergency if the imminence of death leaves insufficient time to have it drawn and its execution supervised by a licensed attorney-at-law;

(3) any insurance company from causing to be defended, or from offering to cause to be defended through lawyers of its selection, the insureds in

policies issued or to be issued by it, in accordance with the terms of the policies:

(4) a licensed attorney-at-law from acting for several common-carrier corporations or any of its subsidiaries pursuant to arrangement between the corporations;

(5) any bona fide labor organization from giving legal advice to its members in matters arising out of their employment;

(6) any person from conferring or cooperating with a licensed attorney-at-law of another in preparing any legal document, if the attorney is not, directly or indirectly, in the employ of the person or of any person, firm, or corporation represented by the person;

(7) any licensed attorney-at-law of Minnesota, who is an officer or employee of a corporation, from drawing, for or without compensation, any document to which the corporation is a party or in which it is interested personally or in a representative capacity, except wills or testamentary dispositions or instruments of trust serving purposes similar to those of a will, but any charge made for the legal work connected with preparing and drawing the document shall not exceed the amount paid to and received and retained by the attorney, and the attorney shall not, directly or indirectly, rebate the fee to or divide the fee with the corporation;

(8) any person or corporation from drawing, for or without a fee, farm or house leases, notes, mortgages, chattel mortgages, bills of sale, deeds, assignments, satisfactions, or any other conveyances except testamentary dispositions and instruments of trust;

(9) a licensed attorney-at-law of Minnesota from rendering to a corporation legal services to itself at the expense of one or more of its bona fide principal stockholders by whom the attorney is employed and by whom no compensation is, directly or indirectly, received for the services;

(10) any person or corporation engaged in the business of making collections from engaging or turning over to an attorney-at-law for the purpose of instituting and conducting suit or making proof of claim of a creditor in any case in which the attorney-at-law receives the entire compensation for the work;

(11) any regularly established farm journal or newspaper, devoted to general news, from publishing a department of legal questions and answers to them, made by a licensed attorney-at-law, if no answer is accompanied or at any time preceded or followed by any charge for it, any disclosure of any name of the maker of any answer, any recommendation of or reference to any one to furnish legal advice or services, or by any legal advice or service for the periodical or any one connected with it or suggested by it, directly or indirectly;

(12) any authorized management agent of an owner of rental property used for residential purposes, whether the management agent is a natural person, corporation, partnership, limited partnership, or any other business entity, from commencing, maintaining, conducting, or defending in its own behalf any action in any court in this state to recover or retain possession of the property, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal;

(13) any person from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state pursuant to the provisions of section 566.175 or sections 566.18 to 566.33 or from commencing, maintaining, conducting, or defending on behalf of the plaintiff or defendant any action in any court of this state for the recovery of rental property used for residential purposes pursuant to the provisions of section 566.02 or 566.03, subdivision 1, except that the provision of this clause does not authorize a person who is not a licensed attorney-at-law to conduct a jury trial or to appear before a district court or the court of appeals or supreme court pursuant to an appeal, and provided that, except for a nonprofit corporation, a person who is not a licensed attorney-at-law shall not charge or collect a separate fee for services rendered pursuant to this clause; or

(14) the delivery of legal services by a specialized legal assistant in accordance with a specialty license issued by the supreme court before July 1, 1995; or

(15) *the sole shareholder of a corporation from appearing on behalf of the corporation in court.*"

Delete the title and insert:

"A bill for an act relating to the practice of law; allowing the sole shareholder of a corporation to appear on behalf of the corporation in court; amending Minnesota Statutes 1991 Supplement, section 481.02, subdivision 3."

The motion prevailed. So the amendment was adopted.

S.F. No. 2383, which the committee recommends to pass with the following amendment offered by Mr. McGowan:

Page 1, line 21, before "and" insert "*the sheriffs of the participating counties,*"

The motion prevailed. So the amendment was adopted.

S.F. No. 2298, which the committee recommends to pass with the following amendment offered by Mr. Price:

Page 3, delete section 4

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2111, which the committee recommends to pass with the following amendment offered by Mr. Merriam:

Page 5, after line 27, insert:

"Sec. 2. [APPLICATION.]

*Section 1 does not affect the validity of a declaration that does not contain the provisions of section 1, if the declaration is otherwise substantially in the form in Minnesota Statutes, section 145B.04."*

The motion prevailed. So the amendment was adopted.

S.F. No. 1841, which the committee recommends to pass with the following amendment offered by Mr. Mondale:

Delete everything after the enacting clause and insert:

“Section 1. [325F.79] [DEFINITIONS.]

*For purposes of sections 1 to 3, the following definitions apply:*

(a) “Animal” means a dog, wholly or in part of the species *Canis familiaris*, or a cat, wholly or in part of the species *Felis domesticus*.

(b) “Pet dealer” means any person, firm, partnership, corporation, or association, including breeders, that is required to collect sales tax for the sale of animals to the public. Pet dealer does not include humane societies, nonprofit organizations performing the functions of humane societies, or animal control agencies.

(c) “Breeder” means any person, firm, partnership, corporation, or association that breeds animals for direct or indirect sale to the public.

(d) “Broker” means a person, firm, partnership, corporation, or association that purchases animals for resale to other brokers or pet dealers.

(e) “Health problem” means any disease, illness, or congenital or hereditary condition which would impair the health or function of the animal that is apparent at the time of sale, or which should have been apparent to the seller from the veterinary history of the animal.

(f) “Veterinarian” means a licensed veterinarian in the state of Minnesota.

Sec. 2. [325F.791] [SALES OF DOGS AND CATS.]

*Subdivision 1. [DISCLOSURE.] Every pet dealer shall deliver to each retail purchaser of an animal written disclosure as follows:*

(a) *The name, address, and USDA license number of the breeder and any broker who has had possession of the animal; the date of the animal's birth; the date the pet dealer received the animal; the breed, sex, color, and identifying marks of the animal; the individual identifying tag, tattoo, or collar number; the name and registration number of the sire and dam and the litter number; and a record of inoculations, worming treatments, and medication received by the animal while in the possession of the pet dealer.*

(b) *A statement signed by the pet dealer that the animal has no known health problem, or a statement signed by the pet dealer disclosing any known health problem and a statement signed by a veterinarian that recommends necessary treatment.*

*The disclosure shall be made part of the statement of consumer rights set forth in subdivision 10. The disclosure required in paragraph (a) need not be made for mixed breed animals if the information is not available and cannot be determined by the pet dealer.*

*Subd. 2. [RECORDS.] The pet dealer shall maintain, for one year, a copy of the statement of consumer rights delivered to the purchaser.*

*Subd. 3. [REGISTRATION.] A pet dealer who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser, within 90 days of final payment, the documents necessary for registration. If these documents are not received from the pet dealer, the purchaser may retain the animal and receive a refund of 50 percent of the purchase price, or return the animal, along with all documentation previously provided, and receive a full refund. The pet dealer shall not be responsible for delays in registration which are the result of*

*persons other than the pet dealer.*

*Subd. 4. [HEALTH.] No animal may be offered for sale by a broker or pet dealer to a retail purchaser until the animal has been examined by a veterinarian. The veterinarian used by the broker shall not be the same veterinarian used by the pet dealer. If the pet dealer is not the breeder of the animal, each animal shall be examined within two days after receipt of the animal by a pet dealer and within four days of delivery of the animal to the purchaser by the pet dealer. The cost of the examination shall be paid by the pet dealer.*

*Subd. 5. [RESPONSIBILITIES OF PURCHASER.] To obtain the remedies provided in subdivision 6, the purchaser shall with respect to an animal with a health problem:*

*(a) Notify the pet dealer, within two business days, of the diagnosis by a veterinarian of a health problem and provide the pet dealer with the name and telephone number of the veterinarian and a copy of the veterinarian's report on the animal.*

*(b) If the purchaser wishes to receive a full refund for the animal, return the animal no later than two business days after receipt of a written statement from a veterinarian indicating the animal is unfit due to a health problem.*

*With respect to a dead animal the purchaser must provide the pet dealer a written statement from a veterinarian, indicating the animal died from a health problem which existed on or before the receipt of the animal by the purchaser.*

*Subd. 6. [RIGHTS OF THE PURCHASER.] If, within ten days after receipt of the animal by the purchaser, a veterinarian states, in writing, that the animal has a health problem which existed in the animal at the time of delivery, or if within one year after receipt of the animal by the purchaser, a veterinarian states, in writing, that the animal has died or is ill due to a hereditary or congenital defect, or is not of the breed type represented, the animal shall be considered to have been unfit for sale at the time of sale.*

*In the event an animal dies due to a health problem which existed in the animal at the time of delivery to the purchaser, the pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser: receive an animal, of equal value, if available, and reimbursement for reasonable veterinary fees, such reimbursements not to exceed the original purchase price of the animal; or receive a refund of the full purchase price.*

*In the event of a health problem, which existed at the time of delivery to the purchaser, the pet dealer shall provide the purchaser with one of the following remedies selected by the purchaser: return the animal to the pet dealer for a refund of the full purchase price; exchange the animal for an animal of the purchaser's choice of equivalent value, providing a replacement is available; or retain the animal, and receive reimbursement for reasonable veterinary fees, such reimbursements not to exceed the original purchase price of the animal.*

*The price of veterinary service shall be deemed reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the price of the service is comparable to that of similar service rendered by other veterinarians in proximity to the treating veterinarian.*

*Subd. 7. [RIGHTS OF PET DEALER.] No refund, replacement, or reimbursement of veterinary fees shall be required if any one or more of the following conditions exist:*

*(a) The health problem or death resulted from maltreatment, neglect, or a disease contracted while in the possession of the purchaser, or from an injury sustained subsequent to receipt of the animal by the purchaser.*

*(b) A veterinarian's statement was provided to the purchaser pursuant to subdivision 1, paragraph (b), which disclosed the health problem for which the purchaser seeks to return the animal.*

*(c) The purchaser fails to carry out recommended treatment prescribed by the examining veterinarian, pursuant to subdivision 1, paragraph (b).*

*Subd. 8. [CONTEST.] (a) In the event that a pet dealer wishes to contest a demand for the relief specified in subdivision 3 or 6, the pet dealer may require the purchaser to produce the animal for examination or autopsy by a veterinarian designated by the pet dealer. The pet dealer shall pay the cost of this examination or autopsy. The pet dealer shall have a right of recovery against the purchaser if the pet dealer is not obligated to provide a remedy under subdivision 6.*

*(b) If the pet dealer does not provide the relief selected by the purchaser set forth in subdivision 3 or 6, the purchaser may initiate a court action.*

*(c) The prevailing party in the court action shall have the right to recover costs and reasonable attorney fees not to exceed \$500.*

*Subd. 9. [POSTED NOTICE.] Every pet dealer shall post in a prominent location of the facility, a notice, in 48-point bold-face type, containing the following language:*

*"Information on all dogs and cats is available. You are entitled to a statement of consumer rights. Make sure you receive this statement at the time of purchase."*

*Subd. 10. [STATEMENT OF CONSUMER RIGHTS.] Every pet dealer shall provide the retail purchaser a written notice of rights, which shall be signed by the purchaser, acknowledging that the purchaser has reviewed the notice, and signed by the pet dealer certifying the accuracy of the information contained in it. A signed copy shall be retained by the pet dealer and one given to the purchaser. The notice shall be in 16-point bold-face type and shall state as follows:*

**"A STATEMENT OF MINNESOTA LAW GOVERNING  
THE SALE OF DOGS AND CATS**

*The sale of dogs and cats is subject to consumer protection regulations. Minnesota law also provides safeguards to protect pet dealers and animal purchasers. Attached is a copy of Minnesota Statutes, section 325F.79. Contained within this law is a statement of your consumer rights."*

*The statement of consumer rights shall also contain or have attached the disclosures required under subdivision 1.*

*Subd. 11. [LIMITATION.] Nothing in this subdivision shall limit the rights or remedies which are otherwise available to a purchaser under any other law. Any agreement or contract by a purchaser to waive any rights under this chapter shall be null and void and shall be unenforceable.*

**Sec. 3. [325F.792] [ADDITIONAL PENALTIES.]**

*Subdivision 1. [CRIMINAL PENALTY.] A violation of any United States Department of Agriculture statute or regulation covering animal breeders or groomers, pet dealers, or the transportation of dogs or cats is a misdemeanor.*

*Subd. 2. [CIVIL PENALTY.] (a) A pet dealer who:*

*(1) sells an animal without delivery of the disclosure required in section 2, subdivision 1;*

*(2) fails to maintain the records required by section 2, subdivision 2;*

*(3) fails to provide registration papers as provided in section 2, subdivision 3;*

*(4) fails to make or provide payment for the examinations required by section 2, subdivision 4;*

*(5) fails to post the notice required by section 2, subdivision 9; or*

*(6) fails to provide the statement of consumer rights required by section 2, subdivision 10,*

*is subject to a civil fine of up to \$1,000 per violation.*

*(b) Civil fines collected under this subdivision shall be collected by the court and turned over to the prosecuting attorney.*

**Sec. 4. [EFFECTIVE DATE.]**

*This act is effective December 1, 1992."*

Delete the title and insert:

"A bill for an act relating to commerce; consumer protection; regulating the sale of dogs and cats by pet dealers; prescribing penalties; providing remedies; proposing coding for new law in Minnesota Statutes, chapter 325F."

The motion prevailed. So the amendment was adopted.

S.F. No. 1876, which the committee recommends to pass with the following amendment offered by Ms. Flynn:

Pages 2 and 3, delete sections 2 and 3

Amend the title as follows:

Page 1, line 4, delete "and for investigating physicians"

Page 1, line 5, delete everything after "amending"

Page 1, line 6, delete everything before "Minnesota"

The motion prevailed. So the amendment was adopted.

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

### SUSPENSION OF RULES

Remaining on the Order of Business of Motions and Resolutions, Mr. Luther moved that the Senate take up the General Orders Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

### GENERAL ORDERS

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

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

S.F. Nos. 2368, 2728, 1805, 2234, 2628, 2352, 2037 and H.F. Nos. 2704, 1763, 1249, which the committee recommends to pass.

S.F. No. 2088, which the committee recommends to pass with the following amendment offered by Ms. Reichgott:

Page 1, delete section 1

Page 4, delete sections 4 and 5

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

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

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

### REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2539, 2540, 2541 and 2561. The motion prevailed.

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

S.F. No. 1824: A bill for an act relating to health; regulating ionizing radiation; delaying the effective date of existing quality assurance rules; requiring the adoption of quality assurance rules for the practice of dentistry.

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

Page 1, delete lines 9 to 17 and insert:

*"Subdivision 1. [DELAY OF APPLICATION OF PARTS OF EXISTING RULES.] Except as they relate to mammographic procedures, Minnesota Rules, parts 4730.1655; 4730.1670; 4730.1675, subpart 1; 4730.1688; 4730.1690, subpart 1; and 4730.1691, subparts 1 to 3, 4, items A to I and K, subparts 7, 9, and 11, items A to D and F, and subpart 12, are not effective before July 1, 1993. Unless amended pursuant to subdivision 2, all of the rules cited in this subdivision are effective July 1, 1993.*

*Subd. 2. [RULEMAKING.] The commissioner of health shall review the rules listed in subdivision 1 in order to determine their appropriateness for and application to medical, dental, chiropractic, podiatric, osteopathic, and veterinary medicine facilities. As part of this review the commissioner shall consult with those health-related licensing boards defined in section 214.01 which are subject to the provisions of the ionizing radiation rules,*



*and the commissioner shall also consult with representatives of the affected health care professions."*

Amend the title as follows:

Page 1, line 2, after "health;" insert "delaying the effective date of rules"

Page 1, delete lines 3 to 5 and insert "requiring a study."

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

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

S.F. No. 2211: A bill for an act relating to human services; providing for a pilot project for improved mental health services delivery system in Dakota county for adults with serious and persistent mental illness.

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

Delete everything after the enacting clause and insert:

"Section 1. [MENTAL HEALTH SERVICES DELIVERY SYSTEM PILOT PROJECT IN DAKOTA COUNTY.]

*Subdivision 1. [AUTHORIZATION FOR PILOT PROJECT.] (a) Notwithstanding Minnesota Statutes, section 256E.05, subdivision 3a, after July 1, 1992, the commissioner of human services shall establish a pilot project in Dakota county to test alternatives to the delivery of mental health services required under the Minnesota comprehensive adult mental health act, Minnesota Statutes, sections 245.461 to 245.486.*

*(b) The pilot project shall be established to design and plan an improved mental health services delivery system for adults with serious and persistent mental illness that would: (1) enhance consumer choice and flexibility; (2) maximize local community-based alternatives; (3) support persons in independent living arrangements; (4) enhance the person's ability to work; (5) ensure the person a place in the community; and (6) enhance the development of a strong community-based psychiatric program.*

*(c) By January 1, 1993, the pilot program shall develop a comprehensive proposal for integrated program funding which would permit flexibility in expenditures based on local needs with local control. The planning process shall include, but not be limited to, mental health consumers, health advocacy groups, Dakota county, and the department of human services.*

*The integrated funding proposal shall be presented to the state legislature for approval prior to implementation on July 1, 1993.*

*(d) The pilot project may include but not be limited to issues in the service delivery system relating to:*

*(1) financial assistance from the state and the ability to use existing funds flexibly to downsize residential facilities for persons with mental illness governed by Minnesota Rules, parts 9520.0500 to 9520.0690;*

*(2) joint collaboration or program development projects between counties to enhance efficiency and expand program opportunities in such areas as mental illness and chemical dependency, downsizing of residential facilities*

*for persons with mental illness, and residential or supported living arrangements for mothers with mental illness and their children;*

*(3) integrated program funding to permit flexibility in expenditures based on local needs with local control;*

*(4) flexibility in the delivery of case management services;*

*(5) waiver or removal of the rate cap and moratorium on negotiated rate facilities;*

*(6) broader usage and additional services to be covered under the medical assistance state plan rehabilitation option;*

*(7) prepaid managed health care programs; and*

*(8) commitment of persons under Minnesota Statutes, chapter 253B, to community facilities and programs.*

*(e) The integrated funding may include current mental health expenditures, including maintenance costs, from the following sources:*

*(1) general assistance medical care;*

*(2) general assistance;*

*(3) medical assistance;*

*(4) Minnesota supplemental aid;*

*(5) grants for residential services for adults with mental illness;*

*(6) grants for community support services programs for persons with serious and persistent mental illness; and*

*(7) mental health special project grants.*

*(f) The pilot project shall establish an opportunity to expand educational opportunities in the area of community-based psychiatry. The pilot project shall develop and may implement a psychiatric residency program at the Dakota Mental Health Center, Inc. The program may train at least one psychiatric resident per year. The program may contract with a psychiatric faculty member from a Minnesota medical school who will supervise the resident and assist in the development of a strong community-based psychiatric program.*

*(g) For purposes of the pilot project, for those persons committed under Minnesota Statutes, chapter 253B, and awaiting transfer to a regional treatment center, postcommitment costs of care will be added to the cost of care as provided for in Minnesota Statutes, sections 246.50, subdivision 5, and 246.54.*

*(h) An intergovernmental agreement or contract may be developed between the county and state to specify the terms of the pilot.*

*(i) Evaluation of the pilot project will be based on outcome evaluation criteria negotiated with the county prior to implementation of the pilot project.*

*(j) The pilot project shall be implemented after July 1, 1992.*

*(k) The pilot project shall be completed by July 1, 1997.*

*(l) A report on the pilot project must be completed by January 1, 1998, and a report presented to the commissioner.*

*Subd. 2. [DUTIES OF THE COMMISSIONER.] For purposes of the pilot project, the commissioner:*

*(1) shall combine all mental health program and funding plans into one comprehensive plan unless otherwise required by federal law. Any mental health expenditures from regional treatment center appropriations or any share of expenditures from mental health funding used for commitment to or treatment in a regional treatment center shall not become part of any comprehensive fund or plan;*

*(2) may waive administrative rule requirements for the duration of the pilot project status;*

*(3) may exempt the participating county from fiscal sanctions for non-compliance with social services requirements in laws and rules; and*

*(4) shall recommend legislative changes in the biennial state plan if the results of the pilot project indicate the need for legislative change.*

**Sec. 2. [APPROPRIATION.]**

*\$500,000 is appropriated in fiscal year 1993 from the general fund to the commissioner of human services for the Dakota county pilot project for improved mental health services delivery system to pay related costs and expenses."*

Amend the title as follows:

Page 1, line 5, before the period, insert "; appropriating money"

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

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

S.F. No. 2540: A bill for an act relating to human services; home care; expanding duties of interagency long-term planning committee; clarifying definitions; regulating personal care services, funding for alternative care services, and private nursing services; providing for reimbursement for nursing facilities; providing for case assessments; expanding persons responsible for conducting preadmission screening; expanding funding for services for nonmedical assistance recipients; establishing a statewide caregiver support and respite care project; establishing traumatic brain injury case management; changing conditions under the SAIL project; adjusting the rate for home- and community-based waived services; amending Minnesota Statutes 1990, section 256B.0625, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 144A.31, subdivision 2a; 256.9751, subdivisions 1 and 6; 256B.0625, subdivision 19a; 256B.0627, subdivisions 1, 4, and 5; 256B.0911, subdivisions 3, 7, 8, and by adding a subdivision; 256B.0913, subdivisions 4, 5, 8, 11, 12, and 14; 256B.0915, subdivision 3, and by adding subdivisions; 256B.0917, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding a subdivision; 256B.093, subdivisions 1, 2, and 3; and 256B.49, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 256B; and 256I.

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

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1991 Supplement, section 144A.31, subdivision 2a, is amended to read:

Subd. 2a. [DUTIES.] The interagency committee shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The committee shall refine state long-term goals, establish performance indicators, and develop other methods or measures to evaluate program performance, including client outcomes. The committee shall review the effectiveness of programs in meeting their objectives.

The committee shall also:

(1) facilitate the development of regional and local bodies to plan and coordinate regional and local services;

(2) recommend a single regional or local point of access for persons seeking information on long-term care services;

(3) recommend changes in state funding and administrative policies that are necessary to maximize the use of home and community-based care and that promote the use of the least costly alternative without sacrificing quality of care; ~~and~~

(4) develop methods of identifying and serving seniors who need minimal services to remain independent but who are likely to develop a need for more extensive services in the absence of these minimal services; *and*

*(5) develop and implement strategies for advocating, promoting, and developing long-term care insurance and encourage insurance companies to offer long-term care insurance policies that are affordable and offer a wide range of benefits.*

Sec. 2. Minnesota Statutes 1991 Supplement, section 256.9751, subdivision 1, is amended to read:

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

(a) [CONGREGATE HOUSING.] “Congregate housing” means federally or locally subsidized housing, designed for the elderly, consisting of private apartments and common areas which can be used for activities and for serving meals.

(b) [CONGREGATE HOUSING SERVICES PROJECTS.] “Congregate housing services project” means a project in which services are or could be made available to older persons who live in subsidized housing and which helps delay or prevent nursing home placement. To be considered a congregate housing services project, a project must have: (1) an on-site coordinator, and (2) a plan for ~~providing a minimum~~ *assuring the availability* of one meal per day, *seven days a week*, for each elderly participant; ~~seven days a week in need.~~

(c) [ON-SITE COORDINATOR.] “On-site coordinator” means a person who works on-site in a building or buildings and who serves as a contact for older persons who need services, support, and assistance in order to delay or prevent nursing home placement.

(d) [CONGREGATE HOUSING SERVICES PROJECT PARTICIPANTS

OR PROJECT PARTICIPANTS.] "Congregate housing services project participants" or "project participants" means elderly persons 60 years old or older, who are currently residents of, or who are applying for residence in housing sites, and who need support services to remain independent.

Sec. 3. Minnesota Statutes 1991 Supplement, section 256.9751, subdivision 6, is amended to read:

Subd. 6. [CRITERIA FOR SELECTION.] The Minnesota board on aging shall select projects under this section according to the following criteria:

(1) the extent to which the proposed project assists older persons to age-in-place to prevent or delay nursing home placement;

(2) the extent to which the proposed project identifies the needs of project participants;

(3) the extent to which the proposed project identifies how the on-site coordinator will help meet the needs of project participants;

(4) the extent to which the proposed project *plan* assures the availability of one meal a day, seven days a week, for ~~participants~~ *each elderly participant* in need;

(5) the extent to which the proposed project demonstrates involvement of participants and family members in the project; and

(6) the extent to which the proposed project demonstrates involvement of housing providers and public and private service agencies, including area agencies on aging.

Sec. 4. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. [PERSONAL CARE SERVICES.] Medical assistance covers personal care services in a recipient's home. Recipients *authorized to receive personal care in the home* who can direct their own care, or persons who cannot direct their own care when ~~accompanied~~ *authorized* by the responsible party, may use approved hours outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. Medical assistance does not cover personal care services at a hospital, nursing facility, intermediate care facility or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator-dependent recipients in hospitals. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse of the recipient ~~or~~, the parent of a recipient under age 18, the responsible party, the foster care provider of a recipient who cannot direct ~~their~~ *the recipient's* own care or the recipient's legal guardian, *unless in the case of the foster care provider a county or state case manager visits the recipient as needed but not less than every six months to monitor the health and safety of the recipient and to ensure the goals of the plan of care are being met.* Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are granted a waiver under section 256B.0627. ~~An exception for foster care providers may be made according to section 256B.0627, subdivision 5, paragraph (j).~~

Sec. 5. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 19b. [PERSONAL CARE.] Medical assistance covers personal care services provided by an individual, not a relative, who is qualified to provide the services according to section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a registered nurse. The commissioner shall not provide an annual inflation adjustment for the fiscal year ending June 30, 1993.*

Sec. 6. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. ~~[DEFINITION DEFINITIONS.]~~ (a) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a care plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or ~~long-term health care facility~~ or as specified in section 256B.0625.

(b) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(c) "Care plan" means a written description, *signed by the recipient or the responsible party*, of the services needed which shall, *at a minimum*, include a detailed description of the covered home care services, who is providing the services, frequency of ~~those services~~, and duration of ~~those services~~. ~~The care plan shall also include~~, and expected outcomes and goals including expected date of goal accomplishment.

(d) "Responsible party" means an individual residing with a recipient of personal care services who is capable of providing the support care necessary to assist the recipient to live independently, is at least 18 years old, is not a personal care assistant, and does not have any direct financial interest in the provision of the personal care services. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only during the time that they are serving as the delegated responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home who cannot direct their own care if case management is being provided according to section 256B.0625, subdivision 19a.

Sec. 7. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. [PERSONAL CARE SERVICES.] (a) 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 *and eating, including minimal food preparation*;
  - (13) accompanying a recipient to obtain medical diagnosis or treatment;
  - (14) ~~helping~~ *assisting, monitoring, or prompting* the recipient to complete daily living skills such as personal and oral hygiene and medication schedules;
  - (15) supervision and observation that are medically necessary because of the recipient's diagnosis or disability; and
  - (16) incidental household services that are an integral part of a personal care service *authorized to be reimbursed by medical assistance* described in clauses (1) to (15).
- (b) The personal care services that are not eligible for payment are the following:
- (1) personal care services that are not in the care plan developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or the responsible party directing the care 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) *services provided by a foster care provider of a recipient who cannot direct their own care, unless prior authorized by the commissioner under paragraph (j) monitored by a county case manager under subdivision 19a;*
  - (5) sterile procedures;
  - (6) injections of fluids into veins, muscles, or skin;
  - (7) services provided by parents of adult recipients, adult children, or adult siblings, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:
    - (i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;
    - (ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;
    - (iii) the relative takes a leave of absence without pay to provide personal care for the recipient;
    - (iv) the relative incurs substantial expenses by providing personal care for the recipient; or

(v) because of labor conditions, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(8) homemaker services that are not an integral part of a personal care services; and

(9) home maintenance, or chore services.

Sec. 8. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 5, is amended to read:

Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance payments for home care services shall be limited according to this subdivision.

(a) [EXEMPTION FROM PAYMENT LIMITATIONS.] The level, or the number of hours or visits of a specific service, of home 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) [LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.] A recipient may receive the following amounts of home care services during a calendar year:

(1) a total of 40 home health aide visits; or skilled nurse visits; ~~health promotions; or health assessments~~ under section 256B.0625, subdivision 6a; and

(2) a total of ten hours of nursing supervision under section 256B.0625, subdivision 7 or 19a.

(c) [PRIOR AUTHORIZATION; EXCEPTIONS.] All home care services above the limits in paragraph (b) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened; or

(3) a third party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request.

*Providers may request a temporary authorization for home care services by telephone. Based on the assessment and care plan information provided by an appropriately licensed nurse, the department may approve a temporary level of home care services. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner, but shall not exceed 30 days. The level of services authorized*



*under this provision shall have no bearing on a future prior authorization.*

(d) [RETROACTIVE AUTHORIZATION.] A request for retroactive authorization under paragraph (c) will be evaluated according to the same criteria applied to prior authorization requests. Implementation of this provision shall begin no later than October 1, 1991, except that recipients who are currently receiving medically necessary services above the limits established under this subdivision may have a reasonable amount of time to arrange for waived services under section 256B.49 or to establish an alternative living arrangement. All current recipients shall be phased down to the limits established under paragraph (b) on or before April 1, 1992.

(e) [ASSESSMENT AND CARE PLAN.] The home care provider shall conduct an assessment and complete a care plan using forms specified by the commissioner. For the recipient to receive, or continue to receive, home care services, the provider must submit evidence necessary for the commissioner to determine the medical necessity of the home care services. The provider shall submit to the commissioner the assessment, the care plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries.

(f) [PRIOR AUTHORIZATION.] The commissioner, or the commissioner's designee, shall review the assessment, the care plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a *complete request for prior authorization, assessment, and care plan*, authorize home care services as follows:

(1) [HOME HEALTH SERVICES.] All home health services provided by a nurse or a home health aide that exceed the limits established in paragraph (b) must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. *When home health services are used in combination with personal care and/or private duty nursing, the cost of all home care services shall be considered for cost effectiveness.*

(2) [PERSONAL CARE SERVICES.] (i) All personal care services must be prior authorized by the commissioner or the commissioner's designee except for the limits on supervision established in paragraph (b). The amount of personal care services authorized must be based on the recipient's case mix classification according to section 256B.0911, except that a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's *comparable* case mix level, *plus additional hours for recipients who need additional personal care service hours to enable them to communicate with others, up to a maximum of 16 hours of personal care per day;*

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs;

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who

have complex behaviors;

(D) up to the amount the commissioner would pay, as of July 1, 1991, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.091 or 256B.092.

(ii) The number of direct care hours shall be determined according to annual cost reports which are submitted to the department by nursing facilities each year. The average number of direct care hours, as established by May 1, shall be *calculated and* incorporated into the home care limits on July 1 each year. *These limits shall be calculated to the nearest quarter hour.*

(iii) The case mix level shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the personal care provider on forms specified by the commissioner. The forms shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of children and nonelderly adults who need home care. The commissioner shall establish these forms and protocols under this section and shall use the advisory group established in section 256B.04, subdivision 16, for consultation in establishing the forms and protocols by October 1, 1991.

(iv) A recipient shall qualify as having complex medical needs if they require:

(A) daily tube feedings;

(B) daily parenteral therapy;

(C) wound or decubiti care;

(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;

(E) catheterization;

(F) ostomy care; or

(G) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having complex behavior if the recipient exhibits on a daily basis the following:

(A) self-injurious behavior;

(B) unusual or repetitive habits;

(C) withdrawal behavior;

(D) hurtful behavior to others;

(E) socially ~~or~~ offensive behavior;

(F) destruction of property; or

(G) a need for constant one-to-one supervision for self-preservation.

(vi) The complex behaviors in clauses (A) to (G) have the meanings developed under section 256B.501.

(3) [PRIVATE DUTY NURSING SERVICES.] All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services *in quarter-hour units* when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize up to 16 hours per day of private duty nursing services or up to 24 hours per day of private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are *cooperatively* applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined *by the appropriate regulatory agency* that a health benefit plan is *or is not* required to pay for *appropriate* medically necessary ~~nursing~~ health care services. *Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination.* Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) [VENTILATOR-DEPENDENT RECIPIENTS.] If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for 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. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(g) [PRIOR AUTHORIZATION; TIME LIMITS.] The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall remain valid. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization through the process described above. Under no circumstances shall a prior authorization be valid for more than 12 months.

(h) [APPROVAL OF HOME CARE SERVICES.] The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, *the cost-effectiveness of services*, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, the care plan, the recipient's age, *the cost of services*, the recipient's medical condition,

and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(i) [PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.] ~~The department has 30 days from receipt of the request to complete the prior authorization, during which time it may approve a temporary level of home care service. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner. Providers may request a temporary authorization for home care services. The commissioner may approve a temporary level of home care services based on the assessment and care plan information provided by an appropriately licensed nurse. Authorization for a temporary level of home care services is limited to the time specified by the commissioner, but shall not exceed 30 days. The level of services authorized under this provision shall have no bearing on a future prior authorization.~~

(j) [PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.] Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (b).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, ~~or the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team~~ *a county or state case manager visits the recipient as needed but no less than every six months to monitor the health and safety of the recipient and to ensure that the goals of the care plan are being met;*

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, ~~unless the recipient is referred to the commissioner by a regional treatment center preadmission evaluation team~~ *there is a designated case manager as described in clause (2);*

(4) home care services when the number of foster care residents is greater than four; or

(5) home care services when combined with foster care payments, ~~less the base rate~~ *other than room and board payments, plus home and community-based waiver services,* that exceed the total amount that public funds would pay for the recipient's care in a medical institution.

Sec. 9. Minnesota Statutes 1991 Supplement, section 256B.0911, subdivision 3, is amended to read:

Subd. 3. [PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING.] (a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county agencies. *If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse*

*with at least one year experience in home care to participate on the team. Two or more counties may collaborate to establish a joint local screening team or teams.*

(b) Both members of the team must conduct the screening. However, individuals who are being transferred from an acute care facility to a certified nursing facility *and individuals who are admitted to a certified nursing facility on an emergency basis* may be screened by only one member of the screening team in consultation with the other member.

(c) In assessing a person's needs, each screening team shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included on the screening team if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies.

(d) If a person who has been screened must be reassessed to assign a case mix classification because admission to a nursing facility occurs later than the time allowed by rule following the initial screening and assessment, the reassessment may be completed by the public health nurse member of the screening team.

Sec. 10. Minnesota Statutes 1991 Supplement, section 256B.0911, is amended by adding a subdivision to read:

*Subd. 7a. [CASE MIX ASSESSMENTS.] The nursing facility is authorized to conduct all case mix assessments for persons who have been admitted to the facility prior to a preadmission screening. The county shall conduct the case mix assessment for all persons screened within ten working days prior to admission. The county retains the responsibility of distributing appropriate case mix forms to the nursing facility.*

Sec. 11. Minnesota Statutes 1991 Supplement, section 256B.0911, subdivision 8, is amended to read:

*Subd. 8. [ADVISORY COMMITTEE.] The commissioner shall appoint an advisory committee to advise the commissioner on the preadmission screening program, the alternative care program under section 256B.0913, and the home- and community-based services waiver programs for the elderly and the disabled. The advisory committee shall review policies and procedures and provide advice and technical assistance to the commissioner regarding the effectiveness and the efficient administration of the programs. The advisory committee must consist of not more than ~~20~~ 22 people appointed by the commissioner and must be comprised of representatives from public agencies, public and private service providers, *two representatives of nursing home associations*, and consumers from all areas of the state. Members of the advisory committee must not be compensated for service.*

Sec. 12. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 4, is amended to read:

*Subd. 4. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR NONMEDICAL ASSISTANCE RECIPIENTS.] (a) Funding for services under the alternative care program is available to persons who meet the following criteria:*

*(1) the person has been screened by the county screening team or, if previously screened and served under the alternative care program, assessed*

by the local county social worker or public health nurse;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the screening team would recommend nursing facility admission or continued stay for the person if alternative care services were not available;

(5) the person needs services that are not available at that time in the county through other county, state, or federal funding sources; and

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the statewide average monthly medical assistance payment for nursing facility care at the individual's case mix classification to which the individual would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059.

(b) Individuals who meet the criteria in paragraph (a) and who have been approved for alternative care funding are called 180-day eligible clients.

(c) The statewide average payment for nursing facility care is the statewide average monthly nursing facility rate in effect on July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing facility residents who are age 65 or older and who are medical assistance recipients in the month of March of the previous fiscal year. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.

(d) In determining the total costs of alternative care services for one month, the costs of all services funded by the alternative care program, including supplies and equipment, must be included.

(e) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spend-down if the person applied, unless authorized by the commissioner. *The commissioner may authorize alternative care money to be used to meet a portion of a medical assistance income spend-down for persons residing in adult foster care who would otherwise be served under the alternative care program. The alternative care payment is limited to the difference between the recipient's negotiated foster care board and lodge rate and the medical assistance income standard for one elderly person plus the medical assistance personal needs allowance for a person residing in a long-term care facility. A person whose application for medical assistance is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical assistance, the county must bill medical assistance retroactive to the date of eligibility for the services provided that are reimbursable under the elderly waiver program.*

(f) Alternative care funding is not available for a person who resides in a licensed nursing home or boarding care home, except for case management services which are being provided in support of the discharge planning process.

Sec. 13. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 5, is amended to read:

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

- (1) adult foster care;
- (2) adult day care;
- (3) home health aide;
- (4) homemaker services;
- (5) personal care;
- (6) case management;
- (7) respite care;
- (8) assisted living; and
- (9) care-related supplies and equipment.

(b) The county agency may use up to ten percent of the annual allocation of alternative care funding for payment of costs of meals delivered to the home, transportation, skilled nursing, chore services, companion services, nutrition services, and training for direct informal caregivers. The commissioner shall determine the impact on alternative care costs of allowing these additional services to be provided and shall report the findings to the legislature by February 15, 1993, including any recommendations regarding provision of the additional services.

(c) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(d) These services must be provided by a licensed provider, a home health agency certified for reimbursement under Titles XVIII and XIX of the Social Security Act, or by persons or agencies employed by or contracted with the county agency or the public health nursing agency of the local board of health.

(e) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. *The commissioner shall establish the adult foster care daily rate to correspond with the case mix classification system.*

(f) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(g) Costs for supplies and equipment that exceed \$150 per item per month must have prior approval from the commissioner. *A county may use alternative care funds to purchase supplies and equipment from a non-Medicaid certified vendor if the cost for the items is less than that of a Medicaid vendor.*

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to two or more alternative care ~~grant~~ clients who reside in the same apartment building of ten or more units. These services may include care coordination, the costs of preparing one or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care ~~grant~~ clients. Reimbursement from the lead

agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the *greater of the statewide or regional* average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs. A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Sec. 14. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 8, is amended to read:

Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.] The case manager shall implement the plan of care for each 180-day eligible client and ensure that a client's service needs and eligibility are reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary to allow the individual to remain in a community setting. In developing the individual's care plan, the case manager should include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The county shall be held harmless for damages or injuries sustained through the use of volunteers under this subdivision including workers' compensation liability. The lead 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. The lead agency 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 case manager must give the individual a ten-day written notice of any decrease in or termination of alternative care services.*

Sec. 15. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 11, is amended to read:

Subd. 11. [TARGETED FUNDING.] (a) The purpose of targeted funding is to make additional money available to counties with the greatest need. Targeted funds are not intended to be distributed equitably among all counties, but rather, allocated to those with long-term care strategies that meet state goals.

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus county allocations determined under subdivision 10 as adjusted for any inflation increases provided in appropriations for the biennium.

(c) The commissioner shall allocate targeted funds to counties that demonstrate to the satisfaction of the commissioner that they have developed feasible plans to increase alternative care ~~grant~~ spending. In making targeted funding allocations, the commissioner shall use the following priorities:

(1) counties that received a lower allocation in fiscal year 1991 than in fiscal year 1990. Counties remain in this priority until they have been restored to their fiscal year 1990 level plus inflation;

(2) counties that sustain a base allocation reduction for failure to spend 95 percent of the allocation if they demonstrate that the base reduction should be restored;

(3) counties that propose projects to divert community residents from nursing home placement or convert nursing home residents to community living; and

(4) counties that can otherwise justify program growth by demonstrating the existence of waiting lists, demographically justified needs, or other unmet needs.

(d) Counties that would receive targeted funds according to paragraph (c) must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them.

(e) The commissioner shall request applications by June 1 each year, for county agencies to apply for targeted funds. The counties selected for targeted funds shall be notified of the amount of their additional funding by August 1 of each year. Targeted funds allocated to a county agency in one year shall be treated as part of the county's base allocation for that year in determining allocations for subsequent years. No reallocations between counties shall be made.

(f) The allocation for each year after fiscal year 1992 shall be determined using the previous fiscal year's allocation, including any targeted funds, as the base and then applying the criteria under subdivision 10, paragraphs (c), (d), and (f), to the current year's expenditures.

Sec. 16. Minnesota Statutes 1991 Supplement, section 256B.0913, subdivision 12, is amended to read:

Subd. 12. [CLIENT PREMIUMS.] (a) A premium is required for all 180-day eligible clients to help pay for the cost of participating in the program. *The amount of the premium for the alternative care client shall be determined as follows:*

*(1) when the alternative care client's gross income is greater than the medical assistance income standard but less than 150 percent of the federal poverty guideline, and total assets are less than \$6,000, the fee is zero;*

*(2) when the alternative care client's gross income is greater than 150 percent of the federal poverty guideline and total assets are less than \$6,000, the fee is 25 percent of the cost of alternative care services or the difference between 150 percent of the federal poverty guideline and the client's gross income, whichever is less; and*

*(3) when the alternative care client's total assets are greater than \$6,000, the fee is 25 percent of the cost of alternative care services. For married persons, total assets are defined as the total marital assets less the estimated community spouse asset allowance, if applicable.*

*All alternative care services except case management shall be included in the estimated costs for the purpose of determining 25 percent of the costs.*

*The monthly premium shall be calculated and be payable in the month in which the alternative care services begin and shall continue unaltered for six months until the semiannual reassessment unless the actual cost of services falls below the fee.*

*(b) The fee shall be waived by the commissioner when:*

*(1) a person who is residing in a nursing facility is receiving case management only;*

*(2) a person is applying for medical assistance;*

*(3) a married couple is requesting an asset assessment under the spousal impoverishment provisions;*

*(4) a person is a medical assistance recipient, but has been approved for alternative care funded assisted living services;*

*(5) a person is found eligible for alternative care, but is not yet receiving alternative care services;*

*(6) a person is an adult foster care resident for whom alternative care funds are being used to meet a portion of their medical assistance spend-down, as authorized in subdivision 4; and*

*(7) a person's fee under paragraph (a) is less than \$25.*

~~(b)~~ (c) The county agency must collect the premium from the client and forward the amounts collected to the commissioner in the manner and at the times prescribed by the commissioner. Money collected must be deposited in the general fund and is appropriated to the commissioner for the alternative care program. The client must supply the county with the client's social security number at the time of application. If a client fails or refuses to pay the premium due, the county shall supply the commissioner with the client's social security number and other information the commissioner requires to collect the premium from the client. The commissioner shall

collect unpaid premiums using the revenue recapture act in chapter 270A and other methods available to the commissioner. The commissioner may require counties to inform clients of the collection procedures that may be used by the state if a premium is not paid.

~~(e) The commissioner shall establish a premium schedule ranging from \$25 \$0 to \$75 \$500 per month based on the client's income and assets. The 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 schedule in final form. (d) The commissioner shall begin to adopt emergency or permanent rules governing client premiums within 30 days after July 1, 1991, including criteria for determining when services to a client must be terminated due to failure to pay a premium. Emergency or permanent rules governing client premiums supersede any schedule adopted under the exemption from chapter 14 in this section.~~

Sec. 17. Minnesota Statutes 1991 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under medical assistance case mix reimbursement system. The statewide average payment rate is calculated by determining the statewide average monthly nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(c) Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over \$150 per month *for both the elderly waiver and the disabled waiver* must have the commissioner's prior approval.

(e) Annually on July 1, the commissioner must adjust the rates allowed for services by the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

(f) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(g) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 18. Minnesota Statutes 1991 Supplement, section 256B.0915, is amended by adding a subdivision to read:

*Subd. 4. [TERMINATION NOTICE.] The case manager must give the individual a ten-day written notice of any decrease in or termination of waived services.*

Sec. 19. Minnesota Statutes 1991 Supplement, section 256B.0915, is amended by adding a subdivision to read:

*Subd. 5. [REASSESSMENTS FOR WAIVER CLIENTS.] A reassessment of a client served under the elderly or disabled waiver must be conducted at least every six months and at other times when the case manager determines that there has been significant change in the client's functioning. This may include instances where the client is discharged from the hospital.*

Sec. 20. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 2, is amended to read:

**Subd. 2. [DESIGN OF SAIL PROJECTS; LOCAL LONG-TERM CARE COORDINATING TEAM.]** (a) The commissioner of human services shall establish SAIL projects in four to six counties or groups of counties to demonstrate the feasibility and cost-effectiveness of a local long-term care strategy that is consistent with the state's long-term care goals identified in subdivision 1. The commissioner shall publish a notice in the State Register announcing the availability of project funding and giving instructions for making an application. The instructions for the application shall identify the amount of funding available for project components.

(b) To be selected for the project, a county board, or boards ~~under a joint powers agreement~~, must establish a long-term care coordinating team consisting of county social service agencies, public health nursing service agencies, local boards of health, and the area agencies on aging in a geographic area which is responsible for:

(1) developing a local long-term care strategy consistent with state goals and objectives;

(2) submitting an application to be selected as a project;

(3) coordinating planning for funds to provide services to elderly persons, including funds received under Title III of the Older Americans Act, Community Social Services Act, Title XX of the Social Security Act and the Local Public Health Act; and

(4) ensuring efficient services provision and nonduplication of funding.

(c) The board, or boards ~~under a joint powers agreement~~, shall designate

a public agency to serve as the lead agency. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must semiannually evaluate the progress of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

(d) Each member of the local coordinating team must indicate its endorsement of the local strategy. The local long-term care coordinating team may include in its membership other units of government which provide funding for services to the frail elderly. The team must cooperate with consumers and other public and private agencies, including nursing homes, in the geographic area in order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

(e) The board, or boards ~~under a joint powers agreement,~~ shall apply to be selected as a project. If the project is selected, the commissioner of human services shall contract with the lead agency for the project and shall provide additional administrative funds for implementing the provisions of the contract, within the appropriation available for this purpose.

(f) Projects shall be selected according to the following conditions:

(1) No project may be selected unless it demonstrates that:

(i) the objectives of the local project will help to achieve the state's long-term care goals as defined in subdivision 1;

(ii) in the case of a project submitted jointly by several counties, all of the participating counties are contiguous;

(iii) there is a designated local lead agency that is empowered to make contracts with the state and local vendors on behalf of all participants;

(iv) the project proposal demonstrates that the local cooperating agencies have the ability to perform the project as described and that the implementation of the project has a reasonable chance of achieving its objectives;

(v) the project will serve an area that covers at least four counties or contains at least 2,500 persons who are 85 years of age or older, according to the projections of the state demographer or the census if the data is more recent; and

(vi) the local coordinating team documents efforts of cooperation with consumers and other agencies and organizations, both public and private, in planning for service delivery.

(2) If only two projects are selected, at least one of them must be from a metropolitan statistical area as determined by the United States Census Bureau; if three or four projects are selected, at least one but not more than two projects must be from a metropolitan statistical area; and if more than four projects are selected, at least two but not more than three projects must be from a metropolitan statistical area.

(3) Counties or groups of counties that submit a proposal for a project shall be assigned to types defined by institutional utilization rate and population growth rate in the following manner:

(i) Each county or group of counties shall be measured by the utilization rate of nursing homes and boarding care homes and by the projected growth rate of its population aged 85 and over between 1990 and 2000. For the

purposes of this section, "utilization rate" means the proportion of the seniors aged 65 or older in the county or group of counties who reside in a licensed nursing home or boarding care home as determined by the most recent census of residents available from the department of health and the population estimates of the state demographer or the census, whichever is more recent. The "projected growth rate" is the rate of change in the county or group of counties of the population group aged 85 or older between 1990 and 2000 according to the projections of the state demographer.

(ii) The institutional utilization rate of a county or group of counties shall be converted to a category by assigning a "high utilization" category if the rate is above the median rate of all counties, and a "low utilization" category otherwise. The projected growth rate of a county or group of counties shall be converted to a category by assigning a score of "high-growth" category if the rate is above the median rate of all counties, and a "low growth" category otherwise.

(iii) Types of areas shall be defined by the four combinations of the scores defined in item (ii): type 1 is low utilization - high growth, type 2 is high utilization - high growth, type 3 is high utilization - low growth, and type 4 is low utilization - low growth. Each county or group of counties making a proposal shall be assigned to one of these types.

(4) Projects shall be selected from each of the types in the order that the types are listed in paragraph (3), item (iii), with available funding allocated to projects until it is exhausted, with no more than 30 percent of available funding allocated to any one project. Available funding includes state administrative funds which have been appropriated for screening functions in subdivision 4, paragraph (b), clause (3), and for service developers and incentive grants in subdivision 5.

(5) If more than one county or group of counties within one of the types defined by paragraph (3) proposes a special project that meets all of the other conditions in paragraphs (1) and (2), the project that demonstrates the most cost-effective proposals in terms of the number of nursing home placements that can be expected to be diverted or converted to alternative care services per unit of cost shall be selected.

*(6) If more than one county applies for a specific project under this subdivision, all participating county boards must indicate intent to work cooperatively through individual board resolutions or a joint powers agreement.*

Sec. 21. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 3, is amended to read:

Subd. 3. [LOCAL LONG-TERM CARE STRATEGY.] The local long-term care strategy must list performance outcomes and indicators which meet the state's objectives. The local strategy must provide for:

(1) accessible information, assessment, and preadmission screening activities as described in subdivision 4;

(2) an application for expansion of alternative care targeted funds under section 256B.0913, for serving 180-day eligible clients, including those who are relocated from nursing homes; and

(3) the development of additional services such as adult family foster care homes; family adult day care; assisted living projects and congregate

housing service projects in apartment buildings; expanded home care services for evenings and weekends; expanded volunteer services; and caregiver support and respite care projects; and

~~(4) development and implementation of strategies for advocating, promoting, and developing long-term care insurance and encouraging insurance companies to offer long-term care insurance policies that are affordable and offer a wide range of benefits.~~

The county or groups of counties selected for the projects shall be required to comply with federal regulations, alternative care funding policies in section 256B.0913, and the federal waiver programs' policies in section 256B.0915. The requirements for preadmission screening as defined in section 256B.0911, subdivisions 1 to 6, are waived for those counties selected as part of a long-term care strategy project. For persons who are eligible for medical assistance or who are 180-day eligible clients and who are screened after nursing facility admission, the nursing facility must include a screener in the discharge planning process for those individuals who the screener has determined have discharge potential. The agency responsible for the screening function in subdivision 4 must ensure a smooth transition and follow-up for the individual's return to the community. Requirements for an access, screening, and assessment function replace the preadmission screening requirements and are defined in subdivision 4. Requirements for the service development and service provision are defined in subdivision 5.

Sec. 22. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 4, is amended to read:

Subd. 4. [ACCESSIBLE INFORMATION, SCREENING, AND ASSESSMENT FUNCTION.] (a) The projects selected by and under contract with the commissioner shall establish an accessible information, screening, and assessment function for persons who need assistance and information regarding long-term care. This accessible information, screening, and assessment activity shall include information and referral, early intervention, follow-up contacts, telephone triage as defined in paragraph (f), home visits, assessments, preadmission screening, and relocation case management for the frail elderly and their caregivers in the area served by the county or counties. The purpose is to ensure that information and help is provided to elderly persons and their families in a timely fashion, when they are making decisions about long-term care. These functions may be split among various agencies, but must be coordinated by the local long-term care coordinating team.

(b) Accessible information, screening, and assessment functions shall be reimbursed as follows:

(1) The screenings of all persons entering nursing homes shall be reimbursed by the nursing homes in the counties of the project, through the same policy that is in place in fiscal year 1992 as established in section 256B.0911. The amount a nursing home pays to the county agency is that amount identified and approved in the February 15, 1991, estimated number of screenings and associated expenditures. This amount remains the same for fiscal year 1993;

(2) The level I screenings and the level II assessments required by Public Law Numbers 100-203 and 101-508 (OBRA) for persons with mental illness,

mental retardation, or related conditions, are reimbursed through administrative funds with 75 percent federal funds and 25 percent state funds, as allowed by federal regulations and established in the contract; and

(3) Additional state administrative funds shall be available for the access, screening, and assessment activities that are not reimbursed under clauses (1) and (2). This amount shall not exceed the amount authorized in the guidelines and in instructions for the application and must be within the amount appropriated for this activity.

(c) The amounts available under paragraph (b) are available to the county or counties involved in the project to cover staff salaries and expenses to provide the services in this subdivision. The lead agency shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide the services listed in this subdivision.

(d) Any information and referral functions funded by other sources, such as Title III of the Older Americans Act and Title XX of the Social Security Act and the Community Social Services Act, shall be considered by the local long-term care coordinating team in establishing this function to avoid duplication and to ensure access to information for persons needing help and information regarding long-term care.

(e) The staffing for the screening and assessment function must include, but is not limited to, a county social worker and a county public health nurse. The social worker and public health nurse are responsible for all assessments that are required to be completed by a professional. However, only one of these professionals is required to be present for the assessment. *If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to conduct the assessment.*

(f) All persons entering a Medicaid certified nursing home or boarding care home must be screened through an assessment process, although the decision to conduct a face-to-face interview is left with the county social worker and the county public health nurse. All applicants to nursing homes must be screened and approved for admission by the county social worker or the county public health nurse named by the lead agency or the agencies which are under contract with the lead agency to manage the access, screening, and assessment functions. For applicants who have a diagnosis of mental illness, mental retardation, or a related condition, and are subject to the provisions of Public Law Numbers 100-203 and 101-508, their admission must be approved by the local mental health authority or the local developmental disabilities case manager.

The commissioner shall develop instructions and assessment forms for telephone triage and on-site screenings to ensure that federal regulations and waiver provisions are met.

For purposes of this section, the term "telephone triage" refers to a telephone or face-to-face consultation between health care and social service professionals during which the clients' circumstances are reviewed and the county agency professional sorts the individual into categories: (1) needs no screening, (2) needs an immediate screening, or (3) needs a screening after admission to a nursing home or after a return home. The county agency professional shall authorize admission to a nursing home according to the provisions in section 256B.0911, subdivision 7.



(g) The requirements for case mix assessments by a preadmission screening team may be waived and the nursing home shall complete the case mix assessments which are not conducted by the county public health nurse according to the procedures established under Minnesota Rules, part 9549.0059. The appropriate county or the lead agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

(h) The lead agency or the agencies under contract with the lead agency which are responsible for the accessible information, screening, and assessment function must complete the forms and reports required by the commissioner as specified in the contract.

Sec. 23. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 5, is amended to read:

Subd. 5. [SERVICE DEVELOPMENT AND SERVICE DELIVERY.] (a) In addition to the access, screening, and assessment activity, each local strategy may include provisions for the following:

(1) expansion of alternative care to serve an increased caseload, over the fiscal year 1991 average caseload, of at least 100 persons each year who are assessed prior to nursing home admission and persons who are relocated from nursing homes, which results in a reduction of the medical assistance nursing home caseload;

(2) the addition of a full-time staff person who is responsible to develop the following services and recruit providers as established in the contract:

(i) additional adult family foster care homes;

(ii) family adult day care providers as defined in section 256B.0919, subdivision 2;

(iii) an assisted living program in an apartment;

(iv) a congregate housing service project in a subsidized housing project; and

(v) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;

(3) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;

(4) a plan to apply for a congregate housing service project as identified in section 256.9751, authorized by the Minnesota board on aging, to the extent that funds are available;

(5) a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;

(6) one or more caregiver support and respite care projects, as described in subdivision 6; and

(7) one or more living-at-home/block nurse projects, as described in subdivisions 7 to 10.

(b) The expansion of alternative care clients under paragraph (a) shall be accomplished with the funds provided under section 256B.0913, and includes the allocation of targeted funds. The funding for all participating counties must be coordinated by the local long-term care coordinating team

and must be part of the local long-term care strategy. *Targeted alternative care funds received through the SAIL project approval process may be transferred from one SAIL county to another within a designated SAIL project area during a fiscal year as authorized by the local long-term care coordinating team and approved by the commissioner. The base allocation used for a future year shall reflect the final transfer.* Each county retains responsibility for reimbursement as defined in section 256B.0913, subdivision 12. All other requirements for the alternative care program must be met unless an exception is provided in this section. The commissioner may establish by contract a reimbursement mechanism for alternative care that does not require invoice processing through the medical assistance management information system (MMIS). The commissioner and local agencies must assure that the same client and reimbursement data is obtained as is available under MMIS.

(c) The administration of these components is the responsibility of the agencies selected by the local coordinating team and under contract with the local lead agency. However, administrative funds for paragraph (a), clauses (2) to (5), and grant funds for paragraph (a), clauses (6) and (7), shall be granted to the local lead agency. The funding available for each component is based on the plan submitted and the amount negotiated in the contract.

Sec. 24. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 6, is amended to read:

Subd. 6. ~~[STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE RESOURCE CENTER; CAREGIVER SUPPORT AND RESPITE CARE PROJECTS.]~~ (a) ~~The commissioner shall establish and maintain a statewide resource center for caregiver support and respite care. The resource center shall:~~

~~(1) provide information, technical assistance, and training statewide to county agencies and organizations on direct service models of caregiver support and respite care services;~~

~~(2) identify and address issues, concerns, and gaps in the statewide network for caregiver support and respite care;~~

~~(3) maintain a statewide caregiver support and respite care directory;~~

~~(4) educate caregivers on the availability and use of caregiver and respite care services;~~

~~(5) promote and expand caregiver training and support groups using existing networks when possible; and~~

~~(6) apply for and manage grants related to caregiver support and respite care.~~

(b) The commissioner shall establish up to 36 projects to expand the respite care network in the state and to support caregivers in their responsibilities for care. The purpose of each project shall be to:

(1) establish a local coordinated network of volunteer and paid respite workers;

(2) coordinate assignment of respite workers to clients and care receivers and assure the health and safety of the client; and

(3) provide training for caregivers and ensure that support groups are

available in the community.

(e) (b) The caregiver support and respite care funds shall be available to the four to six local long-term care strategy projects designated in subdivisions 1 to 5.

(d) (c) The commissioner shall publish a notice in the State Register to solicit proposals from public or private nonprofit agencies for the projects not included in the four to six local long-term care strategy projects defined in subdivision 2. A county agency may, alone or in combination with other county agencies, apply for caregiver support and respite care project funds. A public or nonprofit agency *within a designated SAIL project area* may apply for project funds if the agency has a letter of agreement with the county or counties in which services will be developed, stating the intention of the county or counties to coordinate their activities with the agency requesting a grant.

(e) (d) The commissioner shall select grantees based on the following criteria:

(1) the ability of the proposal to demonstrate need in the area served, as evidenced by a community needs assessment or other demographic data;

(2) the ability of the proposal to clearly describe how the project will achieve the purpose defined in paragraph (b);

(3) the ability of the proposal to reach underserved populations;

(4) the ability of the proposal to demonstrate community commitment to the project, as evidenced by letters of support and cooperation as well as formation of a community task force;

(5) the ability of the proposal to clearly describe the process for recruiting, training, and retraining volunteers; and

(6) the inclusion in the proposal of the plan to promote the project in the community, including outreach to persons needing the services.

(f) (e) Funds for all projects under this subdivision may be used to:

(1) hire a coordinator to develop a coordinated network of volunteer and paid respite care services and assign workers to clients;

(2) recruit and train volunteer providers;

(3) train caregivers;

(4) ensure the development of support groups for caregivers;

(5) advertise the availability of the caregiver support and respite care project; and

(6) purchase equipment to maintain a system of assigning workers to clients.

(g) (f) Project funds may not be used to supplant existing funding sources.

(h) ~~An advisory committee shall be appointed to advise the caregiver support project on the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under this section.~~

~~The advisory committee shall consist of not more than 16 people appointed~~

by the commissioner and shall be comprised of representatives from public and private agencies, service providers and consumers from all areas of the state.

Members of the advisory committee shall not be compensated for service.

Sec. 25. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 7, is amended to read:

Subd. 7. [CONTRACT.] The commissioner of human services shall execute a contract with an organization experienced in establishing and operating community-based programs that have used the principles listed in subdivision 8, paragraph (b), in order to meet the independent living and health needs of senior citizens aged 65 and over and provide community-based long-term care for senior citizens in their homes. The organization awarded the contract shall:

(1) assist the commissioner in developing criteria for and in awarding grants to establish community-based organizations that will implement living-at-home/block nurse programs throughout the state;

(2) assist the commissioner in awarding grants to enable current living-at-home/block nurse programs to implement the combined living-at-home/block nurse program model;

(3) serve as a state technical assistance center to assist and coordinate the living-at-home/block nurse programs established; and

(4) develop the implementation plan required by subdivision 10.

Sec. 26. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 8, is amended to read:

Subd. 8. [LIVING-AT-HOME/BLOCK NURSE PROGRAM GRANT.]

(a) The commissioner, in cooperation with the organization awarded the contract under subdivision 7, shall develop and administer a grant program to establish ~~seven to ten~~ *or expand up to 15* community-based organizations that will implement living-at-home/block nurse programs that are designed to enable senior citizens to live as independently as possible in their homes and in their communities. ~~Up to~~ *At least* seven of the programs must be in counties outside the seven-county metropolitan area. The living-at-home/block nurse program funds shall be available to the four to six SAIL projects established under this section. Nonprofit organizations and units of local government are eligible to apply for grants to establish the community organizations that will implement living-at-home/block nurse programs. In awarding grants, the commissioner shall give preference to nonprofit organizations and units of local government from communities that:

(1) have high nursing home occupancy rates;

(2) have a shortage of health care professionals; and

(3) meet other criteria established by the commissioner, in consultation with the organization under contract.

(b) Grant applicants must also meet the following criteria:

(1) the local community demonstrates a readiness to establish a community model of care, including the formation of a board of directors, advisory committee, or similar group, of which at least two-thirds is comprised of community citizens interested in community-based care for older persons;

(2) the program has sponsorship by a credible, representative organization within the community;

(3) the program has defined specific geographic boundaries and defined its organization, staffing and coordination/delivery of services;

(4) the program demonstrates a team approach to coordination and care, ensuring that the older adult participants, their families, the formal and informal providers are all part of the effort to plan and provide services; and

(5) the program provides assurances that all community resources and funding will be coordinated and that other funding sources will be maximized, including a person's own resources.

(c) Grant applicants must provide a minimum of five percent of total estimated development costs from local community funding. Grants shall be awarded for two-year periods, and the base amount shall not exceed \$40,000 per applicant for the grant period. The commissioner, in consultation with the organization under contract, may increase the grant amount for applicants from communities that have socioeconomic characteristics that indicate a higher level of need for development assistance.

(d) Each living-at-home/block nurse program shall be designed by representatives of the communities being served to ensure that the program addresses the specific needs of the community residents. The programs must be designed to:

(1) incorporate the basic community, organizational, and service delivery principles of the living-at-home/block nurse program model;

(2) provide senior citizens with registered nurse directed assessment, provision and coordination of health and personal care services on a sliding fee basis as an alternative to expensive nursing home care;

(3) provide information, support services, homemaking services, counseling, and training for the client and family caregivers;

(4) encourage the development and use of respite care, caregiver support, and in-home support programs, such as adult foster care and in-home adult day care;

(5) encourage neighborhood residents and local organizations to collaborate in meeting the needs of senior citizens in their communities;

(6) recruit, train, and direct the use of volunteers to provide informal services and other appropriate support to senior citizens and their caregivers; and

(7) provide coordination and management of formal and informal services to senior citizens and their families using less expensive alternatives.

Sec. 27. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 9, is amended to read:

Subd. 9. [STATE TECHNICAL ASSISTANCE CENTER.] The organization under contract shall be the state technical assistance center to provide orientation and technical assistance, and to coordinate the living-at-home/block nurse programs established. The state resource center shall:

(1) provide communities with criteria in planning and designing their living-at-home/block nurse programs;

(2) provide general orientation and technical assistance to communities who desire to establish living-at-home/block nurse programs; *and*

(3) provide ongoing analysis and data collection of existing and newly established living-at-home/block nurse programs and provide data to the ~~organization performing~~ *commissioner of human services* for the independent assessment; *and*

(4) ~~serve as the living-at-home/block nurse programs' liaison to the legislature and other state agencies.~~

Sec. 28. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 10, is amended to read:

Subd. 10. [IMPLEMENTATION PLAN.] The organization under contract *in conjunction with the department* shall develop a plan that specifies a strategy for implementing living-at-home/block nurse programs statewide. The plan must also analyze the data collected by the state technical assistance center and describe the effectiveness of services provided by living-at-home/block nurse programs, including the program's impact on acute care costs. The organization shall report to the commissioner of human services ~~and to the legislature~~ by January 1, 1993.

Sec. 29. Minnesota Statutes 1991 Supplement, section 256B.0917, subdivision 11, is amended to read:

Subd. 11. [SAIL EVALUATION AND EXPANSION.] The commissioner shall evaluate the success of the SAIL projects against the objective stated in subdivision 1, paragraph (b), and recommend to the legislature the continuation or expansion of the long-term care strategy by February 15, 1993.

Sec. 30. Minnesota Statutes 1991 Supplement, section 256B.0919, subdivision 1, is amended to read:

Subdivision 1. [ADULT FOSTER CARE LICENSURE CAPACITY.] Notwithstanding contrary provisions of the human services licensing act and rules adopted under it, an adult foster care license holder may care for five adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. ~~The license holder under this section shall not be a corporate business which operates more than two facilities.~~

Sec. 31. [256B.0921] [STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE PROJECT.]

(a) *The commissioner shall establish and maintain a statewide caregiver support and respite care project. The project shall:*

(1) *provide information, technical assistance, and training statewide to county agencies and organizations on direct service models of caregiver support and respite care services;*

(2) *identify and address issues, concerns, and gaps in the statewide network for caregiver support and respite care;*

(3) *maintain a statewide caregiver support and respite care resource center;*

(4) *educate caregivers on the availability and use of caregiver and respite care services;*

(5) *promote and expand caregiver training and support groups using existing networks when possible; and*

(6) *apply for and manage grants related to caregiver support and respite care.*

*(b) An advisory committee shall be appointed to advise the caregiver support project on all aspects of the project including the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under section 256B.0917 and others established for caregivers.*

*The advisory committee shall consist of not more than 16 people appointed by the commissioner and shall be comprised of representatives from public and private agencies, service providers, and consumers from all areas of the state.*

*Members of the advisory committee shall not be compensated for service.*

Sec. 32. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 1, is amended to read:

Subdivision 1. ~~[STATE COORDINATOR TRAUMATIC BRAIN INJURY CASE MANAGEMENT.]~~ The commissioner of human services shall ~~designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with traumatic brain injuries.~~

~~An advisory committee shall be established to provide recommendations to the department regarding program and service needs of persons with traumatic brain injuries.~~

*(1) establish and maintain statewide traumatic brain injury case management;*

*(2) designate a full-time position to supervise and coordinate services for persons with traumatic brain injuries;*

*(3) contract with qualified agencies or employ staff to provide statewide administrative case management; and*

*(4) establish an advisory committee to provide recommendations in a report to the department regarding program and service needs of persons with traumatic brain injuries.*

Sec. 33. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 2, is amended to read:

Subd. 2. ~~[ELIGIBILITY.] The commissioner may contract with qualified agencies or employ staff to provide statewide case management services to medical assistance recipients who are at risk of institutionalization and who~~ *Persons eligible for traumatic brain injury administrative case management must be eligible medical assistance recipients who have traumatic brain injury and:*

*(1) are at risk of institutionalization; or*

*(2) exceed limits established by the commissioner in section 256.0627, subdivision 5, paragraph (b).*

Sec. 34. Minnesota Statutes 1991 Supplement, section 256B.093, subdivision 3, is amended to read:

Subd. 3. ~~[CASE MANAGEMENT DUTIES.]~~ The department shall fund

case management under this subdivision using medical assistance administrative funds. Case management duties include:

(1) assessing the person's individual needs for services required to prevent institutionalization;

(2) ensuring that a care plan that addresses the person's needs is developed, implemented, and monitored on an ongoing basis by the appropriate agency or individual;

(3) assisting the person in obtaining services necessary to allow the person to remain in the community;

(4) coordinating home care services with other medical assistance services under section 256B.0625;

(5) ensuring appropriate, accessible, and cost-effective medical assistance services;

(6) recommending to the commissioner the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under *Minnesota Rules, parts 9505.0470 to 9505.0475 section 256B.0627*;

(7) assisting the person with problems related to the provision of home care services;

(8) ensuring the quality of home care services;

(9) reassessing the person's need for and level of home care services at a frequency determined by the commissioner; and

(10) recommending to the commissioner the approval or denial of medical assistance funds *to pay* for out-of-state placements for traumatic brain injury services *and in-state traumatic brain injury services provided by designated Medicare long-term care hospitals*.

Sec. 35. Minnesota Statutes 1991 Supplement, section 256B.49, subdivision 4, is amended to read:

Subd. 4. [INFLATION ADJUSTMENT.] ~~For the biennium ending June 30, 1993, The commissioner of human services shall not provide an annual inflation adjustment for home and community-based waived services, except as provided in section 256B.491, subdivision 3; and except that the commissioner shall provide an inflation adjustment for the community alternatives for disabled individuals (CADI) and community alternative care (CAC) waived services programs for the fiscal year beginning July 1, 1991.~~

Sec. 36. [256I.051] [RATE LIMITATION; WAIVERED SERVICES ELIGIBILITY.]

*If a group residential housing rate for an adult foster care or board and lodging placement is for an individual who would be or is eligible for the home and community-based services, elderly, disabled, or chronically ill waivers, the group residential housing rate must include only the room and board portion of the rate. The room and board portion of the group residential housing rate is an amount equal to the total of:*

*(a) the combined maximum shelter and basic needs standards for Minnesota supplemental aid recipients living alone, specified in section 256D.44, subdivisions 2, paragraph (a), and 3, paragraph (a); plus*

*(b) the maximum allotment authorized by the federal food stamp program*



*for a single individual in effect on the first day of July each year to be applied to persons who are not eligible to receive food stamps due to living arrangement; and less*

*(c) the personal needs allowance authorized for medical assistance recipients under section 256B.35.*

Sec. 37. [EFFECTIVE DATE.]

*Section 16 is effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to human services; home care; expanding duties of interagency long-term planning committee; clarifying definitions; regulating personal care services, funding for alternative care services, and private nursing services; providing for case assessments; expanding persons responsible for conducting preadmission screening; expanding funding for services for nonmedical assistance recipients; establishing a statewide caregiver support and respite care project; establishing traumatic brain injury case management; changing conditions under the SAIL project; amending Minnesota Statutes 1990, section 256B.0625, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 144A.31, subdivision 2a; 256.9751, subdivisions 1 and 6; 256B.0625, subdivision 19a; 256B.0627, subdivisions 1, 4, and 5; 256B.0911, subdivisions 3, 8, and by adding a subdivision; 256B.0913, subdivisions 4, 5, 8, 11, and 12; 256B.0915, subdivision 3, and by adding subdivisions; 256B.0917, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 256B.0919, subdivision 1; 256B.093, subdivisions 1, 2, and 3; and 256B.49, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 256B; and 256I."

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 2541: A bill for an act relating to human services; changing the required dates for certain residential day and support services plans; excluding certain providers of respite care services from licensing requirements; providing for alternative services for persons with mental retardation; providing grants to businesses that employ persons with mental retardation; providing medical assistance coverage for certain services; changing the distribution of certain case management grants to counties; amending Minnesota Statutes 1990, sections 245A.02, by adding a subdivision; 252.291, subdivision 3; 256B.0625, by adding a subdivision; 256B.092, by adding a subdivision; 256B.501, by adding subdivisions; and 256E.14; Minnesota Statutes 1991 Supplement, sections 245A.03, subdivision 2; 252.28, subdivision 1; 252.50, subdivision 2; 256B.092, subdivision 4; and 256I.05, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 252.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1991 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 ~~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 the fire protection provisions of chapter 21 of the 1985 life safety code, NFPA 101, for facilities housing persons with impractical evacuation capabilities, except that Class B facilities licensed prior to July 1, 1990, 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 July 1, 1990, and housing nonambulatory or nonmobile 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.

(d) The commissioner may license as a Class A supervised living facility a residential program for chemically dependent individuals that allows children to reside with the parent receiving treatment in the facility. The licensee of the program shall be responsible for the health, safety, and welfare of the children residing in the facility. The facility in which the program is located must be provided with a sprinkler system approved by the state fire marshal. The licensee shall also provide additional space and physical plant accommodations appropriate for the number and age of children residing in the facility. For purposes of license capacity, each child residing in the facility shall be considered to be a resident.

Sec. 2. Minnesota Statutes 1990, section 245A.02, is amended by adding a subdivision to read:

*Subd. 15. [RESPITE CARE SERVICES.] "Respite care services" means temporary services provided to a person due to the absence or need for relief of the person's family member or legal representative who is the primary caregiver and principally responsible for the care and supervision of the person. Respite care services are those that provide the level of supervision and care that is necessary to ensure the health and safety of the person. Respite care services do not include services that are specifically directed toward the training and habilitation of the person.*

Sec. 3. Minnesota Statutes 1991 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 regular and 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, for adults or school-age children, including children who will be eligible to enter kindergarten within not more than four months, social and recreational activities, 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) mental health outpatient services for 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;

*(21) unrelated individuals who provide out of home respite care services to persons with mental retardation or related conditions from a single related family for no more than 30 days in a 12-month period and the respite care services are for the temporary relief of the persons' family or legal representative; or*

*(22) respite care services provided as a home and community-based service to persons with mental retardation or a related condition in the persons' primary residence.*

For purposes of clause (5), the department of education, after consulting with the department of human services, shall adopt standards applicable to preschool programs administered by public schools that are similar to Minnesota Rules, parts 9503.005 to 9503.0175. These standards are exempt from rulemaking under chapter 14.

Sec. 4. Minnesota Statutes 1991 Supplement, section 252.275, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] Counties shall be reimbursed for all expenditures made pursuant to subdivision 1 at a rate of 70 percent, up to the allocation determined pursuant to subdivisions 4, 4a, and 4b. However, the commissioner shall not reimburse costs of services for any person if the costs exceed the state share of the average medical assistance costs for services provided by intermediate care facilities for a person with mental retardation or a related condition for the same fiscal year, and shall not reimburse costs of a one-time living allowance for any person if the costs exceed \$1,500 in a state fiscal year. ~~For the biennium ending June 30, 1993, the commissioner shall not reimburse costs in excess of the 85th percentile of hourly service costs based upon the cost information supplied to the legislature in the proposed budget for the biennium.~~ The commissioner may make payments to each county in quarterly installments. The commissioner may certify an advance of up to 25 percent of the allocation. Subsequent payments shall be made on a reimbursement basis for reported expenditures and may be adjusted for anticipated spending patterns.

Sec. 5. Minnesota Statutes 1991 Supplement, section 252.28, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATIONS; ~~BIENNIAL~~ REDETERMINATIONS.] In conjunction with the appropriate county boards, the commissioner of human services shall determine, and shall redetermine ~~biennially at least every four years,~~ the need, location, size, and program of public and private residential services and day training and habilitation services for persons with mental retardation or related conditions. This subdivision

does not apply to semi-independent living services and residential-based habilitation services provided to four or fewer persons at a single site funded as home and community-based services.

Sec. 6. Minnesota Statutes 1990, section 252.291, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF COMMISSIONER OF HUMAN SERVICES.] The commissioner shall:

(a) establish standard admission criteria for state hospitals and county utilization targets to limit and reduce the number of intermediate care beds in state hospitals and community facilities in accordance with approved waivers under United States Code, title 42, sections 1396 to 1396p, as amended through December 31, 1987, to assure that appropriate services are provided in the least restrictive setting;

(b) define services, including respite care, that may be needed in meeting individual service plan objectives;

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

(d) establish a client tracking and evaluation system as required under applicable federal waiver regulations, Code of Federal Regulations, title 42, sections 431, 435, 440, and 441, as amended through December 31, 1987; and

(e) develop a state plan for the delivery and funding of residential day and support services to persons with mental retardation or related conditions in Minnesota and submit that plan to the clerk of each house of the Minnesota legislature on or before ~~the 15th of January~~ *September 1* of each biennium beginning ~~January 15, 1985~~ *September 1, 1993*. The biennial mental retardation plan shall include but not be limited to:

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

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

Sec. 7. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 20a. [CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION.] To the extent defined in the state Medicaid plan, case management service activities for persons with mental retardation or a related condition as defined in section 256B.092, and rules promulgated thereunder, are covered services under*

*medical assistance.*

Sec. 8. Minnesota Statutes 1990, section 256B.092, is amended by adding a subdivision to read:

*Subd. 2a. [MEDICAL ASSISTANCE FOR CASE MANAGEMENT ACTIVITIES UNDER THE STATE PLAN MEDICAID OPTION.] Upon receipt of federal approval, the commissioner shall make payments to approved vendors of case management services participating in the medical assistance program to reimburse costs for providing case management service activities to medical assistance eligible persons with mental retardation or a related condition, in accordance with the state Medicaid plan and federal requirements and limitations.*

Sec. 9. Minnesota Statutes 1991 Supplement, section 256B.092, subdivision 4, is amended to read:

*Subd. 4. [HOME- AND COMMUNITY-BASED SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home- and community-based services, including case management service activities provided as an approved home- and community-based service, to medical assistance eligible persons with mental retardation or related conditions who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally-approved application for home- and community-based services for persons with mental retardation or related conditions and subsequent amendments. Payments for home- and community-based services shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former residents of regional treatment centers and nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home- and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with mental retardation or related conditions.*

Sec. 10. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

*Subd. 4a. [INCLUSION OF HOME CARE COSTS IN WAIVER RATES.] The commissioner shall adjust the limits of the established average daily reimbursement rates for waived services to include the cost of home care services that may be provided to waived services recipients. This adjustment must be used to maintain or increase services and shall not be used by county agencies for inflation increases for waived services vendors. Home care services referenced in this section are those listed in section 256B.0627, subdivision 2. The average daily reimbursement rates established in accordance with the provisions of this subdivision apply only to the combined average, daily costs of waived and home care services and do not change home care limitations under section 256B.0627. Waivered services recipients receiving home care as of June 30, 1992, shall not have the amount of their services reduced as a result of this section.*

Sec. 11. Minnesota Statutes 1990, section 256B.501, is amended by adding a subdivision to read:

*Subd. 4b. [WAIVER RATES AND GROUP RESIDENTIAL HOUSING*

RATES.] *The average daily reimbursement rates established by the commissioner for waived services shall be adjusted to include the additional costs of services eligible for waiver funding under title XIX of the Social Security Act and for which there is no group residential housing payment available as a result of the payment limitations set forth in section 256I.05, subdivision 10. The adjustment to the waiver rates shall be based on county reports of service costs that are no longer eligible for group residential housing payments. No adjustment shall be made for any amount of reported payments that prior to July 1, 1992, exceeded the group residential housing rate limits established in section 256I.05 and were reimbursed through county funds.*

Sec. 12. Minnesota Statutes 1990, section 256E.14, is amended to read:

256E.14 [GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

*For the biennium ending June 30, 1991, The commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:*

*(1) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and*

*(2) one-half of as provided in this section. The appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed. The appropriation may be reduced by the amount necessary to meet the state match for medical reimbursement under section 256B.092, subdivision 2a.*

Sec. 13. Minnesota Statutes 1991 Supplement, section 256I.05, subdivision 10, is amended to read:

Subd. 10. [FOSTER CARE.] *In keeping with the definition of "group residential housing rate" established in section 256I.03, subdivision 2, beginning July 1, 1992, the negotiated group residential housing rate of a group residence licensed as a foster home is limited to the rate set for room and board costs payments provided the foster home is not the license holder's primary residence, or the license holder is not the primary caregiver to persons receiving services in the negotiated rate group residence; and federal funding is available to pay for so long as the cost of other necessary services meets the definition of services or costs eligible for payment under the state's Medicaid program under title XIX of the Social Security Act and the persons receiving services in the group residence also receive title XIX home- and community-based waiver services for persons with mental retardation or a related condition, or persons with traumatic or acquired brain injury. For the purpose purposes of this section, the July 1, 1992, rate set for room and board costs mean costs of providing food and shelter for eligible persons; and includes payments must not exceed the group residential housing rate effective June 30, 1992, minus the additional rate to be paid under title XIX of the Social Security Act. The only exception to this limitation is a rate adjustment for the payment of the additional room and board costs of serving additional persons in the group residence. Until a statewide rate setting system is developed in accordance with subdivision 6, "room and board payments" referenced in this section means the directly identifiable*

*payments for the usual costs of:*

- (1) normal and special diet, food preparation and food services;
- (2) providing linen, bedding, laundering, and laundry supplies;
- (3) housekeeping, including cleaning and lavatory supplies;
- (4) maintenance and operation of the residence and grounds, including fuel, utilities, supplies, and equipment;
- (5) the allocation of salaries related to these areas; and
- (6) the lease or mortgage payment, property tax and insurance, furnishings and appliances.

*For purposes of this section, room and board payments do not include payments for the costs of modifications and adaptations of the group residence required to ensure the health and safety of the resident or to meet the requirements of the applicable life safety code when those costs meet the definition of services and costs eligible for payment under the state's Medicaid program under title XIX of the Social Security Act. The group residences identified in this section shall be subject to a statewide rate setting system identified in subdivision 6 once the rate setting system has been developed. Any amount of payment made by counties prior to July 1, 1992, that exceeds the rate caps established in subdivisions 1 and 2 is not considered part of the group residential housing rate under this section and may not be considered as part of the group residential housing rate set as of July 1, 1992, nor shall that amount be considered eligible for payment under title XIX of the Social Security Act.*

**Sec. 14. [STATE-OPERATED COMMUNITY SERVICES APPROPRIATION.]**

*Unless the state-operated community services programs are financed through the Minnesota housing finance agency, the language contained in Laws 1991, chapter 292, article 1, section 2, subdivision 8, providing that receipts received for the state-operated community services program are appropriated to the commissioner for that purpose, is of no effect and the receipts are deposited and appropriated to the commissioner as provided under Minnesota Statutes, section 246.18. If the state-operated community services programs are financed through the Minnesota housing finance agency, the receipts are appropriated to the commissioner for that purpose.*

**Sec. 15. [WAIVERED SERVICES RATE STRUCTURE.]**

*The commissioner of human services shall report to the legislature by January 15, 1993, with plans to implement on July 1, 1993, a rate structure for home- and community-based services under title XIX of the Social Security Act which bases funding on assessed client needs."*

Delete the title and insert:

*"A bill for an act relating to human services; changing the required dates for certain residential day and support services plans; excluding certain providers of respite care services from licensing requirements; removing a reimbursement limit for providers of semi-independent living services; providing medical assistance coverage for certain services; changing the distribution of certain case management grants to counties; amending Minnesota Statutes 1990, sections 245A.02, by adding a subdivision; 252.291, subdivision 3; 256B.0625, by adding a subdivision; 256B.092,*



by adding a subdivision; 256B.501, by adding subdivisions; and 256E.14; Minnesota Statutes 1991 Supplement, sections 144.50, subdivision 6; 245A.03, subdivision 2; 252.275, subdivision 3; 252.28, subdivision 1; 256B.092, subdivision 4; and 256I.05, subdivision 10."

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 2561: A bill for an act relating to human services; regarding transferring and restructuring of work readiness; amending Minnesota Statutes 1990, sections 237.701, subdivision 1; 256D.01, subdivision 1; 256D.02, subdivision 12a; 256D.05, by adding a subdivision; 256D.051, subdivisions 3b, 13, and by adding a subdivision; 256D.09, subdivisions 2a and 3; 261.001, subdivision 1; 261.003; 261.063; and 383A.06, subdivision 1; Minnesota Statutes 1991 Supplement, sections 256D.03, subdivisions 2 and 2a; 256D.05, subdivisions 1 and 6; 256D.051, subdivisions 3 and 8; 256D.065; 256D.10; and 256D.101, subdivision 1; repealing Minnesota Statutes 1990, sections 256D.051, subdivisions 6b, 7, 9, 10, and 15; 256D.052; 256D.111; and 256D.113; Minnesota Statutes 1991 Supplement, sections 256D.051, subdivisions 1, 1a, 2, 3a, and 6; 256D.101, subdivision 3; and 261.062.

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

Pages 1 to 10, delete sections 1 to 7 and insert:

"Section 1. Minnesota Statutes 1991 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 who is age 18 or older and who 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, and:

(1) who is receiving assistance under section 256D.05 or 256D.051; 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 the disregard of the first \$50 of earned income is not allowed; or

(3) 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 is not available for a person in a correctional facility unless the person 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, and 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 county 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 county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

*(f) Each undocumented alien and nonimmigrant is ineligible for general assistance medical care. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented alien is an individual*

*who has come to, entered, or remains in the United States in violation of law and not under color of law. For the five-year period beginning on the date when lawful temporary resident status was granted under United States Code, title 8, section 1255a, each alien granted lawful temporary residence status is ineligible for general assistance medical care. Each alien admitted to the United States for purposes of family unity with an alien granted lawful temporary residence status is ineligible for general assistance medical care for the five-year period beginning on the date of entry into the United States. This subdivision does not apply to a child under age 18, a Cuban or Haitian entrant as defined in Public Law Number 96-722, section 501(e)(1) or (2)(a), or to an alien who is aged, blind, or disabled as defined in United States Code, title 42, section 1382c(a)(1)."*

Page 10, line 16, delete "has"

Page 10, delete lines 17 and 18 and insert "*resides in the United States without approval or acquiescence of the Immigration and Naturalization Service.*"

Pages 10 to 19, delete sections 9 to 23 and insert:

"Sec. 3. Minnesota Statutes 1990, section 256D.06, subdivision 5, is amended to read:

Subd. 5. Any applicant, otherwise eligible for general assistance and possibly eligible for maintenance benefits from any other source shall (a) make application for those benefits within 30 days of the general assistance application; and (b) execute an interim assistance authorization agreement on a form as directed by the commissioner. If found eligible for benefits from other sources, and a payment received from another source relates to the period during which general assistance was also being received, the recipient shall be required to reimburse the county agency for the interim assistance paid. Reimbursement shall not exceed the amount of general assistance paid during the time period to which the other maintenance benefits apply and shall not exceed the state standard applicable to that time period. The commissioner shall adopt rules, and may adopt emergency rules, authorizing county agencies to retain from the amount recovered under an interim assistance agreement 25 percent plus actual reasonable fees, costs, and disbursements of appeals and litigation, of providing special assistance to the recipient in processing the recipient's claim for maintenance benefits from another source. The money retained under this section shall be from the state share of the recovery. The *commissioner or the* county agency may contract with qualified persons to provide the special assistance. The rules adopted by the commissioner shall include the methods by which county agencies shall identify, refer, and assist recipients who may be eligible for benefits under federal programs for the disabled. This subdivision does not require repayment of per diem payments made to shelters for battered women pursuant to section 256D.05, subdivision 3.

Sec. 4. Minnesota Statutes 1990, section 256D.54, subdivision 3, is amended to read:

Subd. 3. [INTERIM ASSISTANCE ADVOCACY INCENTIVE PROGRAM.] From the amount recovered under an interim assistance agreement, county agencies may retain 25 percent plus actual reasonable fees, costs, and disbursements of appeals, litigation, and advocacy assistance given to the recipient for the recipient's claim for supplemental security income. The money kept under this section is from the state share of the recovery. The

*commissioner or the county agency may contract with qualified persons to provide the special assistance. The methods by which a county agency identifies, refers, and assists recipients who may be eligible for benefits under federal programs for the aged, blind, or disabled are those methods used by the general assistance interim assistance advocacy incentive program."*

Page 19, line 15, delete "8" and insert "2"

Page 19, line 17, delete everything after the period

Page 19, delete lines 18 to 21

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after "sections"

Page 1, delete lines 5 to 18 and insert "256D.05, by adding a subdivision; 256D.06, subdivision 5; and 256D.54, subdivision 3; Minnesota Statutes 1991 Supplement, section 256D.03, subdivision 3."

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 2539: A bill for an act relating to human services; pertaining to costs of care and reimbursement under medical assistance; changing payment rates for physician services; allowing contracts with preferred provider programs; allowing reimbursement for wheelchairs and wheelchair accessories for ICF/MR recipients; allowing electronic claim submission for medical providers; altering conditions for medical assistance, general assistance medical care, and children's health plan programs; amending Minnesota Statutes 1990, sections 256.9655; 256.969, by adding a subdivision; 256.9695, subdivision 3; 256B.02, by adding subdivisions; 256B.03 by adding a subdivision; 256B.035; 256B.056, subdivisions 1a, 2, 3, 4, and by adding a subdivision; 256B.057, by adding a subdivision; 256B.059, subdivision 2; 256B.0595, subdivision 1; 256B.0625, by adding a subdivision; 256B.063; 256B.064, by adding a subdivision; 256B.14, subdivision 2; 256B.15, subdivisions 1, and 2; 256B.36; 256B.433, subdivisions 1, 2, and 3; 256D.02, by adding subdivisions; and 256D.03, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 254B.04, subdivision 1; 256.9685, subdivision 1; 256.969, subdivisions 1 and 2; 256B.0625, subdivision 13; 256B.064, subdivision 2; 256D.03, subdivision 3; Laws 1991, chapter 292, article 4, section 77, subdivisions 1 and 14; repealing Minnesota Statutes 1990, section 256B.056, subdivision 3a; Minnesota Statutes 1991 Supplement, sections 256.9657; 256B.74, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10; and Laws 1991, chapter 292, article 4, section 79, subdivision 1.

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

Page 1, line 39, after "256B.056" insert "*including persons participating*

*in the prepaid medical assistance program under section 256B.69,"*

Page 2, delete lines 27 to 36

Page 3, delete line 1 and insert:

"Sec. 2. Minnesota Statutes 1990, section 254B.06, subdivision 3, is amended to read:

Subd. 3. [PAYMENT; DENIAL.] The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, subdivision 1, and placements by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county chemical dependency placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner. *The commissioner shall not pay vendors until third party claims have been settled.*"

Page 4, line 15, after "*specific*" insert "*utilization review*"

Pages 4 and 5, delete section 4

Pages 6 and 7, delete sections 6 and 7

Page 8, line 1, delete everything before "*payment*"

Page 8, line 2, delete the semicolon and insert a period

Page 8, delete lines 3 to 5

Page 9, line 13, before the period, insert "*and shall continue to be excluded for as long as the recipient can be reasonably expected to return, as provided under the methodologies for the supplemental security income program*"

Page 10, line 9, delete the new language

Page 10, lines 10 to 12, reinstate the stricken language

Page 10, line 13, reinstate the stricken language and delete the new language

Page 10, lines 14 and 15, delete the new language

Pages 11 and 12, delete section 15

Pages 13 to 16, delete sections 19 and 20 and insert:

"Sec. 16. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician. The commissioner, *after receiving recommendations from the Minnesota medical association and the Minnesota pharmacists association*, 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 shall 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. The formulary committee, *upon the recommendation of the drug utilization review board*, shall review and recommend drugs which require prior authorization. *Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization:*

*(1) the drug must be identified through the drug utilization review program. The drug utilization review board may develop criteria to be used for identifying drugs or direct the drug formulary committee to develop criteria;*

*(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and*

*(3) the commissioner must provide evidence to the formulary committee that placing the drug on prior authorization will not reduce the quality of patient care and that the drug is subject to clinical abuse or misuse.*

*A decision by the drug utilization review board to place a drug on prior authorization must be reviewed by the formulary committee at least every six months. Prior authorization may be required by the commissioner upon approval of the drug utilization review board, 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, products for the treatment of lice, 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 drug formulary committee 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. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. 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 - brand necessary" 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.

(c) *Until January 4, 1993, or the date the Medicaid Management Information System (MMIS) upgrade is implemented, whichever occurs last, a pharmacy provider may require individuals who seek to become eligible for medical assistance under a one-month spenddown, as provided in section 256B.056, subdivision 5, to pay for services to the extent of the spenddown amount at the time the services are provided. A pharmacy provider choosing this option shall file a medical assistance claim for the pharmacy services provided. If medical assistance reimbursement is received for this claim, the pharmacy provider shall return to the individual the total amount paid by the individual for the pharmacy services reimbursed by the medical assistance program. If the claim is not eligible for medical assistance reimbursement because of the provider's failure to comply with the provisions of the medical assistance program, the pharmacy provider shall refund to the individual the total amount paid by the individual. Pharmacy providers may choose this option only if they apply similar credit restrictions to private pay or privately insured individuals. A pharmacy provider choosing this option must inform individuals who seek to become eligible for medical assistance under a one-month spenddown of (1) their right to appeal the*

*denial of services on the grounds that they have satisfied the spenddown requirement, and (2) their potential eligibility for the health right program or the children's health plan.*

Sec. 17. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

*Subd. 13a. [DRUG UTILIZATION REVIEW BOARD.] A 12-member drug utilization review board is established. The board is comprised of six licensed physicians actively engaged in the practice of medicine in Minnesota; three licensed pharmacists actively engaged in the practice of pharmacy in Minnesota; one licensed pharmacist engaged in dispensing medications in or providing consulting services for a Minnesota nursing home; one person with expertise in therapeutic pharmacology who is neither a practicing physician nor a pharmacist; and one consumer representative. The board shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the board. The members of the board shall be appointed by the commissioner and shall serve three-year terms. The physician members shall be selected from a list submitted by the Minnesota medical association. The pharmacist members shall be selected from a list submitted by the Minnesota pharmacists association. The commissioner shall appoint the initial members of the board for terms expiring as follows: four members for terms expiring June 30, 1995; four members for terms expiring June 30, 1994; and four members for terms expiring June 30, 1993. Members may be reappointed once. The board shall annually elect a chair from among the members.*

*The board shall:*

*(1) implement a medical assistance retrospective and prospective drug utilization review program;*

*(2) develop and implement the predetermined criteria and practice parameters for appropriate prescribing to be used in retrospective and prospective drug utilization review;*

*(3) develop, select, implement, and assess interventions for physicians, pharmacists, and patients that are educational and not punitive in nature;*

*(4) establish a grievance and appeals process for physicians, pharmacists, and recipients under this section;*

*(5) publish and disseminate educational information to physicians and pharmacists regarding the board and the review program;*

*(6) adopt and implement procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the review program that identifies individual physicians, pharmacists, or recipients;*

*(7) approve or disapprove the implementation of any prior authorization program for outpatient drugs proposed by the department after receiving public comment on the proposal;*

*(8) establish and implement an ongoing process to (i) receive public comment regarding criteria and standards, and (ii) consider the comments along with other scientific and clinical information in order to revise criteria and standards on a timely basis; and*

*(9) adopt rules to carry out this section.*



*The board may establish advisory committees. The commissioner, on behalf of the board, may contract with appropriate organizations to assist the board in carrying out the board's duties. The commissioner may enter into contracts for services to implement a retrospective and prospective review program.*

*The board shall report to the commissioner annually on December 1. The commissioner shall make the report available to the public upon request. The report must include information on the activities of the board and the program; the effectiveness of implemented interventions; administrative costs; any fiscal impact resulting from the program, including any impact on other areas of the medical assistance program, such as hospital costs and long-term care costs; a quantified assessment of the impact of the program on improving quality of care to recipients; a summary by therapeutic class of the total number of prescriptions reviewed, and an assessment of the impact of the educational programs or interventions on prescribing or dispensing practices."*

Page 20, line 18, before "the" insert "excluding" and delete "under section"

Page 20, line 19, delete everything before "and"

Page 20, line 33, delete "including" and insert "excluding"

Page 20, line 35, after "256B" insert "excluding the alternative care program,"

Page 30, delete sections 36 and 37 and insert:

"Sec. 33. [MENTAL HEALTH SERVICES.]

*Effective July 1, 1992, mental health services, except services provided by community mental health centers, shall be paid at 76 percent of the rate in effect for doctoral-prepared mental health professionals on June 30, 1992."*

Page 30, delete lines 30 to 36

Page 31, delete lines 1 to 4

Page 31, line 6, delete "17" and insert "14"

Page 31, line 7, delete "18" and insert "15"

Page 31, delete lines 9 to 15

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "establishing a drug utilization review board; modifying procedures for drug prior authorization; changing reimbursement for mental health services;"

Page 1, line 11, after "sections" insert "254B.06, subdivision 3;"

Page 1, delete line 12

Page 1, line 13, delete "subdivision 3;"

Page 1, line 15, delete "4,"

Page 1, line 17, delete "256B.0595, subdivision 1;"

Page 1, line 18, delete "a subdivision" and insert "subdivisions"

Page 1, line 24, delete “subdivisions 1 and” and insert “subdivision”

Page 1, line 26, delete everything after the semicolon

Page 1, delete line 27

Page 1, line 29, delete everything after “3a” and insert a period

Page 1, delete lines 30 to 32

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

### **SUSPENSION OF RULES**

Mr. Moe, R.D. moved that Joint Rule 2.03 be suspended as to the Committee Reports on S.F. Nos. 2539, 2540, 2541 and 2561. The motion prevailed.

Mr. Moe, R.D. moved the adoption of the Committee Reports on S.F. Nos. 2539, 2540, 2541 and 2561. The motion prevailed. Amendments adopted. Reports adopted.

### **SECOND READING OF SENATE BILLS**

S.F. No. 1824 was read the second time.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Mr. Moe, R.D. moved that S.F. Nos. 2539, 2540 and 2541 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Finance. The motion prevailed.

Mr. Johnson, D.J. moved that S.F. No. 2605 be withdrawn from the Committee on Finance and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Samuelson moved that H.F. No. 1818 be recalled from the House of Representatives for further consideration. The motion prevailed.

Ms. Pappas moved that S.F. No. 2210 be taken from the table. The motion prevailed.

S.F. No. 2210: A bill for an act relating to Ramsey county; providing for the certification of eligibles for county positions; amending Minnesota Statutes 1990, section 383A.291, by adding a subdivision.

### **CONCURRENCE AND REPASSAGE**

Ms. Pappas moved that the Senate concur in the amendments by the House to S.F. No. 2210 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2210 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	Day	Johnson, J.B.	Merriam	Reichgott
Beckman	DeCramer	Johnston	Metzen	Renneke
Belanger	Dicklich	Kelly	Moe, R.D.	Riveness
Benson, D.D.	Finn	Knaak	Morse	Sams
Benson, J.E.	Flynn	Kroening	Neuville	Spear
Berg	Frederickson, D.J.	Laidig	Novak	Stumpf
Berglin	Frederickson, D.R.	Langseth	Pappas	Terwilliger
Bertram	Hottinger	Luther	Pariseau	Traub
Brataas	Hughes	Marty	Piper	Waldorf
Cohen	Johnson, D.E.	McGowan	Price	
Davis	Johnson, D.J.	Mehrkens	Ranum	

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

### INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Mr. Chmielewski introduced—

S.F. No. 2774: A bill for an act relating to appropriations; appropriating money for a fire museum/interpretative center.

Referred to the Committee on Environment and Natural Resources.

### RECESS

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

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

### APPOINTMENTS

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

S.F. No. 1399: Mrs. Benson, J.E.; Messrs. Novak and Waldorf.

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

### MEMBERS EXCUSED

Mr. Halberg was excused from the Session of today. Mr. Lessard was excused from the Session of today at 2:30 p.m. Mr. Finn was excused from the Session of today from 12:00 noon to 2:00 p.m.

### ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Thursday, March 26, 1992. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate