

## NINETY-SECOND DAY

St. Paul, Minnesota, Monday, April 6, 1992

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

### CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Phil Formo.

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

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

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

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 communication was received.

April 3, 1992

The Honorable Jerome M. Hughes  
President of the Senate

Dear President Hughes:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 2182, 1298,

1767, 1900, 1991, 2069, 2208, 2308 and 2310.

Warmest regards,  
Arne H. Carlson, Governor

### REPORTS OF COMMITTEES

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

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

H.F. No. 2623 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.
2623	2344				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2623 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2623 and insert the language after the enacting clause of S.F. No. 2344, the first engrossment; further, delete the title of H.F. No. 2623 and insert the title of S.F. No. 2344, the first engrossment.

And when so amended H.F. No. 2623 will be identical to S.F. No. 2344, and further recommends that H.F. No. 2623 be given its second reading and substituted for S.F. No. 2344, and that the Senate File be indefinitely postponed.

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

### SECOND READING OF HOUSE BILLS

H.F. No. 2623 was read the second time.

### MOTIONS AND RESOLUTIONS

Ms. Flynn moved that the name of Mr. Marty be added as a co-author to S.F. No. 1993. The motion prevailed.

Mr. Johnson, D.E. introduced—

Senate Resolution No. 140: A Senate resolution commending James A. Larson on his promotion to Colonel in the United States Army.

Referred to the Committee on Rules and Administration.

Ms. Piper and Mr. Pogemiller introduced—

Senate Resolution No. 141: A Senate resolution congratulating the Austin Pacelli High School Boys Basketball Team on winning the 1992 State Class A Boys Basketball championship.

Referred to the Committee on Rules and Administration.

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

### INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Merriam, for the Committee on Finance, introduced—

S.F. No. 2788: A bill for an act relating to the organization and operation of state government; providing for programs relating to higher education; environment and natural resources; agriculture, transportation, semi-state, and regulatory agencies; economic and state affairs; health and human services; providing for regulation of certain activities and practices; making fund and account transfers; providing for fees; making grants; appropriating money and reducing earlier appropriations with certain conditions; amending Minnesota Statutes 1990, sections 3.21; 3.736, subdivision 8; 5.09; 5.14; 15.0597, subdivision 4; 16A.15, subdivision 1; 16A.48, subdivision 1; 16B.85, subdivision 5; 17.03, by adding subdivisions; 85A.02, subdivision 17; 85A.04, subdivision 1; 115D.04, subdivision 2; 115D.08; 116J.9673, subdivision 4; 138.56, by adding a subdivision; 144.123, subdivision 2; 147.01, by adding a subdivision; 176.104, subdivision 2, and by adding subdivisions; 176.129, subdivisions 1 and 11; 176.183, subdivision 1; 182.666, subdivision 7; 204B.27, subdivision 2; 204D.11, subdivisions 1 and 2; 237.701, subdivision 1; 246A.12, subdivision 7; 253B.10, subdivision 1; 254B.06, subdivision 3; 256.9655; 256.9695, subdivision 3; 256B.02, by adding subdivisions; 256B.035; 256B.056, by adding a subdivision; 256B.057, by adding a subdivision; 256B.059, subdivision 5; 256B.0595, subdivision 1; 256B.0625, by adding subdivisions; 256B.092, by adding a subdivision; 256B.15, subdivision 2; 256B.19, by adding a subdivision; 256B.431, subdivision 2i, and by adding subdivisions; 256B.48, subdivision 1b, and by adding a subdivision; 256B.501, by adding subdivisions; 256D.02, by adding subdivisions; 256D.03, by adding a subdivision; 256D.05, by adding a subdivision; 256D.051, by adding subdivisions; 256D.06, subdivision 5; 256D.101, by adding a subdivision; 256D.54, subdivision 3; 256E.14; 256H.10, subdivision 1; 256I.04, as amended; 256I.05, subdivision 1; 270.71; 340A.301, subdivision 6; 340A.302, subdivision 3; 340A.315, subdivision 1; 340A.317, subdivision 2; 340A.408, subdivision 4; 345.32; 345.33; 345.34; 345.35; 345.36; 345.37; 345.38; 345.39; 345.42, subdivision 3; 349.161, subdivision 4; 349.163, subdivision 2; 353.27, subdivision 13; 356.65, subdivision 1; 363.071, by adding a subdivision; 363.14, subdivisions 2 and 3; 466.06; 477A.12; 477A.14; and 490.123, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 16A.45, subdivision 1; 16A.723, subdivision 2; 84.0855; 89.37, subdivision 4; 144A.071, subdivision 3; 144A.46, subdivisions 1 and 2; 144A.49; 148.921, subdivision 2; 182.666, subdivision 2; 251.011, subdivision 3; 252.46, subdivision 3; 252.50, subdivision 2; 254B.04, subdivision 1; 256.9656; 256.9657, subdivisions 1, 2, 3, 4, 7, and by adding a subdivision; 256.969, subdivisions 1, 9, and 20; 256B.0625, subdivision 17; 256B.0627, subdivision 5; 256B.0913, subdivisions 4, 5, 12, and 14; 256B.0915, subdivision 3; 256B.0917, subdivision 8; 256B.431, subdivisions 2m 2o, and 3f; 256B.49, subdivision 4;

256B.74, subdivisions 1 and 3; 256D.03, subdivision 3; 256D.05, subdivision 1; 256D.051, subdivisions 1 and 1a; 256H.03, subdivisions 4 and 6; 256H.05, subdivision 1b, and by adding a subdivision; 256I.05, subdivisions 1a, 1b, 2, and 10; 340A.311; 340A.316; 340A.504, subdivision 3; 357.021, subdivision 2; 611.27, subdivision 7; and Laws 1991, chapter 233, section 2, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 84; 115B; 144; 144A; 178; 246; 256; 256B; 256I; 501B; and 514; repealing Minnesota Statutes 1990, sections 3.737; 3.7371; 41A.051; 85.012, subdivision 27a; 211A.04, subdivision 2; 256D.052, as amended; 256D.09, subdivision 3; 256I.05, subdivision 7; 270.185; Minnesota Statutes 1991 Supplement, sections 97A.485, subdivision 1a; 144A.071, subdivision 3a; 256.9657, subdivision 5; 256.969, subdivision 7; 256B.056, subdivision 3a; 256B.74, subdivisions 8 and 9; 256I.05, subdivision 7a; and Laws 1991, chapter 292, article 4, section 77.

Under the Rules of the Senate, laid over one day.

### SUSPENSION OF RULES

Mr. Moe, R.D. moved that the rules of the Senate be so far suspended that S.F. No. 2788 be referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Mr. Bertram introduced—

S.F. No. 2789: A bill for an act relating to motor vehicles; providing for free motor vehicle license plates for former prisoners of war; amending Minnesota Statutes 1990, section 168.125, subdivision 1.

Referred to the Committee on Transportation.

### MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D. moved that H.F. No. 2121 be taken from the table. The motion prevailed.

H.F. No. 2121: A bill for an act relating to education; providing for general education and related revenue, transportation, special programs, other aids, levies, and programs; appropriating money; amending Minnesota Statutes 1990, sections 120.101, subdivision 5; 120.102, subdivision 1; 120.17, subdivisions 3a, 8a, 12, 14, 16, and by adding subdivisions; 121.148, subdivision 3; 121.11, by adding a subdivision; 121.16, subdivision 1; 121.935, by adding subdivisions; 122.22, by adding a subdivision; 122.23, subdivisions 13, 16, and by adding a subdivision; 122.247, subdivision 1; 122.531, subdivisions 1a, 2, 2a, 2b, and 2c; 122.532, subdivision 2; 123.35, by adding a subdivision; 123.3514, subdivisions 6, as amended, as reenacted, 6b, as amended, as reenacted, and by adding a subdivision; 123.39, subdivision 8d; 123.58, by adding a subdivision; 123.744, as amended, as reenacted; 124.243, subdivision 2, and by adding a subdivision; 124.2725, subdivision 13; 124.331, subdivisions 1 and 3; 124.431, by adding a subdivision; 124.493, subdivision 1; 124.494, subdivisions 2, 4, and 5; 124.73, subdivision 1; 124.83, subdivisions 2, 6, and by adding subdivisions; 124.85, subdivision 4; 124A.22, subdivision 2a, and by adding subdivisions; 124A.23, subdivision 3; 124A.26, subdivision 2, and by adding a subdivision; 124C.07; 124C.08, subdivision 2; 124C.09; 124C.61; 125.05, subdivisions 1, 7, and by adding subdivisions; 125.12, by adding a subdivision; 125.17, by adding a subdivision; 126.12, subdivision 2; 126.22,

by adding a subdivision; 127.46; 128A.09, subdivision 2, and by adding a subdivision; 128C.01, subdivision 4; 128C.02, by adding a subdivision; 134.34, subdivision 1, and by adding a subdivision; 136C.69, subdivision 3; 136D.75; 182.666, subdivision 6; 275.125, subdivision 10, and by adding subdivisions; Minnesota Statutes 1991 Supplement, sections 120.062, subdivision 8a; 120.064, subdivision 4; 120.17, subdivisions 3b, 7a, and 11a; 120.181; 121.585, subdivision 3; 121.831; 121.904, subdivisions 4a and 4e; 121.912, subdivision 6; 121.932, subdivisions 2 and 5; 121.935, subdivisions 1 and 6; 122.22, subdivision 9; 122.23, subdivision 2; 122.242, subdivision 9; 122.243, subdivision 2; 122.531, subdivision 4a; 123.3514, subdivisions 4 and 11; 123.702, subdivisions 1, 1a, and 1b; 124.155, subdivision 2; 124.19, subdivisions 1, 1b, and 7; 124.195, subdivision 2; 124.214, subdivisions 2 and 3; 124.2601, subdivision 6; 124.2721, subdivision 3b; 124.2727, subdivision 6, and by adding subdivisions; 124.479; 124.493, subdivision 3; 124.646, subdivision 4; 124.83, subdivision 1; 124.95, subdivisions 1, 2, 3, 4, 5, and by adding a subdivision; 124A.03, subdivisions 1c, 2, 2a, and by adding a subdivision; 124A.23, subdivisions 1 and 4; 124A.24; 124A.26, subdivision 1; 124A.29, subdivision 1; 125.185, subdivisions 4 and 4a; 125.62, subdivision 6; 126.70; 135A.03, subdivision 3a; 136D.22, subdivision 3; 136D.71, subdivision 2; 136D.76, subdivision 2; 136D.82, subdivision 3; 245A.03, subdivision 2; 275.065, subdivision 1; 275.125, subdivisions 6j and 11g; 364.09; and 373.42, subdivision 2; Laws 1990, chapter 366, section 1, subdivision 2; Laws 1991, chapter 265, articles 3, section 39, subdivision 16; 4, section 30, subdivision 11; 5, sections 18, 23, and 24, subdivision 4; 6, sections 64, subdivision 6, 67, subdivision 3, and 68; 7, sections 37, subdivision 6, 41, subdivision 4, and 44; 8, sections 14 and 19, subdivision 6; and 9, sections 75 and 76; proposing coding for new law in Minnesota Statutes, chapters 123; 124; 124C; and 135A; repealing Minnesota Statutes 1990, sections 121.25; 121.26; 121.27; 121.28; 122.23, subdivisions 16a and 16b; 124.274; 125.03, subdivision 5; 128A.022, subdivision 5; 134.34, subdivision 2; 136D.74, subdivision 3; 136D.76, and subdivision 3; Minnesota Statutes 1991 Supplement, sections 121.935, subdivisions 7 and 8; 123.35, subdivision 19; 124.2721, subdivisions 5a and 5b; 124.2727, subdivisions 1, 2, 3, 4, and 5; and 136D.90, subdivision 2; Laws 1990, chapters 562, article 12; 604, article 8, section 12; and 610, article 1, section 7, subdivision 4; and Laws 1991, chapter 265, article 9, section 73.

### SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 2121 and that the rules of the Senate be so far suspended as to give H.F. No. 2121 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 2121 was read the second time.

### RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 1:15 p.m. The motion prevailed.

The hour of 1:15 p.m. having arrived, the President called the Senate to order.

**CALL OF THE SENATE**

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

The question recurred on H.F. No. 2121.

Mr. Dicklich moved to amend H.F. No. 2121 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 2121, and insert the language after the enacting clause, and the title, of S.F. No. 2326, the third engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Dicklich then moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 3, line 24, delete "and"

Page 3, line 25, before the semicolon, insert ", and article 7, sections 10 and 11"

Page 5, line 10, delete "adjusted"

Page 15, line 4, strike the first comma and delete "under" and strike "section 126.70,"

Page 15, line 5, strike "subdivisions 1 and 2a"

Page 16, line 35, delete "\$178,500,000" and insert "\$178,200,000"

Page 37, line 18, strike everything before "an" and insert "fee that is charged to" and after "individual" insert "for the full battery of a GED test"

Page 37, line 19, delete everything after "individual"

Page 37, line 20, delete everything before the period

Page 37, after line 20, insert:

"Sec. 3. Minnesota Statutes 1990, section 275.125, is amended by adding a subdivision to read:

*Subd. 25. [LEVY FOR CERTAIN CHILDREN IN EXTENDED DAY PROGRAMS.] A school district that offers an extended day program according to section 121.88, subdivision 10, may levy for the additional costs of providing services to children with disabilities who participate in the extended day program."*

Renumber the sections of article 4 in sequence

Pages 37 and 38, delete section 1 and insert:

"Section 1. Minnesota Statutes 1990, section 124.243, subdivision 2, is amended to read:

Subd. 2. [CAPITAL EXPENDITURE FACILITIES REVENUE.] Capital expenditure facilities revenue for a district equals the lesser of:

(1) \$130 \$125 times its actual pupil units for the school year; or

(2) the difference between \$400 times the actual pupil units for the school year and. A district's capital expenditure facilities revenue for a school year

*shall be reduced if the unreserved balance in the capital expenditure facilities account on June 30 of the prior school year. For the purpose of determining revenue for the 1989-1990 and the 1990-1991 school years, the unreserved balance in the capital expenditure facilities account on June 30 of the prior school year is zero exceeds \$270 times the fund balance pupil units in the prior year as defined in section 124A.26, subdivision 1. If a district's capital expenditure facilities revenue is reduced, the reduction equals the lesser of (1) the amount that the unreserved balance in the capital expenditure facilities account on June 30 of the prior year exceeds \$270 times the fund balance pupil units in the prior year, or (2) the capital expenditure facilities revenue for that year."*

Page 61, line 4, after the second comma, insert "*special education cooperative,*"

Page 61, line 5, before the comma, insert "*that received a grant for a cooperative secondary facility*"

Page 61, line 26, after "*each*" insert "*member*"

Page 62, line 31, after the period, insert "*However, the provisions of section 122.244 continue to apply after July 1, 1996.*"

Page 70, after line 14, insert:

*"(f) If a school district levies according to this subdivision, it may not also levy according to article 6, section 9, for eligible employees."*

Page 70, line 21, delete "*benefits*" and insert "*expenses*"

Page 70, line 25, delete the second "*the*" and insert "\$300,000."

Page 70, delete lines 26 to 34

Page 70, line 35, before "*the*" insert "*50 percent of*"

Page 76, line 29, before "*The*" insert "*Except for programs operated pursuant to sections 120.59 to 120.67, 124C.27 to 124C.31, and 124C.49,*"

Page 83, after line 10, insert:

"Sec. 14. Minnesota Statutes 1990, section 136C.69, subdivision 3, is amended to read:

Subd. 3. [LEVY.] (a) A member district that has transferred a technical college facility to the joint board may levy upon all taxable property in the member district, the following:

(1) in the first levy certified after the transfer, 75 percent of the amount of the district's most recent service fee allocation;

(2) in the second levy certified after the transfer, 50 percent of the amount of the district's service fee allocation under clause (1); and

(3) in the third levy certified after the transfer, 25 percent of the amount of the district's service fee allocation under clause (1).

(b) The proceeds of the levy may be placed in the general fund or any other fund of the district. Any unexpended portion of the proceeds so received must not be considered in the net undesignated fund balance of the member district for the three fiscal years to which the levy is attributable.

(c) *Notwithstanding section 121.904, 50 percent of the proceeds of this levy shall be recognized in the fiscal year in which it is certified."*

Page 92, line 32, after the period, insert "*The council shall have the power to make grants, from money appropriated to it, to organizations or individuals in order to obtain assistance in conducting the study.*"

Renumber the sections of article 8 in sequence and correct the internal references

Page 105, line 20, before the semicolon, insert "*, if the community has more than .5 percent people of color as determined by the most recent federal census or population estimate by the state demographer*"

Page 110, after line 32, insert:

"*Subd. 9. [EVALUATION.] During fiscal year 1993, the state board shall evaluate the programs provided under this section and report to the legislature by January 15, 1994, on effectiveness of the programs and the grants.*"

Page 113, after line 19, insert:

"Sec. 9. Minnesota Statutes 1990, section 270.101, subdivision 1, is amended to read:

Subdivision 1. [LIABILITY IMPOSED.] A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes, penalties, and interest arising under chapters 296, 297, 297A, ~~and~~ 297C, and 297E, or sections 290.92, 349.212, and 349.2121."

Pages 114 to 117, delete sections 10 to 21 and insert:

"Sec. 11. Minnesota Statutes 1991 Supplement, section 289A.01, is amended to read:

289A.01 [APPLICATION OF CHAPTER.]

This chapter applies to taxes administered by or paid to the commissioner under chapters 290, 290A, 291, ~~and~~ 297A, and 297E, and sections 298.01 and 298.015.

Sec. 12. Minnesota Statutes 1990, section 289A.02, subdivision 5, is amended to read:

Subd. 5. [OTHER WORDS.] Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the same meanings as they are defined in chapters 290, 290A, 291, ~~and~~ 297A, and 297E.

Sec. 13. [289A.13] [FILING REQUIREMENTS FOR SOFT DRINKS TAX RETURNS.]

Subdivision 1. [RETURN REQUIRED.] *For taxes imposed under chapter 297E, a return for the preceding taxable period must be filed with the commissioner in the form the commissioner prescribes. The return must be verified by a written declaration that it is made under the criminal penalties for making a false return, and must contain a confession of judgment for the amount of the tax shown due, to the extent not timely paid.*

Subd. 2. [WHO MUST FILE A RETURN.] *A return must be filed by a wholesaler. A return must also be filed by a person who receives soft drinks from someone other than a wholesaler or retailer. The return must be signed*



by the person filing it or by the person's agent duly authorized in writing.

Sec. 14. Minnesota Statutes 1990, section 289A.18, is amended by adding a subdivision to read:

*Subd. 6. [SOFT DRINKS TAX RETURNS.] The return required to be made under section 289A.13 is due on or before the 20th day of the month following the month in which the tax liability is incurred.*

Sec. 15. Minnesota Statutes 1990, section 289A.19, is amended by adding a subdivision to read:

*Subd. 7. [SOFT DRINKS TAX RETURNS.] Where good cause exists, the commissioner may extend the time for filing soft drinks tax returns up to 60 days.*

Sec. 16. Minnesota Statutes 1990, section 289A.20, is amended by adding a subdivision to read:

*Subd. 6. [SOFT DRINKS TAXES.] Soft drinks taxes are due on or before the 20th day of the month following the month in which the tax liability is incurred.*

Sec. 17. Minnesota Statutes 1990, section 289A.56, subdivision 3, is amended to read:

*Subd. 3. [WITHHOLDING TAX, ENTERTAINER WITHHOLDING TAX, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, ESTATE TAX, AND SALES TAX, AND SOFT DRINKS TAX OVERPAYMENTS.] When a refund is due for overpayments of withholding tax, entertainer withholding tax, withholding from payments to out-of-state contractors, estate tax, ~~or~~ sales tax, or soft drinks tax interest is computed from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.*

Sec. 18. [297E.01] [DEFINITIONS.]

*Subdivision 1. [WORDS, TERMS, AND PHRASES.] The following words, terms, and phrases have the meanings given, except where the context clearly indicates a different meaning.*

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

*Subd. 3. [PERSON.] "Person" includes an individual, partner, officer, director, firm, partnership, joint venture, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trust, business trust, receiver, trustee, syndicate, the United States, the state of Minnesota, any political subdivision of Minnesota, or any other group or combination acting as a unit, and the plural as well as the singular member. Person includes any agent or consignee of an individual or organization listed in this subdivision.*

*Subd. 4. [RELATED RETAILER.] "Related retailer" means any retailer that has any commonality of interest of ownership with the wholesaler, or a retailer that is a party to a franchise agreement with the wholesaler.*

*Subd. 5. [RETAIL OUTLET.] "Retail outlet" means a location in this state at which consumers may purchase soft drinks.*

*Subd. 6. [RETAILER.] "Retailer" means a person who sells soft drinks*

at a retail outlet.

*Subd. 7. [SOFT DRINKS.] (a) "Soft drinks" means carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and nonfermentous bottled water sold in individual containers of one-half gallon or more in size.*

*(b) Soft drinks include each of the component products sold to a retailer which when combined, create a drink defined in paragraph (a).*

*Subd. 8. [WHOLESALE PRICE.] "Wholesale price" means the gross sales price charged by the wholesaler, not including the tax imposed by this chapter. No deduction for discounts or any other item is allowed in determining wholesale price, except that a deduction is allowed for transportation charges from the wholesaler's location to the retailer's location if the transportation charges are separately stated. When the wholesaler sells to a related retailer, "wholesale price" means the higher of the amount invoiced to the retailer, or the amount paid by the wholesaler for the soft drinks.*

*Subd. 9. [WHOLESALE PRICE.] "Wholesaler" means any person subject to tax under chapter 290 who sells or otherwise furnishes for resale purposes, from a stock maintained inside or outside the state, soft drinks to one or more retailers or consumers within the state. Wholesaler includes a manufacturer of soft drinks who sells soft drinks directly to retailers or consumers.*

#### **Sec. 19. [297E.02] [TAX IMPOSED.]**

*Subdivision 1. [WHOLESALE TAX.] Until June 30, 1994, or until terminated earlier according to this section, a tax equal to five percent of the wholesale price is imposed on the sale or transfer of soft drinks by a wholesaler. The tax is payable by the wholesaler in the manner and at the times provided in chapter 289A. Liability for the tax is incurred when soft drinks are shipped or delivered to a retail outlet, to a retailer for sale at a retail outlet, or to another person for resale or use in this state, or when the soft drinks are received by the customer's authorized representative at the wholesaler's place of business in this state.*

*Subd. 2. [USE TAX.] Until June 30, 1994, or until terminated earlier according to this section, a person that receives soft drinks for resale or use in Minnesota, other than from a wholesaler that paid the tax under subdivision 1 as evidenced by a soft drinks tax identification number appearing on the invoice or from a retailer, is subject to a tax equal to five percent of the wholesale price. The tax is payable in the manner and at the times provided in chapter 289A. Liability for the tax is incurred when soft drinks are received by the person.*

*Subd. 3. [1992 CERTIFICATION.] By July 1, 1992, the commissioner of education shall certify to the commissioner of revenue that the commissioner of education will:*

*(1) make aid payments to school districts as required by section 124.2615 according to the provisions of section 31 of this article; or*

*(2) either not make such aid payments or will make aid payments only according to the provisions of Laws 1991, chapter 265, article 7, section 42, subdivision 2.*

*If the commissioner of education certifies the circumstances of clause*

(2), the commissioner of revenue shall not impose the tax in this chapter.

*Subd. 4. [1993 CERTIFICATION.] This subdivision applies only if the commissioner of revenue imposes and collects the tax in this chapter pursuant to subdivision 3. By July 1, 1993, the commissioner of education shall certify to the commissioner of revenue that the commissioner of education will make aid payments to school districts as required by section 124.2615 and that the source of money for the aid payments is:*

*(1) the general fund; or*

*(2) the early learning and violence prevention account in the special revenue fund.*

*If the commissioner of education certifies the circumstances of clause (1), the commissioner of revenue shall not thereafter impose the tax in this chapter.*

*Subd. 5. [DURATION OF TAX.] The commissioner of revenue shall impose the tax in this chapter until June 30, 1994, unless terminated earlier according to this section.*

**Sec. 20. [297E.03] [TAX PERMIT.]**

*Subdivision 1. [REQUIREMENT.] Every wholesaler must file with the commissioner an application, on a form the commissioner prescribes, for a soft drinks tax identification number and soft drinks tax permit. A permit is not assignable and is valid only for the wholesaler in whose name it is issued.*

*Subd. 2. [INCLUSION ON INVOICE.] The wholesaler's soft drinks tax identification number must be included on every invoice for soft drinks sent to a Minnesota retailer or consumer.*

**Sec. 21. [297E.04] [DEPOSIT OF FUNDS.]**

*The commissioner shall deposit all tax, penalties, and interest collected under this chapter in the early learning and violence protection account in the special revenue fund."*

Page 121, line 1, delete "\$2,700,000)" and insert "\$2,968,200)"

Renumber the sections of article 11 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

### CALL OF THE SENATE

Mr. Dicklich imposed a call of the Senate for the balance of the proceedings on H.F. No. 2121. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Finn moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 39, after line 21, insert:

"Sec. 4. Minnesota Statutes 1991 Supplement, section 124.479, is amended to read:

124.479 [BOND ISSUE; MAXIMUM EFFORT SCHOOL LOANS, 1991.]

To provide money to be loaned to school districts as agencies and political subdivisions of the state to acquire and to better public land and buildings and other public improvements of a capital nature, in the manner provided by the maximum effort school aid law, the commissioner of finance shall issue and sell school loan bonds of the state of Minnesota in the maximum amount of \$45,065,000, in addition to the bonds already authorized for this purpose. The same amount is appropriated to the maximum effort school loan fund and must be spent under the direction of the commissioner of education to make debt service loans and capital loans to school districts as provided in sections 124.36 to 124.47. The bonds must be issued and sold and provision for their payment must be made according to section 124.46. Expenses incidental to the sale, printing, execution, and delivery of the bonds, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for those purposes, must be paid from the maximum effort school loan fund, and the money necessary for the expenses is appropriated from that fund.

~~No bonds may be sold or issued under this section until all bonds authorized by Laws 1990, chapter 610, sections 2 to 7, are sold and issued and the authorized project contracts have been initiated or abandoned."~~

Renumber the sections of article 5 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Laidig moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 105, after line 24, insert:

*"(9) a mental health professional person, employed by or according to a contract with the school district, including a psychologist, counselor, social worker, or a nurse;"*

Renumber the clauses in sequence

The motion prevailed. So the amendment was adopted.

Mr. Neuville moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 93, delete section 25

Renumber the sections of article 8 in sequence and correct the internal references

The motion prevailed. So the amendment was adopted.

Ms. Reichgott moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 34, delete section 10

Renumber the sections of article 3 in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Mehrkens moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 93, after line 27, insert:

“Sec. 24. [RULES PROHIBITED.]

*Notwithstanding Minnesota Statutes, section 121.11, subdivision 12, or any law to the contrary, the state board of education may not adopt rules requiring school districts to implement outcome-based education.”*

Renumber the sections of article 8 in sequence and correct the internal references

The motion prevailed. So the amendment was adopted.

Mr. Benson, D.D. moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 93, after line 35, insert:

“Sec. 26. [STATE BOARD OF EDUCATION.]

*Subdivision 1. [OUTCOME-BASED EDUCATION RULE.] The state board of education must not adopt a rule requiring school districts to implement a system of outcome-based education instructional practices.*

*Subd. 2. [GRADUATION LEARNER OUTCOME RULE.] The state board of education shall adopt a rule establishing a set of concise performance-based measures of student academic achievement levels that must be met by students who wish to receive a Minnesota high school diploma. Specific performance-based measures of academic achievement must be established for the core subject areas of mathematics, science, reading, writing, history, and geography. Local school boards are expected to adopt graduation standards in other subject areas, as well as standards in the core subject areas that exceed those established by the state.*

*The graduation learner outcome rule must be phased in to apply fully to high school students graduating at the end of the 1997-1998 school year.*

*Subd. 3. [WAIVERS FROM STATE MANDATES.] Beginning with the 1993-1994 school year, the state board of education shall grant school districts a waiver from any rule for which a waiver is requested except for rules governing health and safety, and special education.”*

Page 94, line 7, after the period, insert “Section 26 is effective the day following final enactment.”

Renumber the sections of article 8 in sequence and correct the internal references

Mr. Price requested division of the amendment as follows:

First portion:

Page 93, after line 35, insert:

"Sec. 26. [STATE BOARD OF EDUCATION.]

*Beginning with the 1993-1994 school year, the state board of education shall grant school districts a waiver from any rule for which a waiver is requested except for rules governing health and safety, and special education."*

Page 94, line 7, after the period, insert "Section 26 is effective the day following final enactment."

Renumber the sections of article 8 in sequence and correct the internal references

Second portion:

Page 93, after line 35, insert:

"Sec. 26. [STATE BOARD OF EDUCATION.]

*Subdivision 1. [OUTCOME-BASED EDUCATION RULE.] The state board of education must not adopt a rule requiring school districts to implement a system of outcome-based education instructional practices.*

*Subd. 2. [GRADUATION LEARNER OUTCOME RULE.] The state board of education shall adopt a rule establishing a set of concise performance-based measures of student academic achievement levels that must be met by students who wish to receive a Minnesota high school diploma. Specific performance-based measures of academic achievement must be established for the core subject areas of mathematics, science, reading, writing, history, and geography. Local school boards are expected to adopt graduation standards in other subject areas, as well as standards in the core subject areas that exceed those established by the state.*

*The graduation learner outcome rule must be phased in to apply fully to high school students graduating at the end of the 1997-1998 school year."*

Page 94, line 7, after the period, insert "Section 26 is effective the day following final enactment."

Renumber the sections of article 8 in sequence and correct the internal references

The question was taken on the adoption of the first portion of the Benson, D.D. amendment. The motion did not prevail. So the first portion of the amendment was not adopted.

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

The roll was called, and there were yeas 40 and nays 22, as follows:

Those who voted in the affirmative were:

Adkins	Brataas	Gustafson	Lessard	Price
Belanger	Chmielewski	Halberg	McGowan	Renneke
Benson, D.D.	Cohen	Hottinger	Mehrkens	Riveness
Benson, J.E.	Davis	Johnson, D.E.	Morse	Sams
Berg	Day	Johnston	Neuville	Stumpf
Berglin	Flynn	Knaak	Novak	Terwilliger
Bernhagen	Frank	Langseth	Olson	Vickerman
Bertram	Frederickson, D.R.	Larson	Pariseau	Waldorf

Those who voted in the negative were:

Dahl	Hughes	Laidig	Piper	Spear
DeCramer	Johnson, D.J.	Luther	Pogemiller	Traub
Dicklich	Johnson, J.B.	Merriam	Ranum	
Finn	Kelly	Mondale	Reichgott	
Frederickson, D.J.	Kroening	Pappas	Samuelson	

The motion prevailed. So the second portion of the amendment was

adopted.

Mr. Mehrkens moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Pages 10 and 11, delete section 11

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

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

Mr. Bertram moved to amend the second Dicklich amendment to H.F. No. 2121, adopted by the Senate April 6, 1992, as follows:

Page 4, line 13, delete from "and" through page 8, line 35, to "*fund.*"

Mr. Dicklich moved to amend the Bertram amendment to H.F. No. 2121 as follows:

Page 1, after line 4, insert:

"Pages 105 and 106, delete section 2

Pages 107 to 110, delete sections 4 and 5

Page 119, delete sections 23 and 24

Page 120, delete section 26

Page 122, delete section 31"

Mr. Bertram questioned whether the amendment was germane.

The President ruled that the amendment was germane.

Mr. Halberg appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 43 and nays 23, as follows:

Those who voted in the affirmative were:

Beckman	Finn	Kroening	Morse	Riveness
Berg	Flynn	Langseth	Novak	Sams
Berglin	Frank	Lessard	Pappas	Samuelson
Chmielewski	Frederickson, D.J.	Luther	Piper	Spear
Cohen	Hottinger	Marty	Pogemiller	Stumpf
Dahl	Hughes	Merriam	Price	Traub
Davis	Johnson, D.J.	Metzen	Ranum	Vickerman
DeCramer	Johnson, J.B.	Moe, R.D.	Reichgott	
Dicklich	Kelly	Mondale	Renneke	

Those who voted in the negative were:

Adkins	Bertram	Halberg	Larson	Pariseau
Belanger	Brataas	Johnson, D.E.	McGowan	Terwilliger
Benson, D.D.	Day	Johnston	Mehrkens	Waldorf
Benson, J.E.	Frederickson, D.R.	Knaak	Neuville	
Bernhagen	Gustafson	Laidig	Olson	

The decision of the President was sustained.

The question recurred on the adoption of the Dicklich amendment to the

Bertram amendment.

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

Those who voted in the affirmative were:

Beckman	Flynn	Langseth	Pappas	Samuelson
Berglin	Frederickson, D.J.	Luther	Piper	Spear
Chmielewski	Hughes	Marty	Pogemiller	Stumpf
Cohen	Johnson, D.J.	Merriam	Price	Traub
Dahl	Johnson, J.B.	Moe, R.D.	Ranum	Vickerman
DeCramer	Kelly	Mondale	Reichgott	
Dicklich	Kroening	Morse	Rivenness	

Those who voted in the negative were:

Adkins	Brataas	Halberg	Lessard	Pariseau
Belanger	Davis	Hottinger	McGowan	Renneke
Benson, D.D.	Day	Johnson, D.E.	Mehrkens	Sams
Benson, J.E.	Finn	Johnston	Metzen	Terwilliger
Berg	Frank	Knaak	Neuville	Waldorf
Bernhagen	Frederickson, D.R.	Laidig	Novak	
Bertram	Gustafson	Larson	Olson	

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

The question recurred on the adoption of the Bertram amendment to the second Dicklich amendment.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Halberg	McGowan	Sams
Beckman	Brataas	Johnson, D.E.	Mehrkens	Samuelson
Belanger	Davis	Johnston	Neuville	Terwilliger
Benson, D.D.	Day	Knaak	Novak	Vickerman
Benson, J.E.	Finn	Laidig	Olson	
Berg	Frank	Larson	Pariseau	
Bernhagen	Gustafson	Lessard	Renneke	

Those who voted in the negative were:

Berglin	Frederickson, D.J.	Kroening	Mondale	Reichgott
Chmielewski	Frederickson, D.R.	Langseth	Morse	Rivenness
Cohen	Hottinger	Luther	Pappas	Spear
Dahl	Hughes	Marty	Piper	Stumpf
DeCramer	Johnson, D.J.	Merriam	Pogemiller	Traub
Dicklich	Johnson, J.B.	Metzen	Price	Waldorf
Flynn	Kelly	Moe, R.D.	Ranum	

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

Mr. Halberg moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 123, line 2, delete "1992" and insert "1993"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 38, as follows:

Those who voted in the affirmative were:



Beckman	Bertram	Gustafson	Laidig	Olson
Belanger	Brataas	Halberg	Larson	Pariseau
Benson, D.D.	Davis	Johnson, D.E.	McGowan	Renneke
Benson, J.E.	Day	Johnston	Mehrkens	Terwilliger
Bernhagen	Frank	Knaak	Neuville	Waldorf

Those who voted in the negative were:

Adkins	Finn	Kroening	Mondale	Riveness
Berg	Flynn	Langseth	Morse	Sams
Berglin	Frederickson, D.J.	Lessard	Pappas	Samuelson
Chmielewski	Frederickson, D.R.	Luther	Piper	Spear
Cohen	Hottinger	Marty	Pogemiller	Traub
Dahl	Hughes	Merriam	Price	Vickerman
DeCramer	Johnson, D.J.	Metzen	Ranum	
Dicklich	Johnson, J.B.	Moe, R.D.	Reichgott	

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

Mr. McGowan moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 113, line 32, strike everything after "district"

Page 113, strike lines 33 and 34

Page 113, line 35, strike "district's middle and secondary schools" and delete "and" and strike "(2)"

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

Mr. Mehrkens moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 76, line 29, delete the new language

Page 76, delete lines 30 to 33 and insert "*Additional transportation costs resulting from schedule adjustments approved under this subdivision, as determined by generally accepted accounting principles, shall not be authorized for transportation aid according to section 124.225 or for transportation levies according to section 275.125, subdivision 5, 5a, 5b, 5c, 5e, 5f, 5g, or 5h.*"

The motion prevailed. So the amendment was adopted.

Mr. Bertram moved to amend the second Dicklich amendment to H.F. No. 2121, adopted by the Senate April 6, 1992, as follows:

Page 7, lines 11 and 22, delete "1994" and insert "1993"

Page 8, delete lines 7 to 19

Page 8, line 21, delete "1994" and insert "1993"

Renumber the subdivisions in sequence

The question was taken on the adoption of the Bertram amendment to the second Dicklich amendment.

The roll was called, and there were yeas 25 and nays 34, as follows:

Those who voted in the affirmative were:

Belanger	Brataas	Gustafson	Laidig	Pariseau
Benson, D.D.	Davis	Halberg	McGowan	Renneke
Benson, J.E.	Day	Johnson, D.E.	Mehrkens	Sams
Berg	Finn	Johnston	Novak	Stumpf
Bertram	Frank	Knaak	Olson	Terwilliger

Those who voted in the negative were:

Adkins	Flynn	Langseth	Morse	Reichgott
Beckman	Frederickson, D.J.	Luther	Neuville	Riveness
Chmielewski	Frederickson, D.R.	Marty	Pappas	Samuelson
Cohen	Hottinger	Merriam	Piper	Spear
Dahl	Johnson, D.J.	Metzen	Pogemiller	Traub
DeCramer	Johnson, J.B.	Moe, R.D.	Price	Vickerman
Dicklich	Kroening	Mondale	Ranum	

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

Mr. Gustafson moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 45, line 11, delete "*two-thirds majority*" and insert "*a unanimous*"

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

Mr. Gustafson then moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 45, line 11, delete "*two-thirds majority vote*" and insert "*eight votes*"

Mr. Johnson, D.J. moved to amend the second Gustafson amendment to H.F. No. 2121 as follows:

Page 1, line 6, delete "*eight votes*" and insert "*two-thirds majority plus one vote*"

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

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

Mrs. Benson, J.E. moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Pages 105 and 106, delete section 2 and insert:

"Sec. 2. [121.881] [COMMUNITY VIOLENCE PREVENTION COUNCILS.]

(a) *Each school board, township, city, or county may establish at least one community violence prevention council. The membership may consist of representatives of any of the following:*

- (1) *school districts within the township, city, or county;*
- (2) *members of the clergy;*
- (3) *the business community;*

- (4) *civic leaders;*
- (5) *people of color;*
- (6) *local elected officials;*
- (7) *law enforcement officials;*
- (8) *county social workers;*
- (9) *crime and abuse victim advocates;*
- (10) *the legal system;*
- (11) *young people; and*
- (12) *other individuals involved in violence prevention.*

*(b) The community violence prevention council shall identify community needs and community resources for violence prevention and develop a plan to address the needs of the community. The community violence prevention council may apply for community violence prevention revenue according to section 4 by submitting an application to the office for a violence-free Minnesota, containing a description of the services to be provided and the procedures to be used to coordinate public and private resources to maximize the use of existing community resources and community violence prevention revenue. The services to be provided or coordinated may include the following:*

- (1) a community violence hotline;*
- (2) public forums;*
- (3) public service messages involving newspapers, radio, and television;*
- (4) a speakers bureau;*
- (5) billboard or other means of communication; and*
- (6) other programs meeting the criteria of the office for a violence-free Minnesota and the department of education to carry out violence prevention activities in the community.*

*(c) The council may receive gifts and donations from public and private sources for violence prevention programs."*

Pages 107 to 110, delete sections 4 and 5 and insert:

"Sec. 4. [124.2717] [COMMUNITY VIOLENCE PREVENTION GRANTS.]

*Subdivision 1. [ELIGIBILITY.] A community violence prevention council is eligible for a community violence prevention grant if it has a plan approved by the office for a violence-free Minnesota.*

*Subd. 2. [GRANTS FOR COMMUNITY VIOLENCE PREVENTION.] A council shall receive a grant of up to \$25,000 from the office for a violence-free Minnesota if the council's plan is approved by the office.*

*Subd. 3. [PEOPLE TO BE SERVED AND PROGRAM DURATION.] The grant application shall state the expected number of people to be served by the program and the expected duration of the program.*

*Subd. 4. [COORDINATION WITH OTHER ORGANIZATIONS.] A community violence prevention council may submit a grant application that includes the involvement of, and coordination with, nonprofit agencies,*

*nonpublic schools, or regional foundations.*

*Subd. 5. [USE OF REVENUE.] Community violence prevention grants shall be used for community violence prevention programs as set forth in the approved application.*

**Sec. 5. [126.77] [NONVIOLENT CONFLICT RESOLUTION.]**

*Subdivision 1. [VIOLENCE PREVENTION PROGRAM.] (a) The assistant commissioner appointed to the office for a violence-free Minnesota, in consultation with the commissioners of education, health, and human services, shall assist districts on request in developing and implementing a violence prevention program for students in kindergarten to grade 12. The purpose of the program is to help students learn how to resolve conflicts within their families and communities in nonviolent, effective ways.*

*(b) Each district is encouraged to have a program for nonviolent conflict resolution that is recommended to include:*

*(1) a culturally specific comprehensive, accurate, and age appropriate curriculum that promotes equality, respect, understanding, effective communication, individual responsibility, thoughtful decision making, positive conflict resolution, useful coping skills, critical thinking, listening and watching skills, and personal safety;*

*(2) culturally specific planning materials, guidelines, and other accurate information on preventing violence that can be readily integrated into the curriculum;*

*(3) collaboration among districts and ECSUs;*

*(4) involvement of parents and other community members; and*

*(5) collaboration with local community services, agencies, and organizations that assist in violence intervention or prevention, including family-based services, crises services, life management skills services, case coordination services, mental health services, and early intervention services.*

*(c) The office for a violence-free Minnesota may provide assistance at a neutral site to a nonpublic school participating in a district's program.*

*Subd. 2. [IN-SERVICE EDUCATION PROGRAMS.] Each district is encouraged to provide education programs for district staff and school board members to help students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways. The in-service education programs should be ongoing and involve experts familiar with domestic violence and personal safety issues."*

Pages 114 to 117, delete sections 10 to 21 and insert:

**"Sec. 10. [299A.50] [OFFICE FOR A VIOLENCE-FREE MINNESOTA.]**

*Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] The office for a violence-free Minnesota is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees. The assistant commissioner shall work to prevent and reduce violence in the family and in the community by helping to provide opportunities for individuals to learn to resolve conflicts in effective, non-violent ways.*

*Subd. 2. [DUTIES.] (a) The assistant commissioner shall award grants according to section 4 and shall gather, and make available throughout the state information, educational materials, and curriculum on preventing and reducing violence in the family and in the community. The assistant commissioner shall foster collaboration among state and local agencies, public and nonpublic schools, community service providers, and local organizations that assist in violence prevention or intervention, including family-based services, crises services, life management skills services, case coordination services, mental health services, and early intervention services. The assistant commissioner shall assist agencies, schools, service providers, and organizations with in-service education programs and other programs designed to educate individuals about violence and reinforce values which contribute to ending violence.*

*(b) The commissioner shall:*

*(1) after consulting with all state agencies involved in preventing or reducing violence within the family or community, develop a state strategy for preventing and reducing violence that encompasses the efforts of those state agencies and takes into account all money available for preventing or reducing violence, from any source;*

*(2) submit the strategy to the governor and the legislature by January 15 of each calendar year, along with a concise summary of activities occurring during the previous year to prevent or reduce violence within the family or community;*

*(3) assist appropriate professional and occupational organizations, including organizations of educators and service providers, in developing and operating informational and educational programs to improve the effectiveness of activities to prevent or reduce violence within the family or community;*

*(4) provide information, educational materials, and assistance to state and local agencies, schools, service providers, and organizations, both directly and by serving as a clearinghouse for information from agencies, schools, service providers, and organizations;*

*(5) facilitate collaboration among state and local agencies, schools, service providers and organizations that assist in violence prevention or intervention; and*

*(6) develop, in consultation with the departments of education, health, and human services, a violence prevention curriculum under section 126.77 for students in kindergarten to grade 12 that teaches children to resolve conflicts within the family and community in nonviolent, effective ways.*

*Subd. 3. [VIOLENCE-FREE MINNESOTA WEEK.] (a) The governor is encouraged to annually designate one week as violence-free Minnesota week. During that week there may be special observances throughout the state emphasizing the importance of resolving conflicts within the family and community in effective, nonviolent ways. Schools are encouraged to devote time to appropriate instruction in identifying and exploring violence in the family and community.*

*(b) The assistant commissioner shall encourage, and assist upon request, the observance of violence-free Minnesota week by any school, group, or association.*

(c) *Each year during violence-free Minnesota week, the assistant commissioner shall award an annual "Minnesota Peace Prize" to the individual, agency, school, service provider, or organization that best advances the state's strategy for preventing and reducing violence.*

(d) *The governor shall in any way considered necessary encourage the observance of violence-free Minnesota week and shall by proclamation call the public's attention to the importance of resolving conflicts within the family and community in effective, nonviolent ways."*

Pages 119 and 120, delete sections 23 and 24

Page 120, delete section 26 and insert:

"Sec. 13. [COMPLEMENT.]

*The complement of the department of public safety is increased by two for the office for a violence-free Minnesota."*

Page 122, lines 7 and 12, delete "*and violence prevention*"

Page 122, line 14, delete "VIOLENCE PREVENTION PROGRAM AID AND GRANTS AND"

Page 122, delete line 16

Page 122, line 17, delete "*grants, and*"

Page 122, delete lines 19 to 21

Page 122, delete lines 24 to 27

Page 122, line 29, delete "*and violence*"

Page 122, line 30, delete "*prevention*"

Page 122, after line 32, insert:

"Sec. 19. [APPROPRIATION.]

*There is appropriated from the general fund to the department of public safety, \$355,000 for fiscal year 1993 to perform the duties of the office for a violence-free Minnesota.*

*Of this amount, not less than \$145,000 is for grants to community violence prevention councils. Of this amount, up to \$20,000 is to conduct the survey of school districts required in this article."*

Pages 122 and 123, delete section 33

Renumber the sections of article 11 in sequence and correct the internal references

Amend the title accordingly

Mrs. Benson, J.E. then moved to amend the Benson, J.E. amendment to H.F. No. 2121 as follows:

Page 6, line 21, delete "\$355,000" and insert "\$500,000"

Page 6, line 23, delete "\$145,000" and insert "\$290,000"

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

The question was taken on the adoption of the amendment, as amended.

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

Those who voted in the affirmative were:

Adkins	Bertram	Johnston	McGowan	Terwilliger
Belanger	Davis	Knaak	Mehrrens	Waldorf
Benson, D.D.	Day	Laidig	Neuville	
Benson, J.E.	Gustafson	Langseth	Olson	
Berg	Halberg	Larson	Pariseau	
Bernhagen	Johnson, D.E.	Lessard	Stumpf	

Those who voted in the negative were:

Beckman	Flynn	Kroening	Pappas	Samuelson
Berglin	Frank	Luther	Piper	Spear
Chmielewski	Frederickson, D.J.	Marty	Pogemiller	Traub
Cohen	Hottinger	Merriam	Price	Vickerman
Dahl	Hughes	Metzen	Ranum	
DeCramer	Johnson, D.J.	Mondale	Reichgott	
Dicklich	Johnson, J.B.	Morse	Riveness	
Finn	Kelly	Novak	Sams	

The motion did not prevail. So the amendment, as amended, was not adopted.

Mr. DeCramer moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 110, line 6, delete "and" and insert:

*"(3) establishment of adolescent health care centers to coordinate with existing health care services in the community and to promote a comprehensive health care program for pupils of all ages; and"*

Page 110, line 7, delete "(3)" and insert "(4)"

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

Berglin	Flynn	Marty	Piper	Spear
Brataas	Frederickson, D.J.	Moe, R.D.	Pogemiller	Traub
Cohen	Hottinger	Mondale	Price	
DeCramer	Johnson, J.B.	Morse	Ranum	
Dicklich	Kelly	Novak	Reichgott	
Finn	Luther	Pappas	Riveness	

Those who voted in the negative were:

Adkins	Chmielewski	Johnson, D.J.	McGowan	Sams
Beckman	Dahl	Johnston	Mehrrens	Samuelson
Belanger	Davis	Knaak	Merriam	Stumpf
Benson, D.D.	Day	Kroening	Metzen	Vickerman
Benson, J.E.	Frank	Laidig	Neuville	Waldorf
Berg	Frederickson, D.R.	Langseth	Olson	
Bernhagen	Halberg	Larson	Pariseau	
Bertram	Johnson, D.E.	Lessard	Renneke	

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

Mr. Knaak moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Pages 43 and 44, delete section 10

Renumber the sections of article 5 in sequence and correct the internal

## references

Amend the title accordingly

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

Mr. McGowan moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Pages 39 to 41, delete sections 5 and 6 and insert:

"Sec. 5. Minnesota Statutes 1991 Supplement, section 124.95, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the required debt service levy of a district is defined as follows:

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations, *excluding obligations under section 124.2445*, of the district *for eligible projects according to subdivision 2*, including the amounts necessary for repayment of energy loans according to section 216C.37 *or sections 298.292 to 298.298*, debt service loans and capital loans, minus

(2) the amount of ~~any surplus remaining in the debt service fund when the obligations and interest on them have been paid~~ *debt service excess for that school year calculated according to the procedure established by the commissioner.*

Sec. 6. Minnesota Statutes 1991 Supplement, section 124.95, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] ~~To be eligible for debt service equalization revenue, the following conditions must be met~~ *The following portions of a district's debt service levy qualify for debt service equalization:*

(1) ~~the required debt service levy of a district must exceed the amount raised by a level of eight percent times the adjusted net tax capacity of the district debt service for repayment of principal and interest on bonds issued before July 2, 1992;~~

(2) *debt service for bonds issued before July 2, 1992, and refinanced after July 1, 1992, if the bond schedule has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule; and*

(3) *debt service for bond issues approved after July 1, 1990 1992, the for construction project must projects that have received a positive review and comment according to section 121.15; if*

(3) ~~the commissioner has determined that the district has met the criteria under section 124.431, subdivision 2, for new projects; and~~

(4) *except that the district may serve, on average, at least 66 pupils per grade, and if the bond schedule must be has been approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule.*

Sec. 7. Minnesota Statutes 1991 Supplement, section 124.95, is amended by adding a subdivision to read:



*Subd. 2a. [NOTIFICATION.] A district eligible for debt service equalization revenue under subdivision 2 must notify the commissioner of the amount of its intended debt service levy calculated under subdivision 1 for all bonds sold prior to the notification by July 1 of the calendar year the levy is certified.*

Sec. 8. Minnesota Statutes 1991 Supplement, section 124.95, subdivision 3, is amended to read:

Subd. 3. [DEBT SERVICE EQUALIZATION REVENUE.] (a) For fiscal years 1995 and later, the debt service equalization revenue of a district equals the required debt service levy minus the amount raised by a levy of ~~42~~ *ten* percent times the adjusted net tax capacity of the district.

(b) For fiscal year 1993, debt service equalization revenue equals one-third of the amount calculated in paragraph (a).

(c) For fiscal year 1994, debt service equalization revenue equals two-thirds of the amount calculated in paragraph (a).

Sec. 9. Minnesota Statutes 1991 Supplement, section 124.95, subdivision 4, is amended to read:

Subd. 4. [EQUALIZED DEBT SERVICE LEVY.] To obtain debt service equalization revenue, a district must levy an amount not to exceed the district's debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the year to ~~which the levy is attributable~~ *prior to the year the levy is certified; or* to

(2) *50 percent of the equalizing factor as defined in section 124A.02, subdivision 8, for the year to which the levy is attributable.*

Sec. 10. Minnesota Statutes 1991 Supplement, section 124.95, subdivision 5, is amended to read:

Subd. 5. [DEBT SERVICE EQUALIZATION AID.] A district's debt service equalization aid is the difference between the debt service equalization revenue and the equalized debt service levy. ~~A district's debt service equalization aid must not be prorated.~~ *If the amount of debt service equalization aid actually appropriated for the fiscal year in which this calculation is made is insufficient to fully fund debt service equalization aid, the commissioner shall prorate the amount of aid across all eligible districts.*

Sec. 11. [124.9601] [DEBT SERVICE APPROPRIATION.]

*\$7,000,000 is appropriated in fiscal year 1993 from the general fund to the commissioner of education for payment of debt service equalization aid under section 124.95. \$14,000,000 in fiscal year 1994 and \$21,000,000 in fiscal year 1995 and each year thereafter is appropriated from the general fund to the commissioner of education for payment of debt service equalization aid under section 124.95. These amounts must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund."*

Renumber the sections of article 5 in sequence and correct the internal references

Amend the title accordingly

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

Mr. Knaak moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 40, line 35, delete "66" and insert "100"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 10 and nays 45, as follows:

Those who voted in the affirmative were:

Belanger	Johnston	Kroening	Merriam	Pariseau
Brataas	Knaak	McGowan	Novak	Terwilliger

Those who voted in the negative were:

Adkins	Dicklich	Johnson, D.E.	Mehrrens	Reichgott
Beckman	Finn	Johnson, D.J.	Metzen	Renneke
Benson, J.E.	Flynn	Johnson, J.B.	Moe, R.D.	Riveness
Berg	Frank	Laidig	Mondale	Sams
Bernhagen	Frederickson, D.J.	Langseth	Morse	Samuelson
Bertram	Frederickson, D.R.	Larson	Neuville	Spear
Chmielewski	Halberg	Lessard	Pappas	Stumpf
Cohen	Hottinger	Luther	Price	Traub
Davis	Hughes	Marty	Ranum	Vickerman

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

Mr. Knaak then moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 40, line 32, delete "The"

Page 40, delete lines 33 to 36

Page 41, delete lines 1 to 3

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

Mrs. Benson, J.E. moved to amend H.F. No. 2121, as amended by the Senate April 6, 1992, as follows:

(The text of the amended House File is identical to S.F. No. 2326.)

Page 37, after line 20, insert:

"Sec. 3. Minnesota Statutes 1991 Supplement, section 124.2711, subdivision 1, is amended to read:

Subdivision 1. [REVENUE.] The revenue for early childhood family education programs for a school district is the amount of revenue earned by multiplying \$96.50 for fiscal year 1992 or ~~\$401.25~~ \$119.75 for fiscal year 1993 times the greater of:

(1) 150; or

(2) the number of people under five years of age residing in the school district on September 1 of the last school year."

Renumber the sections of article 4 in sequence and correct the internal references

Page 122, line 14, delete the second "AND"

Page 122, line 15, delete everything before the period

Page 122, line 16, delete the comma and insert "and"

Page 122, line 17, delete ". and learning readiness program aid"

Page 122, line 18, delete "\$28,975,000" and insert "\$4,975,000"

Page 122, delete lines 22 and 23

Page 122, after line 27, insert:

"Subd. 4. [HEAD START.] *To the department of jobs and training for head start programs:*

\$19,000,000 . . . . . 1993

Subd. 5. [EARLY CHILDHOOD FAMILY EDUCATION.] *To the department of education for additional money for early childhood family education programs:*

\$5,000,000 . . . . . 1993"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 32, as follows:

Those who voted in the affirmative were:

Belanger	Brataas	Johnson, D.E.	McGowan	Renneke
Benson, D.D.	Davis	Johnston	Mehrkens	Sams
Benson, J.E.	Day	Knaak	Merriam	Stumpf
Berg	Frederickson, D.R.	Laidig	Neuville	Terwilliger
Bernhagen	Gustafson	Langseth	Olson	Vickerman
Bertram	Halberg	Larson	Pariseau	

Those who voted in the negative were:

Adkins	Finn	Johnson, J.B.	Mondale	Riveness
Beckman	Flynn	Kroening	Morse	Samuelson
Berglin	Frank	Lessard	Novak	Spear
Cohen	Frederickson, D.J.	Luther	Pappas	Traub
Dahl	Hottinger	Marty	Price	
DeCramer	Hughes	Metzen	Ranum	
Dicklich	Johnson, D.J.	Moe, R.D.	Reichgott	

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

H.F. No. 2121 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 47 and nays 19, as follows:

Those who voted in the affirmative were:

Beckman	Flynn	Kroening	Morse	Samuelson
Benson, D.D.	Frank	Laidig	Novak	Solon
Berglin	Frederickson, D.J.	Langseth	Pappas	Spear
Brataas	Frederickson, D.R.	Lessard	Piper	Stumpf
Cohen	Hottinger	Luther	Pogemiller	Traub
Dahl	Hughes	Marty	Price	Vickerman
Davis	Johnson, D.E.	Merriam	Ranum	Waldorf
DeCramer	Johnson, D.J.	Metzen	Reichgott	
Dicklich	Johnson, J.B.	Moe, R.D.	Riveness	
Finn	Kelly	Mondale	Sams	

Those who voted in the negative were:

Adkins  
Belanger  
Benson, J.E.  
Berg

Bernhagen  
Bertram  
Day  
Gustafson

Halberg  
Johnston  
Knaak  
Larson

McGowan  
Mehrkens  
Neuville  
Olson

Pariseau  
Renneke  
Terwilliger

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Dicklich moved that S.F. No. 2326, No. 70 on General Orders, be stricken and laid on the table. The motion prevailed.

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 report on S.F. No. 2378. The motion prevailed.

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was re-referred

S.F. No. 2378: A bill for an act relating to public safety; establishing the automatic fire-safety sprinkler system loan program for existing multifamily residential properties; creating the automatic fire-safety sprinkler system fund; exempting newly installed automatic sprinklers from sales and property taxes; authorizing bonds to be issued to fund the program; appropriating money; amending Minnesota Statutes 1990, sections 273.11, by adding a subdivision; 297A.25, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 272.03, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 299F.

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 1990, section 273.11, is amended by adding a subdivision to read:

*Subd. 6a. [RESIDENTIAL FIRE-SAFETY SPRINKLER SYSTEMS.] For purposes of property taxation, the market value of automatic fire-safety sprinkler systems meeting the standards of the Minnesota fire code shall be excluded from the market value of (1) existing multifamily residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence and (2) existing real estate containing four or more contiguous residential units for use by customers of the owner, such as hotels, motels, and lodging houses.*

Sec. 2. Minnesota Statutes 1990, section 297A.25, is amended by adding a subdivision to read:

*Subd. 47. [AUTOMATIC FIRE-SAFETY SPRINKLER SYSTEMS.] The gross receipts from the sale of automatic fire-safety sprinkler systems described in section 273.11, subdivision 6a, are exempt.*

Sec. 3. [EFFECTIVE DATE.]

*Section 1 is effective for taxes levied in 1992, payable in 1993, and thereafter. Section 2 is effective for sales after June 30, 1992."*

Delete the title and insert:

"A bill for an act relating to public safety; exempting newly installed automatic fire-safety sprinklers from sales and property taxes; amending Minnesota Statutes 1990, sections 273.11, by adding a subdivision; and 297A.25, by adding a subdivision."

And when so amended the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 2411: A bill for an act relating to human services; providing for pilot projects to demonstrate the use of intergovernmental contracts between state and counties to fund, administer, and regulate delivery of community social service programs; appropriating money.

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

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### HEALTH DEPARTMENT

Section 1. Minnesota Statutes 1990, section 144A.43, subdivision 3, is amended to read:

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

- (1) nursing services, including the services of a home health aide;
  - (2) personal care services not included under sections 148.171 to 148.285;
  - (3) physical therapy;
  - (4) speech therapy;
  - (5) respiratory therapy;
  - (6) occupational therapy;
  - (7) nutritional services;
  - (8) home management services when provided to a person who is unable to perform these activities due to illness, disability, or physical condition. Home management services include at least two of the following services: housekeeping, meal preparation, ~~laundry, and shopping, and other similar services;~~
  - (9) medical social services;
  - (10) the provision of medical supplies and equipment when accompanied by the provision of a home care service;
  - (11) the provision of a hospice program as specified in section 144A.48;
- and

(12) other similar medical services and health-related support services identified by the commissioner in rule.

Sec. 2. Minnesota Statutes 1990, section 144A.43, subdivision 4, is amended to read:

Subd. 4. [HOME CARE PROVIDER.] "Home care provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of home care services for a fee. At least one home care service must be provided directly, although additional home care services may be provided by contractual arrangements. "Home care provider" includes a hospice program defined in section 144A.48. "Home care provider" does not include:

(1) any home care or nursing services conducted by and for the adherents of any recognized church or religious denomination for the purpose of providing care and services for those who depend upon spiritual means, through prayer alone, for healing;

(2) an individual who only provides services to a relative;

(3) an individual not connected with a home care provider who provides assistance with home management services or personal care needs if the assistance is provided primarily as a contribution and not as a business;

(4) an individual not connected with a home care provider who shares housing with and provides primarily housekeeping or homemaking services to an elderly or disabled person in return for free or reduced-cost housing;

(5) an individual or agency providing home-delivered meal services;

(6) an agency providing senior companion services and other older American volunteer programs established under the Domestic Volunteer Service Act of 1973, Public Law Number 98-288;

~~(7) an individual or agency that only provides chore, housekeeping, or child care services which do not involve the provision of home care services;~~

~~(8)~~ an employee of a nursing home licensed under this chapter who provides emergency services to individuals residing in an apartment unit attached to the nursing home;

~~(9)~~ (8) a member of a professional corporation organized under sections 319A.01 to 319A.22 that does not regularly offer or provide home care services as defined in subdivision 3;

~~(10)~~ (9) the following organizations established to provide medical or surgical services that do not regularly offer or provide home care services as defined in subdivision 3: a business trust organized under sections 318.01 to 318.04, a nonprofit corporation organized under chapter 317A, a partnership organized under chapter 323, or any other entity determined by the commissioner;

~~(11)~~ (10) an individual or agency that provides medical supplies or durable medical equipment, except when the provision of supplies or equipment is accompanied by a home care service; ~~or~~

~~(12)~~ (11) an individual licensed under chapter 147; *or*

(12) *an individual who provides home care services to a person with a developmental disability who lives in a place of residence with a family,*

*foster family, or primary caregiver.*

Sec. 3. Minnesota Statutes 1990, section 144A.46, subdivision 5, is amended to read:

Subd. 5. [PRIOR CRIMINAL CONVICTIONS.] ~~An applicant for a home care provider license shall disclose to the commissioner all criminal convictions of persons involved in the management, operation, or control of the provider. A home care provider shall require employees of the provider and applicants for employment in positions that involve contact with recipients of home care services to disclose all criminal convictions.~~ *(a) All persons who have or will have direct contact with clients, including the home care provider, employees of the provider, and applicants for employment shall be required to disclose all criminal convictions.* The commissioner may adopt rules that may require a person who must disclose criminal convictions under this subdivision to provide fingerprints and releases that authorize law enforcement agencies, including the bureau of criminal apprehension and the federal bureau of investigation, to release information about the person's criminal convictions to the commissioner and home care providers. The bureau of criminal apprehension, county sheriffs, and local chiefs of police shall, if requested, provide the commissioner with criminal conviction data available from local, state, and national criminal record repositories, including the criminal justice data communications network. No person may be employed by a home care provider in a position that involves contact with recipients of home care services nor may any person be involved in the management, operation, or control of a provider, if the person has been convicted of a crime that relates to the provision of home care services or to the position, duties, or responsibilities undertaken by that person in the operation of the home care provider, unless the person can provide sufficient evidence of rehabilitation. The commissioner shall adopt rules for determining what types of employment positions, including volunteer positions, involve contact with recipients of home care services, and whether a crime relates to home care services and what constitutes sufficient evidence of rehabilitation. The rules must require consideration of the nature and seriousness of the crime; the relationship of the crime to the purposes of home care licensure and regulation; the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the person's position; mitigating circumstances or social conditions surrounding the commission of the crime; the length of time elapsed since the crime was committed; the seriousness of the risk to the home care client's person or property; and other factors the commissioner considers appropriate. Data collected under this subdivision shall be classified as private data under section 13.02, subdivision 12.

*(b) Termination of an employee in good faith reliance on information or records obtained under paragraph (a) regarding a confirmed conviction does not subject the home care provider to civil liability or liability for unemployment compensation benefits.*

Sec. 4. Minnesota Statutes 1991 Supplement, section 144A.61, subdivision 3a, is amended to read:

Subd. 3a. [COMPETENCY EVALUATION PROGRAM.] The commissioner of health shall approve the competency evaluation program. A competency evaluation must be administered to nursing assistants who desire to be listed in the nursing assistant registry *and who have done one of the following: (1) completed an approved training program; (2) been listed on*

*the nursing assistant registry maintained by another state; or (3) completed a training program in nursing assistant skills other than the approved course.* The tests may only be administered by technical colleges, community colleges, or other organizations approved by the department of health. ~~After January 1, 1992.~~ A competency evaluation for a person, other than an individual enrolled in a licensed nurse education program, who has not completed an approved nursing assistant training program, must include an evaluation of all clinical skills.

Sec. 5. Minnesota Statutes 1991 Supplement, section 144A.61, subdivision 6a, is amended to read:

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

Sec. 6. Minnesota Statutes 1991 Supplement, section 147.03, is amended to read:

147.03 [LICENSURE BY ENDORSEMENT; RECIPROCITY; TEMPORARY PERMIT.]

*Subdivision 1. [ENDORSEMENT; RECIPROCITY.] (a) The board, with the consent of six of its members, may issue a license to practice medicine to any person who satisfies the following requirements: in paragraphs (b) to (f).*

~~(a)~~ (b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

~~(b)~~ (c) The applicant shall:

(1) within ten years prior to application have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, the National Board of Osteopathic Examiners, or the Medical Council of Canada; or

(2) have a current license from the equivalent licensing agency in another state or Canada; and *either:*

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better *within three attempts*; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties *or of the Royal College of Physicians and Surgeons of Canada.*

~~(c)~~ (d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.

~~(d)~~ (e) *The applicant must not be under license suspension or revocation by the licensing board of the state in which the conduct that caused the suspension or revocation occurred.*

(f) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action in another state *other than as specified in paragraph (e).* If an applicant does not satisfy the requirements stated in this ~~clause~~ *paragraph*, the board may ~~refuse to~~ issue a license ~~unless it determines only on the applicant's~~



showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

*Subd. 2. [TEMPORARY PERMIT.]* The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section upon payment of a fee set by the board. The permit remains valid only until the next meeting of the board.

Sec. 7. Minnesota Statutes 1991 Supplement, section 148.925, subdivision 1, is amended to read:

Subdivision 1. [PERSONS QUALIFIED TO PROVIDE SUPERVISION.] (a) *Only* the following persons are qualified to provide supervision for master's degree level applicants for licensure as a licensed psychologist:

(1) a licensed psychologist with a competency in supervision in professional psychology and in the area of practice being supervised; and

(2) a person *who either is eligible for licensure as a licensed psychologist under section 148.91 or is eligible for licensure by reciprocity, and who, in the judgment of the board, is competent or experienced in supervising professional psychology and in the area of practice being supervised.*

(b) Professional supervision of a doctoral level applicant for licensure as a licensed psychologist must be provided by a person:

(1) who meets the requirements of paragraph (a), clause (1) or (2), and

(2)(i) who has a doctorate degree with a major in psychology, or

(ii) who was licensed by the board as a psychologist before August 1, 1991, and is certified by the board as competent in supervision of applicants for licensure in accord with section 148.905, subdivision 1, clause (10), by August 1, 1993.

Sec. 8. Minnesota Statutes 1991 Supplement, section 148.925, subdivision 2, is amended to read:

*Subd. 2. [SUPERVISORY CONSULTATION.]* (a) Supervisory consultation between a supervising licensed psychologist and a supervised psychological practitioner must occur on a one-to-one basis at a ratio of at least one hour of supervision for the initial 20 or fewer hours of psychological services delivered per month and no less than one hour a month. The consultation must be at least one hour in duration. For each additional 20 hours of psychological services delivered per month, an additional hour of supervision must occur. However, if more than 20 hours of psychological services are provided in a week, no time period of supervision beyond one hour per week is required, but supervision must be adequate to assure the quality and competence of the services. Supervisory consultation must include discussions on the nature and content of the practice of the psychological practitioner, including but not limited to a review of a representative sample of psychological services in the supervisee's practice.

(b) Supervision of an applicant for licensure as a licensed psychologist must include at least two hours of regularly scheduled face-to-face consultations a week *for full-time employment*, one hour of which must be with the supervisor on a one-to-one basis. The remaining hour may be with other mental health professionals designated by the supervisor. *The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for persons preparing*

*for licensure on a part-time basis.*

Sec. 9. Minnesota Statutes 1991 Supplement, section 148.925, is amended by adding a subdivision to read:

*Subd. 3. [WAIVER.] An applicant for licensure as a licensed psychologist who entered supervised employment before August 1, 1991, may request a waiver from the board of the supervision requirements in this section.*

Sec. 10. [EFFECTIVE DATE.]

*Sections 1 to 9 are effective the day following final enactment.*

## ARTICLE 2

### MEDICAL PROGRAMS

Section 1. Minnesota Statutes 1990, section 144A.073, subdivision 3, is amended to read:

Subd. 3. [REVIEW AND APPROVAL OF PROPOSALS.] Within the limits of money specifically appropriated to the medical assistance program for this purpose, the interagency board for quality assurance may recommend that the commissioner of health grant exceptions to the nursing home licensure or certification moratorium for proposals that satisfy the requirements of this section. The interagency board shall appoint an advisory review panel composed of representatives of consumers and providers to review proposals and provide comments and recommendations to the board. The commissioners of human services and health shall provide staff and technical assistance to the board for the review and analysis of proposals. The interagency board shall hold a public hearing before submitting recommendations to the commissioner of health on project requests. The board shall submit recommendations within 150 days of the date of the publication of the notice, based on a comparison and ranking of proposals using the criteria in subdivision 4. The commissioner of health shall approve or disapprove a project within 30 days after receiving the board's recommendations. The cost to the medical assistance program of the proposals approved must be within the limits of the appropriations specifically made for this purpose. Approval of a proposal expires ~~± 18~~ 18 months after approval by the commissioner of health unless the facility has commenced construction as defined in section 144A.071, subdivision 3, paragraph (b). The board's report to the legislature, as required under section 144A.31, must include the projects approved, the criteria used to recommend proposals for approval, and the estimated costs of the projects, including the costs of initial construction and remodeling, and the estimated operating costs during the first two years after the project is completed.

Sec. 2. Minnesota Statutes 1990, section 144A.073, subdivision 3a, is amended to read:

Subd. 3a. [EXTENSION OF APPROVAL OF A PROJECT REQUIRING AN EXCEPTION TO THE NURSING HOME MORATORIUM.] Notwithstanding subdivision 3, a construction project that was approved by the commissioner under the moratorium exception approval process in this section prior to ~~February 1, 1990~~ July 1, 1992, may be commenced more than ~~± 18~~ 18 months after the date of the commissioner's approval but no later than July 1, ~~1992~~ 1994, or 12 months after the effective date of a nursing home property-related payment system enacted to replace the current rate freeze in section 256B.431, subdivision 12, whichever is later.

Sec. 3. 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. 4. Minnesota Statutes 1990, section 151.06, subdivision 1, is amended to read:

Subdivision 1. (a) [POWERS AND DUTIES.] The board of pharmacy shall have the power and it shall be its duty:

(1) to regulate the practice of pharmacy;

(2) to regulate the manufacture, wholesale, and retail sale of drugs within this state;

(3) to regulate the identity, labeling, purity, and quality of all drugs and medicines dispensed in this state, using the United States Pharmacopeia and the National Formulary, or any revisions thereof, or standards adopted under the federal act as the standard;

(4) to enter and inspect by its authorized representative any and all places where drugs, medicines, medical gases, or veterinary drugs or devices are sold, vended, given away, compounded, dispensed, manufactured, wholesaled, or held; it may secure samples or specimens of any drugs, medicines, medical gases, or veterinary drugs or devices after paying or offering to pay for such sample; it shall be entitled to inspect and make copies of any and all records of shipment, purchase, manufacture, quality control, and sale of these items provided, however, that such inspection shall not extend to financial data, sales data, or pricing data;

(5) to examine and license as pharmacists all applicants whom it shall deem qualified to be such;

(6) to license wholesale drug distributors;

(7) to deny, suspend, revoke, or refuse to renew any registration or license required under this chapter, to any applicant or registrant or licensee upon any of the following grounds:

(i) fraud or deception in connection with the securing of such license or registration;

(ii) in the case of a pharmacist, conviction in any court of a felony;

(iii) in the case of a pharmacist, conviction in any court of an offense involving moral turpitude;

(iv) habitual indulgence in the use of narcotics, stimulants, or depressant drugs; or habitual indulgence in intoxicating liquors in a manner which could cause conduct endangering public health;

(v) unprofessional conduct or conduct endangering public health;

(vi) gross immorality;

(vii) employing, assisting, or enabling in any manner an unlicensed person to practice pharmacy;

(viii) conviction of theft of drugs, or the unauthorized use, possession, or sale thereof;

(ix) violation of any of the provisions of this chapter or any of the rules of the state board of pharmacy;

(x) in the case of a pharmacy license, operation of such pharmacy without a pharmacist present and on duty;

(xi) in the case of a pharmacist, physical or mental disability which could cause incompetency in the practice of pharmacy; or

(xii) in the case of a pharmacist, the suspension or revocation of a license to practice pharmacy in another state;

(8) to employ necessary assistants and make rules for the conduct of its business; and

(9) to perform such other duties and exercise such other powers as the provisions of the act may require.

(b) [TEMPORARY SUSPENSION.] In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend a license for not more than 60 days if the board finds that a pharmacist has violated a statute or rule that the board is empowered to enforce and continued practice by the pharmacist would create an imminent risk of harm to others. The suspension shall take effect upon written notice to the pharmacist, specifying the statute or rule violated. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the administrative procedure act. The pharmacist shall be provided with at least 20 days notice of any hearing held under this subdivision.

(c) [RULES.] For the purposes aforesaid, it shall be the duty of the board to make and publish uniform rules not inconsistent herewith for carrying out and enforcing the provisions of this chapter. *The board shall adopt rules regarding prospective drug utilization review and patient counseling by pharmacists. A pharmacist in the exercise of the pharmacist's professional judgment, upon the presentation of a new prescription by a patient or the*

*patient's caregiver or agent, shall perform the prospective drug utilization review required by rules issued under this subdivision.*

Sec. 5. Minnesota Statutes 1990, section 151.19, is amended by adding a subdivision to read:

*Subd. 1a. [DISCIPLINARY ACTION.] The board may suspend the registration of a pharmacy if it determines that any person with supervisory responsibilities at the pharmacy attempted to prevent a licensed pharmacist from providing drug utilization review and patient counseling as required by rules adopted under section 151.06, subdivision 1.*

Sec. 6. [245A.091] [EXEMPTION FROM CERTAIN RULE PARTS GOVERNING RESIDENTIAL PROGRAMS FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.]

*A Minnesota residential program certified under federal standards by the department of health as an intermediate care facility for persons with mental retardation or related conditions is exempt from the following Minnesota Rules parts:*

*(1) part 9525.0235, subparts 4; 6; 7; 8; 10, items A and B; and 12 to 15;*

*(2) part 9525.0243;*

*(3) part 9525.0245, subparts 2, items A, C, D, E, F; 4 to 7; and 9;*

*(4) part 9525.0255, subparts 1, items B, D, and F; and 3;*

*(5) part 9525.0265, subparts 1, items A and C; 3, items A to F; 5; and 8, items A and B;*

*(6) part 9525.0275;*

*(7) part 9525.0285, subparts 2 and 3;*

*(8) part 9525.0295, subparts 5, item B, subitem (3); and 6;*

*(9) part 9525.0305, subparts 2; 3, items C, E, and F; and 5;*

*(10) part 9525.0315, subparts 1; 2; and 3, items A to D;*

*(11) part 9525.0325, subpart 3, items A, D to G, and I to K;*

*(12) part 9525.0335, items C, E, F, H to J, and K, subitems (2) and (3); and*

*(13) part 9525.0345, subparts 1, item B, subitem (2); 2, item A; 3 to 5; and 6, items A and B.*

Sec. 7. Minnesota Statutes 1990, section 245A.13, subdivision 4, is amended to read:

*Subd. 4. [FEE.] A receiver appointed under an involuntary receivership or the managing agent is entitled to a reasonable fee as determined by the court. ~~The fee is governed by section 256B.495.~~*

Sec. 8. Minnesota Statutes 1991 Supplement, section 256.9685, subdivision 1, is amended to read:

*Subdivision 1. [AUTHORITY.] The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The*

commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. The medical assistance payment rates must be based on methods and standards that the commissioner finds are adequate to provide for the costs that must be incurred for the care of recipients in efficiently and economically operated hospitals. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment *except the commissioner may establish exemptions to specific utilization review requirements based on diagnosis, procedure, or service after notice in the State Register and a 30-day comment period. The commissioner may establish an administrative reconsideration process for appeals of inpatient hospital services determined to be medically unnecessary. The reconsideration process shall take place prior to the contested case procedures of chapter 14 and shall be conducted by physicians that are independent of the case under reconsideration. A majority decision by the physicians is necessary to make a determination that the services were not medically necessary. Notwithstanding section 256B.72, the commissioner may recover inpatient hospital payments for services that have been determined to be medically unnecessary under the reconsideration process.*

Sec. 9. Minnesota Statutes 1991 Supplement, section 256.969, subdivision 2, is amended to read:

Subd. 2. [DIAGNOSTIC CATEGORIES.] The commissioner shall use to the extent possible existing diagnostic classification systems, including the system used by the Medicare program to determine the relative values of inpatient services and case mix indices. The commissioner may combine diagnostic classifications into diagnostic categories and may establish separate categories and numbers of categories based on program eligibility or hospital peer group. Relative values shall be recalculated when the base year is changed. Relative value determinations shall include paid claims for admissions during each hospital's base year. The commissioner may extend the time period forward to obtain sufficiently valid information to establish relative values. Relative value determinations shall not include property cost data, Medicare crossover data, and data on admissions that are paid a per day transfer rate under subdivision ~~43~~ 14. The computation of the base year cost per admission must include identified outlier cases and their weighted costs up to the point that they become outlier cases, but must exclude costs recognized in outlier payments beyond that point. The commissioner may recategorize the diagnostic classifications and recalculate relative values and case mix indices to reflect actual hospital practices, the specific character of specialty hospitals, or to reduce variances within the diagnostic categories after notice in the State Register and a 30-day comment period.

Sec. 10. 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. 11. 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. 12. Minnesota Statutes 1990, section 256B.056, subdivision 1a, is amended to read:

Subd. 1a. [INCOME AND ASSETS GENERALLY.] Unless specifically required by state law or rule or federal law or regulation, the methodologies used in counting income and assets to determine eligibility for medical assistance shall be as follows: (a) for persons whose eligibility category is based on blindness, disability, or age of 65 or more years, the methodologies for the supplemental security income program shall be used; and (b) for families and children, which includes all other eligibility categories, the methodologies for the aid to families with dependent children program under section 256.73 shall be used. For these purposes, a "methodology" does not include an asset or income standard, ~~budgeting~~ or accounting method, or method of determining effective dates.

Sec. 13. Minnesota Statutes 1990, section 256B.056, subdivision 2, is amended to read:

Subd. 2. [HOMESTEAD; EXCLUSION FOR INSTITUTIONALIZED PERSONS.] To be eligible for medical assistance, a person must not own, individually or together with the person's spouse, real property other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant or recipient as a primary place of residence, together with the contiguous land upon which it is situated. The homestead shall be excluded for the first six calendar months of a person's stay in a long-term care facility 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. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by one of the following individuals:

- (a) the spouse;
- (b) a child under age 21;
- (c) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;
- (d) a sibling who has equity interest in the home and who resided in the home for at least one year immediately before the date of the person's admission to the facility; or
- (e) a child of any age, or, subject to federal approval, a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

The homestead is also excluded for the first six calendar months of the person's stay in the long-term care facility. The person's equity in the homestead must be reduced to an amount within limits or excluded on another basis if the person remains in the long-term care facility for a period longer than six months. Real estate not used as a home may not be retained unless the property is not salable, the equity is \$6,000 or less and the income produced by the property is at least six percent of the equity, or the excess real property is exempted for a period of nine months if there is a good faith effort to sell the property and a legally binding agreement is signed to repay the amount of assistance issued during that nine months.

Sec. 14. Minnesota Statutes 1990, section 256B.056, subdivision 3, is amended to read:

Subd. 3. [ASSET LIMITATIONS.] To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members (husband and wife, or parent and child), the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. For residents of long-term care facilities, the accumulation of the clothing and personal needs allowance pursuant to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of the items in paragraphs (a) to (i) are not considered in determining medical assistance eligibility. The accumulation of the clothing and personal needs allowance pursuant to section 256B.35



*must also be reduced to the maximum at the time of the eligibility re-determination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets that are excluded by the aid to families with dependent children program for families and children, and the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:*

- (a) The homestead is not considered.*
  - (b) Household goods and personal effects are not considered.*
  - (c) Personal property used as a regular abode by the applicant or recipient is not considered.*
  - (d) A lot in a burial plot for each member of the household is not considered.*
  - (e) (b) Capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered.*
  - (f) Insurance settlements to repair or replace damaged, destroyed, or stolen property are considered to the same extent as in the related cash assistance programs.*
  - (g) One motor vehicle that is licensed pursuant to chapter 168 and defined as: (1) passenger automobile; (2) station wagon; (3) motorcycle; (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, subdivision 1e, and that is used primarily for the person's benefit is not considered.*
- To be excluded, the vehicle must have a market value of less than \$4,500; be necessary to obtain medically necessary health services; be necessary for employment; be modified for operation by or transportation of a handicapped person; or be necessary to perform essential daily tasks because of climate, terrain, distance, or similar factors. The equity value of other motor vehicles is counted against the asset limit.*
- (h) Life insurance policies and assets designated as burial expenses, according to the standards and restrictions of the supplemental security income (SSI) program.*
  - (i) Other items excluded by federal law are not considered.*
  - (c) Motor vehicles are excluded to the same extent excluded by the supplemental security income program.*
  - (d) Assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program.*

Sec. 15. Minnesota Statutes 1990, section 256B.059, subdivision 2, is amended to read:

Subd. 2. [ASSESSMENT OF SPOUSAL SHARE.] At the beginning of a continuous period of institutionalization of a person, at the request of either the institutionalized spouse or the community spouse, or upon application for medical assistance, the total value of assets in which either the institutionalized spouse or the community spouse had an interest at the time of the first period of institutionalization of 30 days or more shall be assessed and documented and the spousal share shall be assessed and documented.

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 ~~shall~~ *may* 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 formulary committee must develop criteria to be used for identifying drugs;*

(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 information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care, and information regarding whether the drug is subject to clinical abuse or misuse.* Prior authorization may be required by the commissioner 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 spend-down, as provided in section 256B.056, subdivision 5, to pay for services to the extent of the spend-down 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 spend-down of (1) their right to appeal the denial of services on the grounds that they have satisfied the spend-down requirement, and (2) their potential eligibility for the health right program or the children's health plan.*

Sec. 17. 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. 18. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 31. [MEDICAL SUPPLIES AND EQUIPMENT.] *Medical assistance covers medical supplies and equipment. Separate payment outside of the facility's payment rate shall be made for wheelchairs and wheelchair accessories for recipients who are residents of intermediate care facilities for the mentally retarded. Reimbursement for wheelchairs and wheelchair accessories for ICF/MR recipients shall be subject to the same conditions and limitations as coverage for recipients who do not reside in institutions. A wheelchair purchased outside of the facility's payment rate is the property of the recipient.*

Sec. 19. 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. 20. 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;
- (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. 21. Minnesota Statutes 1990, section 256B.064, is amended by adding a subdivision to read:

*Subd. 1d. [RECOVERY OF INVESTIGATIVE COSTS.] The commissioner may seek recovery of investigative costs from any vendor of medical care or services who willfully submits a claim for reimbursement for services the vendor knows, or reasonably should have known, is a false representation and which results in the payment of public funds for which the vendor is*

*ineligible. Billing errors deemed to be unintentional, but which result in overcharges, shall not be considered for investigative cost recoupment.*

Sec. 22. Minnesota Statutes 1991 Supplement, section 256B.064, subdivision 2, is amended to read:

Subd. 2. The commissioner shall determine monetary amounts to be recovered and the sanction to be imposed upon a vendor of medical care for conduct described by subdivision 1a. *Except in the case of a conviction for conduct described in subdivision 1a*, neither a monetary recovery nor a sanction will be sought by the commissioner without prior notice and an opportunity for a hearing, pursuant to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

Upon receipt of a notice that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

- (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;
- (2) the computation that the vendor believes is correct;
- (3) the authority in statute or rule upon which the vendor relies for each disputed item;
- (4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and
- (5) other information required by the commissioner.

Sec. 23. 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. 24. 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. 25. 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. 26. 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. 27. 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. 28. 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. 29. 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. 30. 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. 31. 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. 32. 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. 33. 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. 34. 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.

~~(c)~~ (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. 35. 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. 36. 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. 37. 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. 38. 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. 39. 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. 40. [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. 41. 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. 42. 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 256B.0627, subdivision 5, paragraph (b).*

Sec. 43. 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 9505.0170 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. 44. Minnesota Statutes 1990, section 256B.14, subdivision 2, is amended to read:

Subd. 2. [ACTIONS TO OBTAIN PAYMENT.] The state agency shall promulgate rules to determine the ability of responsible relatives to contribute partial or complete payment or repayment of medical assistance

furnished to recipients for whom they are responsible. These rules shall not require payment or repayment when payment would cause undue hardship to the responsible relative or that relative's immediate family. These rules shall be consistent with the requirements of section 252.27 for parents of children whose eligibility for medical assistance was determined without deeming of the parents' resources and income. ~~For parents of children receiving services under a federal medical assistance waiver or under section 134 of the Tax Equity and Fiscal Responsibility Act of 1982, United States Code, title 42, section 1396a(c)(3), while living in their natural home, including in-home family support services, respite care, homemaker services, and minor adaptations to the home, the state agency shall take into account the room, board, and services provided by the parents in determining the parental contribution to the cost of care.~~ The county agency shall give the responsible relative notice of the amount of the payment or repayment. If the state agency or county agency finds that notice of the payment obligation was given to the responsible relative, but that the relative failed or refused to pay, a cause of action exists against the responsible relative for that portion of medical assistance granted after notice was given to the responsible relative, which the relative was determined to be able to pay.

The action may be brought by the state agency or the county agency in the county where assistance was granted, for the assistance, together with the costs of disbursements incurred due to the action.

In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing contributions by a responsible relative found able to repay the county or state agency. The order shall be effective only for the period of time during which the recipient receives medical assistance from the county or state agency.

Sec. 45. Minnesota Statutes 1990, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] *For purposes of this section, "medical assistance" includes the medical assistance program under chapter 256B, excluding the alternative care program, and the general assistance medical care program under chapter 256D.*

*Subd. 1a. [ESTATES SUBJECT TO CLAIMS.]* If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 65 years of age, *and received services under chapter 256B, excluding alternative care;* ~~or~~

(b) the person resided in a medical institution for six months or longer, *received services under chapter 256B excluding alternative care,* and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means

a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital;  
or

*(c) the person received general assistance medical care services under chapter 256D.*

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort.

Sec. 46. Minnesota Statutes 1990, section 256B.36, is amended to read:

**256B.36 [PERSONAL ALLOWANCE FOR CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE.]**

In addition to the personal allowance established in section 256B.35, any ~~disabled~~ recipient of medical assistance ~~with a handicap, mental retardation, or a related condition, confined in a skilled nursing home or intermediate care facility who is a resident of a nursing facility or intermediate care facility~~ for the mentally retarded shall also be permitted a special personal allowance drawn solely from earnings from any ~~productive~~ employment under an individual plan of rehabilitation. This special personal allowance shall ~~not exceed (1) the limits set therefor by the commissioner, or (2) the amount of disregarded income the individual would have retained as a recipient of aid to the disabled benefits in December, 1973, whichever amount is lower.~~ consist of the following amounts, deducted in the following order:

- (1) \$80 for the costs of meals and miscellaneous work expenses;*
- (2) federal insurance contributions act payments withheld from the person's earned income;*
- (3) actual employment related transportation expenses;*
- (4) other actual employment related expenses; and*
- (5) state and federal income taxes withheld from the person's earned income, if the person cannot be claimed as exempt from federal income tax withholding.*

Sec. 47. Minnesota Statutes 1990, section 256B.431, subdivision 4, is amended to read:

Subd. 4. [SPECIAL RATES.] (a) For the rate years beginning July 1, 1983, and July 1, 1984, a newly constructed nursing home or one with a capacity increase of 50 percent or more may, upon written application to the commissioner, receive an interim payment rate for reimbursement for property-related costs calculated pursuant to the statutes and rules in effect on May 1, 1983, and for operating costs negotiated by the commissioner based upon the 60th percentile established for the appropriate group under subdivision 2a, to be effective from the first day a medical assistance recipient resides in the home or for the added beds. For newly constructed nursing homes which are not included in the calculation of the 60th percentile for any group, subdivision 2f, the commissioner shall establish by rule procedures for determining interim operating cost payment rates and interim property-related cost payment rates. The interim payment rate shall not be

in effect for more than 17 months. The commissioner shall establish, by emergency and permanent rules, procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operation; the cost settled operating cost per diem shall not exceed 110 percent of the 60th percentile established for the appropriate group. Until procedures determining operating cost payment rates according to mix of resident needs are established, the commissioner shall establish by rule procedures for determining payment rates for nursing homes which provide care under a lesser care level than the level for which the nursing home is certified.

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

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

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

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

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

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

(5) For fiscal years beginning on or after January 1, 1989, the facility's payment rate must be established using the following method: The commissioner shall divide the real estate taxes and special assessments payable

as stated in the facility's current property tax statement by actual resident days to compute a real estate tax and special assessment per diem. Next, the prior year's payment rate less the real estate tax and special assessment per diem must be adjusted by the higher of (1) the percentage change in the consumer price index (CPI-U U.S. city average) as published by the Bureau of Labor Statistics between the previous two Septembers, new series index (1967-100), or (2) 2.5 percent, to determine an adjusted payment rate. The facility's payment rate is the adjusted payment rate plus the real estate tax and special assessment per diem.

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

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

(e) For the rate year beginning July 1, 1985, each nursing home total payment rate must be effective two calendar months from the first day of the month after the commissioner issues the rate notice to the nursing home. From July 1, 1985, until the total payment rate becomes effective, the commissioner shall make payments to each nursing home at a temporary rate that is the prior rate year's operating cost payment rate increased by 2.6 percent plus the prior rate year's property-related payment rate and the prior rate year's real estate taxes and special assessments payment rate. The commissioner shall retroactively adjust the property-related payment rate and the real estate taxes and special assessments payment rate to July 1, 1985, but must not retroactively adjust the operating cost payment rate.

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

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



(12) an involuntary transfer including foreclosure, bankruptcy, or assignment for the benefit of creditors.

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

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

Upon the subsequent sale or transfer of the nursing home, the commissioner may recover amounts paid through payment rate adjustments under this paragraph. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.

Sec. 48. Minnesota Statutes 1990, section 256B.432, is amended by adding a subdivision to read:

*Subd. 7. [RECEIVERSHIP AGREEMENTS.] This section does not apply to payment rates determined under sections 245A.12, 245A.13, and 256B.495, except that any additional directly identified costs associated with the department of human services' or the department of health's managing agent under a receivership agreement must be allocated to the facility under receivership, and are nonallowable costs to the managing agent on the facility's cost reports.*

Sec. 49. Minnesota Statutes 1990, section 256B.433, subdivision 1, is amended to read:

Subdivision 1. [SETTING PAYMENT; MONITORING USE OF THERAPY SERVICES.] The commissioner shall promulgate rules pursuant to the administrative procedure act to set the amount and method of payment for ancillary materials and services provided to recipients residing in nursing homes. Payment for materials and services may be made to either the nursing home in the operating cost per diem, to the vendor of ancillary services pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080 9505.0170 to 9505.0475 or to a nursing home pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080 9505.0170 to 9505.0475. Payment for the same or similar service to a recipient shall not be made to both the nursing home and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing home's annual cost

report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost effective and as would be incurred by a prudent and cost-conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing home, or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner, in consultation with an advisory task force that meets the requirements of section 256B.064, subdivision 1a, the commissioner may recover or disallow the payment for the services and may require prior authorization for therapy services as a condition of payment or may impose administrative sanctions to limit the vendor, nursing home, or ordering physician's participation in the medical assistance program. If the provider number of a nursing home is used to bill services provided by a vendor of therapy services that is not related to the nursing home by ownership, control, affiliation, or employment status, no withholding of payment shall be imposed against the nursing home for services not medically necessary except for funds due the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c). For the purpose of this subdivision, no monetary recovery may be imposed against the nursing home for funds paid to the unrelated vendor of therapy services as provided in subdivision 3, paragraph (c), for services not medically necessary. *For purposes of this section and section 256B.47, therapy includes physical therapy, occupational therapy, speech therapy, audiology, and mental health services that are covered services according to Minnesota Rules, parts 9505.0750 to 9505.1080, and that could be reimbursed separately from the nursing home per diem.*

Sec. 50. Minnesota Statutes 1990, section 256B.433, subdivision 2, is amended to read:

Subd. 2. [CERTIFICATION THAT TREATMENT IS APPROPRIATE.] The physical therapist, occupational therapist, speech therapist, *mental health professional*, or audiologist who provides or supervises the provision of therapy services, other than an initial evaluation, to a medical assistance recipient must certify in writing that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient every 30 days. The therapist's statement of certification must be maintained in the recipient's medical record together with the specific orders by the physician and the treatment plan. If the recipient's medical record does not include these documents, the commissioner may recover or disallow the payment for such services. If the therapist determines that the therapy's nature, scope, duration, or intensity is not appropriate to the medical condition of the recipient, the therapist must provide a statement to that effect in writing to the nursing home for inclusion in the recipient's medical record. The commissioner shall utilize a peer review program that meets the requirements of section 256B.064, subdivision 1a, to make recommendations regarding the medical necessity of services provided.

Sec. 51. Minnesota Statutes 1990, section 256B.433, subdivision 3, is amended to read:

Subd. 3. [SEPARATE BILLINGS FOR THERAPY SERVICES.] Until new procedures are developed under subdivision 4, payment for therapy services provided to nursing home residents that are billed separate from nursing home's payment rate or according to Minnesota Rules, parts ~~9500.0750 to 9500.1080~~ 9505.0170 to 9505.0475, shall be subject to the following requirements:

(a) The practitioner invoice must include, in a format specified by the commissioner, the provider number of the nursing home where the medical assistance recipient resides regardless of the service setting.

(b) Nursing homes that are related by ownership, control, affiliation, or employment status to the vendor of therapy services shall report, in a format specified by the commissioner, the revenues received during the reporting year for therapy services provided to residents of the nursing home. For rate years beginning on or after July 1, 1988, the commissioner shall offset the revenues received during the reporting year for therapy services provided to residents of the nursing home to the total payment rate of the nursing home by dividing the amount of offset by the nursing home's actual resident days. Except as specified in paragraphs (d) and (f), the amount of offset shall be the revenue in excess of 108 percent of the cost removed from the cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. *Therapy revenues that are specific to mental health services shall be subject to this paragraph for rate years beginning after June 30, 1993.* In establishing a new base period for the purpose of setting operating cost payment rate limits and rates, the commissioner shall not include the revenues offset in accordance with this section.

(c) For rate years beginning on or after July 1, 1987, nursing homes shall limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to 108 percent of the annualized cost removed from the reporting year cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. If the arrangement for therapy services is changed so that a nursing home is subject to this paragraph instead of paragraph (b), the cost that is used to determine rent must be adjusted to exclude the annualized costs for therapy services that are not provided in the rate year. The maximum charges to the vendors shall be based on the commissioner's determination of annualized cost and may be subsequently adjusted upon resolution of appeals. *Mental health services shall be subject to this paragraph for rate years beginning after June 30, 1993.*

(d) The commissioner shall require reporting of all revenues relating to the provision of therapy services and shall establish a therapy cost, as determined by section 256B.47, to revenue ratio for the reporting year ending in 1986. For subsequent reporting years, the ratio may increase five percentage points in total until a new base year is established under paragraph (e). Increases in excess of five percentage points may be allowed if adequate justification is provided to and accepted by the commissioner. Unless an exception is allowed by the commissioner, the amount of offset in paragraph (b) is the greater of the amount determined in paragraph (b) or the amount of offset that is imputed based on one minus the lesser of (1) the actual reporting year ratio or (2) the base reporting year ratio increased by five percentage points, multiplied by the revenues.

(e) The commissioner may establish a new reporting year base for determining the cost to revenue ratio.

(f) If the arrangement for therapy services is changed so that a nursing home is subject to the provisions of paragraph (b) instead of paragraph (c), an average cost to revenue ratio based on the ratios of nursing homes that are subject to the provisions of paragraph (b) shall be imputed for paragraph

(d).

(g) This section does not allow unrelated nursing homes to reorganize related organization therapy services and provide services among themselves to avoid offsetting revenues. Nursing homes that are found to be in violation of this provision shall be subject to the penalty requirements of section 256B.48, subdivision 1, paragraph (f).

Sec. 52. Minnesota Statutes 1990, section 256B.48, subdivision 2, is amended to read:

Subd. 2. [REPORTING REQUIREMENTS.] No later than December 31 of each year, a skilled nursing facility or intermediate care facility, including boarding care facilities, which receives medical assistance payments or other reimbursements from the state agency shall:

(a) Provide the state agency with a copy of its audited financial statements. The audited financial statements must include a balance sheet, income statement, statement of the rate or rates charged to private paying residents, statement of retained earnings, statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the certified public accountant's or licensed public accountant's opinion. The examination by the certified public accountant or licensed public accountant shall be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American Institute of Certified Public Accountants;

(b) Provide the state agency with a statement of ownership for the facility;

(c) Provide the state agency with separate, audited financial statements as specified in clause (a) for every other facility owned in whole or part by an individual or entity which has an ownership interest in the facility;

(d) Upon request, provide the state agency with separate, audited financial statements as specified in clause (a) for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;

(e) Provide the state agency with copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility;

(f) Upon request, provide the state agency with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs; and

(g) Permit access by the state agency to the certified public accountant's and licensed public accountant's audit workpapers which support the audited financial statements required in clauses (a), (c), and (d).

Documents or information provided to the state agency pursuant to this subdivision shall be public. If the requirements of clauses (a) to (g) are not met, the reimbursement rate may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting year, and the reduction shall continue until the requirements are met.

*Both nursing facilities and intermediate care facilities for the mentally retarded must maintain statistical and accounting records in sufficient detail to support information contained in the facility's cost report for at least five years, including the year following the submission of the cost report. For*

*computerized accounting systems, the records must include copies of electronically generated media such as magnetic discs and tapes.*

Sec. 53. Minnesota Statutes 1990, section 256B.48, subdivision 3, is amended to read:

Subd. 3. [INCOMPLETE OR INACCURATE REPORTS.] The commissioner may reject any annual cost report filed by a nursing home pursuant to this chapter if the commissioner determines that the report or the information required in subdivision 2, clause (a) has been filed in a form that is incomplete or inaccurate. In the event that a report is rejected pursuant to this subdivision, the commissioner shall reduce the reimbursement rate to a nursing home to 80 percent of its most recently established rate until the information is completely and accurately filed. *The reinstatement of the total reimbursement rate is retroactive.*

Sec. 54. Minnesota Statutes 1990, section 256B.48, subdivision 4, is amended to read:

Subd. 4. [EXTENSIONS.] The commissioner may grant *up to a 15-day* extension of the reporting deadline to a nursing home for good cause. To receive such an extension, a nursing home shall submit a written request by December 1. The commissioner will notify the nursing home of the decision by December 15. *Between December 1 and December 31, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.*

Sec. 55. Minnesota Statutes 1990, section 256B.495, subdivision 1, is amended to read:

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

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

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

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

(c) Notification of the payment rate increase must meet the requirements of section 256B.47, subdivision 2.

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

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

Sec. 56. Minnesota Statutes 1990, section 256B.495, subdivision 2, is amended to read:

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

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

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

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

Sec. 57. Minnesota Statutes 1990, section 256B.495, is amended by adding a subdivision to read:

Subd. 4. [RECEIVERSHIP PAYMENT RATE.] (a) Upon receiving a recommendation from the commissioner of health for a review of rates under section 144A.15, subdivision 6, the commissioner may grant an adjustment to the nursing home's payment rate. The commissioner shall review the recommendation of the commissioner of health, together with the nursing home's cost report, to determine whether or not the deficiency or need can be corrected or met by reallocating nursing home staff, costs, revenues, or other resources including any investments, efficiency incentives, or allowances. If the commissioner determines that the deficiency cannot be corrected or the need cannot be met, the commissioner shall determine the payment rate adjustment by dividing the additional annual costs established during

*the commissioner's review by the nursing home's actual resident days from the most recent desk-audited cost report.*

*(b) If the nursing facility is subject to a downsizing to closure process during the period of receivership, the commissioner may reestablish the nursing facility's payment rate. The payment rate shall be established based on the nursing facility's budgeted operating costs, the agreed upon receivership property related costs, and the management fee costs for the receivership period divided by the facility's estimated resident days for the same period. The commissioner of health and the commissioner shall make every effort to first facilitate the transfer of private paying residents to alternate service sites prior to the effective date of the payment rate. The cost limits and the case mix provisions in the rate setting system shall not apply during the portion of the receivership period over which the nursing facility downsizes to closure.*

*(c) Any payment rate adjustment must meet the conditions in section 256B.47, subdivision 2, and shall remain in effect until the receivership under section 144A.15 ends, or until another date the commissioner sets.*

*(d) Upon the subsequent sale or transfer of the nursing facility, the commissioner must recover amounts paid through payment rate adjustments under this subdivision which exceed the normal cost of operating the nursing facility. Examples of costs in excess of the normal cost of operating the nursing facility include the managing agent's fee, directly identifiable costs of the managing agent, bonuses paid to employees for their continued employment during the downsizing to closure of the nursing facility, prereceivership expenditures paid by the receiver, additional professional services such as accountants, psychologists, and dietitians, and other similar costs incurred by the receiver to complete receivership. The buyer or transferee shall repay this amount to the commissioner within 60 days after the commissioner notifies the buyer or transferee of the obligation to repay. The buyer or transferee must also repay the private-pay resident the amount the private-pay resident paid through payment rate adjustment.*

*(e) If a nursing facility whose payment rates are subject to paragraph (b) is later sold while the nursing facility is in receivership, the payment rates in effect prior to the receivership shall be the new owner's payment rates. Those payment rates shall continue to be in effect until the rate year following the reporting period ending on September 30 for the new owner. The reporting period must be at least five consecutive months.*

Sec. 58. Minnesota Statutes 1990, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. [FILING AN APPEAL.] To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be *postmarked* or received by the commissioner within 60 days of the date the determination of the payment rate was mailed. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding the appeal; and other information required by the commissioner. *The commissioner shall review an appeal by a nursing facility, if the appeal was sent by certified mail and postmarked prior to August 1, 1991, and would have been received by the commissioner within*

*the 60-day deadline if it had not been delayed due to an error by the postal service.*

Sec. 59. Minnesota Statutes 1990, section 256B.50, subdivision 2, is amended to read:

Subd. 2. [APPRAISED VALUE.] (a) A nursing home may appeal the determination of its appraised value, as determined by the commissioner pursuant to section 256B.431 and rules established thereunder. A written notice of appeal concerning the appraised value of a nursing home's real estate as established by an appraisal conducted after July 1, 1986, must be filed with the commissioner within 60 days of the date the determination was made and shall state the appraised value the nursing home believes is correct for the building, land improvements, and attached equipment and the name and address of the firm with whom contacts may be made regarding the appeal. The appeal request shall include a separate appraisal report prepared by an independent appraiser of real estate which supports the total appraised value claimed by the nursing home. The appraisal report shall be based on an on-site inspection of the nursing home's real estate using the depreciated replacement cost method, must be in a form comparable to that used in the commissioner's appraisal, and must pertain to the same time period covered by the appealed appraisal. The appraisal report shall include information related to the training, experience, and qualifications of the appraiser who conducted and prepared the appraisal report for the nursing home. *An appeal request shall be deemed timely if it is postmarked or received by the commissioner within the time limits established for filing such appeal requests.*

(b) A nursing home which has filed an appeal request prior to the effective date of Laws 1987, chapter 403, concerning the appraised value of its real estate as established by an appraisal conducted before July 1, 1986, must submit to the commissioner the information described under paragraph (a) within 60 days of the effective date of Laws 1987, chapter 403, in order to preserve the appeal.

(c) An appeal request which has been filed pursuant to the provisions of paragraph (a) or (b) shall be finally resolved through an agreement entered into by and between the commissioner and the nursing home or by the determination of an independent appraiser based upon an on-site inspection of the nursing home's real estate using the depreciated replacement cost method, in a form comparable to that used in the commissioner's appraisal, and pertaining to the same time period covered by the appealed appraisal. The appraiser shall be selected by the commissioner and the nursing home by alternately striking names from a list of appraisers approved for state contracts by the commissioner of administration. The appraiser shall make assurances to the satisfaction of the commissioner and the nursing home that the appraiser is experienced in the use of the depreciated cost method of appraisals and that the appraiser is free of any personal, political, or economic conflict of interest that may impair the ability to function in a fair and objective manner. The commissioner shall pay costs of the appraiser through a negotiated rate for services of the appraiser.

(d) The decision of the appraiser is final and is not appealable. Exclusive jurisdiction for appeals of the appraised value of nursing homes lies with the procedures set out in this subdivision. No court of law shall possess subject matter jurisdiction to hear appeals of appraised value determinations of nursing homes.



Sec. 60. 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, *with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum;* 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.

Sec. 61. [EFFECTIVE DATE.]

*Section 15 is effective for persons who became institutionalized after September 30, 1989.*

ARTICLE 3

ASSISTANCE PAYMENTS

Section 1. Minnesota Statutes 1991 Supplement, section 256.031, subdivision 3, is amended to read:

Subd. 3. [AUTHORIZATION FOR THE DEMONSTRATION.] (a) The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, and the director of the higher education coordinating board, is authorized to proceed with the planning and designing of the Minnesota family investment plan and to implement the plan to test policies, methods, and cost impact on an experimental basis by using field trials. The commissioner, under the authority in section 256.01, subdivision 2, shall implement the plan according to sections 256.031 to 256.0361 and Public Law Numbers 101-202 and 101-239, section 8015, as amended. If major and unpredicted costs to the program occur, the commissioner may take corrective action consistent with Public Law Numbers 101-202 and 101-239, which may include termination of the program. Before taking such corrective action, the commissioner shall consult with the chairs of the senate health and human services committee, the house health and human services committee, the health and human services division of the senate finance committee and the human resources division of the house appropriations committee, or, if the legislature is not in session, consult with the legislative advisory commission.

(b) The field trials shall be conducted as permitted under federal law, for as many years as necessary, and in different geographical settings, to provide

reliable instruction about the desirability of expanding the program statewide.

(c) The commissioner shall select the counties which shall serve as field trial or ~~control~~ *comparison* sites based on criteria which ensure reliable evaluation of the program.

(d) The commissioner is authorized to determine the number of families and characteristics of subgroups to be included in the evaluation.

(i) A family that applies for or is currently receiving financial assistance from aid to families with dependent children; family general assistance or work readiness; or food stamps *may be tested for eligibility for aid to families with dependent children or family general assistance and may be assigned by the commissioner to an experimental a test or a control comparison group for the purposes of evaluating the family investment plan. A family found not eligible for aid to families with dependent children or family general assistance will be tested for eligibility for the food stamp program. If found eligible for the food stamp program, the commissioner may randomly assign the family to a test group, comparison group, or neither group.* Families assigned to ~~an experimental a test~~ group receive benefits and services through the family investment plan. Families assigned to a ~~control comparison~~ group receive benefits and services through existing programs. A family may not select the group to which it is assigned. Once assigned to a group, ~~a an~~ *eligible* family must remain in that group for the duration of the project.

(ii) To evaluate the effectiveness of the family investment plan, the commissioner may designate a subgroup of families from the ~~experimental test~~ group who shall be exempt from section 256.035, subdivision 1, and shall not receive case management services under section 256.035, subdivision 6a. Families are eligible for services under section 256.736 to the same extent as families receiving AFDC.

Sec. 2. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY CONDITIONS.] (a) A family is entitled to assistance under the Minnesota family investment plan *if the family is assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d), and:*

(1) the family meets the definition of assistance unit under section 256.032, subdivision 1a;

(2) the family's resources not excluded under subdivision 3 do not exceed \$2,000;

(3) the family can verify citizenship or lawful resident alien status;

(4) the family provides or applies for a social security number for each member of the family receiving assistance under the family investment plan; and

(5) the family assigns child support collection to the county agency.

(b) A family is eligible for the family investment plan if the net income is less than the transitional standard as defined in section 256.032, subdivision 13, for that size and composition of family. In determining available net income, the provisions in subdivision 2 shall apply.

(c) Upon application, a family is initially eligible for the family investment

plan if the family's gross income does not exceed the applicable transitional standard of assistance for that family as defined under section 256.032, subdivision 13, after deducting:

(1) 18 percent to cover taxes;

(2) actual dependent care costs up to the maximum disregarded under United States Code, title 42, section 602(a)(8)(A)(iii); and

(3) \$50 of child support collected in that month.

(d) A family can remain eligible for the program if:

(1) it meets the conditions in section 256.035, subdivision 4; and

(2) its income is below the transitional standard in section 256.032, subdivision 13, allowing for income exclusions in subdivision 2 and after applying the family investment plan treatment of earnings under section 256.035, subdivision 4.

Sec. 3. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 2, is amended to read:

Subd. 2. [DETERMINATION OF FAMILY INCOME.] The aid to families with dependent children income exclusions listed in Code of Federal Regulations, title 45, sections 233.20(a)(3) and 233.20(a)(4), must be used when determining a family's available income, except that:

(1) all earned income of a minor child receiving assistance through the Minnesota family investment plan is excluded when the child is attending school at least half-time;

(2) all earned income tax credit payments received by the family as a refund of federal income taxes or made as advance payments are excluded in accordance with United States Code, title 42, section 602(a)(8)(A)(viii);

(3) educational grants and loans as provided in section 256.74, subdivision 1, clause (2), are excluded;

(4) all other income listed in Minnesota Rules, part 9500.2380, subpart 2, is excluded; and

(5) when determining income available from members of the family who do not elect to be included in the assistance unit under section 256.032, subdivision 1a, paragraphs (c) and (e), the county agency shall count the remaining income after disregarding:

(i) the first 18 percent of the excluded family member's gross earned income;

(ii) an amount for the support of ~~the any~~ stepparent or any parent of a minor caregiver and any other individuals whom the stepparent or parent of the minor caregiver claims as dependents for determining federal personal income tax liability and who live in the same household but whose needs are not considered in determining eligibility for assistance under sections 256.031 to 256.033. The amount equals the transitional standard in section 256.032, subdivision 13, for a family of the same size and composition;

(iii) amounts the stepparent or parent of the minor caregiver actually paid to individuals not living in the same household but whom the stepparent claims as dependents for determining federal personal income tax liability; and

(iv) alimony or child support, or both, paid by the stepparent *or parent of the minor caregiver* for individuals not living in the same household.

Sec. 4. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION OF FAMILY RESOURCES.] When determining a family's resources, the following are excluded:

(1) the family's home, together with surrounding property ~~that does not exceed ten acres and that is~~ not separated from the home by intervening property owned by others;

(2) one burial plot for each family member;

(3) one prepaid burial contract with an equity value of no more than \$1,500 for each member of the family;

(4) licensed automobiles, trucks, or vans up to a total equity value of \$4,500;

(5) personal property needed to produce earned income, including tools, implements, farm animals, and inventory;

(6) the entire equity value of a motor vehicle determined to be necessary for the operation of a self-employment business; and

(7) clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living.

Sec. 5. Minnesota Statutes 1991 Supplement, section 256.033, subdivision 5, is amended to read:

Subd. 5. [ABILITY TO APPLY FOR FOOD STAMPS.] A family that is ineligible for assistance through the Minnesota family investment plan due to income or resources *or has not been assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d),* may apply for, and if eligible receive, benefits under the food stamp program.

Sec. 6. Minnesota Statutes 1991 Supplement, section 256.034, subdivision 3, is amended to read:

Subd. 3. [MODIFICATION OF ELIGIBILITY TESTS.] (a) A needy family is eligible and entitled to receive assistance under the program *if the family is assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d),* even if its children are not found to be deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity of a parent, or unemployment of a parent, provided the family's income and resources do not exceed the eligibility requirements in section 256.033. In addition, a caregiver who is in the assistance unit who is physically and mentally fit, who is between the ages of 18 and 60 years, who is enrolled at least half time in an institution of higher education, and whose family income and resources do not exceed the eligibility requirements in section 256.033, is eligible for assistance under the Minnesota family investment plan *if the family is assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d),* even if the conditions for eligibility as prescribed under the federal Food Stamp Act of 1977, as amended, are not met.

(b) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is considered to have assigned to the public agency

responsible for child support enforcement at the time of application all rights to child support, health care benefits coverage, and maintenance from any other person the applicant may have in the applicant's own behalf or on behalf of any other family member for whom application is made under the Minnesota family investment plan. The provisions of section 256.74, subdivision 5, govern the assignment. An applicant for, or a person receiving, assistance under the Minnesota family investment plan shall cooperate with the efforts of the county agency to collect child and spousal support. The county agency is entitled to any child support and maintenance received by or on behalf of the person receiving assistance or another member of the family for which the person receiving assistance is responsible. Failure by an applicant or a person receiving assistance to cooperate with the efforts of the county agency to collect child and spousal support without good cause must be sanctioned according to section 256.035, subdivision 3.

(c) An applicant for, or a person receiving, assistance under the Minnesota family investment plan is not required to comply with the employment and training requirements prescribed under sections 256.736, subdivisions 3, 3a, and 14; and 256D.05, subdivision 1; section 402(a)(19) of the Social Security Act; the federal Food Stamp Act of 1977, as amended; Public Law Number 100-485; or any other state or federal employment and training program, unless and to the extent compliance is specifically required in a family support agreement with the county agency or its designee.

Sec. 7. Minnesota Statutes 1991 Supplement, section 256.035, subdivision 1, is amended to read:

Subdivision 1. [EXPECTATIONS.] All families eligible for assistance under the family investment plan *who are assigned to a test group in the evaluation as provided in section 256.031, subdivision 3, paragraph (d),* are expected to be in transitional status as defined in section 256.032, subdivision 12. To be considered in transitional status, families must meet the following expectations:

(a) For a family headed by a single adult parental caregiver, the expectation is that the parental caregiver will independently pursue self-sufficiency until the family has received assistance for 24 months within the preceding 36 months. Beginning with the 25th month of assistance, the parent must be developing or complying with the terms of the family support agreement.

(b) For a family with a minor parental caregiver or a family whose parental caregiver is 18 or 19 years of age and does not have a high school diploma or its equivalent, the expectation is that, concurrent with the receipt of assistance, the parental caregiver must be developing or complying with a family support agreement. The terms of the family support agreement must include compliance with section 256.736, subdivision 3b. However, if the assistance unit does not comply with section 256.736, subdivision 3b, the sanctions in subdivision 3 apply.

(c) For a family with two adult parental caregivers, the expectation is that at least one parent will independently pursue self-sufficiency until the family has received assistance for six months within the preceding 12 months. Beginning with the seventh month of assistance, one parent must be developing or complying with the terms of the family support agreement.

Sec. 8. Minnesota Statutes 1991 Supplement, section 256.0361, subdivision 2, is amended to read:

Subd. 2. [FINANCIAL REIMBURSEMENT.] (a) Up to the limit of the

state appropriation, a county selected by the commissioner to serve as a field trial or a ~~control~~ *comparison* site for the Minnesota family investment plan shall be reimbursed by the state for the nonfederal share of administrative costs that were incurred during the development, implementation, and operation of the program and that exceed the administrative costs that would have been incurred in the absence of the program.

(b) Minnesota family investment plan assistance is included as covered programs and services under section 256.025, subdivision 2.

Sec. 9. Minnesota Statutes 1990, section 256.12, is amended by adding a subdivision to read:

*Subd. 23. [IN-KIND INCOME.] "In-kind income," as used in sections 256.72 to 256.87, means income, benefits, or payments provided in a form other than money or liquid assets. In-kind income includes goods, produce, services, privileges, or payments on behalf of a person by a third party. Retirement Survivors and Disability Insurance (RSDI) benefits of an applicant or recipient, paid to a representative payee, and spent on behalf of the applicant or recipient, are not in-kind income, but are considered available income of the applicant or recipient.*

Sec. 10. Minnesota Statutes 1991 Supplement, section 256.98, subdivision 8, is amended to read:

*Subd. 8. [DISQUALIFICATION FROM PROGRAM.] Any person found to be guilty of wrongfully obtaining assistance by a federal or state court or by an administrative hearing determination, in either the aid to families with dependent children program or the food stamp program, shall be disqualified from that program. The needs of that individual shall not be taken into consideration in determining the grant level for that assistance unit:*

- (1) for six months after the first ~~conviction~~ offense;*
- (2) for 12 months after the second ~~conviction~~ offense; and*
- (3) permanently after the third or subsequent ~~conviction~~ offense.*

Any period for which sanctions are imposed is effective, without possibility of administrative stay, until the findings upon which the sanctions were imposed are reversed by a court of competent jurisdiction. The period for which sanctions are imposed is not subject to review. The sanctions provided under this subdivision are in addition to, and not in substitution for, any other sanctions that may be provided for by law for the offense involved. When the disqualified individual is a caretaker relative, the remainder of the aid to families with dependent children grant payable to the other eligible assistance unit members must be provided in the form of protective payments. These payments may be made to the disqualified individual only if, after reasonable efforts, the county agency documents that it cannot locate an appropriate protective payee. Protective payments must continue until the disqualification period ends.

Sec. 11. [256.985] [INVESTIGATORY SUBPOENA.]

*Any person serving as a welfare fraud investigator or health care program investigator may request, and the district court may issue a subpoena based on probable cause for, the production of records relating to eligibility for public assistance programs of the party or parties who are under an investigation or subject to an administrative proceeding. A person who refuses*

*to produce the documents is subject to contempt procedures under chapter 588.*

Sec. 12. [256.986] [ASSISTANCE TRANSACTION CARD FRAUD.]

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

*(a) "Assistance transaction card" means any instrument or device issued for the use of the cardholder in obtaining financial or medical assistance or in accessing any automated teller or electronic benefits machine to secure cash assistance.*

*(b) "Issuer" means the department of human services or any county welfare agency or human services board that issues an assistance transaction card.*

*(c) "Cardholder" means a person in whose name an assistance transaction card is issued.*

*Subd. 2. [VIOLATION.] A person who does any of the following commits assistance transaction card fraud:*

*(1) uses or attempts to use a card to obtain assistance without the consent of the cardholder knowing the cardholder has not given consent;*

*(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (5);*

*(3) sells or transfers a card knowing that the issuer has not authorized the person to whom the card is sold or transferred to use the card, or knowing the card is forged, false, fictitious, or was obtained in violation of clause (5);*

*(4) receives or possesses, with intent to use, sell, or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing the cards to be forged, false, fictitious, or obtained in violation of clause (5);*

*(5) upon applying for an assistance transaction card from the issuer, knowingly gives a false name; and*

*(6) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of an assistance transaction card.*

*Subd. 3. [SENTENCE.] A person who commits assistance transaction card fraud is guilty of theft and shall be sentenced under section 609.52, subdivision 3.*

Sec. 13. Minnesota Statutes 1990, section 256D.02, subdivision 8, is amended to read:

Subd. 8. "Income" means any form of income, including remuneration for services performed as an employee and net earnings from self-employment, reduced by the amount attributable to employment expenses as defined by the commissioner. The amount attributable to employment expenses shall include amounts paid or withheld for federal and state personal income taxes and federal social security taxes.

"Income" includes any payments received as an annuity, retirement, or disability benefit, including veteran's or workers' compensation; old age,



survivors, and disability insurance; railroad retirement benefits; unemployment benefits; and benefits under any federally aided categorical assistance program, supplementary security income, or other assistance program; rents, dividends, interest and royalties; and support and maintenance payments. Such payments may not be considered as available to meet the needs of any person other than the person for whose benefit they are received, unless that person is a family member or a spouse and the income is not excluded under section 256D.01, subdivision 1a. Goods and services provided in lieu of cash payment shall be excluded from the definition of income, except that payments made for room, board, tuition or fees by a parent, on behalf of a child enrolled as a full-time student in a post-secondary institution, and payments made on behalf of an applicant or recipient which the applicant or recipient could legally require to be paid in cash to himself or herself, must be included as income. *Benefits of an applicant or recipient, such as those administered by the Social Security Administration, that are paid to a representative payee, and are spent on behalf of the applicant or recipient, are considered available income of the applicant or recipient.*

Sec. 14. [256D.091] [GRANT DIVERSION.]

*Subdivision 1. [DEFINITIONS.] (a) "Diverted grant" means the amount of the general assistance grant or work readiness assistance payment, not exceeding the standard of assistance for one person, that is available for a wage subsidy.*

*(b) "Net monthly wage" means the income remaining to a registrant after taking the disregards and exclusions from income under section 256D.06.*

*(c) "Registrant" means a recipient of general assistance or work assistance who is participating in a grant diversion employment and employment-related program.*

*Subd. 2. [GRANT DIVERSION PROGRAM.] (a) The county agency may establish a grant diversion program for payment of all or a part of a recipient's general assistance or work readiness grant to a private or non-profit employer who agrees to employ the recipient in a permanent job or to a public employer who agrees to employ the recipient in a permanent job or an approved community investment program. The county agency may administer and deliver grant diversions directly or may contract for delivery of the program according to section 268.871.*

*(b) The county agency shall assess a registrant's continued eligibility for general assistance or work readiness assistance before the end of the registrant's grant diversion period.*

*(c) The county agency shall submit fiscal and summary reports required by the commissioner.*

*Subd. 3. [REGISTRANT PARTICIPATION.] (a) A recipient may refuse employment or employment-related training under the grant diversion program unless the recipient lacks a work history or local work reference and the recipient's employability plan requires participation in a community investment program.*

*(b) A recipient may participate in a grant diversion program for up to four months.*

*(c) During participation in the grant diversion program, a registrant must submit to the county agency the monthly food stamp eligibility household report form.*

*Subd. 4. [CONTRACT WITH GRANT DIVERSION EMPLOYER.] The county agency or the local service unit shall enter into a written contract with a grant diversion employer. The contract must include:*

- (1) the period of time the diverted grant is available;*
- (2) the amount of the monthly diverted grant;*
- (3) the method of payment of the diverted grant;*
- (4) data gathering and reporting requirements;*
- (5) agreement by the employer not to terminate or reduce the working hours of current employees in order to participate in the grant diversion program;*
- (6) agreement by the employer to provide the registrant the same or a comparable level of wages, fringe benefits, and workers' compensation coverage that are provided other employees; and*
- (7) agreement by the employer to hire the registrant at the end of the grant diversion period.*

*Subd. 5. [NOTICE TO REGISTRANT.] The county agency or local service unit shall provide the registrant written notice of the terms of the registrant's grant diversion program, including:*

- (1) the requirement to complete the period of subsidized employment or employment-related training specified in the contract;*
- (2) the date of the first day of employment or employment-related training;*
- (3) the name, address, and occupational title of the employer;*
- (4) the hourly wage and the number of work hours per week;*
- (5) the effect of participation on work readiness eligibility;*
- (6) the maximum period of participation and the months the registrant's grant will be diverted;*
- (7) the amount of the diverted grant and the amount of any residual assistance grant; and*
- (8) the actions to be taken if the registrant fails to complete the grant diversion participation period.*

*The county agency shall maintain a copy of the notice in the registrant's case file.*

*Subd. 6. [GRANT DIVERSION MONTHLY PAYMENT.] (a) The county agency shall calculate and pay the diverted grant directly to the registrant's employer or shall reimburse an employment and training service provider that has paid the employer. The amount of monthly payment available to an employer under the grant diversion program must not exceed the monthly standard of assistance for one person.*

*(b) If a registrant is receiving assistance as a member of an assistance unit, the monthly payment to the assistance unit may be reduced only by the amount of the assistance standard for one person.*

*(c) Notwithstanding any change in resources, household, or income of the registrant or the registrant's assistance unit, eligibility for work readiness and the amount of monthly payment is not subject to change during the grant diversion period if the registrant is participating in the grant diversion*

program as required in the notice provided under subdivision 5.

Subd. 7. [MEDICAL CARE.] *A registrant is eligible for general assistance medical care during the term of the grant diversion contract.*

Subd. 8. [CHILD CARE.] *A recipient who is the sole adult in an assistance unit with one or more children under 12 years of age must not be referred to the grant diversion program during hours the child is in the home unless the county agency pays any child care expenses that exceed the child care deduction from earned income.*

Subd. 9. [DISQUALIFICATION.] *A registrant who fails without good cause to complete the grant diversion period specified in the contract must be disqualified from receiving assistance as provided in section 256D.101.*

Sec. 15. Minnesota Statutes 1990, section 256D.35, subdivision 11, is amended to read:

Subd. 11. [IN-KIND INCOME.] *"In-kind income" means income, benefits, or payments that are provided in a form other than money or liquid asset. In-kind income includes goods, produce, services, privileges, or payments on behalf of a person by a third party; except benefits of the recipient, such as those administered by the Social Security Administration, that are paid to a representative payee, and are spent on behalf of the applicant or recipient, are not in-kind income, but are considered available income of the applicant or recipient.*

Sec. 16. Minnesota Statutes 1990, section 256H.01, is amended by adding a subdivision to read:

Subd. 1a. [APPLICANT.] *"Child care fund applicants" means all parents, stepparents, legal guardians, or eligible relative caretakers who reside in the household that applies for child care assistance under the child care fund.*

Sec. 17. Minnesota Statutes 1990, section 256H.01, subdivision 9, is amended to read:

Subd. 9. [FAMILY.] *"Family" means parents, stepparents, guardians, or other caretaker relatives eligible relative caretakers, and their blood related dependent children and adoptive siblings under the age of 18 years living in the same home including children temporarily absent from the household in settings such as schools, foster care, and residential treatment facilities. When a minor parent or parents and his, her, or their child or children are living with other relatives, and the minor parent or parents apply for a child care subsidy, "family" means only the minor parent or parents and the child or children. An adult may be considered a dependent member of the family unit if 50 percent of the adult's support is being provided by the parents, stepparents, guardians, or other caregiver relatives eligible relative caretakers residing in the same household. An adult age 18 who is a full-time high school student and can reasonably be expected to graduate before age 19 may be considered a dependent member of the family unit.*

Sec. 18. Minnesota Statutes 1990, section 256I.01, is amended to read:  
256I.01 [CITATION.]

Sections 256I.01 to 256I.06 shall be cited as the "~~negotiated~~ group residential housing rate act."

Sec. 19. Minnesota Statutes 1990, section 256I.02, is amended to read:

## 256I.02 [PURPOSE.]

The ~~negotiated~~ group residential housing rate act establishes a comprehensive system of rates and payments for persons who reside in a ~~negotiated rate group~~ residence and who meet the eligibility criteria of the general assistance program under sections 256D.01 to 256D.21, or the Minnesota supplemental aid program under sections 256D.33 to 256D.54.

Sec. 20. Minnesota Statutes 1990, section 256I.03, subdivision 2, is amended to read:

Subd. 2. [NEGOTIATED GROUP RESIDENTIAL HOUSING RATE.] "~~Negotiated~~ Group residential housing rate" means a monthly rate set for shelter, fuel, food, utilities, household supplies, and other costs necessary to provide room and board for individuals eligible for general assistance under sections 256D.01 to 256D.21 or supplemental aid under sections 256D.33 to 256D.54. ~~Negotiated~~ Group residential housing rate does not include payments for foster care for children who are not blind, child welfare services, medical care, dental care, hospitalization, nursing care, drugs or medical supplies, program costs, or other social services. However, the ~~negotiated~~ group residential housing rate for recipients living in residences in section 256I.05, subdivision 2, paragraph (c), clause (2), includes all items covered by that residence's medical assistance per diem rate. The rate is negotiated by the county agency or the state according to the provisions of sections 256I.01 to 256I.06.

Sec. 21. Minnesota Statutes 1990, section 256I.03, subdivision 3, is amended to read:

Subd. 3. [NEGOTIATED RATE RESIDENCE GROUP RESIDENTIAL HOUSING.] "~~Negotiated rate residence~~ Group residential housing" means a group living situation that provides at a minimum room and board to unrelated persons who meet the eligibility requirements of section 256I.04. *This definition includes foster care settings for a single adult.* To receive payment for a ~~negotiated~~ group residential housing rate, the residence must comply with applicable laws and rules establishing standards for health, safety, and licensure. Secure crisis shelters for battered women and their children *licensed by the department of corrections* are not ~~negotiated rate~~ group residences under this chapter.

Sec. 22. Minnesota Statutes 1990, section 256I.05, subdivision 3, is amended to read:

Subd. 3. [LIMITS ON RATES.] When a ~~negotiated~~ group residential housing rate is used to pay for an individual's room and board, the rate payable to the residence must not exceed the rate paid by an individual not receiving a ~~negotiated~~ group residential housing rate under this chapter.

Sec. 23. Minnesota Statutes 1990, section 256I.05, subdivision 6, is amended to read:

Subd. 6. [STATEWIDE RATE SETTING SYSTEM.] The commissioner shall establish a comprehensive statewide system of rates and payments for recipients who reside in residences with ~~negotiated rates~~ group residential housing to be effective ~~January 1, 1992, or as soon as possible after that date.~~ The commissioner may adopt rules to establish this rate setting system.

Sec. 24. Minnesota Statutes 1990, section 256I.05, subdivision 8, is amended to read:

Subd. 8. [STATE PARTICIPATION.] For a resident of a ~~negotiated rate~~ *group residence* who is eligible for general assistance under sections 256D.01 to 256D.21, state participation in the ~~negotiated group residential housing~~ rate is determined according to section 256D.03, subdivision 2. For a resident of a ~~negotiated rate facility group residence~~ who is eligible under sections 256D.33 to 256D.54, state participation in the ~~negotiated group residential housing~~ rate is determined according to section 256D.36.

Sec. 25. Minnesota Statutes 1990, section 256I.05, subdivision 9, is amended to read:

Subd. 9. [PERSONAL NEEDS ALLOWANCE.] In addition to the ~~negotiated group residential housing~~ rate paid for the room and board costs, a person residing in a ~~negotiated rate group residence~~ shall receive an allowance for clothing and personal needs. The allowance shall not be less than that authorized for a medical assistance recipient in section 256B.35.

Sec. 26. Minnesota Statutes 1990, section 256I.06, is amended to read:  
256I.06 [PAYMENT METHODS.]

When a ~~negotiated group residential housing~~ rate is used to pay the room and board costs of a person eligible under sections 256D.01 to 256D.21, the monthly payment may be issued as a voucher or vendor payment. When a ~~negotiated group residential housing~~ rate is used to pay the room and board costs of a person eligible under sections 256D.33 to 256D.54, payments must be made to the recipient. If a recipient is not able to manage the recipient's finances, a representative payee must be appointed.

Sec. 27. Minnesota Statutes 1990, section 261.001, subdivision 1, is amended to read:

Subdivision 1. The town system for caring for the poor is hereby abolished; hereafter, the county welfare board of each county shall administer poor relief. *Poor relief means payment for costs as specifically required or authorized in this chapter, and does not include assistance to meet basic maintenance needs of poor or indigent persons.*

Sec. 28. Minnesota Statutes 1990, section 261.063, is amended to read:  
261.063 [TAX LEVY FOR SOCIAL SECURITY MEASURES; DUTIES OF COUNTY BOARD.]

The board of county commissioners of each county shall annually levy taxes and fix a rate sufficient to produce the full amount required for ~~poor relief~~; *benefits specifically required or authorized in this chapter, and the county share of general assistance, aid to dependent children, county share of county and state supplemental aid to supplemental security income applicants or recipients, and any other social security measures wherein there is now or may hereafter be county participation, sufficient to produce the full amount necessary for each such item, including administrative expenses, for the ensuing year, within the time fixed by law in addition to all other tax levies and tax rates, however fixed or determined, and any commissioner who shall fail to comply herewith shall be guilty of a gross misdemeanor and shall be immediately removed from office by the governor.*

Sec. 29. [REVISOR'S INSTRUCTIONS.]

*The revisor of statutes shall change the headnote in Minnesota Statutes, section 256B.495, from "LONG-TERM CARE RECEIVERSHIP FEES" to "NURSING FACILITY RECEIVERSHIP FEES."*

## ARTICLE 4

SOCIAL SERVICES, MENTAL HEALTH, AND  
DEVELOPMENTAL DISABILITIESSection 1. [16B.185] [PROCUREMENTS FROM REHABILITATION  
FACILITIES AND DAY TRAINING AND HABILITATION FACILITIES.]

*In collaboration with the commissioners of jobs and training, human services, and trade and economic development, the commissioner shall identify contracts for the purchase of goods and services from certified rehabilitation facilities and day training and habitation services that will enhance employment opportunities for persons with severe disabilities that result in additional annual sales volume of 15 percent per year by July 1, 1995.*

Sec. 2. Minnesota Statutes 1990, section 43A.191, subdivision 2, is amended to read:

Subd. 2. [AGENCY AFFIRMATIVE ACTION PLANS.] (a) The head of each agency in the executive branch shall prepare and implement an agency affirmative action plan consistent with this section and rules issued under section 43A.04, subdivision 3.

(b) The agency plan must include a plan for the provision of reasonable accommodation in the hiring and promotion of qualified disabled persons. The reasonable accommodation plan must consist of at least the following:

(1) procedures for compliance with section 363.03 and, where appropriate, regulations implementing United States Code, title 29, section 794, as amended through December 31, 1984, which is section 504 of the Rehabilitation Act of 1973, as amended;

(2) methods and procedures for providing reasonable accommodation for disabled job applicants, current employees, and employees seeking promotion; and

(3) provisions for funding reasonable accommodations.

(c) The agency plan must be prepared by the agency head with the assistance of the agency affirmative action officer and the director of equal employment opportunity. The council on disability shall provide assistance with the agency reasonable accommodation plan.

(d) *The agency plan must identify, annually, any positions in the agency that can be used for supported employment as defined in section 268A.01, subdivision 13, of persons with severe disabilities. The agency shall report this information to the commissioner. An agency that hires more than one supported worker in the identified positions must receive recognition for each supported worker toward meeting the agency's affirmative action goals and objectives.*

(e) An agency affirmative action plan may not be implemented without the commissioner's approval.

Sec. 3. 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. 4. 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. 5. 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 a person 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 person's 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 person's 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. 6. Minnesota Statutes 1990, section 252.025, subdivision 4, is amended to read:

Subd. 4. [STATE-PROVIDED SERVICES.] (a) It is the policy of the state to capitalize and recapitalize the regional treatment centers as necessary to prevent depreciation and obsolescence of physical facilities and to ensure they retain the physical capability to provide residential programs. Consistent with that policy and with section 252.50, and within the limits of appropriations made available for this purpose, the commissioner may establish, by June 30, 1991, the following state-operated, community-based programs for the least vulnerable regional treatment center residents: at Brainerd regional services center, two residential programs and two day programs; at Cambridge regional treatment center, four residential programs and two day programs; at Faribault regional treatment center, ten residential programs and six day programs; at Fergus Falls regional treatment center, two residential programs and one day program; at Moose Lake regional treatment center, four residential programs and two day programs; and at Willmar regional treatment center, two residential programs and one day program.

(b) By January 15, 1991, the commissioner shall report to the legislature a plan to provide continued regional treatment center capacity and state-operated, community-based residential and day programs for persons with developmental disabilities at Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter, and Willmar, as follows:

(1) by July 1, 1998, continued regional treatment center capacity to serve 350 persons with developmental disabilities as follows: at Brainerd, 80 persons; at Cambridge, 12 persons; at Faribault, 110 persons; at Fergus Falls, 60 persons; at Moose Lake, 12 persons; at St. Peter, 35 persons; at Willmar, 25 persons; and up to 16 crisis beds in the Twin Cities metropolitan area; and

(2) by July 1, 1999, continued regional treatment center capacity to serve 254 persons with developmental disabilities as follows: at Brainerd, 57

persons; at Cambridge, 12 persons; at Faribault, 80 persons; at Fergus Falls, 35 persons; at Moose Lake, 12 persons; at St. Peter, 30 persons; at Willmar, 12 persons, and up to 16 crisis beds in the Twin Cities metropolitan area. In addition, the plan shall provide for the capacity to provide residential services to 570 persons with developmental disabilities in 95 state-operated, community-based residential programs.

*Any individual aggrieved by the commissioner's action or failure to act in accordance with the requirements of this section, including employees of the affected regional treatment centers, and patients and their families, may appeal the commissioner's actions in accordance with the provisions of section 256.045, subdivisions 1 to 6. For purposes of this section, appeals from decisions made by the commissioner under section 256.045 must be taken in accordance with the contested case proceedings of chapter 14.*

Sec. 7. 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. 8. 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. 9. Minnesota Statutes 1990, section 253B.02, is amended by adding a subdivision to read:

*Subd. 3a. [COMMITMENT.] "Commitment," "commitment period," and "committed" means the period that begins on the date of filing the order of initial commitment by the committing court under section 253B.09 or order of initial commitment as mentally ill and dangerous under section 253B.18 and includes all periods of continued commitment under sections 253B.13 and 253B.18, subdivisions 2 and 3. Each period of continued commitment shall be deemed to begin on the day following the last day of the prior initial or continued commitment.*

Sec. 10. Minnesota Statutes 1990, section 253B.09, is amended to read:  
253B.09 [DECISION; STANDARD OF PROOF; DURATION.]

Subdivision 1. [STANDARD OF PROOF.] If the court finds by clear and convincing evidence that the proposed patient is a mentally ill, mentally retarded, or chemically dependent person and, that after careful consideration of reasonable alternative dispositions, including but not limited to, dismissal of petition, voluntary outpatient care, informal admission to a treatment facility, appointment of a guardian or conservator, or release before commitment as provided for in subdivision 4, it finds that there is no suitable alternative to judicial commitment, the court shall commit the patient to the least restrictive treatment program which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7. In deciding on the least restrictive program, the court shall consider a range of treatment alternatives including, but not limited to, community-based nonresidential treatment, community residential treatment, partial hospitalization, acute care hospital, and regional ~~treatment~~ center services. The court shall also consider the proposed patient's treatment preferences and willingness to participate in the treatment ordered. The court may not commit a patient to a facility or program that is not capable of meeting the patient's needs.

Subd. 2. [FINDINGS.] The court shall find the facts specifically, separately state its conclusions of law, and direct the ~~entry~~ filing of an appropriate ~~judgment~~ order. Where commitment is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for commitment is met.

If commitment is ordered, the findings shall also include a listing of less restrictive alternatives considered and rejected by the court and the reasons

for rejecting each alternative.

Subd. 3. ~~[FINANCIAL DETERMINATION COMMITMENT TO THE COMMISSIONER.]~~ *If the court shall determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care finds that regional center services are the least restrictive alternative, the court shall commit the proposed patient to the custody of the commissioner. If the patient is committed to a regional facility the commissioner, a copy of the findings of fact and conclusion of law and order for commitment shall be transmitted to the commissioner.*

Subd. 5. [INITIAL COMMITMENT PERIOD.] For persons committed as mentally ill, mentally retarded, or chemically dependent the initial commitment shall not exceed six months. At least 60 days, but not more than 90 days, after the commencement of the initial commitment of a person as mentally ill, mentally retarded, or chemically dependent, the head of the facility shall file a written report with the committing court with a copy to the patient and patient's counsel. This first report shall set forth the same information as is required in section 253B.12, subdivision 1, but no hearing shall be required at this time. If no written report is filed within the required time, or if it describes the patient as not in need of further institutional care and treatment, the proceedings shall be terminated by the committing court, and the patient shall be discharged from the treatment facility. If the person is discharged prior to the expiration of 60 days, the report required by this subdivision shall be filed at the time of discharge.

Sec. 11. Minnesota Statutes 1990, section 253B.11, subdivision 2, is amended to read:

Subd. 2. [FACILITIES.] Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care *under section 253B.05 and during subsequent holds under sections 253B.07, subdivision 6, and 253B.08, if necessary, pending initial commitment under section 253B.09. When the confinement is provided at a treatment facility other than a regional center, the county of financial responsibility shall be responsible for all costs of the temporary confinement not otherwise paid by public assistance.* When the confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 6. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. *The charge for temporary confinement in a regional center shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.*

Sec. 12. Minnesota Statutes 1990, section 253B.11, is amended by adding a subdivision to read:

Subd. 4. [HOLDS PENDING CONTINUED COMMITMENT.] *When a report recommending continued commitment under section 253B.12, subdivision 1, or a petition for continued commitment is filed prior to termination*

*of the previous commitment, any delay between the end of the previous commitment and a determination on continued commitment shall not constitute temporary confinement but rather continued commitment.*

Sec. 13. 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. 14. [PILOT PROJECTS.]

*The commissioner of human services may approve up to ten counties to participate in six pilot projects to demonstrate the use of intergovernmental contracts between the state and counties to fund, administer, and regulate the delivery of programs under Minnesota Statutes, sections 245.461 to 245.4861 and 245.487 to 245.4887, and Minnesota Statutes, chapter 256E. The commissioner shall consider statewide distribution and county population in selecting counties for the pilot projects. Counties may also develop integrated plans for any social service and community health programs which shall be accepted by the commissioners of health and human services in lieu of plans required in statute or rule. Two or more counties may submit joint proposals for a pilot project. The pilot projects shall expire after June 30, 1997.*

Sec. 15. [PURPOSE OF PILOT PROJECTS.]

*Purposes of the social service contract pilot projects include:*

*(a) Improving the quality of social services provided to persons by county human service agencies.*

*(b) Eliminating administrative mandates and procedural requirements governing delivery of social services.*

*(c) Consolidating program funds to permit county flexibility in the use of program funds.*

*(d) Encouraging intercounty and regional cooperation and coordination.*

*(e) Simplifying and consolidating planning and reporting requirements.*

*(f) Determining feasibility of using outcome-based performance standards*

to regulate the delivery of social services by counties.

(g) Clarifying the role of counties and state in the delivery of social services programs.

**Sec. 16. [TERMS; CONDITIONS OF INTERGOVERNMENTAL AGREEMENTS.]**

*Counties participating in the pilot projects shall be exempt from the procedural requirements in state law except as required in federal law. Counties providing services under a pilot project shall continue mandated services. Program funds may be consolidated to permit the greatest flexibility in the delivery of services. Each intergovernmental agreement shall specify a limited and reasonable number of measurable objectives based on the county's community social services plan which will be used by the state to determine compliance. Counties participating in pilot projects will be required to provide mandated services to all eligible persons but will have flexibility in the delivery of services and use of funds. The county shall review pilot projects proposed under sections 14 to 20 with all county social services and mental health advisory committees and councils.*

**Sec. 17. [MONITORING AND ENFORCEMENT.]**

*The commissioner of human services shall monitor the pilot projects to determine compliance with the terms of the intergovernmental contracts and to assure that social services are delivered according to the county community social services act plan. The commissioner may rescind approval for a pilot project if a county fails to comply with the terms of the intergovernmental contract. If approval is withdrawn, the county will immediately be subject to all the requirements of the administrative rules governing programs covered under the intergovernmental contract.*

**Sec. 18. [DISPUTE RESOLUTION.]**

*Nothing in sections 14 to 20 shall alter the due process rights available to persons under state and federal law. Disputes which arise between the state and county in the development of contracts authorized in this section shall be resolved through mediation. The state and county shall select a mediator acceptable to both parties for the purpose of resolving disputes.*

**Sec. 19. [ALTERNATIVE SERVICES PILOT PROJECTS.]**

*Subdivision 1. [ALTERNATIVE SERVICES AUTHORIZED.] The commissioner may develop pilot projects that provide alternatives to day training and habilitation services for persons with mental retardation or related conditions who are 65 years of age or older. Before implementing the pilot projects, the commissioner shall consult with the board on aging; providers of day training and habilitation programs, residential programs, state-operated community-based programs, and other alternative services for persons with mental retardation or related conditions; and other interested persons including parents, advocates, and persons who may be considered for alternative services. The commissioner shall select as pilot project vendors only current providers of day training and habilitation programs, residential programs, state-operated community-based programs, or other alternative programs.*

*Subd. 2. [ALTERNATIVE SERVICES PARTICIPATION.] No more than 30 persons may receive alternative services under the pilot projects, and participants must be selected as follows: no more than seven persons from day training and habilitation programs; no more than seven persons from*

*state-operated community-based programs; no more than seven persons from residential programs; and no more than nine persons from other community-integrated programs. Alternative services may be provided by a person's residential program provider only after other alternative services have been considered and determined not to meet the person's needs.*

*Subd. 3. [ADVISORY COMMITTEE.] The commissioner shall convene an advisory committee consisting of persons concerned with and affected by the alternative services pilot projects and the effect of the projects on existing services to evaluate the alternative services pilot projects. The commissioner shall report the advisory committee's evaluation to the legislature by February 1, 1994.*

**Sec. 20. [PILOT PROJECT FOR CRISIS SERVICES.]**

*The commissioner may authorize a pilot project to provide community-based crisis services for persons with mental retardation or related conditions who would otherwise be admitted to or are at risk of being admitted to an acute care hospital for psychological care. To make available the facility capacity for the pilot project, the commissioner may authorize relocation of and alternative services for up to 15 residents of an existing intermediate care facility for persons with mental retardation or related conditions. The medical assistance costs of the alternative services must not exceed the medical assistance costs of services, including day training and habilitation services, for the residents at the intermediate care facility who are relocated. The commissioner may adjust the program operating costs rate of the facility under Minnesota Rules, part 9553.0050, subpart 3, as necessary to implement the pilot project. The project shall serve persons who are the responsibility of Hennepin and Carver counties and other counties as determined by the commissioner.*

*By January 15, 1994, the commissioner shall report to the legislature on the cost effectiveness of the pilot project.*

**Sec. 21. [REPEALER.]**

*Minnesota Statutes 1990, sections 245.0311, 245.0312, and 246.14; and Minnesota Statutes 1991 Supplement, section 252.46, subdivision 15, are repealed."*

Delete the title and insert:

*"A bill for an act relating to health and human services; revising home care licensure requirements; modifying criteria for listing persons on the nursing assistant registry; revising psychology licensure requirements; modifying the nursing home moratorium exception review process; requiring prospective drug utilization review; modifying requirements relating to the medical assistance, AFDC, general assistance, and work readiness programs; changing commitment requirements; authorizing social service contract pilot projects; amending Minnesota Statutes 1990, sections 43A.191, subdivision 2; 144A.073, subdivisions 3 and 3a; 144A.43, subdivisions 3 and 4; 144A.46, subdivision 5; 151.06, subdivision 1; 151.19, by adding a subdivision; 245A.02, by adding a subdivision; 245A.13, subdivision 4; 252.025, subdivision 4; 252.291, subdivision 3; 253B.02, by adding a subdivision; 253B.09; 253B.11, subdivision 2, and by adding a subdivision; 256.12, by adding a subdivision; 256B.056, subdivisions 1a, 2, and 3; 256B.059, subdivision 2; 256B.0625, by adding a subdivision; 256B.064, by adding a subdivision; 256B.14, subdivision 2; 256B.15, subdivision 1; 256B.36; 256B.431, subdivision 4; 256B.432, by adding a subdivision;*

256B.433, subdivisions 1, 2, and 3; 256B.48, subdivisions 2, 3, and 4; 256B.495, subdivisions 1, 2, and by adding a subdivision; 256B.50, subdivisions 1b and 2; 256D.02, subdivision 8; 256D.35, subdivision 11; 256H.01, subdivision 9, and by adding a subdivision; 256I.01; 256I.02; 256I.03, subdivisions 2 and 3; 256I.05, subdivisions 3, 6, 8, and 9; 256I.06; 261.001, subdivision 1; 261.063; Minnesota Statutes 1991 Supplement, sections 144.50, subdivision 6; 144A.31, subdivision 2a; 144A.61, subdivisions 3a and 6a; 147.03; 148.925, subdivisions 1, 2, and by adding a subdivision; 245A.03, subdivision 2; 252.28, subdivision 1; 256.031, subdivision 3; 256.033, subdivisions 1, 2, 3, and 5; 256.034, subdivision 3; 256.035, subdivision 1; 256.0361, subdivision 2; 256.9685, subdivision 1; 256.969, subdivision 2; 256.9751, subdivisions 1 and 6; 256.98, subdivision 8; 256B.0625, subdivisions 13 and 19a; 256B.0627, subdivisions 1 and 4; 256B.064, subdivision 2; 256B.0911, subdivisions 3, 8, and by adding a subdivision; 256B.0913, subdivisions 8 and 11; 256B.0915, by adding subdivisions; 256B.0917, subdivisions 2, 3, 4, 5, 6, 7, 9, 10, and 11; 256B.0919, subdivision 1; 256B.092, subdivision 4; 256B.093, subdivisions 1, 2, and 3; 256D.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 16B; 245A; 256; 256B; 256D; repealing Minnesota Statutes 1990, sections 245.0311; 245.0312; 246.14; and Minnesota Statutes 1991 Supplement, section 252.46, subdivision 15."

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

## **SECOND READING OF SENATE BILLS**

S.F. No. 2411 was read the second time.

## **MEMBERS EXCUSED**

Mr. Solon was excused from the Session of today at 2:15 p.m. Mr. Chmielewski was excused from the Session of today at 4:45 p.m. Ms. Berglin was excused from the Session of today from 3:30 to 3:50 p.m.

## **ADJOURNMENT**

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Tuesday, April 7, 1992. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate